



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3671/Px  
CMH/JK/EVM:sac:jd

*today please*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

*repeal*

1 **AN ACT to repeal** 23.33 (1) (jo) 5., 30.50 (10m) (e), 340.01 (50m) (e), 350.01 (10v)  
2 (e), 885.235 (1) (d) 5., 939.22 (33) (e), 961.14 (4) (t), 961.41 (1) (h), 961.41 (1m)  
3 (h), 961.41 (1q), 961.41 (3g) (e), 961.571 (1) (a) 7., 961.571 (1) (a) 11. e., 961.571  
4 (1) (a) 11. k. and L. and 967.055 (1m) (b) 5.; **to renumber** 30.681 (1) (bn); **to**  
5 **renumber and amend** 961.01 (14) and 961.34; **to amend** 23.33 (1) (jo) 1.,  
6 23.33 (4c) (a) 4., 23.33 (4c) (a) 5., 23.33 (4c) (b) 3., 23.33 (4c) (b) 4. a., 23.33 (4c)  
7 (b) 4. b., 23.33 (4p) (d), 23.33 (13) (b) 1., 23.33 (13) (b) 2., 23.33 (13) (b) 3., 23.33  
8 (13) (e), 30.50 (10m) (a), 30.681 (1) (b) (title), 30.681 (1) (bn) (title), 30.681 (1)  
9 (c), 30.681 (1) (d), 30.681 (2) (b) (title), 30.681 (2) (c), 30.681 (2) (d) 1. a., 30.681  
10 (2) (d) 1. b., 30.684 (4), 30.80 (6) (d), 59.54 (25), 66.0107 (1) (bm), 85.53 (1) (d),  
11 139.87 (7), 340.01 (50m) (a), 343.10 (5) (a) 1., 343.10 (5) (a) 2., 343.12 (7) (a) 11.,  
12 343.16 (2) (b), 343.16 (5) (a), 343.30 (1p), 343.30 (1q) (h), 343.305 (2), 343.305  
13 (3) (a), 343.305 (3) (am), 343.305 (3) (ar) 1., 343.305 (3) (b), 343.305 (5) (b),  
14 343.305 (5) (d), 343.305 (7) (a), 343.305 (8) (b) 2. bm., 343.305 (8) (b) 2. d.,  
15 343.305 (8) (b) 4m. a., 343.305 (8) (b) 5. b., 343.305 (8) (b) 6. b., 343.305 (9) (a)

1 5. a., 343.305 (9) (am) 5. a., 343.305 (9) (am) 5. c., 343.305 (9) (d), 343.305 (10)  
2 (em), 343.307 (1) (d), 343.307 (2) (e), 343.31 (1) (am), 343.31 (2), 343.315 (2) (a)  
3 2., 343.315 (2) (a) 5., 343.315 (2) (a) 6., 343.315 (2) (bm) 2., 343.32 (2) (bj),  
4 344.576 (2) (b), 346.63 (1) (b), 346.63 (1) (d), 346.63 (2) (a) 2., 346.63 (2) (b) 1.,  
5 346.63 (2) (b) 2., 346.65 (2m) (a), 346.65 (2q), 349.03 (2m), 349.06 (1m), 350.01  
6 (10v) (a), 350.101 (1) (d), 350.101 (1) (e), 350.101 (2) (c), 350.101 (2) (d) 1.,  
7 350.101 (2) (d) 2., 350.104 (4), 350.11 (3) (d), 885.235 (1) (d) 1., 885.235 (1g)  
8 (intro.), 885.235 (1m), 885.235 (4), 895.047 (3) (a), 905.04 (4) (f), 939.22 (33) (a),  
9 940.09 (1m) (a), 940.09 (1m) (b), 940.09 (2) (a), 940.09 (2) (b), 940.25 (1m),  
10 940.25 (2), 941.20 (1) (bm), 961.41 (1r), 961.41 (3g) (c), 961.41 (3g) (d), 961.41  
11 (3g) (em), 961.47 (1), 961.48 (3), 961.48 (5), 961.49 (1m) (intro.), 961.571 (1) (a)  
12 11. (intro.), 967.055 (1) (a), 967.055 (1) (b), 967.055 (1m) (b) 1., 967.055 (2) (a),  
13 971.365 (1) (a), 971.365 (1) (b), 971.365 (1) (c) and 971.365 (2); and *to create*  
14 20.566 (1) (v), 23.33 (1) (k), 23.33 (4c) (a) 2g., 23.33 (4c) (a) 3g., 23.33 (4c) (b) 2n.,  
15 25.56, 30.50 (13p), 30.681 (1) (b) 1g., 30.681 (1) (bn) 2., 30.681 (2) (b) 1g.,  
16 subchapter V (title) of chapter 139 [precedes 139.97], 139.97, 139.971, 139.972,  
17 139.973, 139.974, 139.975, 139.976, 139.977, 139.978, 340.01 (66m), 343.305 (5)  
18 (dm), 346.63 (2p), 350.01 (21g), 350.101 (1) (bg), 350.101 (1) (cg), 350.101 (2)  
19 (bg), 885.235 (1) (e), 885.235 (1g) (ag), 885.235 (1g) (cg), 885.235 (1L), 939.22  
20 (39g), 940.09 (1) (bg), 940.09 (1) (dg), 940.09 (1g) (bg), 940.09 (1g) (dg), 940.25  
21 (1) (bg), 940.25 (1) (dg), 941.20 (1) (bg) and subchapter VIII of chapter 961  
22 [precedes 961.70] of the statutes; **relating to:** marijuana possession,  
23 regulation of marijuana distribution, operating a motor vehicle while under the

1 influence of marijuana, making an appropriation, requiring the exercise of  
2 rule-making authority, and providing penalties.

*Analysis by the Legislative Reference Bureau*

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. This bill changes state law so that state law permits a ~~person~~ who is over the age of 21 to possess no more than one ounce of marijuana, ~~2~~ ounces of marijuana-infused product in solid form, or ~~2~~ ounces of marijuana-infused product in liquid form and eliminates the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption. A person who possesses more than the maximum amount but not more than ~~40~~ grams of marijuana is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both and a person who possesses more than ~~40~~ grams of marijuana is guilty of a Class I felony. In addition, under the bill, the cultivation of marijuana is a Class I felony and the use of marijuana in public is subject to a civil forfeiture of not more than \$100.

This bill also creates a process by which a person may obtain a permit to sell marijuana. Under this bill, a person who does not have a permit to sell marijuana may not sell, distribute, or transfer marijuana, or possess marijuana with the intent to sell or distribute it. A person who violates the prohibition is guilty of a Class I felony except that the felony classification increases to a Class H felony if the person sells, distributes, or transfers the marijuana to a person who is under the age of 21 (minor) and the person is at least three years older than the minor.

This bill prohibits a permittee from selling, distributing, or transferring marijuana to a minor and from permitting a minor to be on premises for which a permit is issued. If a permittee violates one of those prohibitions, the permittee may be subject to a civil forfeiture of not more than \$500 and the permit may be suspended for up to 30 days.

Under this bill, a minor who does any of the following is subject to a forfeiture of not less than \$250 nor more than \$500: procures or attempts to procure marijuana from a permittee; falsely represents his or her age to receive marijuana from a permittee; knowingly possesses marijuana; or knowingly enters any premises for which a permit has been issued.

This bill changes state law regarding marijuana. It does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing marijuana and applies to both intrastate and interstate violations.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2           the following amounts for the purposes indicated:

3           **20.566 Department of revenue**

4           (1)    COLLECTION OF TAXES

5           (v)    Administration and enforcement

6           of marijuana tax and regulation   SEG    A           -0-    1,100,800

7           **SECTION 2.** 20.566 (1) (v) of the statutes is created to read:

8           20.566 (1) (v)   *Administration and enforcement of marijuana tax and*  
9           *regulation.* From the marijuana fund, the amounts in the schedule for the purposes  
10          of administering the marijuana tax imposed under subch. V of ch. 139 and for the  
11          costs incurred in enforcing the taxing and regulation of marijuana producers,  
12          marijuana processors, and marijuana retailers under subch. V of ch. 139.

13          **SECTION 3.** 23.33 (1) (jo) 1. of the statutes is amended to read:

14          23.33 (1) (jo) 1. A controlled substance included in schedule I under ch. 961  
15          ~~other than a tetrahydrocannabinol.~~

16          **SECTION 4.** 23.33 (1) (jo) 5. of the statutes is repealed.

17          **SECTION 5.** 23.33 (1) (k) of the statutes is created to read:

18          23.33 (1) (k)   “Tetrahydrocannabinols concentration” means the number of  
19          nanograms of tetrahydrocannabinols per milliliter of blood.

20          **SECTION 6.** 23.33 (4c) (a) 2g. of the statutes is created to read:

1           23.33 (4c) (a) 2g. ‘Operating with a tetrahydrocannabinols concentration at or  
2 above specified levels.’ No person may engage in the operation of an all-terrain  
3 vehicle or utility terrain vehicle while the person has a tetrahydrocannabinols  
4 concentration of 5.0 or more.

5           **SECTION 7.** 23.33 (4c) (a) 3g. of the statutes is created to read:

6           23.33 (4c) (a) 3g. ‘Operating with a tetrahydrocannabinols concentration at  
7 specified levels; below age 21.’ If a person has not attained the age of 21, the person  
8 may not engage in the operation of an all-terrain vehicle or utility terrain vehicle  
9 while he or she has a tetrahydrocannabinols concentration of more than 0.0 but less  
10 than 5.0.

11           **SECTION 8.** 23.33 (4c) (a) 4. of the statutes is amended to read:

12           23.33 (4c) (a) 4. ‘Related charges.’ A person may be charged with and a  
13 prosecutor may proceed upon a complaint based upon a violation of any combination  
14 of subd. 1., 2., 2g., or 2m. for acts arising out of the same incident or occurrence. If  
15 the person is charged with violating any combination of subd. 1., 2., 2g., or 2m., the  
16 offenses shall be joined. If the person is found guilty of any combination of subd. 1.,  
17 2., 2g., or 2m. for acts arising out of the same incident or occurrence, there shall be  
18 a single conviction for purposes of sentencing and for purposes of counting  
19 convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., 2g., and 2m. each require  
20 proof of a fact for conviction which the others do not require.

21           **SECTION 9.** 23.33 (4c) (a) 5. of the statutes is amended to read:

22           23.33 (4c) (a) 5. ‘Defenses.’ In an action under subd. 2m. that is based on the  
23 defendant allegedly having a detectable amount of methamphetamine, or  
24 gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood or  
25 in an action under subd. 2g. or 3g. that is based on the defendant allegedly having

**SECTION 9**

1 a prohibited tetrahydrocannabinols concentration in his or her blood, the defendant  
2 has a defense if he or she proves by a preponderance of the evidence that at the time  
3 of the incident or occurrence he or she had a valid prescription for methamphetamine  
4 or one of its metabolic precursors, gamma-hydroxybutyric acid, or  
5 delta-9-tetrahydrocannabinol.

6 **SECTION 10.** 23.33 (4c) (b) 2n. of the statutes is created to read:

7 23.33 (4c) (b) 2n. ‘Causing injury while operating with tetrahydrocannabinols  
8 concentration at or above specified levels.’ No person who has a  
9 tetrahydrocannabinols concentration of 5.0 or more may cause injury to another  
10 person by the operation of an all-terrain vehicle or utility terrain vehicle.

11 **SECTION 11.** 23.33 (4c) (b) 3. of the statutes is amended to read:

12 23.33 (4c) (b) 3. ‘Related charges.’ A person may be charged with and a  
13 prosecutor may proceed upon a complaint based upon a violation of any combination  
14 of subd. 1., 2., ~~or 2m.~~ or 2n. for acts arising out of the same incident or occurrence.  
15 If the person is charged with violating any combination of subd. 1., 2., ~~or 2m.~~ or 2n.  
16 in the complaint, the crimes shall be joined under s. 971.12. If the person is found  
17 guilty of any combination of subd. 1., 2., ~~or 2m.~~ or 2n. for acts arising out of the same  
18 incident or occurrence, there shall be a single conviction for purposes of sentencing  
19 and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions  
20 1., 2., ~~and 2m.~~ and 2n. each require proof of a fact for conviction which the others do  
21 not require.

22 **SECTION 12.** 23.33 (4c) (b) 4. a. of the statutes is amended to read:

23 23.33 (4c) (b) 4. a. In an action under this paragraph, the defendant has a  
24 defense if he or she proves by a preponderance of the evidence that the injury would  
25 have occurred even if he or she had been exercising due care and he or she had not

1 been under the influence of an intoxicant, did not have an alcohol concentration of  
2 0.08 or more, ~~or~~ did not have a detectable amount of a restricted controlled substance  
3 in his or her blood, or did not have a tetrahydrocannabinols concentration of 5.0 or  
4 more.

5 **SECTION 13.** 23.33 (4c) (b) 4. b. of the statutes is amended to read:

6 23.33 (4c) (b) 4. b. In an action under subd. 2m. that is based on the defendant  
7 allegedly having a detectable amount of methamphetamine, or  
8 gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood or  
9 in an action under subd. 2n. that is based on the defendant allegedly having a  
10 prohibited tetrahydrocannabinols concentration in his or her blood, the defendant  
11 has a defense if he or she proves by a preponderance of the evidence that at the time  
12 of the incident or occurrence he or she had a valid prescription for methamphetamine  
13 or one of its metabolic precursors, gamma-hydroxybutyric acid, or  
14 delta-9-tetrahydrocannabinol.

15 **SECTION 14.** 23.33 (4p) (d) of the statutes is amended to read:

16 23.33 (4p) (d) *Admissibility; effect of test results; other evidence.* The results  
17 of a chemical test required or administered under par. (a), (b) or (c) are admissible  
18 in any civil or criminal action or proceeding arising out of the acts committed by a  
19 person alleged to have violated the intoxicated operation of an all-terrain vehicle or  
20 utility terrain vehicle law on the issue of whether the person was under the influence  
21 of an intoxicant or the issue of whether the person had alcohol concentrations or  
22 tetrahydrocannabinols concentrations at or above specified levels or a detectable  
23 amount of a restricted controlled substance in his or her blood. Results of these  
24 chemical tests shall be given the effect required under s. 885.235. This subsection

1 does not limit the right of a law enforcement officer to obtain evidence by any other  
2 lawful means.

3 **SECTION 15.** 23.33 (13) (b) 1. of the statutes is amended to read:

4 23.33 (13) (b) 1. Except as provided under subds. 2. and 3., a person who  
5 violates sub. (4c) (a) 1., 2., 2g., or 2m. or (4p) (e) shall forfeit not less than \$150 nor  
6 more than \$300.

7 **SECTION 16.** 23.33 (13) (b) 2. of the statutes is amended to read:

8 23.33 (13) (b) 2. Except as provided under subd. 3., a person who violates sub.  
9 (4c) (a) 1., 2., 2g., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the  
10 current violation, was convicted previously under the intoxicated operation of an  
11 all-terrain vehicle or utility terrain vehicle law or the refusal law shall be fined not  
12 less than \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days  
13 nor more than 6 months.

14 **SECTION 17.** 23.33 (13) (b) 3. of the statutes is amended to read:

15 23.33 (13) (b) 3. A person who violates sub. (4c) (a) 1., 2., 2g., or 2m. or (4p) (e)  
16 and who, within 5 years prior to the arrest for the current violation, was convicted  
17 2 or more times previously under the intoxicated operation of an all-terrain vehicle  
18 or utility terrain vehicle law or refusal law shall be fined not less than \$600 nor more  
19 than \$2,000 and shall be imprisoned not less than 30 days nor more than one year  
20 in the county jail.

21 **SECTION 18.** 23.33 (13) (e) of the statutes is amended to read:

22 23.33 (13) (e) *Alcohol, controlled substances or controlled substance analogs,*  
23 *tetrahydrocannabinols; assessment.* In addition to any other penalty or order, a  
24 person who violates sub. (4c) (a) or (b) or (4p) (e) or who violates s. 940.09 or 940.25  
25 if the violation involves the operation of an all-terrain vehicle or utility terrain

1 vehicle, shall be ordered by the court to submit to and comply with an assessment  
2 by an approved public treatment facility for an examination of the person's use of  
3 alcohol, controlled substances or controlled substance analogs, or  
4 tetrahydrocannabinols. The assessment order shall comply with s. 343.30 (1q) (c) 1.  
5 a. to c. Intentional failure to comply with an assessment ordered under this  
6 paragraph constitutes contempt of court, punishable under ch. 785.

7 **SECTION 19.** 25.56 of the statutes is created to read:

8 **25.56 Marijuana fund.** There is established a separate nonlapsible trust  
9 fund, designated as the marijuana fund, consisting of all revenue from the fees,  
10 taxes, interest, and penalties under subch. V of ch. 139.

11 **SECTION 20.** 30.50 (10m) (a) of the statutes is amended to read:

12 30.50 (10m) (a) A controlled substance included in schedule I under ch. 961  
13 ~~other than a tetrahydrocannabinol.~~

14 **SECTION 21.** 30.50 (10m) (e) of the statutes is repealed.

15 **SECTION 22.** 30.50 (13p) of the statutes is created to read:

16 30.50 (13p) "Tetrahydrocannabinols concentration" means the number of  
17 nanograms of tetrahydrocannabinols per milliliter of blood.

18 **SECTION 23.** 30.681 (1) (b) (title) of the statutes is amended to read:

19 30.681 (1) (b) (title) *Operating after using a controlled substance or alcohol, or*  
20 *marijuana.*

21 **SECTION 24.** 30.681 (1) (b) 1g. of the statutes is created to read:

22 30.681 (1) (b) 1g. No person may engage in the operation of a motorboat while  
23 the person has a tetrahydrocannabinols concentration of 5.0 or more.

24 **SECTION 25.** 30.681 (1) (bn) (title) of the statutes is amended to read:

1           30.681 (1) (bn) (title) *Operating with alcohol or tetrahydrocannabinols*  
2 *concentrations at specified levels; below legal ~~drinking~~ age.*

3           **SECTION 26.** 30.681 (1) (bn) of the statutes is renumbered 30.681 (1) (bn) 1.

4           **SECTION 27.** 30.681 (1) (bn) 2. of the statutes is created to read:

5           30.681 (1) (bn) 2. A person who has not attained the legal age, as defined in s.  
6 961.70 (1), may not engage in the operation of a motorboat while he or she has a  
7 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0.

' 8           **SECTION 28.** 30.681 (1) (c) of the statutes is amended to read:

9           30.681 (1) (c) *Related charges.* A person may be charged with and a prosecutor  
10 may proceed upon a complaint based upon a violation of any combination of par. (a)  
11 or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence. If the  
12 person is charged with violating any combination of par. (a) or (b) 1., 1g., 1m., or 2.,  
13 the offenses shall be joined. If the person is found guilty of any combination of par.  
14 (a) or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence, there  
15 shall be a single conviction for purposes of sentencing and for purposes of counting  
16 convictions under s. 30.80 (6) (a) 2. and 3. Paragraphs (a) and (b) 1., 1g., 1m., and  
17 2. each require proof of a fact for conviction which the others do not require.

18           **SECTION 29.** 30.681 (1) (d) of the statutes is amended to read:

19           30.681 (1) (d) *Defenses.* In an action under par. (b) 1m. that is based on the  
20 defendant allegedly having a detectable amount of methamphetamine, or  
21 gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood or  
22 in an action under par. (b) 1g. or (bn) 2. that is based on the defendant allegedly  
23 having a prohibited tetrahydrocannabinols concentration in his or her blood, the  
24 defendant has a defense if he or she proves by a preponderance of the evidence that  
25 at the time of the incident or occurrence he or she had a valid prescription for

1 methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid,  
2 or delta-9-tetrahydrocannabinol.

3 **SECTION 30.** 30.681 (2) (b) (title) of the statutes is amended to read:

4 30.681 (2) (b) (title) *Causing injury after using a controlled substance or,*  
5 *alcohol, or marijuana.*

6 **SECTION 31.** 30.681 (2) (b) 1g. of the statutes is created to read:

7 30.681 (2) (b) 1g. No person who has a tetrahydrocannabinols concentration  
8 of 5.0 or more may cause injury to another person by the operation of a motorboat.

9 **SECTION 32.** 30.681 (2) (c) of the statutes is amended to read:

10 30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor  
11 may proceed upon a complaint based upon a violation of any combination of par. (a)  
12 or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence. If the  
13 person is charged with violating any combination of par. (a) or (b) 1., 1g., 1m., or 2.  
14 in the complaint, the crimes shall be joined under s. 971.12. If the person is found  
15 guilty of any combination of par. (a) or (b) 1., 1g., 1m., or 2. for acts arising out of the  
16 same incident or occurrence, there shall be a single conviction for purposes of  
17 sentencing and for purposes of counting convictions under s. 30.80 (6) (a) 2. and 3.  
18 Paragraphs (a) and (b) 1., 1g., 1m., and 2. each require proof of a fact for conviction  
19 which the others do not require.

20 **SECTION 33.** 30.681 (2) (d) 1. a. of the statutes is amended to read:

21 30.681 (2) (d) 1. a. In an action under this subsection for a violation of the  
22 intoxicated boating law where the defendant was operating a motorboat that is not  
23 a commercial motorboat, the defendant has a defense if he or she proves by a  
24 preponderance of the evidence that the injury would have occurred even if he or she  
25 had been exercising due care and he or she had not been under the influence of an

1 intoxicant or did not have an alcohol concentration of 0.08 or more or a  
2 tetrahydrocannabinols concentration of 5.0 or more or a detectable amount of a  
3 restricted controlled substance in his or her blood.

4 **SECTION 34.** 30.681 (2) (d) 1. b. of the statutes is amended to read:

5 30.681 (2) (d) 1. b. In an action under par. (b) 1m. that is based on the defendant  
6 allegedly having a detectable amount of methamphetamine, or  
7 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood or  
8 in an action under par. (b) 1g. that is based on the defendant allegedly having a  
9 prohibited tetrahydrocannabinols concentration in his or her blood, the defendant  
10 has a defense if he or she proves by a preponderance of the evidence that at the time  
11 of the incident or occurrence he or she had a valid prescription for methamphetamine  
12 or one of its metabolic precursors, gamma-hydroxybutyric acid, or  
13 delta-9-tetrahydrocannabinol.

14 **SECTION 35.** 30.684 (4) of the statutes is amended to read:

15 30.684 (4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE. The results  
16 of a chemical test required or administered under sub. (1), (2) or (3) are admissible  
17 in any civil or criminal action or proceeding arising out of the acts committed by a  
18 person alleged to have violated the intoxicated boating law on the issue of whether  
19 the person was under the influence of an intoxicant or the issue of whether the person  
20 had alcohol concentrations or tetrahydrocannabinols concentrations at or above  
21 specified levels or a detectable amount of a restricted controlled substance in his or  
22 her blood. Results of these chemical tests shall be given the effect required under s.  
23 885.235. This section does not limit the right of a law enforcement officer to obtain  
24 evidence by any other lawful means.

25 **SECTION 36.** 30.80 (6) (d) of the statutes is amended to read:

1           30.80 (6) (d) *Alcohol, controlled substances or controlled substance analogs,*  
2 *tetrahydrocannabinols; examination.* In addition to any other penalty or order, a  
3 person who violates s. 30.681 (1) or (2) or 30.684 (5) or who violates s. 940.09 or 940.25  
4 if the violation involves the operation of a motorboat, shall be ordered by the court  
5 to submit to and comply with an assessment by an approved public treatment facility  
6 for an examination of the person's use of alcohol, controlled substances or controlled  
7 substance analogs, or tetrahydrocannabinols. Intentional failure to comply with an  
8 assessment ordered under this paragraph constitutes contempt of court, punishable  
9 under ch. 785.

10           **SECTION 37.** 59.54 (25) of the statutes is amended to read:

11           59.54 (25) POSSESSION REGULATION OF MARIJUANA. The board may enact and  
12 enforce an ordinance ~~to prohibit the possession of 25 grams or less of marijuana, as~~  
13 ~~defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and~~  
14 ~~provide a forfeiture for a violation of the ordinance; except that any person who is~~  
15 ~~charged with possession of more than 25 grams of marijuana, or who is charged with~~  
16 ~~possession of any amount of marijuana following a conviction for possession of~~  
17 ~~marijuana, in this state shall not be prosecuted under this subsection that is~~  
18 consistent with s. 961.71 or 961.72. Any ordinance enacted under this subsection  
19 applies in every municipality within the county.

20           **SECTION 38.** 66.0107 (1) (bm) of the statutes is amended to read:

21           66.0107 (1) (bm) Enact and enforce an ordinance ~~to prohibit the possession of~~  
22 ~~25 grams or less of marijuana, as defined in s. 961.01 (14), subject to the exceptions~~  
23 ~~in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;~~  
24 ~~except that any person who is charged with possession of more than 25 grams of~~  
25 ~~marijuana, or who is charged with possession of any amount of marijuana following~~

1 ~~a conviction for possession of marijuana, in this state shall not be prosecuted under~~  
2 ~~this paragraph that is consistent with s. 961.71 or 961.72.~~

3 **SECTION 39.** 85.53 (1) (d) of the statutes is amended to read:

4 85.53 (1) (d) “Operating while intoxicated” means a violation of s. 346.63 (1) ~~or,~~  
5 (2m), or (2p) or a local ordinance in conformity therewith or of s. 346.63 (2) or (6),  
6 940.09 (1) or 940.25.

7 **SECTION 40.** 139.87 (7) of the statutes is amended to read:

8 139.87 (7) “Tetrahydrocannabinols” means a substance ~~included in s. 961.14~~  
9 ~~(4) (t)~~ in any form including tetrahydrocannabinols contained in marijuana,  
10 obtained from marijuana or chemically synthesized.

11 **SECTION 41.** Subchapter V (title) of chapter 139 [precedes 139.97] of the  
12 statutes is created to read:

### 13 **CHAPTER 139**

#### 14 **SUBCHAPTER V**

#### 15 **MARIJUANA TAX AND REGULATION**

16 **SECTION 42.** 139.97 of the statutes is created to read:

17 **139.97 Definitions.** In this subchapter:

18 (1) “Department” means the department of revenue.

19 (2) “Lot” means a definite quantity of marijuana, useable marijuana, or  
20 marijuana-infused product identified by a lot number, every portion or package of  
21 which is consistent with the factors that appear in the labeling.

22 (3) “Lot number” means a number that specifies the person who holds a valid  
23 license under this subchapter and the harvesting or processing date for each lot.

24 (4) “Marijuana” has the meaning given in s. 961.70 (3).

1           (5) “Marijuana processor” means a person who processes marijuana into  
2 useable marijuana or marijuana–infused products, packages and labels useable  
3 marijuana or marijuana–infused products for sale in retail outlets, or sells useable  
4 marijuana or marijuana–infused products at wholesale to marijuana retailers.

5           (6) “Marijuana producer” means a person who produces marijuana and sells  
6 it at wholesale to marijuana processors or other marijuana producers.

7           (7) “Marijuana–infused product” means a product intended for human  
8 consumption that contains marijuana or marijuana extracts, not including useable  
9 marijuana.

10          (8) “Marijuana retailer” means a person who sells useable marijuana or  
11 marijuana–infused products at a retail outlet.

12          (9) “Permittee” means a marijuana producer, marijuana processor, or  
13 marijuana retailer who is issued a permit under s. 139.972.

14          (10) “Retail outlet” means a location for the retail sale of useable marijuana or  
15 marijuana–infused products.

16          (11) “Sales price” has the meaning given in s. 77.51 (15b).

17          (12) “Useable marijuana” means dried marijuana flowers, not including dried  
18 marijuana flowers that are part of any marijuana–infused product.

19          **SECTION 43.** 139.971 of the statutes is created to read:

20          **139.971 Marijuana tax.** (1) (a) An excise tax is imposed on a marijuana  
21 producer at the rate of 25 percent of the sales price on each wholesale sale in this state  
22 of marijuana to a marijuana processor or to another marijuana producer.

23          (b) An excise tax is imposed on a marijuana processor at the rate of 25 percent  
24 of the sales price on each wholesale sale in this state of useable marijuana or  
25 marijuana–infused product to a marijuana retailer.

1 (c) An excise tax is imposed on a marijuana retailer at the rate of 25 percent  
2 of the sales price on each retail sale in this state of useable marijuana or  
3 marijuana-infused product.

4 (2) Each person liable for the taxes imposed under sub. (1) shall pay the taxes  
5 to the department no later than the 15th day of the month following the month in  
6 which the person's tax liability is incurred and shall include with the payment a  
7 return on a form prescribed by the department. The department shall deposit all  
8 taxes collected under this section into the marijuana fund.

9 SECTION 44. 139.972 of the statutes is created to read:

10 **139.972 Permits required.** (1) (a) No person may operate in this state as a  
11 marijuana producer, marijuana processor, or marijuana retailer without first filing  
12 an application for and obtaining the proper permit from the department to perform  
13 such operations.

14 (b) This section applies to all officers, directors, agents, and stockholders  
15 holding 5 percent or more of the stock of any corporation applying for a permit under  
16 this section.

17 (c) Subject to ss. 111.321, 111.322, and 111.335, no permit under this section  
18 may be granted to any person to whom any of the following applies:

19 1. The person has been convicted of a misdemeanor, not involving chs. 340 to  
20 349, at least 3 times.

21 2. The person has been convicted of a felony, unless pardoned.

22 3. The person is addicted to the use of a controlled substance or controlled  
23 substance analog under ch. 961.

24 4. The person has income which comes principally from gambling or has been  
25 convicted of 2 or more gambling offenses.

1           5. The person has been guilty of crimes relating to prostitution.

2           6. The person has been guilty of crimes relating to loaning money or anything  
3 of value to persons holding licenses or permits pursuant to ch. 125.

4           7. The person is under the age of 21.

5           8. The person has not been a resident of this state continuously for at least 90  
6 days prior to the application date.

7           (d) 1. Before the department issues a new or renewed permit under this section,  
8 the department shall give notice of the permit application to the governing body of  
9 the municipality where the the permit applicant intends to operate a retail outlet or  
10 other premises of a marijuana producer, marijuana processor, or marijuana retailer.  
11 No later than 30 days after the department submits the notice, the governing body  
12 of the municipality may file with the department a written objection to granting or  
13 renewing the permit. At the municipality's request, the department may extend the  
14 period for filing objections.

15           2. A written objection filed under subd. 1. shall provide all the facts on which  
16 the objection is based. In determining whether to grant or deny a permit for which  
17 an objection has been filed under this paragraph, the department shall give  
18 substantial weight to objections from a municipality based on chronic illegal activity  
19 associated with the premises for which the applicant seeks a permit, the premises  
20 of any other operation in this state for which the applicant holds or has held a valid  
21 permit or license, or the conduct of the applicant's patrons inside or outside the  
22 premises of any other operation in this state for which the applicant holds or has held  
23 a valid permit or license. In this subdivision, "chronic illegal activity" means a  
24 pervasive pattern of activity that threatens the public health, safety, and welfare of  
25 the municipality, including any crime or ordinance violation, and is documented in

1 crime statistics, police reports, emergency medical response data, calls for service,  
2 field data, or similar law enforcement agency records.

3 (e) After denying a permit, the department shall immediately notify the  
4 applicant in writing of the denial and the reasons for the denial. After making a  
5 decision to grant or deny a permit for which a municipality has filed an objection  
6 under par. (d), the department shall immediately notify the governing body of the  
7 municipality in writing of its decision and the reasons for the decision.

8 (f) 1. The department's denial of a permit under this section is subject to judicial  
9 review under ch. 227.

10 2. The department's decision to grant a permit under this section regardless of  
11 an objection filed under par. (d) is subject to judicial review under ch. 227.

12 (g) The department shall not issue a permit under this section to any person  
13 who does not hold a valid certificate under s. 73.03 (50).

14 (2) Each person who applies for a permit under this section shall submit with  
15 the application a \$250 fee. Each person who is granted a permit under this section  
16 shall annually pay to the department a \$1,000 fee for as long as the person holds a  
17 valid permit under this section. A permit issued under this section is valid for one  
18 year and may be renewed, except that the department may revoke or suspend a  
19 permit prior to its expiration. A person is not entitled to a refund of the fees paid  
20 under this subsection if the person's permit is denied, revoked, or suspended. The  
21 department shall deposit the fees collected under this subsection into the marijuana  
22 fund.

23 (3) The department may not issue a permit under this section to operate any  
24 premises which are within 1,000 feet of the perimeter of the grounds of any

1 elementary or secondary school, playground, recreation facility, child care facility,  
2 public park, public transit facility, or library.

3 (4) Under this section, a separate permit is required for and issued to each class  
4 of permittee and the permit holder shall perform only the operations authorized by  
5 the permit. A permit issued under this section is not transferrable from one person  
6 to another or from one premises to another. A separate permit is required for each  
7 place in this state where the operations of a marijuana producer, marijuana  
8 processor, or marijuana retailer occur, including each retail outlet. No person who  
9 has been issued a permit to operate as a marijuana retailer, or who has any direct  
10 or indirect financial interest in the operation of a marijuana retailer, shall be issued  
11 a permit to operate as a marijuana producer or marijuana processor.

12 (5) Each person issued a permit under this section shall post the permit in a  
13 conspicuous place on the premises to which the permit relates.

14 SECTION 45. 139.973 of the statutes is created to read:

15 **139.973 Regulation.** (1) No person who is issued a permit under s. 139.972  
16 may employ a person who is under the age of 21 to work in the business to which the  
17 permit relates.

18 (2) A retail outlet shall sell no products or services other than useable  
19 marijuana, marijuana-infused products, or paraphernalia intended for the storage  
20 or use of useable marijuana or marijuana-infused products.

21 (3) No marijuana retailer may allow a person who is under the age of 21 to enter  
22 or remain on the premises of a retail outlet.

23 (4) The maximum amount of useable marijuana or marijuana-infused product  
24 that a retail outlet may sell to an individual consumer in a single transaction is any

25

combination of the following: may not exceed the permissible  
amount under s. 961.70 (3g).

- 1 (a) One <sup>half an</sup> ounce of useable marijuana,
- 2 (b) Sixteen ounces of marijuana-infused product in solid form.
- 3 (c) Seventy-two ounces of marijuana-infused product in liquid form.

4 (5) No marijuana retailer may display any signage in a window, on a door, or  
 5 on the outside of the premises of a retail outlet that is visible to the general public  
 6 from a public right-of-way, other than a single sign that is no larger than 1,600  
 7 square inches identifying the retail outlet by the permittee's business or trade name.

8 (6) No marijuana retailer may display useable marijuana or  
 9 marijuana-infused products in a manner that is visible to the general public from  
 10 a public right-of-way.

11 (7) No marijuana retailer or employee of a retail outlet may consume, or allow  
 12 to be consumed, any useable marijuana or marijuana-infused product on the  
 13 premises of the retail outlet.

14 (8) No marijuana producer, marijuana processor, or marijuana retailer may  
 15 place or maintain, or cause to be placed or maintained, an advertisement of useable  
 16 marijuana or a marijuana-infused product in any form or through any medium in  
 17 any of the following locations:

18 (a) Within 1,000 feet of the perimeter of the grounds of any elementary or  
 19 secondary school, playground, recreation facility, child care facility, public park,  
 20 public transit facility, or library.

21 (b) On or in a public transit vehicle or public transit shelter.

22 (c) On or in a publicly owned or publicly operated property.

23 (9) (a) On a schedule determined by the department, every marijuana producer  
 24 and marijuana processor shall submit representative samples of the marijuana,  
 25 useable marijuana, or marijuana-infused products produced or processed by the

1 marijuana producer or marijuana processor to an independent 3rd-party testing  
2 laboratory that satisfies the accreditation criteria, prescribed by the department by  
3 rule, for inspecting and testing marijuana, useable marijuana, and  
4 marijuana-infused products in order to certify that the marijuana, useable  
5 marijuana, and marijuana-infused products comply with standards prescribed by  
6 the department by rule. The laboratory testing the sample shall destroy any part of  
7 the sample that remains after the testing.

8 (b) Marijuana producers and marijuana processors shall submit the results of  
9 the testing provided under par. (a) to the department in the manner prescribed by  
10 the department by rule.

11 (c) If a representative sample inspected and tested under par. (a) does not meet  
12 the standards prescribed by the department, the department shall take the  
13 necessary action to ensure that the entire lot from which the sample was taken is  
14 destroyed. The department shall promulgate rules to determine lots and lot  
15 numbers for purposes of this subsection and for the reporting of lots and lot numbers  
16 to the department.

17 **SECTION 46.** 139.974 of the statutes is created to read:

18 **139.974 Records and reports.** (1) Every person issued a permit under s.  
19 139.972 shall keep accurate and complete records of the production and sales of  
20 marijuana, useable marijuana, and marijuana-infused products in this state. The  
21 records shall be kept on the premises described in the permit and in such manner as  
22 to ensure permanency and accessibility for inspection at reasonable hours by the  
23 department's authorized personnel. The department shall prescribe reasonable and  
24 uniform methods of keeping records and making reports and shall provide the  
25 necessary forms to permittees.

1           (2) If the department determines that any permittee's records are not kept in  
2 the prescribed form or are in such condition that the department requires an unusual  
3 amount of time to determine from the records the amount of the tax due, the  
4 department shall give notice to the permittee that the permittee is required to revise  
5 the permittee's records and keep them in the prescribed form. If the permittee fails  
6 to comply within 30 days, the permittee shall pay the expenses reasonably  
7 attributable to a proper examination and tax determination at the rate of \$30 a day  
8 for each auditor used to make the examination and determination. The department  
9 shall send a bill for such expenses and the permittee shall pay the amount of such  
10 bill within 10 days.

11           (3) If any permittee fails to file a report when due, the permittee shall be  
12 required to pay a late filing fee of \$10. A report that is mailed is filed on time if it is  
13 mailed in a properly addressed envelope with postage prepaid, the envelope is  
14 officially postmarked, or marked or recorded electronically as provided under section  
15 7502 (f) (2) (c) of the Internal Revenue Code, on the date due, and the report is  
16 actually received by the department or at the destination that the department  
17 prescribes within 5 days of the due date. A report that is not mailed is timely if it  
18 is received on or before the due date by the department or at the destination that the  
19 department prescribes. For purposes of this subsection, "mailed" includes delivery  
20 by a delivery service designated under section 7502 (f) of the Internal Revenue Code.

21           (4) Sections 71.78 (1), (1m), and (4) to (9) and 71.83 (2) (a) 3. and 3m., relating  
22 to confidentiality of income, franchise, and gift tax returns, apply to any information  
23 obtained from any permittee under this subchapter on a tax return, report, schedule,  
24 exhibit, or other document or from an audit report relating to any of those documents,  
25 except that the department of revenue shall publish production and sales statistics.

1           **SECTION 47.** 139.975 of the statutes is created to read:

2           **139.975 Administration and enforcement.** (1) The department shall  
3 administer and enforce this subchapter and promulgate rules necessary to  
4 administer and enforce this subchapter.

5           (2) The duly authorized employees of the department have all necessary police  
6 powers to prevent violations of this subchapter.

7           (3) Authorized personnel of the department of justice and the department of  
8 revenue, and any law enforcement officer, within their respective jurisdictions, may  
9 at all reasonable hours enter the premises of any permittee and examine the books  
10 and records to determine whether the tax imposed by this subchapter has been fully  
11 paid and may enter and inspect any premises where marijuana, useable marijuana,  
12 or marijuana-infused products are produced, processed, made, sold, or stored to  
13 determine whether the permittee is complying with this subchapter.

14           (4) The department may suspend or revoke the permit of any permittee who  
15 violates s. 100.30, any provision of this subchapter, or any rules promulgated under  
16 sub. (1). The department shall revoke the permit of any permittee who violates s.  
17 100.30 3 or more times within a 5-year period.

18           (5) No suit shall be maintained in any court to restrain or delay the collection  
19 or payment of the tax levied in s. 139.971. The aggrieved taxpayer shall pay the tax  
20 when due and, if paid under protest, may at any time within 90 days from the date  
21 of payment sue the state to recover the tax paid. If it is finally determined that any  
22 part of the tax was wrongfully collected, the secretary of administration shall pay the  
23 amount wrongfully collected out of the marijuana fund. A separate suit need not be  
24 filed for each separate payment made by any taxpayer, but a recovery may be had  
25 in one suit for as many payments as may have been made.

1           **(6)** (a) Any person may be compelled to testify in regard to any violation of this  
2 subchapter of which the person may have knowledge, even though such testimony  
3 may tend to incriminate the person, upon being granted immunity from prosecution  
4 in connection with the testimony, and upon the giving of such testimony, the person  
5 shall not be prosecuted because of the violation relative to which the person has  
6 testified.

7           **(b)** The immunity provided under par. (a) is subject to the restrictions under  
8 s. 972.085.

9           **(7)** The provisions on timely filing under s. 71.80 (18) apply to the tax imposed  
10 under this subchapter.

11           **(8)** Sections 71.74 (1), (2), (10), (11) and (14), 71.77, 71.91 (1) (a) and (c) and (2)  
12 to (7), 71.92, and 73.0301 as they apply to the taxes under ch. 71 apply to the taxes  
13 under this subchapter. Section 71.74 (13) as it applies to the collection of the taxes  
14 under ch. 71 applies to the collection of the taxes under this subchapter, except that  
15 the period during which notice of an additional assessment shall be given begins on  
16 the due date of the report under this subchapter.

17           **(9)** Any building or place of any kind where marijuana, useable marijuana, or  
18 a marijuana-infused product is sold, possessed, stored, or manufactured without a  
19 lawful permit or in violation of s. 139.972 or 139.973 is declared a public nuisance  
20 and may be closed and abated as such.

21           **(10)** At the request of the secretary of revenue, the attorney general may  
22 represent this state or assist a district attorney in prosecuting any case arising under  
23 this subchapter.

24           **SECTION 48.** 139.976 of the statutes is created to read:

1           **139.976 Theft of tax moneys.** All marijuana tax moneys received by a  
2           permittee for the sale of marijuana, useable marijuana, and marijuana-infused  
3           products on which the tax under this subchapter has become due and has not been  
4           paid are trust funds in the permittee's possession and are the property of this state.  
5           Any permittee who fraudulently withholds, appropriates, or otherwise uses  
6           marijuana tax moneys that are the property of this state is guilty of theft under s.  
7           943.20 (1), whether or not the permittee has or claims to have an interest in those  
8           moneys.

9           **SECTION 49.** 139.977 of the statutes is created to read:

10           **139.977 Seizure and confiscation.** (1) All marijuana, useable marijuana,  
11           and marijuana-infused products produced, processed, made, kept, stored, sold,  
12           distributed, or transported in violation of this subchapter, and all tangible personal  
13           property used in connection with the marijuana, useable marijuana, or  
14           marijuana-infused products, is unlawful property and subject to seizure by the  
15           department or a law enforcement officer. Except as provided in sub. (2), all  
16           marijuana, useable marijuana, and marijuana-infused products seized under this  
17           subsection shall be destroyed.

18           (2) If marijuana, useable marijuana, or marijuana-infused products on which  
19           the tax has not been paid are seized as provided under sub. (1), they may be given  
20           to law enforcement officers to use in criminal investigations or sold to qualified  
21           buyers by the department, without notice. If the marijuana, useable marijuana, or  
22           marijuana-infused products are sold, after deducting the costs of selling and storing  
23           the property, the department shall pay the sale proceeds into the marijuana fund.  
24           If the department finds that the marijuana, useable marijuana, or  
25           marijuana-infused products may deteriorate or become unfit for use in criminal

1 investigations or for sale, or that those uses would otherwise be impractical, the  
2 department may order them destroyed.

3 (3) If marijuana, useable marijuana, or marijuana-infused products on which  
4 the tax has been paid are seized as provided under sub. (1) they shall be returned to  
5 the true owner if ownership can be ascertained and the owner or the owner's agent  
6 is not involved in the violation resulting in the seizure. If the ownership cannot be  
7 ascertained or if the owner or the owner's agent was guilty of the violation that  
8 resulted in the seizure of the marijuana, useable marijuana, or marijuana-infused  
9 products, they may be sold or otherwise disposed of as provided in sub. (2).

10 (4) If tangible personal property other than marijuana, useable marijuana, and  
11 marijuana-infused products is seized as provided under sub. (1), the department  
12 shall advertise the tangible personal property for sale by publication of a class 2  
13 notice under ch. 985. If no person claiming a lien on, or ownership of, the property  
14 has notified the department of the person's claim within 10 days after last insertion  
15 of the notice, the department shall sell the property. If a sale is not practical the  
16 department may destroy the property. If a person claiming a lien on, or ownership  
17 of, the property notifies the department within the time prescribed in this  
18 subsection, the department may apply to the circuit court in the county where the  
19 property was seized for an order directing disposition of the property or the proceeds  
20 from the sale of the property. If the court orders the property to be sold, all liens, if  
21 any, may be transferred from the property to the sale proceeds. Neither the property  
22 seized nor the proceeds from the sale shall be turned over to any claimant of lien or  
23 ownership unless the claimant first establishes that the property was not used in  
24 connection with any violation under this subchapter or that, if so used, it was done  
25 without the claimant's knowledge or consent and without the claimant's knowledge

1 of facts that should have given the claimant reason to believe it would be put to such  
2 use. If no claim of lien or ownership is established as provided under this subsection  
3 the property may be ordered destroyed. In case of a sale, the net proceeds after  
4 deducting costs, expenses, and established claims shall be paid into the marijuana  
5 fund.

6 **SECTION 50.** 139.978 of the statutes is created to read:

7 **139.978 Interest and penalties.** (1) Any person who makes or signs any  
8 false or fraudulent report under this subchapter or who attempts to evade the tax  
9 imposed by s. 139.971, or who aids in or abets the evasion or attempted evasion of  
10 that tax, may be fined not more than \$10,000 or imprisoned for not more than 9  
11 months or both.

12 (2) Any permittee who fails to keep the records required by s. 139.974 (1) and  
13 (2) shall be fined not less than \$100 nor more than \$500 or imprisoned not more than  
14 6 months or both.

15 (3) Any person who refuses to permit the examination or inspection authorized  
16 under s. 139.975 (3) may be fined not more than \$500 or imprisoned not more than  
17 6 months or both. The department shall immediately suspend or revoke the permit  
18 of any person who refuses to permit the examination or inspection authorized under  
19 s. 139.975 (3).

20 (4) Any person who violates any of the provisions of this subchapter for which  
21 no other penalty is prescribed shall be fined not less than \$100 nor more than \$1,000  
22 or imprisoned not less than 10 days nor more than 90 days or both.

23 (5) Any person who violates any of the rules promulgated in accordance with  
24 this subchapter shall be fined not less than \$100 nor more than \$500 or be  
25 imprisoned not more than 6 months or both.

1           (6) In addition to the penalties imposed for violating the provisions of this  
2 subchapter or any of the department's rules, the department shall automatically  
3 revoke the permit of any person convicted of such a violation and not issue another  
4 permit to that person for a period of 2 years following the revocation.

5           (7) Unpaid taxes bear interest at the rate of 12 percent per year from the due  
6 date of the return until paid or deposited with the department, and all refunded taxes  
7 bear interest at the rate of 3 percent per year from the due date of the return to the  
8 date on which the refund is certified on the refund rolls.

9           (8) All nondelinquent payments of additional amounts owed shall be applied  
10 in the following order: penalties, interest, tax principal.

11           (9) Delinquent marijuana taxes bear interest at the rate of 1.5 percent per  
12 month until paid. The taxes imposed by this subchapter shall become delinquent if  
13 not paid:

14           (a) In the case of a timely filed return, no return filed or a late return, on or  
15 before the due date of the return.

16           (b) In the case of a deficiency determination of taxes, within 2 months after the  
17 date of demand.

18           (10) If due to neglect an incorrect return is filed, the entire tax finally  
19 determined is subject to a penalty of 25 percent of the tax exclusive of interest or  
20 other penalty. A person filing an incorrect return has the burden of proving that the  
21 error or errors were due to good cause and not due to neglect.

22           **SECTION 51.** 340.01 (50m) (a) of the statutes is amended to read:

23           340.01 (50m) (a) A controlled substance included in schedule I under ch. 961  
24 ~~other than a tetrahydrocannabinol.~~

25           **SECTION 52.** 340.01 (50m) (e) of the statutes is repealed.

1           **SECTION 53.** 340.01 (66m) of the statutes is created to read:

2           340.01 **(66m)** “Tetrahydrocannabinols concentration” has the meaning given  
3 in s. 23.33 (1) (k).

4           **SECTION 54.** 343.10 (5) (a) 1. of the statutes is amended to read:

5           343.10 **(5)** (a) 1. In addition to any restrictions appearing on the former  
6 operator’s license of the applicant, the occupational license shall contain definite  
7 restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60,  
8 type of occupation and areas or routes of travel which are permitted under the  
9 license. The occupational license may permit travel to and from church during  
10 specified hours if the travel does not exceed the restrictions as to hours of the day and  
11 hours per week in this subdivision. The occupational license may permit travel  
12 necessary to comply with a driver safety plan ordered under s. 343.30 (1q) or 343.305  
13 if the travel does not exceed the restrictions as to hours of the day and hours per week  
14 in this subdivision. The occupational license may contain restrictions on the use of  
15 alcohol, of tetracannabinols, and of controlled substances and controlled substance  
16 analogs in violation of s. 961.41.

17           **SECTION 55.** 343.10 (5) (a) 2. of the statutes is amended to read:

18           343.10 **(5)** (a) 2. If the applicant has 2 or more convictions, suspensions or  
19 revocations, as counted under s. 343.307 (1), the occupational license shall prohibit  
20 the applicant from driving or operating a motor vehicle while he or she has an alcohol  
21 concentration of more than 0.0 or a tetrahydrocannabinols concentration of more  
22 than 0.0.

23           **SECTION 56.** 343.12 (7) (a) 11. of the statutes is amended to read:

1           343.12 (7) (a) 11. Operating a motor vehicle while under the legal drinking age  
2 with a prohibited alcohol concentration under s. 346.63 (2m) or while under the legal  
3 age with a prohibited tetrahydrocannabinols concentration under s. 346.63 (2p).

4           **SECTION 57.** 343.16 (2) (b) of the statutes is amended to read:

5           343.16 (2) (b) *Specific requirements.* The standards developed by the  
6 department under par. (c) shall provide that the examination for persons making  
7 their first application for an operator's license shall include a test of the applicant's  
8 eyesight, ability to read and understand highway signs regulating, warning and  
9 directing traffic, knowledge of the traffic laws, including ss. 346.072 and 346.26,  
10 understanding of fuel-efficient driving habits and the relative costs and availability  
11 of other modes of transportation, knowledge of the need for anatomical gifts and the  
12 ability to make an anatomical gift through the use of a donor card issued under s.  
13 343.175 (2), and an actual demonstration of ability to exercise ordinary and  
14 reasonable control in the operation of a motor vehicle. The test of knowledge of the  
15 traffic laws shall include questions on the provisions of ss. 343.30 (1q), 343.303 to  
16 343.31 and 346.63 to 346.655, relating to the operation of a motor vehicle and the  
17 consumption of alcohol beverages and tetrahydrocannabinols. The test of knowledge  
18 may also include questions on the social, medical and economic effects of alcohol and  
19 other drug abuse. The examination of applicants for authorization to operate 'Class  
20 M' vehicles shall test an applicant's knowledge of Type 1 motorcycle safety, including  
21 proper eye protection to be worn during hours of darkness. The department may  
22 require persons changing their residence to this state from another jurisdiction and  
23 persons applying for a reinstated license after termination of a revocation period to  
24 take all or parts of the examination required of persons making their first application  
25 for an operator's license. Any applicant who is required to give an actual

1 demonstration of ability to exercise ordinary and reasonable control in the operation  
2 of a motor vehicle shall furnish a representative vehicle in safe operating condition  
3 for use in testing ability.

4 **SECTION 58.** 343.16 (5) (a) of the statutes is amended to read:

5 343.16 (5) (a) The secretary may require any applicant for a license or any  
6 licensed operator to submit to a special examination by such persons or agencies as  
7 the secretary may direct to determine incompetency, physical or mental disability,  
8 disease, or any other condition that might prevent such applicant or licensed person  
9 from exercising reasonable and ordinary control over a motor vehicle. If the  
10 department requires the applicant to submit to an examination, the applicant shall  
11 pay for the examination. If the department receives an application for a renewal or  
12 duplicate license after voluntary surrender under s. 343.265 or receives a report from  
13 a physician, physician assistant, as defined in s. 448.01 (6), advanced practice nurse  
14 prescriber certified under s. 441.16 (2), or optometrist under s. 146.82 (3), or if the  
15 department has a report of 2 or more arrests within a one-year period for any  
16 combination of violations of s. 346.63 (1) or (5) or a local ordinance in conformity with  
17 s. 346.63 (1) or (5) or a law of a federally recognized American Indian tribe or band  
18 in this state in conformity with s. 346.63 (1) or (5), or s. 346.63 (1m), 1985 stats., or  
19 s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a  
20 vehicle, the department shall determine, by interview or otherwise, whether the  
21 operator should submit to an examination under this section. The examination may  
22 consist of an assessment. If the examination indicates that education or treatment  
23 for a disability, disease, or condition concerning the use of alcohol, a controlled  
24 substance or a controlled substance analog, or tetrahydrocannabinols is appropriate,  
25 the department may order a driver safety plan in accordance with s. 343.30 (1q). If

1 there is noncompliance with assessment or the driver safety plan, the department  
2 shall revoke the person's operating privilege in the manner specified in s. 343.30 (1q)  
3 (d).

4 **SECTION 59.** 343.30 (1p) of the statutes is amended to read:

5 343.30 (1p) Notwithstanding sub. (1), a court shall suspend the operating  
6 privilege of a person for 3 months upon the person's conviction by the court for  
7 violation of s. 346.63 (2m) or (2p) or a local ordinance in conformity with s. 346.63  
8 (2m) or (2p). If there was a minor passenger under 16 years of age in the motor  
9 vehicle at the time of the violation that gave rise to the conviction under s. 346.63  
10 (2m) or (2p) or a local ordinance in conformity with s. 346.63 (2m) or (2p), the court  
11 shall suspend the operating privilege of the person for 6 months.

12 **SECTION 60.** 343.30 (1q) (h) of the statutes is amended to read:

13 343.30 (1q) (h) The court or department shall provide that the period of  
14 suspension or revocation imposed under this subsection shall be reduced by any  
15 period of suspension or revocation previously served under s. 343.305 if the  
16 suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63  
17 (1) ~~or~~, (2m), or (2p) or a local ordinance in conformity therewith arise out of the same  
18 incident or occurrence. The court or department shall order that the period of  
19 suspension or revocation imposed under this subsection run concurrently with any  
20 period of time remaining on a suspension or revocation imposed under s. 343.305  
21 arising out of the same incident or occurrence. The court may modify an occupational  
22 license authorized under s. 343.305 (8) (d) in accordance with this subsection.

23 **SECTION 61.** 343.305 (2) of the statutes is amended to read:

24 343.305 (2) IMPLIED CONSENT. Any person who is on duty time with respect to  
25 a commercial motor vehicle or drives or operates a motor vehicle upon the public

1 highways of this state, or in those areas enumerated in s. 346.61, is deemed to have  
2 given consent to one or more tests of his or her breath, blood or urine, for the purpose  
3 of determining the presence or quantity in his or her blood or breath, of alcohol,  
4 tetrahydrocannabinols, controlled substances, controlled substance analogs or other  
5 drugs, or any combination of alcohol, tetrahydrocannabinols, controlled substances,  
6 controlled substance analogs and other drugs, when requested to do so by a law  
7 enforcement officer under sub. (3) (a) or (am) or when required to do so under sub.  
8 (3) (ar) or (b). Any such tests shall be administered upon the request of a law  
9 enforcement officer. The law enforcement agency by which the officer is employed  
10 shall be prepared to administer, either at its agency or any other agency or facility,  
11 2 of the 3 tests under sub. (3) (a), (am), or (ar), and may designate which of the tests  
12 shall be administered first.

13 **SECTION 62.** 343.305 (3) (a) of the statutes is amended to read:

14 343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1), (2m), (2p),  
15 or (5) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2)  
16 or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or upon  
17 arrest subsequent to a refusal under par. (ar), a law enforcement officer may request  
18 the person to provide one or more samples of his or her breath, blood or urine for the  
19 purpose specified under sub. (2). Compliance with a request for one type of sample  
20 does not bar a subsequent request for a different type of sample.

21 **SECTION 63.** 343.305 (3) (am) of the statutes is amended to read:

22 343.305 (3) (am) Prior to arrest, a law enforcement officer may request the  
23 person to provide one or more samples of his or her breath, blood or urine for the  
24 purpose specified under sub. (2) whenever a law enforcement officer detects any  
25 presence of alcohol, tetrahydrocannabinols, a controlled substance, a controlled

1 substance analog or other drug, or a combination thereof, on a person driving or  
2 operating or on duty time with respect to a commercial motor vehicle or has reason  
3 to believe the person is violating or has violated s. 346.63 (7). Compliance with a  
4 request for one type of sample does not bar a subsequent request for a different type  
5 of sample. For the purposes of this paragraph, “law enforcement officer” includes  
6 inspectors in the performance of duties under s. 110.07 (3).

7 **SECTION 64.** 343.305 (3) (ar) 1. of the statutes is amended to read:

8 343.305 (3) (ar) 1. If a person is the operator of a vehicle that is involved in an  
9 accident that causes substantial bodily harm, as defined in s. 939.22 (38), to any  
10 person, and a law enforcement officer detects any presence of alcohol,  
11 tetrahydrocannabinols, a controlled substance, a controlled substance analog or  
12 other drug, or a combination thereof, the law enforcement officer may request the  
13 operator to provide one or more samples of his or her breath, blood, or urine for the  
14 purpose specified under sub. (2). Compliance with a request for one type of sample  
15 does not bar a subsequent request for a different type of sample. A person who is  
16 unconscious or otherwise not capable of withdrawing consent is presumed not to  
17 have withdrawn consent under this subdivision and one or more samples specified  
18 in par. (a) or (am) may be administered to the person. If a person refuses to take a  
19 test under this subdivision, he or she may be arrested under par. (a).

20 **SECTION 65.** 343.305 (3) (b) of the statutes is amended to read:

21 343.305 (3) (b) A person who is unconscious or otherwise not capable of  
22 withdrawing consent is presumed not to have withdrawn consent under this  
23 subsection, and if a law enforcement officer has probable cause to believe that the  
24 person has violated s. 346.63 (1), (2m), (2p), or (5) or a local ordinance in conformity  
25 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the

1 use of a vehicle, or detects any presence of alcohol, tetrahydrocannabinols, controlled  
2 substance, controlled substance analog or other drug, or a combination thereof, on  
3 a person driving or operating or on duty time with respect to a commercial motor  
4 vehicle or has reason to believe the person has violated s. 346.63 (7), one or more  
5 samples specified in par. (a) or (am) may be administered to the person.

6 **SECTION 66.** 343.305 (5) (b) of the statutes is amended to read:

7 343.305 (5) (b) Blood may be withdrawn from the person arrested for violation  
8 of s. 346.63 (1), (2), (2m), (2p), (5) or (6) or 940.25, or s. 940.09 where the offense  
9 involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1),  
10 (2m), (2p), or (5), or as provided in sub. (3) (am) or (b) to determine the presence or  
11 quantity of alcohol, tetrahydrocannabinols, a controlled substance, a controlled  
12 substance analog or any other drug, or any combination of alcohol, controlled  
13 substance, controlled substance analog and any other drug in the blood only by a  
14 physician, registered nurse, medical technologist, physician assistant or person  
15 acting under the direction of a physician.

16 **SECTION 67.** 343.305 (5) (d) of the statutes is amended to read:

17 343.305 (5) (d) At the trial of any civil or criminal action or proceeding arising  
18 out of the acts committed by a person alleged to have been driving or operating a  
19 motor vehicle while under the influence of an intoxicant, a controlled substance, a  
20 controlled substance analog or any other drug, or under the influence of any  
21 combination of alcohol, tetrahydrocannabinols, a controlled substance, a controlled  
22 substance analog and any other drug, to a degree which renders him or her incapable  
23 of safely driving, or under the combined influence of an intoxicant and any other drug  
24 to a degree which renders him or her incapable of safely driving, or having a  
25 prohibited alcohol or tetrahydrocannabinols concentration, or alleged to have been

1 driving or operating or on duty time with respect to a commercial motor vehicle while  
2 having an alcohol concentration above 0.0 or possessing an intoxicating beverage,  
3 regardless of its alcohol content, or within 4 hours of having consumed or having been  
4 under the influence of an intoxicating beverage, regardless of its alcohol content, or  
5 of having an alcohol concentration of 0.04 or more, the results of a test administered  
6 in accordance with this section are admissible on the issue of whether the person was  
7 under the influence of an intoxicant, a controlled substance, a controlled substance  
8 analog or any other drug, or under the influence of any combination of alcohol,  
9 tetrahydrocannabinols, a controlled substance, a controlled substance analog and  
10 any other drug, to a degree which renders him or her incapable of safely driving or  
11 under the combined influence of an intoxicant and any other drug to a degree which  
12 renders him or her incapable of safely driving or any issue relating to the person's  
13 alcohol concentration. Test results shall be given the effect required under s.  
14 885.235.

15 **SECTION 68.** 343.305 (5) (dm) of the statutes is created to read:

16 343.305 (5) (dm) At the trial of any civil or criminal action or proceeding arising  
17 out of the acts committed by a person alleged to have been driving or operating a  
18 motor vehicle while having a tetrahydrocannabinols concentration at or above  
19 specified levels, the results of a blood test administered in accordance with this  
20 section are admissible on any issue relating to the tetrahydrocannabinols  
21 concentration. Test results shall be given the effect required under s. 885.235.

22 **SECTION 69.** 343.305 (7) (a) of the statutes is amended to read:

23 343.305 (7) (a) If a person submits to chemical testing administered in  
24 accordance with this section and any test results indicate the presence of a detectable  
25 amount of a restricted controlled substance in the person's blood or a prohibited

1 alcohol or tetrahydrocannabinols concentration, the law enforcement officer shall  
2 report the results to the department. The person's operating privilege is  
3 administratively suspended for 6 months.

4 **SECTION 70.** 343.305 (8) (b) 2. bm. of the statutes is amended to read:

5 343.305 (8) (b) 2. bm. Whether the person had a prohibited alcohol or  
6 tetrahydrocannabinols concentration or a detectable amount of a restricted  
7 controlled substance in his or her blood at the time the offense allegedly occurred.

8 **SECTION 71.** 343.305 (8) (b) 2. d. of the statutes is amended to read:

9 343.305 (8) (b) 2. d. If one or more tests were administered in accordance with  
10 this section, whether each of the test results for those tests indicate the person had  
11 a prohibited alcohol or tetrahydrocannabinols concentration or a detectable amount  
12 of a restricted controlled substance in his or her blood.

13 **SECTION 72.** 343.305 (8) (b) 4m. a. of the statutes is amended to read:

14 343.305 (8) (b) 4m. a. A blood test administered in accordance with this section  
15 indicated that the person had a detectable amount of methamphetamine, or  
16 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ or a prohibited  
17 tetrahydrocannabinols concentration but did not have a detectable amount of any  
18 other restricted controlled substance in his or her blood.

19 **SECTION 73.** 343.305 (8) (b) 5. b. of the statutes is amended to read:

20 343.305 (8) (b) 5. b. The person did not have a prohibited alcohol or  
21 tetrahydrocannabinols concentration or a detectable amount of a restricted  
22 controlled substance in his or her blood at the time the offense allegedly occurred.

23 **SECTION 74.** 343.305 (8) (b) 6. b. of the statutes is amended to read:

1           343.305 (8) (b) 6. b. The person had a prohibited alcohol or  
2           tetrahydrocannabinols concentration or a detectable amount of a restricted  
3           controlled substance in his or her blood at the time the offense allegedly occurred.

4           **SECTION 75.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

5           343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the  
6           person was driving or operating a motor vehicle while under the influence of alcohol,  
7           tetrahydrocannabinols, a controlled substance or a controlled substance analog or  
8           any combination of alcohol, tetrahydrocannabinols, a controlled substance and a  
9           controlled substance analog, under the influence of any other drug to a degree which  
10          renders the person incapable of safely driving, or under the combined influence of  
11          alcohol and any other drug to a degree which renders the person incapable of safely  
12          driving, having a restricted controlled substance in his or her blood, or having a  
13          prohibited alcohol or tetrahydrocannabinols concentration or, if the person was  
14          driving or operating a commercial motor vehicle, an alcohol concentration of 0.04 or  
15          more and whether the person was lawfully placed under arrest for violation of s.  
16          346.63 (1), (2m) or (5) or a local ordinance in conformity therewith or s. 346.63 (2) or  
17          (6), 940.09 (1) or 940.25.

18          **SECTION 76.** 343.305 (9) (am) 5. a. of the statutes is amended to read:

19          343.305 (9) (am) 5. a. Whether the officer detected any presence of alcohol,  
20          tetrahydrocannabinols, controlled substance, controlled substance analog or other  
21          drug, or a combination thereof, on the person or had reason to believe that the person  
22          was violating or had violated s. 346.63 (7).

23          **SECTION 77.** 343.305 (9) (am) 5. c. of the statutes is amended to read:

24          343.305 (9) (am) 5. c. Whether the person refused to permit the test. The person  
25          shall not be considered to have refused the test if it is shown by a preponderance of

1 evidence that the refusal was due to a physical inability to submit to the test due to  
2 a physical disability or disease unrelated to the use of alcohol,  
3 tetrahydrocannabinols, controlled substances, controlled substance analogs or other  
4 drugs.

5 **SECTION 78.** 343.305 (9) (d) of the statutes is amended to read:

6 343.305 (9) (d) At the close of the hearing, or within 5 days thereafter, the court  
7 shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined  
8 adversely to the person, the court shall proceed under sub. (10). If one or more of the  
9 issues is determined favorably to the person, the court shall order that no action be  
10 taken on the operating privilege on account of the person's refusal to take the test in  
11 question. This section does not preclude the prosecution of the person for violation  
12 of s. 346.63 (1), (2m), (2p), (5) or (7) or a local ordinance in conformity therewith, or  
13 s. 346.63 (2) or (6), 940.09 (1) or 940.25.

14 **SECTION 79.** 343.305 (10) (em) of the statutes is amended to read:

15 343.305 (10) (em) One penalty for improperly refusing to submit to a test for  
16 intoxication regarding a person arrested for a violation of s. 346.63 (2m), (2p), or (7)  
17 or a local ordinance in conformity therewith is revocation of the person's operating  
18 privilege for 6 months. If there was a minor passenger under 16 years of age in the  
19 motor vehicle at the time of the incident that gave rise to the improper refusal, the  
20 revocation period is 12 months. After the first 15 days of the revocation period, the  
21 person is eligible for an occupational license under s. 343.10. Any such improper  
22 refusal or revocation for the refusal does not count as a prior refusal or a prior  
23 revocation under this section or ss. 343.30 (1q), 343.307 and 346.65 (2). The person  
24 shall not be required to submit to and comply with any assessment or driver safety  
25 plan under pars. (c) and (d).

1           **SECTION 80.** 343.307 (1) (d) of the statutes is amended to read:

2           343.307 (1) (d) Convictions under the law of another jurisdiction that prohibits  
3 a person from refusing chemical testing or using a motor vehicle while intoxicated  
4 or under the influence of a controlled substance or controlled substance analog, or  
5 a combination thereof; with an excess or specified range of alcohol or  
6 tetrahydrocannabinols concentration; while under the influence of any drug to a  
7 degree that renders the person incapable of safely driving; or while having a  
8 detectable amount of a restricted controlled substance in his or her blood, as those  
9 or substantially similar terms are used in that jurisdiction's laws.

10           **SECTION 81.** 343.307 (2) (e) of the statutes is amended to read:

11           343.307 (2) (e) Convictions under the law of another jurisdiction that prohibits  
12 a person from refusing chemical testing or using a motor vehicle while intoxicated  
13 or under the influence of a controlled substance or controlled substance analog, or  
14 a combination thereof; with an excess or specified range of alcohol or  
15 tetrahydrocannabinols concentration; while under the influence of any drug to a  
16 degree that renders the person incapable of safely driving; or while having a  
17 detectable amount of a restricted controlled substance in his or her blood, as those  
18 or substantially similar terms are used in that jurisdiction's laws.

19           **SECTION 82.** 343.31 (1) (am) of the statutes is amended to read:

20           343.31 (1) (am) Injury by the operation of a vehicle while under the influence  
21 of an intoxicant, tetrahydrocannabinols, a controlled substance or a controlled  
22 substance analog, or any combination of an intoxicant, tetrahydrocannabinols, a  
23 controlled substance and a controlled substance analog, under the influence of any  
24 other drug to a degree which renders him or her incapable of safely driving, or under  
25 the combined influence of an intoxicant and any other drug to a degree which renders