

2019 Regular Session

HOUSE BILL NO. 509

BY REPRESENTATIVE BAGNERIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DRUGS: Provides relative to marijuana

1 AN ACT

2 To amend and reenact R.S. 40:966(A)(introductory paragraph), (C)(introductory paragraph),

3 and (D)(introductory paragraph) and Code of Criminal Procedure Articles

4 977(A)(introductory paragraph) and (D)(1) and 989, and to enact R.S. 14:98(H), Part

5 X-G of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, to be

6 comprised of R.S. 40:1050.1 through 1050.8, and Code of Criminal Procedure

7 Article 977(A)(3) and (4), relative to the legalization and regulation of adult

8 consumption of marijuana; to provide relative to operating a vehicle while

9 intoxicated; to provide for definitions; to provide relative to the cultivation,

10 manufacturing, and sale of marijuana; to provide for licensing; to provide for the

11 authority of the Department of Agriculture and Forestry; to provide for the authority

12 of the Board of Pharmacy; to provide for the imposition of an excise tax; to provide

13 for local sales and use tax; to provide for collection and distribution of proceeds; to

14 provide for the Marijuana Fund; to provide for the Marijuana Enforcement Fund; to

15 provide for the Marijuana Advisory Board; to provide for expungement; to provide

16 for expungement form updates; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. R.S. 14:98(H) is hereby enacted to read as follows:

19 §98. Operating a vehicle while intoxicated

20 * * *

1 H.(1) In any prosecution for operating a vehicle while intoxicated, if at the
2 time of the commission of the alleged offense or within a reasonable time thereafter,
3 the driver's blood contained five nanograms or more of delta 9-tetrahydrocannabinol
4 per milliliter in whole blood, as shown by analysis of the defendant's blood, there
5 shall be a rebuttable presumption that the defendant was under the influence of one
6 or more drugs that are not controlled dangerous substances and that are legally
7 obtainable with or without a prescription as provided by R.S. 40:1050.1 et seq.

8 (2) This Subsection shall not be construed as limiting the introduction,
9 reception, or consideration of any other evidence of whether or not the defendant was
10 under the influence of drugs that are not controlled dangerous substances as provided
11 for in R.S. 40:1050.1 et seq. or whether or not the defendant's ability to operate a
12 vehicle was impaired by the consumption of such drugs.

13 (3) In all actions, suits, and judicial proceedings in any court of this state
14 concerning violations of this Section, the court shall take judicial notice of methods
15 of testing a person's drug level and of the design and operation of devices, as
16 approved by the Department of Public Safety and Corrections pursuant to R.S.
17 32:663, for testing a person's blood, urine, breath, or other bodily substance to
18 determine such person's drug level. Nothing in this Paragraph prevents the necessity
19 of establishing during a trial that the testing devices used were working properly and
20 were properly operated.

21 Section 2. R.S. 40:966(A)(introductory paragraph), (C)(introductory paragraph), and
22 (D)(introductory paragraph) are hereby amended and reenacted and Part X-G of Chapter 4
23 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1050.1 through
24 1050.8, is hereby enacted to read as follows:

25 §966. Penalty for distribution or possession with intent to distribute narcotic drugs
26 listed in Schedule I; possession of marijuana, synthetic cannabinoids, and
27 heroin

1 A. Manufacture; distribution. Except as authorized by this Part or R.S.
 2 40:1050.1 et seq., it shall be unlawful for any person knowingly or intentionally:

3 * * *

4 C. Possession. It is unlawful for any person knowingly or intentionally to
 5 possess a controlled dangerous substance classified in Schedule I unless such
 6 substance was obtained directly, or pursuant to a valid prescription or order, from a
 7 practitioner or as provided in R.S. 40:978, while acting in the course of his
 8 professional practice, or except as otherwise authorized by this Part or R.S.
 9 40:1050.1 et seq. Any person who violates this Subsection with respect to:

10 * * *

11 D. If a person knowingly or intentionally possesses a controlled substance
 12 as classified in Schedule I, unless such substance was obtained directly or pursuant
 13 to a valid prescription or order from a practitioner, as provided in R.S. 40:978, while
 14 acting in the course of his professional practice, or in accordance with R.S.
 15 40:1050.1 et seq. where the amount of the controlled substance is equal to or above
 16 the following weights, it shall be considered a violation of Subsection A of this
 17 Section:

18 * * *

19 **PART X-G**

20 **LEGAL ADULT CONSUMPTION OF MARIJUANA**

21 **§1050.1 Legislative findings; purpose**

22 The legislature hereby establishes a system of licensing for the cultivation,
 23 manufacturing, testing, and retail sale of marijuana and marijuana products in the
 24 state which enables persons twenty-one years of age or older to legally acquire,
 25 possess, and consume marijuana and marijuana products.

26 **§1050.2 Definitions**

27 As used in this Part, the following terms shall have the following meanings,
 28 except where the context expressly indicates otherwise:

- 29 (1) "Board" shall mean the Louisiana Board of Pharmacy.

1 (2) "Consumer" means a person twenty-one years of age or older who
2 purchases marijuana or marijuana products for personal use, but not for resale to
3 others.

4 (3) "Department" shall mean the Department of Agriculture and Forestry.

5 (4) "Marijuana" means all parts of the plant of the genus marijuana whether
6 growing or not, the seeds thereof, the resin extracted from any part of the plant, and
7 every compound, manufacture, salt, derivative, mixture, or preparation of the plant,
8 its seeds, or its resin, including marijuana concentrate. Marijuana does not include
9 industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made
10 from the seeds of the plant, sterilized seed of the plant which is incapable of
11 germination, or the weight of any other ingredient combined with marijuana to
12 prepare topical or oral administrations, food, drink, or other product.

13 (5) "Marijuana accessories" means any equipment, products, or materials of
14 any kind which are used, intended for use, or designed for use in planting,
15 propagating, cultivating, growing, harvesting, composting, manufacturing,
16 compounding, converting, producing, processing, preparing, testing, analyzing,
17 packaging, repackaging, storing, vaporizing, or containing marijuana, or for
18 ingesting, inhaling, or otherwise introducing marijuana into the human body.

19 (6) "Marijuana cultivation facility" means an entity licensed to cultivate,
20 prepare, and package marijuana and sell marijuana to retail marijuana stores,
21 marijuana product manufacturing facilities, and other marijuana cultivation facilities,
22 but not to consumers.

23 (7) "Marijuana facility" means a marijuana cultivation facility, a marijuana
24 testing facility, or a marijuana product manufacturing facility.

25 (8) "Marijuana product manufacturing facility" means an entity licensed to
26 purchase marijuana, manufacture, prepare, and package marijuana products, and sell
27 marijuana and marijuana products to other marijuana product manufacturing
28 facilities and to retail marijuana stores, but not to consumers.

1 (9) "Marijuana products" means concentrated marijuana products and
2 marijuana products that are comprised of marijuana and other ingredients and are
3 intended for use or consumption, including but not limited to edible products,
4 ointments, and tinctures.

5 (10) "Marijuana testing facility" means an entity licensed to analyze and
6 certify the safety and potency of marijuana.

7 (11) "Retail marijuana store" means an entity licensed to purchase marijuana
8 from marijuana cultivation facilities and marijuana and marijuana products from
9 marijuana product manufacturing facilities and to sell marijuana and marijuana
10 products to consumers.

11 §1050.3 Personal use of marijuana

12 A. Notwithstanding any other provision of law to the contrary, consumption
13 of marijuana and possession of one ounce or less of marijuana for personal use are
14 legal for persons twenty-one years of age or older and shall not be the basis for
15 seizure or forfeiture of assets pursuant to state law.

16 B. Consumption that is conducted openly and publicly or in a manner that
17 endangers others is not permitted.

18 C. State and local governments may prohibit use on government owned
19 property or property owned, but not leased, by third parties.

20 D. Any business or nongovernmental entity which allows the open use,
21 consumption, or possession of marijuana on its premises may be subject to a fine not
22 to exceed five hundred dollars.

23 §1050.4 Regulation of marijuana cultivation, testing, and product manufacturing
24 facilities

25 A. The Department of Agriculture and Forestry shall develop annual licenses
26 for the operation of a marijuana cultivation facility, a marijuana product
27 manufacturing facility, and a marijuana testing facility. The license shall apply to
28 any individual acting in his capacity as an owner, employee, or agent of a licensed
29 marijuana facility.

1 (1) The license for a marijuana cultivation facility shall authorize the
2 licensee to do the following:

3 (a) Cultivate, harvest, process, package, transport, display, and possess
4 marijuana.

5 (b) Deliver or transfer marijuana to a marijuana testing facility.

6 (c) Sell marijuana to a marijuana cultivation facility, marijuana product
7 manufacturing facility, or retail marijuana store.

8 (d) Purchase marijuana from a marijuana cultivation facility.

9 (2) The license for a marijuana product manufacturing facility shall authorize
10 the licensee to do the following:

11 (a) Package, process, transport, manufacture, display, and possess marijuana
12 and marijuana products.

13 (b) Deliver and transfer marijuana and marijuana products to a marijuana
14 testing facility, sell marijuana and marijuana products to a retail marijuana store or
15 a marijuana product manufacturing facility.

16 (c) Purchase marijuana from a marijuana cultivation facility.

17 (d) Purchase marijuana and marijuana products from a marijuana product
18 manufacturing facility.

19 (3) The license for a marijuana testing facility authorizes the licensee to
20 possess, cultivate, process, repackage, store, transport, display, transfer, and deliver
21 marijuana and marijuana products.

22 B. Not later than January 1, 2020, the Department of Agriculture and
23 Forestry shall adopt rules necessary for implementation of this Section. The rules
24 shall not prohibit the operation of marijuana facilities, either expressly or through
25 rules that make their operation unreasonable or impracticable, and shall include the
26 following:

27 (1) Procedures for the issuance, renewal, suspension, and revocation of
28 licenses to operate marijuana facilities.

29 (2)(a) A schedule of application, licensing, and renewal fees.

- 1 (b) No fee shall exceed five thousand dollars.
- 2 (3) Qualifications for licensure that are directly and demonstrably related to
3 the operation of a marijuana facility.
- 4 (4) Security requirements for marijuana facilities.
- 5 (5) Requirements to prevent the sale or diversion of marijuana and marijuana
6 products to persons under the age of twenty-one.
- 7 (6) Labeling requirements for marijuana and marijuana products sold or
8 distributed by a marijuana facility.
- 9 (7) Health and safety regulations and standards for the manufacture of
10 marijuana products and the cultivation of marijuana.
- 11 (8) Restrictions on the advertising of marijuana and marijuana products.
- 12 (9) Civil penalties for the failure to comply with rules adopted pursuant to
13 this Section.

14 D. Each application for an annual license to operate a marijuana facility shall
15 be submitted to the department. The department shall:

- 16 (1) Begin accepting and processing applications by February 1, 2020.
- 17 (2) Immediately forward a copy of each application and remit half of the
18 license application fee to the parish in which the applicant desires to operate the
19 marijuana facility.
- 20 (3) Issue an annual license to the applicant between forty-five and ninety
21 days after receipt of an application, provided the applicant has submitted all required
22 information including fees.
- 23 (4) Upon denial of an application, notify the applicant in writing of the
24 specific reason for its denial.

25 §1050.5 Regulation of retail marijuana stores

26 A. The Board of Pharmacy shall develop an annual license for the operation
27 of a retail marijuana store. The license shall authorize the licensee to do the
28 following:

- 29 (1) Possess, display, and transport marijuana and marijuana products.

1 (2) Purchase marijuana from a cultivation facility.

2 (3) Purchase marijuana and marijuana products from a product
3 manufacturing facility.

4 (4) Sell marijuana and marijuana products to consumers.

5 B. The license shall apply to any owner, employee, or agent of a licensed
6 retail marijuana store.

7 C. Not later than January 1, 2020, the board shall adopt rules necessary for
8 implementation of this Section. The rules shall not prohibit the operation of retail
9 marijuana stores, either expressly or through rules that make their operation
10 unreasonable or impracticable, and shall include:

11 (1) Procedures for the issuance, renewal, suspension, and revocation of
12 licenses to operate retail marijuana stores.

13 (2) A schedule of application, licensing, and renewal fees. No fee shall
14 exceed five thousand dollars.

15 (3) Qualifications for licensure that are directly and demonstrably related to
16 the operation of a retail marijuana store.

17 (4) Security requirements for retail marijuana stores.

18 (5) Requirements to prevent the sale or diversion of marijuana and marijuana
19 products to persons under the age of twenty-one.

20 (6) Restrictions on the advertisement and display of marijuana and marijuana
21 products.

22 (7) Civil penalties for the failure to comply with rules and regulations
23 adopted pursuant to this Section.

24 D. In order to ensure that individual privacy is protected, the board shall not
25 require a consumer to provide a retail marijuana store with personal information
26 other than government-issued identification to determine the consumer's age, and a
27 retail marijuana store shall not be required to acquire and record personal
28 information about consumers other than information typically acquired in a financial
29 transaction conducted at a retail liquor store.

1 E. Each application for an annual license to operate a retail store shall be
2 submitted to the board. The board shall:

3 (1) Begin accepting and processing applications by February 1, 2020.

4 (2) Immediately forward a copy of each application and remit half of the
5 license application fee to the parish in which the applicant desires to operate the
6 retail marijuana store.

7 (3) Issue an annual license to the applicant between forty-five and ninety
8 days after receipt of an application, provided the applicant has submitted all required
9 information including fees.

10 (4) Upon denial of an application, notify the applicant in writing of the
11 specific reason for its denial.

12 §1050.6 Unaffected rights, prohibitions, and duties

13 Nothing in this Part shall be construed to do any of the following:

14 (1) Require an employer to permit or accommodate the use, consumption,
15 possession, transfer, display, transportation, sale, or growing of marijuana in the
16 workplace or to affect the ability of employers to have policies restricting the use of
17 marijuana by employees.

18 (2) Allow driving under the influence of marijuana or driving while impaired
19 by marijuana or to supersede any laws related to driving under the influence of
20 marijuana or driving while impaired by marijuana, nor prevent the state from
21 enacting and imposing penalties for driving under the influence of or while impaired
22 by marijuana.

23 (3) Permit the transfer of marijuana, with or without remuneration, to a
24 person under the age of twenty-one or to allow a person under the age of twenty-one
25 to purchase, possess, use, transport, grow, or consume marijuana.

26 (4) Prohibit a person, employer, school, hospital, detention facility,
27 corporation or any other business or entity who occupies, owns, or controls a
28 property from prohibiting or otherwise regulating the possession, consumption, use,

1 display, transfer, distribution, sale, transportation, or growing of marijuana on or in
2 that property.

3 (5) Limit any privileges or rights of a therapeutic marijuana patient, primary
4 caregiver, or licensed entity as provided for in R.S. 40:966(F) and 1046.

5 (6) Permit a marijuana pharmacy to sell marijuana to a person who does not
6 have a recommendation pursuant to R.S. 40:1046.

7 (7) Permit any marijuana pharmacy licensed pursuant to R.S. 40:1046 to
8 operate on the same premises as a retail marijuana store.

9 (8) Discharge the Board of Pharmacy or the Department of Agriculture and
10 Forestry from their duties to regulate therapeutic use of marijuana pursuant to R.S.
11 40:1046.

12 (9) Amend or affect any state or federal law pertaining to employment or
13 landlord and tenant matters.

14 (10) Prohibit a recipient of a federal grant or an applicant for a federal grant
15 from prohibiting the manufacture, delivery, possession, or use of marijuana to the
16 extent necessary to satisfy federal requirements for the grant.

17 (11) Prohibit a party to a federal contract or a person applying to be a party
18 to a federal contract from prohibiting the manufacture, delivery, possession, or use
19 of marijuana to the extent necessary to comply with the terms and conditions of the
20 contract or to satisfy federal requirements for the contract.

21 (12) Exempt a person from a federal law or obstruct the enforcement of a
22 federal law.

23 §1050.7 Imposition of marijuana excise tax; local sales and use tax; collection and
24 distribution of proceeds; Marijuana Fund; Marijuana Enforcement Fund

25 A. There is hereby levied a tax upon the sale, consumption, handling, or
26 distribution of marijuana for personal use. The rate of the tax shall be fifteen percent
27 of the sales price of such products.

28 B. The taxes levied pursuant to the provisions of this Section shall be
29 collected, as far as practicable, from the dealer who first handles the marijuana in

1 Louisiana. The secretary of the Department of Revenue, hereinafter referred to as
2 "secretary" shall establish, by rule, procedures for the collection and remittance of
3 the tax. The secretary may promulgate any other rules and regulations in accordance
4 with the Administrative Procedure Act as may be necessary to implement the
5 provisions of this Section.

6 C. There is hereby created as a special fund within the state treasury the
7 "Marijuana Fund", hereinafter referred to as the "fund". After satisfying the
8 requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative
9 to the Bond Security and Redemption Fund and after a sufficient amount is allocated
10 from that fund to pay all of the obligations secured by the full faith and credit of the
11 state which becomes due and payable within any fiscal year, the state treasurer shall
12 deposit into the fund an amount equal to the avails of the tax imposed pursuant to the
13 provisions of this Section.

14 D. All unexpended and unencumbered monies in the fund at the end of the
15 fiscal year shall remain in the fund. The monies in the fund shall be invested by the
16 state treasurer in the same manner as monies in the state general fund, and all
17 earnings on investment of the fund shall be deposited into the fund. Monies
18 appropriated from the fund shall be used solely as provided in Subsection E of this
19 Section.

20 E. Monies in the fund shall be appropriated as follows:

21 (a) Twenty-five percent of the monies to the minimum foundation program
22 (MFP) to be used solely for funding support of public and secondary schools.

23 (b) Twenty-five percent of the monies to the TOPS fund.

24 (c) Twenty-five percent to the Transportation Trust Fund to be used solely
25 for the purposes of infrastructure.

26 (d) Twelve and one-half percent to the "Marijuana Enforcement Fund",
27 which is hereby created as a special fund in the state treasury.

28 (i) After satisfying the requirements of Article VII, Section 9(B) of the
29 Constitution of Louisiana relative to the Bond Security and Redemption Fund and

1 after a sufficient amount is allocated from that fund to pay all of the obligations
2 secured by the full faith and credit of the state which becomes due and payable
3 within any fiscal year, the state treasurer shall deposit into the fund an amount equal
4 to the avails of the tax imposed pursuant to the provisions of this Section.

5 (ii) All unexpended and unencumbered monies in the fund at the end of the
6 fiscal year shall remain in the fund. The monies in the fund shall be invested by the
7 state treasurer in the same manner as monies in the state general fund, and all
8 earnings on investment of the fund shall be deposited into the fund.

9 (iii) Monies appropriated from the fund shall be used solely for grants to
10 state and local law enforcement agencies for community relations training and
11 promotion, training on identification of driving under the influence of marijuana, and
12 other training and programs promoting effective marijuana enforcement activities.

13 (e) Twelve and one-half percent into the state general fund.

14 F. A local sales tax of six percent shall be levied on all marijuana and
15 marijuana products and shall be collected at the time marijuana and marijuana
16 products are purchased by a consumer from the licensed retail marijuana store. The
17 tax levied pursuant to the provisions of this Subsection shall be collected at the same
18 time and in the same manner as sales and use taxes in Chapters 2, 2-A, and 2-B of
19 Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950. The secretary shall
20 collect the tax as an agent of local government and as such, may assess and collect
21 a fee not to exceed one-half of one percent of the proceeds of the tax, as
22 reimbursement for the actual cost of collection. The parish shall receive all proceeds
23 of the local sales tax within thirty days of collection, and the tax shall be distributed
24 as follows:

25 (1) The parish shall retain fifty percent of the tax.

26 (2) The municipalities of the parish shall receive fifty percent of the tax, to
27 be divided among the municipalities on a per capita basis as determined by the most
28 recent federal decennial census of population.

1 G. Marijuana products authorized for sale pursuant to this Part and subject
2 to the taxes levied by this Section shall not be subject to any other sales tax or state
3 taxes.

4 §1050.8 Marijuana Advisory Board

5 A. The Marijuana Advisory Board, hereinafter referred to as "advisory
6 board", is hereby created in the Department of Health. The purpose of the advisory
7 board is to study the social and health effects of marijuana and marijuana products
8 in Louisiana and make recommendations for statutory and regulatory changes to the
9 legislature regarding marijuana regulation.

10 B. The advisory board shall consist of the following five members appointed
11 by the governor:

12 (1) A law enforcement expert.

13 (2) A medical expert.

14 (3) A board member or officer of a drug treatment center.

15 (4) An expert in public health.

16 (5) An expert in social welfare or social justice.

17 C. Members of the advisory board shall serve terms of two years. Members
18 of the advisory board shall serve without compensation but shall be reimbursed for
19 expenses actually and necessarily incurred in the discharge of their official duties,
20 including mileage at the state employee rate for attendance at meetings and other
21 official functions.

22 D. The secretary of the Department of Health shall call the first meeting on
23 or before September 1, 2019, and the advisory board shall meet at least once every
24 three months for the first nine months.

25 E. A majority of the members of the advisory board present and voting shall
26 constitute a quorum.

27 F. The advisory board shall work in coordination with the Department of
28 Agriculture and Forestry and the Board of Pharmacy, and with relevant state
29 agencies responsible for health programs and activities in the state. The advisory

1 board shall study the effects of legalized marijuana programs on the economy, public
2 health, and criminal justice in the state. The advisory board shall submit a report of
3 its findings and recommendations to the legislature no later than January 1, 2021,
4 and shall update the report on a biennial basis thereafter for the duration of six years,

5 G. The advisory board shall study the effects of legalized marijuana with
6 respect to the following:

7 (1) The latest medical and scientific evidence related to the health effects of
8 marijuana use.

9 (2) The rates of use among different population groups, including teens and
10 youths.

11 (3) The rates of overdoses with opioids and other painkillers.

12 (4) The rates of admission in health care facilities, emergency rooms, and
13 volunteer treatment facilities related to use of marijuana.

14 (5) The rates of marijuana-related arrests for possession, cultivation, and
15 distribution, and of these arrests, the percentages that involved a secondary charge
16 unrelated to marijuana possession, cultivation, or distribution, including the rates of
17 arrests and citations on the state level related to teenage use of marijuana.

18 (6) The rates of arrests on the state level for unlawful driving under the
19 influence of a substance, and the rates of such arrests involving marijuana.

20 (7) The rates of marijuana-related prosecutions, court filings, and
21 imprisonments.

22 (8) Whether there are other methods or tests which may be more appropriate
23 for testing marijuana intoxication levels of drivers.

24 H. The advisory board may partner with any institution of higher education
25 in the state to conduct or assist in conducting the studies identified in this Section.

1 Section 3. Code of Criminal Procedure Articles 977(A)(introductory paragraph) and
2 (D)(1) and 989 are hereby amended and reenacted and Code of Criminal Procedure Article
3 977(A)(3) and (4) are hereby enacted to read as follows:

4 Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor
5 offense

6 A. A person may file a motion to expunge his record of arrest and conviction
7 of a misdemeanor offense if ~~either~~ any of the following apply:

8 * * *

9 (3) The person has been charged with, convicted of, or adjudicated for
10 unlawful possession or possession with intent to distribute one ounce or less of
11 marijuana and whose past violation is legal pursuant to the provisions of R.S.
12 40:1050.1 et seq.

13 (4) The person has been charged with, convicted of, or adjudicated for using
14 or possessing with intent to use, drug paraphernalia for use with marijuana pursuant
15 to R.S. 40:1021 et seq., and whose past violation is legal pursuant to the provisions
16 of R.S. 40:1050.1 et seq.

17 * * *

18 D.(1) Expungement of a record of arrest and conviction of a misdemeanor
19 offense shall occur only once with respect to any person during a five-year period,
20 unless the person was sentenced pursuant to Article 894(B) of this Code or is filing
21 for expungement of multiple offenses pursuant to Paragraphs (A)(3) and (4) of this
22 Section.

23 * * *

24 Art. 989. Motion for expungement forms to be used

25 **STATE OF LOUISIANA**

26 **JUDICIAL DISTRICT FOR THE PARISH OF**

27 _____

28 No.: _____

Division: " _____ "

29 **State of Louisiana**

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vs.

MOTION FOR EXPUNGEMENT

NOW INTO COURT comes mover, who provides the court with the following information in connection with this request:

I. DEFENDANT INFORMATION

NAME: _____

(Last, First, MI)

DOB: _____ / _____ / _____ (MM/DD/YYYY)

GENDER _____ Female _____ Male

SSN (last 4 digits): XXX-XX-_____

RACE: _____

DRIVER LIC.# _____

ARRESTING AGENCY: _____

SID# (if available): _____

ARREST NUMBER (ATN): _____

AGENCY ITEM NO. _____

Mover is entitled to expunge the record of his arrest/conviction pursuant to Louisiana Code of Criminal Procedure Article 971 et seq. and states the following in support:

II. ARREST INFORMATION

1. Mover was arrested on _____ / _____ / _____ (MM/DD/YYYY)

2. _____ YES _____ NO A supplemental sheet with arrests and/or convictions is attached after page 2 of this Motion.

3. Mover was: _____ YES _____ NO Arrested, but it did not result in conviction

1 offense arising out of this charge.

2 () Pre-trial Diversion Program.

3 () Charge dismissed

4 () Found not guilty/judgment of acquittal

5 **NO. 3** La. Rev. Stat. Ann. § _____ : _____

6 Name of the offense _____

7 () Time expired for prosecution _____

8 (MM/DD/YYYY)

9 () Not prosecuted for any offense

10 arising out of this charge.

11 () Pre-trial Diversion Program.

12 () Charge dismissed

13 () Found not guilty/judgment of acquittal

14 ____ Yes ____ No **MISDEMEANOR CONVICTIONS**

15 **NO. 1** La. Rev. Stat. Ann. § _____ : _____

16 Name of the offense _____

17 () Conviction set aside/dismissed ____ / ____ / ____

18 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)

19 () More than 5 years have passed

20 since completion of sentence.

21 () Past violation is legal pursuant

22 to R.S. 40:1050.1 et seq.

23 **NO. 2** La. Rev. Stat. Ann. § _____ : _____

24 Name of the offense _____

25 () Conviction set aside/dismissed ____ / ____ / ____

26 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)

27 () More than 5 years have passed

28 since completion of sentence.

29 () Past violation is legal pursuant

1 to R.S. 40:1050.1 et seq.

2 Yes No **FELONY CONVICTIONS**

3 **NO. 1** La. Rev. Stat. Ann. § _____ : _____

4 () Conviction set aside/dismissed ____/____/____

5 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)

6 () More than 10 years have passed

7 since completion of sentence

8 **NO. 2** La. Rev. Stat. Ann. § _____ : _____

9 () Conviction set aside/dismissed ____/____/____

10 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)

11 () More than 10 years have passed

12 since completion of sentence

13 Yes No **OPERATING A MOTOR VEHICLE WHILE**

14 **INTOXICATED CONVICTIONS**

15 Mover has attached the following:

16 () A copy of the proof from the Department of Public Safety and
17 Corrections, office of motor vehicles, that it has received from the
18 clerk of court a certified copy of the record of the plea, fingerprints
19 of the defendant, and proof of the requirements set forth in C.Cr.P.
20 Art. 556, which shall include the defendant's date of birth, last four
21 digits of social security number, and driver's license number

22 5. Mover has attached to this Motion the following pertinent documents:

23 Criminal Background Check from the La. State Police/Parish Sheriff
24 dated within the past 60 days (required).

25 Bill(s) of Information (if any).

26 Minute entry showing final disposition of case (if any).

27 Certification Letter from the District Attorney for fee waiver (if
28 eligible).

1 Certification Letter from the District Attorney verifying that the
2 applicant has no convictions or pending applicable criminal charges
3 in the requisite time periods.

4 Certification Letter from the District Attorney verifying that the
5 charges were refused.

6 Certification Letter from the District Attorney verifying that the
7 applicant did not participate in a pretrial diversion program.

8 A copy of the order waiving the sex offender registration and
9 notification requirements.

10 Documentation verifying that the mover has been employed for ten
11 consecutive years.

12 A copy of the court order determination of factual innocence and
13 order of compensation for a wrongful conviction pursuant to the
14 provisions of R.S. 15:572.8 if applicable.

15 The Mover prays that if there is no objection timely filed by the arresting law
16 enforcement agency, the district attorney's office, or the Louisiana Bureau of
17 Criminal Identification and Information, that an order be issued herein ordering the
18 expungement of the record of arrest and/or conviction set forth above, including all
19 photographs, fingerprints, disposition, or any other such information, which record
20 shall be confidential and no longer considered a public record, nor be made available
21 to other persons, except a prosecutor, member of a law enforcement agency, or a
22 judge who may request such information in writing, certifying that such request is
23 for the purpose of prosecuting, investigating, or enforcing the criminal law, for the
24 purpose of any other statutorily defined law enforcement or administrative duties,
25 or for the purpose of the requirements of sex offender registration and notification
26 pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any
27 other person for good cause shown, or as otherwise authorized by law.

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Mover/Defendant Name

Address

City, State, ZIP Code

Telephone Number

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 509 Original

2019 Regular Session

Bagneris

Abstract: Legalizes and regulates adult consumption of marijuana.

Present law provides for the regulation of controlled dangerous substances, and prohibits the possession, distribution, dispensing, or possession with intent to distribute or dispense marijuana.

Proposed law defines "board", "consumer", "department", "marijuana", "marijuana accessories", "marijuana cultivation facility", "marijuana facility", "marijuana product manufacturing facility", "marijuana products", "marijuana testing facility", and "retail marijuana store".

Proposed law allows licensed entities to possess, distribute, dispense, and distribute and dispense marijuana.

Proposed law allows individuals over the age of 21 to consume marijuana and to possess up to one ounce of marijuana.

Proposed law requires the Dept. of Agriculture and Forestry to develop and issue licenses for the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities.

Proposed law requires the Board of Pharmacy to develop and issue licenses for the operation of retail marijuana stores.

Proposed law requires the Dept. of Agriculture and Forestry and the Board of Pharmacy to adopt rules by Jan. 1, 2020 for the implementation of proposed law and to begin issuing licenses by Feb. 1, 2020.

Proposed law creates a 15% excise tax to be levied on marijuana and marijuana products for personal use to be collected from the first dealer who handles the marijuana in La.

Proposed law authorizes the secretary of the Dept. of Revenue to promulgate rules to collect and remit the tax.

Proposed law creates the Marijuana Fund and provides that all excise taxes shall be deposited into the fund.

Proposed law provides for disbursement of money from the Marijuana Fund to the MFP, TOPS, Transportation Trust Fund, and the state general fund.

Proposed law creates the Marijuana Enforcement Fund and appropriates money to the fund to be used solely for grants to law enforcement for marijuana enforcement related activities.

Proposed law provides that a local sales tax of 6% will be levied on all marijuana and marijuana products and will be collected at the retail level.

Proposed law provides that the parishes will retain 50% of the sales tax and the municipalities of the parish will receive 50% to be divided among the municipalities.

Proposed law creates the Marijuana Advisory Board to study the social and health effects of marijuana legalization and make recommendations for future statutory and regulatory changes.

Present law provides that a person may file for expungement if the conviction was set aside or dismissed or more than five years have passed since the person completed the sentence.

Proposed law adds that a person who was convicted of marijuana possession or possession with intent to distribute one ounce or less of marijuana or using or possessing with intent to use drug paraphernalia may file for expungement.

Proposed law updates the motion for expungement form to include the additional reasons for expungement of records.

(Amends R.S. 40:966(A)(intro. para.), (C)(intro. para.), and (D)(intro. para.) and C.Cr.P. Art. 977(A)(intro. para.) and (D)(1) and 989; Adds R.S. 14:98(H), R.S. 40:1050.1-1050.8, and C.Cr.P Art. 977(A)(3) and (4))