

2019 DRAFTING REQUEST**Bill**

For: **Melissa Sargent (608) 266-0960** Drafter: **chanaman**
 By: **Britt** Secondary Drafters: **emueller**
jkreye
 Date: **9/4/2018**
 Same as LRB: May Contact:

Submit via email: **YES**
 Requester's email: **Rep.Sargent@legis.wisconsin.gov**
 Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**
cathlene.hanaman@legis.wisconsin.gov
eric.mueller@legis.wisconsin.gov
sarah.walkenhorstbarber@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Legalize marijuana; medical marijuana

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	swalkenh 10/9/2018	wjackson 10/12/2018			
/P1	mpfotenh 12/19/2018	kfollett 12/21/2018	wjackson 10/12/2018		State S&L Insurance
/P2	emueller 2/19/2019		jmurphy 12/21/2018		State S&L Insurance

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	jkreye 3/21/2019	wjackson 2/21/2019			State S&L Insurance
/P4	swalkenh 4/17/2019	kfollett 3/21/2019	lparisi 3/21/2019		State S&L Insurance
/P5		wjackson 4/17/2019	mbarman 4/17/2019		State S&L Insurance
/1			dwalker 4/17/2019	dwalker 4/17/2019	State S&L Insurance

FE Sent For:

<END>

At
Intro.

cmh ✓

Hanaman, Cathlene

From: Cudaback, Britt
 Sent: Monday, January 08, 2018 10:51 AM
 To: Hanaman, Cathlene
 Subject: AB 482 redraft
 Attachments: ORE ChecklistandGeneric.pdf

EVM ✓
 SDP/TJD ✓
 JK ✓
 MD/AR ✓
 MCP ✓

Cathlene,

I hope this email finds you well and that you had a great holiday season. We'd like to get AB 482 redrafted as a preliminary draft to include the following:

- ✓ • No expiration on the "Made in Wisconsin" labeling and change it to "may" instead of "shall"
- ✓ • Add additional labeling requirements similar to those used in Oregon, e.g. for usable marijuana they include activation time, a universal symbol, and required warnings, among other information. I've attached a copy of some of their informational packaging and labeling checklists.
 - ✓ ○ Define required warnings, include warnings relating to pregnancy and marijuana use, (there's data coming out of CO about this), that it is illegal to drive a motor vehicle under the influence, keep out of reach of children, for ages 21 and older, etc.
 - Require DATCP to create a universal symbol for recreational marijuana products, and DHS to create a universal symbol for medicinal marijuana products *see INSERT 42-3 139.973 (10)(a) 10*
 - Note: there are distinctions between usable marijuana and cannabinoid edibles—I think it makes sense to keep this distinction in labeling practices
- ✓ • Require "boring" packaging. I'm not sure technically how this functions, just that other states have required sort of nondescript packaging to reduce the risk of child consumption or attraction.
- ✓ • Add funding for public PSAs. This can go to DATCP.
- ✓ • We've heard in other states that transplant recipients have been removed from transplant lists based on marijuana consumption or use. Is there anything we can do in the bill to prevent this given organ donation is largely regulated at the federal level?
- ✓ • Criminal justice reform
 - Remove/release people on probation from MJ-related offenses. WA did this I believe.
 - Include all of CA's sentencing and records reform from Prop 64
 - Persons who served time can petition to have the conviction removed and sealed, can petition for dismissal if the offense would have been legal under the bill, etc.
- ✓ • Include fixes to CBD law under that would allow selling and purchasing CBD in addition to possession. I think generally we could just incorporate 2017 Wisconsin Act 4 into the way we regulate medicinal marijuana in the bill.

Please let me know if you have any questions. We don't need this ASAP, so feel free to work on this as you have time. If we can just get a draft back sometime in February, that'd be great. Thanks!

Best,

Britt Cudaback

--
Britt Cudaback
 Legislative Aide
 Office of Representative Melissa Sargent
 321 West | Wisconsin State Capitol

Pfotenhauer, Mary

From: Zimmerman, Maddie
Sent: Monday, October 01, 2018 6:21 PM
To: Pfotenhauer, Mary
Subject: Re: AB 482 question

Follow Up Flag: Follow up
Flag Status: Flagged

Mary,

Thanks for bearing with me on this. In the interest of moving forward, could you please draft the bill to include your suggestions in the later half of this email? If you could include what other states are doing vis a vis funding and notification (DATCP/DHS) and funding will come from GPR. I like what other states have done, like you said requiring the department (usually the state health department, since that is usually the agency running the program, or other department if they are involved) to inform physicians of the availability of the medical marijuana program, to inform the public about the risks/benefits of marijuana or of the specifics of the program itself, and/or to inform potential producers/processors of the availability of marijuana as a crop/product". My only reservation is around the high driving PSA's. Is that the primary PSA that other states require?

DHS

DHS?
DSPS?

DATCP

With regard to funding amount, what are other states doing for this? Have they increased/decreased their numbers over time? Maybe that will give us a rough estimate of how much should be appropriated.

Let's start with that and go from here. If you'd like to talk through this further, please don't hesitate to call.

Britt, our full time staffer, is out on a leave until November so I'm working off her notes and trying to do some research of my own, so I'm playing catch up with all of this. Thanks for your patience and help!

Best,
Maddie

Maddie Zimmerman
Legislative Aide
Office of Representative Melissa Sargent
48th Assembly District
(608)237-9319

On Sep 11, 2018, at 8:13 AM, Pfotenhauer, Mary <Mary.Pfotenhauer@legis.wisconsin.gov> wrote:

Hi Maddie:



State of Wisconsin
2017 - 2018 LEGISLATURE

all per CMH
CMH/JK/EYM/MD/MP (k) WJ
LRB-2457/1
0154/PI
TD/SB

IN 10/9
Requested by
end of week
(see CMH)

INSERT

2017 ASSEMBLY BILL 482

August 24, 2017 - Introduced by Representatives SARGENT, OHNSTAD, C. TAYLOR, CROWLEY, ZEPNICK, ANDERSON, STUCK, KESSLER, POPE, BERCEAU, ZAMARRIPA, BROSTOFF, SINICKI, SUBECK and BOWEN, cosponsored by Senators JOHNSON, L. TAYLOR and LARSON. Referred to Committee on Criminal Justice and Public Safety.

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) and
5 subchapter VI (title) of chapter 50 [precedes 50.90]; *to renumber and amend*
6 23.33 (4c) (a) 5., 30.681 (1) (d), 108.133 (1) (a), 115.35 (1), 346.63 (1) (d), 350.101
7 (1) (e), 961.01 (14) and 961.34; *to amend* 20.435 (6) (jm), 23.33 (1) (jo) 1., 23.33
8 (4c) (a) 4., 23.33 (4c) (b) 3., 23.33 (4c) (b) 4. a., 23.33 (4c) (b) 4. b., 23.33 (4p) (d),
9 23.33 (13) (b) 1., 23.33 (13) (b) 2., 23.33 (13) (b) 3., 23.33 (13) (e), 30.50 (10m) (a),
10 30.681 (1) (b) (title), 30.681 (1) (bn) (title), 30.681 (1) (c), 30.681 (2) (b) (title),
11 30.681 (2) (c), 30.681 (2) (d) 1. a., 30.681 (2) (d) 1. b., 30.684 (4), 30.80 (6) (d),
12 49.148 (4) (a), 49.45 (23) (g) 1. e., 49.79 (1) (b), 50.56 (3), 51.49 (1) (d), 59.54 (25)
13 (title), 59.54 (25) (a) (intro.), 66.0107 (1) (bm), 111.35 (2) (e), 146.40 (1) (bo),
14 146.81 (1) (L), 146.997 (1) (d) 18., 289.33 (3) (d), 340.01 (50m) (a), 343.10 (5) (a)

ASSEMBLY BILL 482

1 1., 343.10 (5) (a) 2., 343.12 (7) (a) 11., 343.16 (2) (b), 343.16 (5) (a), 343.30 (1p),
2 343.30 (1q) (h), 343.305 (2), 343.305 (3) (a), 343.305 (3) (am), 343.305 (3) (ar) 1.,
3 343.305 (3) (b), 343.305 (5) (b), 343.305 (5) (d), 343.305 (7) (a), 343.305 (8) (b)
4 2. bm., 343.305 (8) (b) 2. d., 343.305 (8) (b) 4m. a., 343.305 (8) (b) 5. b., 343.305
5 (8) (b) 6. b., 343.305 (9) (a) 5. a., 343.305 (9) (am) 5. a., 343.305 (9) (am) 5. c.,
6 343.305 (9) (d), 343.305 (10) (em), 343.307 (1) (d), 343.307 (2) (e), 343.31 (1) (am),
7 343.31 (2), 343.315 (2) (a) 2., 343.315 (2) (a) 5., 343.315 (2) (a) 6., 343.315 (2) (bm)
8 2., 343.32 (2) (bj), 344.576 (2) (b), 346.63 (1) (b), 346.63 (2) (a) 2., 346.63 (2) (b)
9 1., 346.63 (2) (b) 2., 346.65 (2m) (a), 346.65 (2q), 349.02 (2) (b) 4., 349.03 (2m),
10 349.06 (1m), 350.01 (10v) (a), 350.101 (1) (d), 350.101 (2) (c), 350.101 (2) (d) 1.,
11 350.101 (2) (d) 2., 350.104 (4), 350.11 (3) (d), 609.83, 767.41 (5) (am) (intro.),
12 767.451 (5m) (a), 885.235 (1) (d) 1., 885.235 (1g) (intro.), 885.235 (1m), 885.235
13 (4), 895.047 (3) (a), 905.04 (4) (f), 939.22 (33) (a), 940.09 (1m) (a), 940.09 (1m)
14 (b), 940.09 (2) (a), 940.09 (2) (b), 940.25 (1m), 940.25 (2), 941.20 (1) (bm), 961.38
15 (1n) (a), 961.41 (1r), 961.41 (3g) (c), 961.41 (3g) (d), 961.41 (3g) (em), 961.47 (1),
16 961.48 (3), 961.48 (5), 961.49 (1m) (intro.), 961.571 (1) (a) 11. (intro.), 967.055
17 (1) (a), 967.055 (1) (b), 967.055 (1m) (b) 1., 967.055 (2) (a), 971.365 (1) (a),
18 971.365 (1) (b), 971.365 (1) (c) and 971.365 (2); and **to create** 20.435 (1) (jm),
19 20.566 (1) (bn), 23.33 (1) (k), 23.33 (4c) (a) 2g., 23.33 (4c) (a) 3g., 23.33 (4c) (b)
20 2n., 30.50 (13p), 30.681 (1) (b) 1g., 30.681 (1) (bn) 2., 30.681 (2) (b) 1g.,
21 subchapter VI of chapter 50 [precedes 50.80], 66.0414, 94.55, 108.02 (18r),
22 108.04 (5m), 108.133 (1) (a) 2., 111.32 (9m), 111.32 (11m), 115.35 (1) (a) 6., 121.02
23 (1) (L) 7., subchapter IV (title) of chapter 139 [precedes 139.97], 139.97,
24 139.971, 139.972, 139.973, 139.974, 139.975, 139.976, 139.977, 139.978,
25 139.979, 139.980, 146.44, 340.01 (66m), 343.305 (5) (dm), 346.63 (2p), 350.01

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1 (21g), 350.101 (1) (bg), 350.101 (1) (cg), 350.101 (2) (bg), 632.895 (16p), 767.41
 2 (5) (d), 767.451 (5m) (d), 885.235 (1) (e), 885.235 (1g) (ag), 885.235 (1g) (cg),
 3 885.235 (1L), 939.22 (39g), 940.09 (1) (bg), 940.09 (1) (dg), 940.09 (1g) (bg),
 4 940.09 (1g) (dg), 940.25 (1) (bg), 940.25 (1) (dg), 941.20 (1) (bg) and subchapter
 5 VIII of chapter 961 [precedes 961.70] of the statutes; **relating to:** marijuana
 6 possession, regulation of marijuana distribution and cultivation, medical
 7 marijuana, operating a motor vehicle while under the influence of marijuana,
 8 making ^{an} appropriations, requiring the exercise of rule-making authority, and
 9 providing ^a criminal penalties.

^, granting rule-making authority,

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 both recreational use of marijuana and medical use of marijuana.

With respect to recreational use of marijuana, this bill changes state law to permit a Wisconsin resident who is at least 21 to possess no more than two ounces of marijuana and to permit a nonresident of Wisconsin who is at least 21 to possess no more than one-quarter ounce of marijuana. Generally, a person who possesses more than the maximum amount he or she is allowed to possess, but not more than 28 grams of marijuana is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. A person who possesses more than 28 grams of marijuana is guilty of a Class B misdemeanor, except that, if the person takes action to hide the amount of marijuana he or she has and the person has in place a security system to alert him or her to the presence of law enforcement, a method of intimidation, or a trap that could injure or kill a person approaching the area containing the marijuana, the person is guilty of a Class I felony. This bill also eliminates the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption.

This bill prohibits the sale of marijuana for recreational use via mail, telephone, or Internet. A person who violates this prohibition is guilty of a Class A misdemeanor. This bill prohibits the use of marijuana in public. A person who violates this prohibition 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 produce, process, or sell marijuana for recreational use and pay an excise tax for the

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ASSEMBLY BILL 482

Ins MCP-A

*From
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privilege of doing business in this state. Under ^{of} 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 ^{of the} 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 for recreational use; or knowingly enters any premises for which a permit has been issued without being accompanied by his or her parent, guardian, or spouse who is at least 21 years of age.

*DOP
allowing
(MCP)*

In addition, under ^{of the} this bill, a person who cultivates more than six marijuana plants at one time is required to have a permit. A person without a permit who cultivates more than six plants ^{max plants} at one time but not more than 12 is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. If the person cultivates more than 12 plants at one time, the person is guilty of a Class B misdemeanor, except that, if the person takes action to hide the number of plants he or she has and the person has in place a security system to alert him or her to the presence of law enforcement, a method of intimidation, or a trap that could injure or kill a person approaching the area containing the plants, the person is guilty of a Class I felony.

(MCP)

*HEHD
Medical
use
of
marijuana*

With respect to the medical use of marijuana, ^{of the} this bill changes state law to permit a person to use marijuana for medical use to alleviate the symptoms or effects of a debilitating medical condition or treatment. A person's primary caregiver also may acquire, possess, cultivate, or transport marijuana for a person suffering from a debilitating medical condition or treatment if it is not practicable for the person to acquire, possess, cultivate, or transport marijuana independently or the person is under the age of 18.

The bill requires the Department of Health Services to establish a registry for persons who use marijuana for medical use. Under the bill, a person may apply for a registry identification card by submitting to DHS a signed application, a written certification by the person's physician that the person has or is undergoing a debilitating medical condition or treatment and that the potential benefits of the person's use of tetrahydrocannabinols would likely outweigh the health risks for the person, and a registration fee of not more than \$150. DHS must verify the information and issue the person a registry identification card. A registry identification card is generally valid for four years and may be renewed. DHS may not disclose that it has issued to a person a registry identification card, or information from an application for one, except to a law enforcement agency for the

ASSEMBLY BILL 482

purpose of verifying that a person possesses a valid registry identification card. This bill also requires DHS to promulgate a rule listing other jurisdictions that allow the medical use of marijuana by a visiting person or allow a person to assist with a person's medical use of marijuana. This bill treats documents issued by these entities the same as registry identification cards issued by DHS.

The bill also requires DHS to license and regulate compassion centers to distribute or deliver marijuana or drug paraphernalia or possess or manufacture marijuana or drug paraphernalia with the intent to deliver or distribute to facilitate the medical use of marijuana. This bill prohibits compassion centers from being located within 500 feet of a school, prohibits a compassion center from distributing to a person more than six live marijuana plants and three ounces of usable marijuana (maximum medicinal amount), and prohibits a compassion center from possessing a quantity that exceeds, by an amount determined by DHS, the total maximum medicinal amount of marijuana of all of the persons it serves. An applicant for a license must pay an initial application fee of \$250, and a compassion center must pay an annual fee of \$5,000. This bill also requires DHS to register entities as tetrahydrocannabinols-testing laboratories. The laboratories must test marijuana for contaminants; research findings on the use of medical marijuana; and provide training on safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana, security and inventory accountability, and research on medical marijuana.

Under current law, a person may not operate a vehicle with a detectable amount of a restricted controlled substance, which includes delta-9-tetrahydrocannabinol (THC), in his or her blood, regardless of impairment. Penalties for violating this provision increase with the number of violations. Under this bill, a person may not operate a vehicle with a THC concentration of 5.0 ng/mL or more, instead of a detectable amount, in his or her blood. This bill does not change the penalty structure.

Under the fair employment law, no employer or other person may engage in any act of employment discrimination against any individual on the basis of the individual's use or nonuse of lawful products off the employer's premises during nonworking hours, subject to certain exceptions, one of which is if the use impairs the individual's ability to undertake adequately the job-related responsibilities of that individual's employment. The bill specifically defines marijuana as a lawful product for purposes of the fair employment law, such that no person may engage in any act of employment discrimination against an individual due to the individual's use of marijuana off the employer's premises during nonworking hours, subject to those exceptions.

Under current law, an individual may be disqualified from receiving unemployment insurance benefits if he or she is terminated due to misconduct or substantial fault. The bill specifically provides that an employee's use of marijuana off the employer's premises during nonworking hours does not constitute misconduct or substantial fault, unless termination for that use is permitted under one of the exceptions under the fair employment law. Also under current law, the Department of Workforce Development must establish a program to test claimants who apply for

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ASSEMBLY BILL 482

UI benefits for the presence of controlled substances, as defined under federal law. If a claimant tests positive for a controlled substance, the claimant may be denied UI benefits, subject to certain exceptions and limitations. The bill excludes THC for purposes of this testing requirement. As such, under the bill, an individual who tests positive for THC may not be denied UI benefits.

* The bill exempts THC, including marijuana, from drug testing for certain public assistance programs. Currently, a participant in a community service job or transitional placement under the Wisconsin Works program (W2) or a recipient of the FoodShare program, also known as the food stamp program, who is convicted of possession, use, or distribution of a controlled substance must submit to a test for controlled substances as a condition of continued eligibility. DHS is currently required to request a waiver of federal Medicaid law to require drug screening and testing as a condition of eligibility for the childless adult demonstration project in the Medical Assistance program. Current law also requires DHS to promulgate rules to develop and implement a drug screening, testing, and treatment policy for able-bodied adults without dependents in the FoodShare employment and training program. The bill exempts THC from all of those drug testing requirements and programs. In addition, because THC is not a controlled substance under state law under the bill, the requirement under current law that the Department of Children and Families promulgate rules to create a controlled substance abuse screening and testing requirement for applicants for the work experience program for noncustodial parents under W2 and the Transform Milwaukee Jobs and Transitional Jobs programs does not include THC.

The bill requires health insurance policies, known in the bill as disability insurance policies, and self-insured health plans of the state or of a county, city, town, village, or school district that provides coverage of prescription drugs and devices to provide coverage for the medical use of tetrahydrocannabinols in accordance with requirements specified in the bill and any equipment or supplies necessary for the medical use of tetrahydrocannabinols. The coverage of the medical use of tetrahydrocannabinols may be subject under the policy or plan only to the exclusions, limitations, and cost-sharing provisions that apply generally to the coverage of prescription drugs or devices under the policy or plan.

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.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

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

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

move to
p. 5
crime
9

unless federal law requires otherwise, the bill prohibits a hospital, physician, organ procurement organization, or other person from determining the ultimate recipient of an anatomical gift based solely on a positive test for the use of marijuana by a potential recipient.

on the sole basis of

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

19-20 20-21
2017-18 2018-19

3 20.566 Department of revenue Revenue, department of

4 (1) COLLECTION OF TAXES ✓
5 (bn) Administration and enforcement

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

7 SECTION 2. 20.435 (1) (jm) of the statutes is created to read:

8 20.435 (1) (jm) *Licensing and support services for compassion centers.* All
9 moneys received under s. 50.84 to regulate and license compassion centers under
10 subch. VII of ch. 50.

11 SECTION 3. 20.435 (6) (jm) of the statutes is amended to read:

12 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
13 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a), (am), (b), and (bm),
14 and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and
15 (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and
16 146.40 (4r) (b) and (er), and subch. VI VII of ch. 50 and to conduct health facilities
17 plan and rule development activities, for accrediting nursing homes, convalescent
18 homes, and homes for the aged, to conduct capital construction and remodeling plan
19 reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing
20 or certifying, and approving facilities, issuing permits, and providing technical
21 assistance, that are not specified under any other paragraph in this subsection. All
22 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,
23 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and

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(SWB)

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ASSEMBLY BILL 482**SECTION 3**

1 50.981, all moneys received from fees for the costs of inspecting, licensing or
2 certifying, and approving facilities, issuing permits, and providing technical
3 assistance, that are not specified under any other paragraph in this subsection, and
4 all moneys received under s. 50.135 (2) shall be credited to this appropriation
5 account.

6 **SECTION 4.** 20.566 (1) (bn) of the statutes is created to read:

7 20.566 (1) (bn) *Administration and enforcement of marijuana tax and*
8 *regulation.* The amounts in the schedule for the purposes of administering the
9 marijuana tax imposed under subch. IV of ch. 139 and for the costs incurred in
10 enforcing the taxing and regulation of marijuana producers, marijuana processors,
11 and marijuana retailers under subch. IV of ch. 139. ✓

12 **SECTION 5.** 23.33 (1) (jo) 1. ✓ of the statutes is amended to read:

13 23.33 (1) (jo) 1. A controlled substance included in schedule I under ch. 961
14 ~~other than a tetrahydrocannabinol.~~

15 **SECTION 6.** 23.33 (1) (jo) 5. ✓ of the statutes is repealed.

16 **SECTION 7.** 23.33 (1) (k) ✓ of the statutes is created to read:

17 23.33 (1) (k) "Tetrahydrocannabinols concentration" means the number of
18 nanograms of tetrahydrocannabinols per milliliter of blood.

19 **SECTION 8.** 23.33 (4c) (a) 2g. ✓ of the statutes is created to read:

20 23.33 (4c) (a) 2g. 'Operating with a tetrahydrocannabinols concentration at or
21 above specified levels.' No person may engage in the operation of an all-terrain
22 vehicle or utility terrain vehicle while the person has a tetrahydrocannabinols
23 concentration of 5.0 or more.

24 **SECTION 9.** 23.33 (4c) (a) 3g. ✓ of the statutes is created to read:

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1 23.33 (4c) (a) 3g. 'Operating with a tetrahydrocannabinols concentration at
2 specified levels; below age 21.' If a person has not attained the age of 21, the person
3 may not engage in the operation of an all-terrain vehicle or utility terrain vehicle
4 while he or she has a tetrahydrocannabinols concentration of more than 0.0 but less
5 than 5.0. ✓

6 **SECTION 10.** 23.33 (4c) (a) 4. ✓ of the statutes is amended to read:

7 23.33 (4c) (a) 4. 'Related charges.' A person may be charged with and a
8 prosecutor may proceed upon a complaint based upon a violation of any combination
9 of subd. 1., 2., 2g. ✓ or 2m. for acts arising out of the same incident or occurrence. If
10 the person is charged with violating any combination of subd. 1., 2., 2g. ✓ or 2m., the
11 offenses shall be joined. If the person is found guilty of any combination of subd. 1.,
12 2., 2g. ✓ or 2m. for acts arising out of the same incident or occurrence, there shall be
13 a single conviction for purposes of sentencing and for purposes of counting
14 convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., 2g. ✓ and 2m. each require
15 proof of a fact for conviction which the others do not require.

16 **SECTION 11.** 23.33 (4c) (a) 5. of the statutes is renumbered 23.33 (4c) (a) 5. a.
17 and amended to read:

18 23.33 (4c) (a) 5. a. In an action under subd. 2m. that is based on the defendant
19 allegedly having a detectable amount of methamphetamine, or
20 gamma-hydroxybutyric acid, or ~~delta-9-tetrahydrocannabinol~~ ✓ in his or her blood,
21 the defendant has a defense if he or she proves by a preponderance of the evidence
22 that at the time of the incident or occurrence he or she had a valid prescription for
23 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
24 acid, or ✓

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SECTION 11

1 b. In an action under subd. 2g. or 3g. that is based on the defendant allegedly
 2 having a prohibited tetrahydrocannabinols concentration, the defendant has a
 3 defense if he or she proves by a preponderance of the evidence that at the time of the
 4 incident or occurrence he or she had a valid prescription for
 5 delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.

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7 **SECTION 12.** 23.33 (4c) (b) 2n. of the statutes is created to read:

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

12 **SECTION 13.** 23.33 (4c) (b) 3. of the statutes is amended to read:

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

23 **SECTION 14.** 23.33 (4c) (b) 4. a. of the statutes is amended to read:

24 23.33 (4c) (b) 4. a. In an action under this paragraph, the defendant has a
 25 defense if he or she proves by a preponderance of the evidence that the injury would

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1 have occurred even if he or she had been exercising due care and he or she had not
2 been under the influence of an intoxicant, did not have an alcohol concentration of
3 0.08 or more, ~~or~~ did not have a detectable amount of a restricted controlled substance
4 in his or her blood, or did not have a tetrahydrocannabinols concentration of 5.0 or
5 more.

6 SECTION 15. 23.33 (4c) (b) 4. b. of the statutes is amended to read:

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

14 c. In an action under subd. 2n. that is based on the defendant allegedly having
15 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he
16 or she proves by a preponderance of the evidence that at the time of the incident or
17 occurrence he or she had a valid prescription for ~~delta-9-tetrahydrocannabinol~~ or
18 he or she was a qualifying patient, as defined in s. 50.80 (6).

19 SECTION 16. 23.33 (4p) (d) of the statutes is amended to read:

20 23.33 (4p) (d) *Admissibility; effect of test results; other evidence.* The results
21 of a chemical test required or administered under par. (a), (b) or (c) are admissible
22 in any civil or criminal action or proceeding arising out of the acts committed by a
23 person alleged to have violated the intoxicated operation of an all-terrain vehicle or
24 utility terrain vehicle law on the issue of whether the person was under the influence
25 of an intoxicant or the issue of whether the person had alcohol concentrations or

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SECTION 16

1 tetrahydrocannabinols concentrations at or above specified levels or a detectable
2 amount of a restricted controlled substance in his or her blood. Results of these
3 chemical tests shall be given the effect required under s. 885.235. This subsection
4 does not limit the right of a law enforcement officer to obtain evidence by any other
5 lawful means.

6 **SECTION 17.** 23.33 (13) (b) 1. of the statutes is amended to read:

7 23.33 (13) (b) 1. Except as provided under subds. 2. and 3., a person who
8 violates sub. (4c) (a) 1., 2., 2g. or 2m. or (4p) (e) shall forfeit not less than \$150 nor
9 more than \$300.

10 **SECTION 18.** 23.33 (13) (b) 2. of the statutes is amended to read:

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

17 **SECTION 19.** 23.33 (13) (b) 3. of the statutes is amended to read:

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

24 **SECTION 20.** 23.33 (13) (e) of the statutes is amended to read:

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1 23.33 (13) (e) *Alcohol, controlled substances or controlled substance analogs,*
 2 *tetrahydrocannabinols; assessment.* In addition to any other penalty or order, a
 3 person who violates sub. (4c) (a) or (b) or (4p) (e) or who violates s. 940.09 or 940.25
 4 if the violation involves the operation of an all-terrain vehicle or utility terrain
 5 vehicle, shall be ordered by the court to submit to and comply with an assessment
 6 by an approved public treatment facility for an examination of the person's use of
 7 alcohol, controlled substances or controlled substance analogs, or
 8 tetrahydrocannabinols. The assessment order shall comply with s. 343.30 (1q) (c) 1.
 9 a. to c. Intentional failure to comply with an assessment ordered under this
 10 paragraph constitutes contempt of court, punishable under ch. 785.

11 **SECTION 21.** 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 22.** 30.50 (10m) (e) of the statutes is repealed.

15 **SECTION 23.** 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 24.** 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 *tetrahydrocannabinols*

21 **SECTION 25.** 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 26.** 30.681 (1) (bn) (title) of the statutes is amended to read:

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SECTION 26

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

3 **SECTION 27.** 30.681 (1) (bn) of the statutes is renumbered 30.681 (1) (bn) 1.

4 **SECTION 28.** 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 (2),[✓] 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 29.** 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 30.** 30.681 (1) (d) of the statutes is renumbered 30.681 (1) (d) 1. and
19 amended to read:

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

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1 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
2 acid, or

3 2. In an action under par. (b) 1g. or (bn) 2. that is based on the defendant
4 allegedly having a prohibited tetrahydrocannabinols concentration, the defendant
5 has a defense if he or she proves by a preponderance of the evidence that at the time
6 of the incident or occurrence he or she had a valid prescription for
7 delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.

8 50.80 (6).

9 SECTION 31. 30.681 (2) (b) (title) of the statutes is amended to read:

10 30.681 (2) (b) (title) *Causing injury after using a controlled substance or*
11 *alcohol, or marijuana.* tetrahydrocannabinols

12 SECTION 32. 30.681 (2) (b) 1g. of the statutes is created to read:

13 30.681 (2) (b) 1g. No person who has a tetrahydrocannabinols concentration
14 of 5.0 or more may cause injury to another person by the operation of a motorboat.

15 SECTION 33. 30.681 (2) (c) of the statutes is amended to read:

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

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SECTION 34

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

30.681 (2) (d) 1. a. In an action under this subsection for a violation of the intoxicated boating law where the defendant was operating a motorboat that is not a commercial motorboat, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant or did not have an alcohol concentration of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or more or a detectable amount of a restricted controlled substance in his or her blood.

SECTION 35. 30.681 (2) (d) 1. b. of the statutes is amended to read:

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

c. In an action under par. (b) 1g. that is based on the defendant allegedly having a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6)

SECTION 36. 30.684 (4) of the statutes is amended to read:

30.684 (4) **ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE.** The results of a chemical test required or administered under sub. (1), (2) or (3) are admissible

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1 in any civil or criminal action or proceeding arising out of the acts committed by a
2 person alleged to have violated the intoxicated boating law on the issue of whether
3 the person was under the influence of an intoxicant or the issue of whether the person
4 had alcohol concentrations or tetrahydrocannabinols concentrations at or above
5 specified levels or a detectable amount of a restricted controlled substance in his or
6 her blood. Results of these chemical tests shall be given the effect required under s.
7 885.235. This section does not limit the right of a law enforcement officer to obtain
8 evidence by any other lawful means.

9 **SECTION 37.** 30.80 (6) (d) of the statutes is amended to read:

10 30.80 (6) (d) *Alcohol, controlled substances or controlled substance analogs, or*
11 *tetrahydrocannabinols; examination.* In addition to any other penalty or order, a
12 person who violates s. 30.681 (1) or (2) or 30.684 (5) or who violates s. 940.09 or 940.25
13 if the violation involves the operation of a motorboat, shall be ordered by the court
14 to submit to and comply with an assessment by an approved public treatment facility
15 for an examination of the person's use of alcohol, controlled substances or controlled
16 substance analogs, or tetrahydrocannabinols. Intentional failure to comply with an
17 assessment ordered under this paragraph constitutes contempt of court, punishable
18 under ch. 785.

19 **SECTION 38.** 49.148 (4) (a) of the statutes is amended to read:

20 49.148 (4) (a) A Wisconsin ~~works~~ Works agency shall require a participant in
21 a community service job or transitional placement who, after August 22, 1996, was
22 convicted in any state or federal court of a felony that had as an element possession,
23 use or distribution of a controlled substance to submit to a test for use of a controlled
24 substance as a condition of continued eligibility. If the test results are positive, the
25 Wisconsin ~~works~~ Works agency shall decrease the presanction benefit amount for

ASSEMBLY BILL 482**SECTION 38**

1 that participant by not more than 15 percent for not fewer than 12 months, or for the
 2 remainder of the participant's period of participation in a community service job or
 3 transitional placement, if less than 12 months. If, at the end of 12 months, the
 4 individual is still a participant in a community service job or transitional placement
 5 and submits to another test for use of a controlled substance and if the results of the
 6 test are negative, the Wisconsin ~~works~~ Works agency shall discontinue the reduction
 7 under this paragraph. In this subsection, "controlled substance" does not include
 8 tetrahydrocannabinols in any form including tetrahydrocannabinols contained in
 9 marijuana, obtained from marijuana, or chemically synthesized.

10 **SECTION 39.** 49.45 (23) (g) ^{1. e.} ^{5. N} of the statutes is amended to read:

11 49.45 (23) (g) ^{1. e.} ^{5.} Require, as a condition of eligibility, that an applicant or
 12 enrollee submit to a drug screening assessment and, if indicated, a drug test, as
 13 specified by the department in the waiver amendment. The department may not test
 14 for tetrahydrocannabinols in any form including tetrahydrocannabinols contained
 15 in marijuana, obtained from marijuana, or chemically synthesized under this subd.

16 1. e. Subd.

17 **SECTION 40.** 49.79 (1) (b) of the statutes is amended to read:

18 49.79 (1) (b) "Controlled substance" has the meaning given in 21 USC 802 (6),
 19 except "controlled substance" does not include tetrahydrocannabinols in any form
 20 including tetrahydrocannabinols contained in marijuana, obtained from marijuana,
 21 or chemically synthesized.

22 **SECTION 41.** 50.56 (3) of the statutes is amended to read:

23 50.56 (3) Notwithstanding sub. (2), insofar as a conflict exists between this
 24 subchapter, or the rules promulgated under this subchapter, and subch. I, II or VI

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1 VII, or the rules promulgated under subch. I, II or ~~VI~~ VII, the provisions of this
2 subchapter and the rules promulgated under this subchapter control.

3 **SECTION 42.** Subchapter VI of chapter 50 [precedes 50.80] of the statutes is
4 created to read:

CHAPTER 50**SUBCHAPTER VI****DISTRIBUTION AND****TESTING CENTERS**

9 **50.80 Definitions.** In this subchapter:

10 (1) "Compassion center" means a licensed organization that grows, sells,
11 distributes, or delivers marijuana for the medical use of tetrahydrocannabinols.

12 (2) "Debilitating medical condition or treatment" means any of the following:

13 (a) Cancer; glaucoma; acquired immunodeficiency syndrome; a positive test for
14 the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV;
15 Crohn's disease; a hepatitis C virus infection; Alzheimer's disease; amyotrophic
16 lateral sclerosis; nail patella syndrome; Ehlers-Danlos Syndrome; post-traumatic
17 stress disorder; or the treatment of these conditions.

18 (b) A chronic or debilitating disease or medical condition or the treatment of
19 such a disease or condition that causes cachexia, severe pain, severe nausea,
20 seizures, including those characteristic of epilepsy, or severe and persistent muscle
21 spasms, including those characteristic of multiple sclerosis.

22 (c) Any other medical condition or any other treatment for a medical condition
23 designated as a debilitating medical condition or treatment in rules promulgated by
24 the department of health services under s. 50.81 (2).

25 (2m) "Department" means the department of health services.

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1 (3) "Maximum medicinal amount" means 6 live marijuana plants and 3 ounces
2 of usable marijuana.

3 (4) "Medical use of tetrahydrocannabinols" means any of the following:

4 (a) The use of tetrahydrocannabinols in any form by a qualifying patient to
5 alleviate the symptoms or effects of the qualifying patient's debilitating medical
6 condition or treatment.

7 (b) The acquisition, possession, cultivation, or transportation of
8 tetrahydrocannabinols in any form by a qualifying patient if done to facilitate his or
9 her use of the tetrahydrocannabinols under par. (a).

10 (c) The acquisition, possession, cultivation, or transportation of
11 tetrahydrocannabinols in any form by a primary caregiver of a qualifying patient,
12 the transfer of tetrahydrocannabinols in any form between a qualifying patient and
13 his or her primary caregiver, or the transfer of tetrahydrocannabinols in any form
14 between persons who are primary caregivers for the same qualifying patient if all of
15 the following apply:

16 1. The acquisition, possession, cultivation, or transportation of
17 tetrahydrocannabinols is done to facilitate the qualifying patient's use of
18 tetrahydrocannabinols under par. (a) or (b).

19 2. It is not practicable for the qualifying patient to acquire, possess, cultivate,
20 or transport the tetrahydrocannabinols independently, or the qualifying patient is
21 under 18 years of age.

22 (4m) "Physician" means a person licensed under s. 448.04 (1) (a).

23 (5) "Primary caregiver" means a person who is at least 18 years of age and who
24 has agreed to help a qualifying patient in his or her medical use of
25 tetrahydrocannabinols.

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1 (6) "Qualifying patient" means a person who has been diagnosed by a physician
2 as having or undergoing a debilitating medical condition or treatment but does not
3 include a person under the age of 18 years unless all of the following apply:

4 (a) The person's physician has explained the potential risks and benefits of the
5 medical use of tetrahydrocannabinols to the person and to a parent, guardian, or
6 individual ^{e who has} ~~having~~ legal custody of the person.

7 (b) The parent, guardian, or individual ^{e who has} ~~having~~ legal custody of the person
8 provides the physician a written statement consenting to do all of the following:

- 9 1. Allow the person's medical use of tetrahydrocannabinols.
- 10 2. Serve as a primary caregiver for the person.
- 11 3. Manage the person's medical use of tetrahydrocannabinols.

12 (7) "Registry identification card" has the meaning given in s. 146.44 (1) (h). ✓

13 (8) "Treatment team" means a qualifying patient and his or her primary
14 caregivers.

15 (9) "Usable marijuana" has the meaning given in s. 139.97 (12). ✓

16 (10) "Written certification" means a statement made by a person's physician
17 if all of the following apply:

18 (a) The statement indicates that, in the physician's professional opinion, the
19 person has or is undergoing a debilitating medical condition or treatment and the
20 potential benefits of the person's use of tetrahydrocannabinols under sub. (4) (a) ✓
21 would likely outweigh the health risks for the person.

22 (b) The statement indicates that the opinion described in par. (a) was formed
23 after a full assessment, conducted no more than 6 months prior to making the
24 statement and made in the course of a bona fide physician-patient relationship, of
25 the person's medical history and current medical condition.

1 (c) The statement is signed by the physician or is contained in the person's
2 medical records.

3 (d) The statement contains an expiration date that is no more than 48 months
4 after issuance and the statement has not expired.

5 **50.81 Departmental powers and duties. (1)** The department shall provide
6 licensing, regulation, record keeping, and security for compassion centers.

7 **(2)** Notwithstanding s. 227.12 (1), any person may petition the department to
8 promulgate a rule to designate a medical condition or treatment as a debilitating
9 medical condition or treatment. The department shall promulgate rules providing
10 for public notice of and a public hearing regarding any such petition, with the public
11 hearing providing persons an opportunity to comment upon the petition. After the
12 hearing, but no later than 180 days after the submission of the petition, the
13 department shall approve or deny the petition. The department's decision to approve
14 or deny a petition is subject to judicial review under s. 227.52. ✓

15 **50.82 Licensing.** The department shall issue licenses to a pharmacist or a
16 pharmacy to operate as a compassion center and shall decide which and how many
17 applicants for a license receive a license based on all of the following:

18 **(1)** The ability of an applicant to provide to treatment teams a sufficient
19 amount of medical marijuana for the medical use of tetrahydrocannabinols.

20 **(2)** The experience the applicant has running an organization or a business.

21 **(3)** The preferences of the governing bodies with jurisdiction over the area in
22 which the applicants are located.

23 **(4)** The ability of the applicant to keep records confidential and maintain a safe
24 and secure facility.

25 **(5)** The ability of the applicant to abide by the prohibitions under s. 50.83. ✓

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1 **50.83 Prohibitions.** The department may not issue a license to operate as a
2 compassion center to, and must revoke a license of, any organization to which any
3 of the following applies:

4 (1) The organization is located within 500 feet of a public or private elementary
5 or secondary school, including a charter school.

6 (2) The compassion center distributes to a treatment team a number of plants
7 or an amount in ounces of usable marijuana that, in the period of distribution, results
8 in the treatment team possessing more than the maximum medicinal amount.

9 (3) The compassion center possesses a number of plants or an amount in ounces
10 of usable marijuana that exceeds the combined maximum medicinal amount for all
11 of the treatment teams that are estimated to use the organization by a number or an
12 amount determined by the department by rule to be unacceptable.

13 **50.84 Licensing procedure.** (1) The application for a license must be in
14 writing on a form provided by the department and include the licensing application
15 fee under sub. (2) (a). ✓

16 (2) (a) A licensing application fee is \$250. ✓

17 (b) The annual fee for a compassion center is \$5,000. ✓

18 (3) A compassion center license is valid until revoked. Each license shall be
19 issued only for the applicant named in the application and may not be transferred
20 or assigned.

21 **50.85 Distribution of medical marijuana.** (1) A compassion center may
22 sell, distribute, or deliver tetrahydrocannabinols or drug paraphernalia intended for
23 the storage or use of usable marijuana to a member of a treatment team if the
24 compassion center receives a copy of the qualifying patient's written certification or
25 registry identification card.

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1 (2) A compassion center may possess or manufacture tetrahydrocannabinols
2 or drug paraphernalia with the intent to sell, distribute, or deliver under sub. (1). ✓

3 (3) A compassion center may have 2 locations, one for cultivation and one for
4 sales, distribution, or delivery.

5 (4) A compassion center shall have all tetrahydrocannabinols tested for mold,
6 fungus, pesticides, and other contaminants and may not sell, distribute, or deliver
7 tetrahydrocannabinols that test positive for mold, fungus, pesticides, or other
8 contaminants if the contaminants, or level of contaminants, are identified by the
9 testing laboratories under s. 50.86 (2) ✓ to be potentially unsafe to a qualifying
10 patient's health.

11 (5) A compassion center may cultivate marijuana outdoors.

12 **50.86 Testing laboratories.** The department shall register entities as
13 tetrahydrocannabinols testing laboratories. The laboratories may possess or
14 manufacture tetrahydrocannabinols or drug paraphernalia and shall perform the
15 following services:

16 (1) Test marijuana produced for the medical use of tetrahydrocannabinols for
17 potency and for mold, fungus, pesticides, and other contaminants.

18 (2) Collect information on research findings and conduct research related to
19 the medical use of tetrahydrocannabinols, including research that identifies
20 potentially unsafe levels of contaminants.

21 (3) Provide training to persons who hold registry identification cards or written
22 certifications, ^{to} treatment teams, and ^{to} persons employed by compassion centers on the
23 following: [^] [^]

24 (a) The safe and efficient cultivation, harvesting, packaging, labeling, and
25 distribution of marijuana for the medical use of tetrahydrocannabinols.

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1 (b) Security and inventory accountability procedures.

2 (c) The most recent research on the medical use of tetrahydrocannabinols.

3 SECTION 43. Subchapter VI (title) of chapter 50 [precedes 50.90] of the statutes
4 is renumbered subchapter VII (title) of chapter 50 [precedes 50.90]. ✓

5 SECTION 44. 51.49 (1) (d) of the statutes is amended to read:

6 51.49 (1) (d) "Operating while intoxicated" means a violation of s. 346.63 (1) or,
7 (2m), or (2p) ✓ or a local ordinance in conformity therewith or of s. 346.63 (2) or (6),
8 940.09 (1) or 940.25.

9 SECTION 45. 59.54 (25) (title) ✓ of the statutes is amended to read:

10 59.54 (25) (title) POSSESSION REGULATION ✓ OF MARIJUANA.

11 SECTION 46. 59.54 (25) (a) (intro.) of the statutes is amended to read:

12 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit
13 ~~the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in~~
14 ~~s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance that~~
15 is consistent with s. 961.71 or 961.72; ✓ except that if a complaint is issued regarding
16 ~~an allegation of possession of more than 25 grams of marijuana, or possession of any~~
17 ~~amount of marijuana following a conviction in this state for possession of marijuana~~
18 alleging a violation of s. 961.72 (2) (b) 2., (c) 3., or (d) 4., ✓ the subject of the complaint
19 may not be prosecuted under this subsection for the same action that is the subject
20 of the complaint unless all of the following occur:

21 SECTION 47. 66.0107 (1) (bm) ✓ of the statutes is amended to read:

22 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
23 ~~marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)~~
24 ~~(intro.), and provide a forfeiture for a violation of the ordinance that is consistent~~
25 with s. 961.71 or 961.72; ✓ except that if a complaint is issued regarding an allegation

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1 of possession of more than 25 grams of marijuana, or possession of any amount of
2 marijuana following a conviction in this state for possession of marijuana alleging
3 a violation of s. 961.72 (2) (b) 2., (c) 3., or (d) 4., the subject of the complaint may not
4 be prosecuted under this paragraph for the same action that is the subject of the
5 complaint unless the charges are dismissed or the district attorney declines to
6 prosecute the case. ✓

7 **SECTION 48.** 66.0414 of the statutes is created to read:

8 **66.0414 Cultivation of tetrahydrocannabinols.** No village, town, ^{city,} ~~city,~~ or
9 county may enact or enforce an ordinance or a resolution that prohibits ^{prohibit} cultivating
10 tetrahydrocannabinols outdoors if the cultivation is by one of the following:

11 (1) A compassion center, as defined in s. 50.80 (1). ✓

12 (2) A person who is cultivating tetrahydrocannabinols for the medical use of
13 tetrahydrocannabinols, as defined in s. 50.80 (4), if the amount does not exceed the
14 maximum medicinal amount, as defined in s. 50.80 (3). ✓

15 (3) An individual who has no more than 6 marijuana plants at one time for his
16 or her personal use. ✓

17 **SECTION 49.** 94.55 of the statutes is created to read:

18 **94.55 Marijuana producers and processors.** (1) DEFINITIONS. In this
19 section:

20 (a) "Marijuana" has the meaning given in s. 961.70 (3). ✓ ~~STE~~

21 (b) "Marijuana processor" has the meaning given in s. 139.97 (6). ✓

22 (c) "Marijuana producer" has the meaning given in s. 139.97 (7). ✓

23 (d) "Usable marijuana" has the meaning given in s. 139.97 (12). ✓

24 (e) "Permittee" means a ^{marijuana} marijuana producer or processor who is issued a permit
25 under this section. ✓

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1 (2) PERMIT REQUIRED. (a) No person may operate in this state as a marijuana
2 producer or marijuana processor without a permit from the department. A person
3 who acts as a marijuana producer and a marijuana processor shall obtain a separate
4 permit for each activity. Each person who applies for a permit under this section
5 shall submit with the application a \$250 fee. A permit issued under this section is
6 valid for one year and may be renewed, except that the department may revoke or
7 suspend a permit prior to its expiration. A person is not entitled to a refund of the
8 fees paid under this subsection if the person's permit is denied, revoked, or
9 suspended.

10 (b) A permittee shall annually pay to the department a fee for as long as the
11 person holds a valid permit under this section. The annual fee for a marijuana
12 processor permittee is \$2,000. The annual fee for a marijuana producer permittee
13 is one of the following, unless the department, by rule, establishes a higher amount:

14 1. If the permittee plants, grows, cultivates, or harvests not more than 1,800
15 marijuana plants, \$1,800.

16 2. If the permittee plants, grows, cultivates, or harvests more than 1,800 but
17 not more than 3,600 marijuana plants, \$2,900.

18 3. If the permittee plants, grows, cultivates, or harvests more than 3,600 but
19 not more than 6,000 marijuana plants, \$3,600.

20 4. If the permittee plants, grows, cultivates, or harvests more than 6,000 but
21 not more than 10,200 marijuana plants, \$5,100.

22 5. If the permittee plants, grows, cultivates, or harvests more than 10,200
23 marijuana plants, \$7,100 plus \$800 for every 3,600 marijuana plants over 10,200.

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1 (c) This subsection applies to all officers, directors, agents, and stockholders
2 holding 5 percent or more of the stock of any corporation applying for a permit under
3 this section.

4 (d) Subject to ss. 111.321, 111.322, and 111.335, ^{or a} ~~no~~ permit under this section
5 ^{not} may be granted to any person to whom any of the following applies:

6 1. The person has been convicted of a violent misdemeanor, as defined in s.
7 941.29 (1g) (b), [✓] at least 3 times.

8 2. The person has been convicted of a violent felony, as defined in s. 941.29 (1g)
9 (a), [✓] unless pardoned.

10 3. During the preceding 3 years, the person has been committed under s. 51.20 [✓]
11 for being drug dependent.

12 4. The person chronically and habitually uses alcohol beverages or other
13 substances to the extent that his or her normal faculties are impaired. A person is
14 presumed to chronically and habitually use alcohol beverages or other substances to
15 the extent that his or her normal faculties are impaired if, within the preceding 3
16 years, any of the following applies:

17 a. The person has been committed for involuntary treatment under s. 51.45
18 (13). [✓]

19 b. The person has been convicted of a violation of s. 941.20 (1) (b). [✓]

20 c. In 2 or more cases arising out of separate incidents, a court has found the
21 person to have committed a violation of s. 346.63 [✓] or a local ordinance in conformity
22 with that section; a violation of a law of a federally recognized American Indian tribe
23 or band in this state in conformity with s. 346.63; [✓] or a violation of the law of another
24 jurisdiction, as defined in s. 340.01 (41m), [✓] that prohibits use of a motor vehicle while
25 intoxicated, while under the influence of a controlled substance, a controlled

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1 substance analog, or a combination thereof, with an excess or specified range of
2 alcohol concentration, or while under the influence of any drug to a degree that
3 renders the person incapable of safely driving, as those or substantially similar
4 terms are used in that jurisdiction's laws.

5 5. The person has income ^{that} which comes principally from gambling or has been
6 convicted of 2 or more gambling offenses.

7 6. The person has been guilty of crimes relating to prostitution.

8 7. The person has been guilty of crimes relating to loaning money or anything
9 of value to persons holding licenses or permits pursuant to ch. 125. ✓

10 8. The person is under the age of 21.

11 9. The person has not been a resident of this state continuously for at least 90
12 days prior to the application date.

13 (e) 1. Before the department issues a new or renewed permit under this section,
14 the department shall give notice of the permit application to the governing body of
15 the municipality where the ~~the~~ permit applicant intends to operate as a marijuana
16 producer or marijuana processor. No later than 30 days after the department
17 submits the notice, the governing body of the municipality may file with the
18 department a written objection to granting or renewing the permit. At the
19 municipality's request, the department may extend the period for filing objections.

20 2. A written objection filed under subd. 1. shall provide all the facts on which
21 the objection is based. In determining whether to grant or deny a permit for which
22 an objection has been filed under this paragraph, the department shall give
23 substantial weight to objections from a municipality based on chronic illegal activity
24 associated with the premises for which the applicant seeks a permit, the premises
25 of any other operation in this state for which the applicant holds or has held a valid

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1 permit or license, the conduct of the applicant's patrons inside or outside the
2 premises of any other operation in this state for which the applicant holds or has held
3 a valid permit or license, and local zoning ordinances. In this subdivision, "chronic
4 illegal activity" means a pervasive pattern of activity that threatens the public
5 health, safety, and welfare of the municipality, including any crime or ordinance
6 violation, and is documented in crime statistics, police reports, emergency medical
7 response data, calls for service, field data, or similar law enforcement agency records.

8 (f) After denying a permit, the department shall immediately notify the
9 applicant in writing of the denial and the reasons for the denial. After making a
10 decision to grant or deny a permit for which a municipality has filed an objection
11 under par. (e), the department shall immediately notify the governing body of the
12 municipality in writing of its decision and the reasons for the decision.

13 (g) 1. The department's denial of a permit under this section is subject to
14 judicial review under ch. 227.

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

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

19 (3) SCHOOLS. The department may not issue a permit under this section to
20 operate as a marijuana producer within 500 feet of the perimeter of the grounds of
21 any elementary or secondary school.

22 (4) EDUCATION AND AWARENESS CAMPAIGN. The department shall develop and make available training
23 programs for marijuana producers on how to safely and efficiently plant, grow,
24 cultivate, harvest, and otherwise handle marijuana, and for marijuana processors

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1 on how to safely and efficiently produce and handle marijuana products and test
2 marijuana for contaminants. *Ins 31-2* ✓

3 (5) RULES. The department shall promulgate rules necessary to administer and
4 enforce this section, including rules relating to the inspection of the plants, facilities,
5 and products of permittees.

6 (6) PENALTIES. (a) Any person who violates the requirements under sub. (2) or
7 (3) or any of the requirements established by the rules promulgated under sub. (5)
8 shall be fined not less than \$100 nor more than \$500 or imprisoned not more than
9 6 months or both.

10 (b) In addition to the penalties imposed under par. (a), the department shall
11 revoke the permit of any person convicted of any violation described under par. (a)
12 and not issue another permit to that person for a period of 2 years following the
13 revocation. *Ins 31-13*

14 SECTION 50. 108.02 (18r) of the statutes is created to read:

15 108.02 (18r) MARIJUANA. "Marijuana" has the meaning given in s. 111.32 (11m). ✓

16 SECTION 51. 108.04 (5m) of the statutes is created to read:

17 108.04 (5m) DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5),
18 "misconduct," for purposes of sub. (5), does not include the employee's use of
19 marijuana off the employer's premises during nonworking hours or a violation of the
20 employer's policy concerning such use, unless termination of the employee because
21 of that use is permitted under s. 111.35. ✓

22 (b) Notwithstanding sub. (5g), "substantial fault," for purposes of sub. (5g), does
23 not include the employee's use of marijuana off the employer's premises during
24 nonworking hours or a violation of the employer's policy concerning such use, unless
25 termination of the employee because of that use is permitted under s. 111.35. ✓

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SECTION 52

1 **SECTION 52.** 108.133 (1) (a) of the statutes is renumbered 108.133 (1) (a) 1. and
2 amended to read:

3 108.133 (1) (a) 1. Notwithstanding s. 108.02 (9), “controlled substance” has the
4 meaning given in 21 USC 802, except as provided in subd. 2.

5 **SECTION 53.** 108.133 (1) (a) 2. of the statutes is created to read:

6 108.133 (1) (a) 2. “Controlled substance” does not include
7 tetrahydrocannabinols, commonly known as “THC,” in any form including
8 tetrahydrocannabinols contained in marijuana, obtained from marijuana, or
9 chemically synthesized.

10 **SECTION 54.** 111.32 (9m) of the statutes is created to read:

11 111.32 (9m) “Lawful product” includes marijuana.

12 **SECTION 55.** 111.32 (11m) of the statutes is created to read:

13 111.32 (11m) “Marijuana” means all parts of the plants of the genus Cannabis,
14 whether growing or not; the seeds thereof; the resin extracted from any part of the
15 plant; and every compound, manufacture, salt, derivative, mixture or preparation of
16 the plant, its seeds or resin, including tetrahydrocannabinols.

17 **SECTION 56.** 111.35 (2) (e) of the statutes is amended to read:

18 111.35 (2) (e) Conflicts with any federal or state statute, rule or regulation.
19 This paragraph does not apply with respect to violations concerning marijuana or
20 tetrahydrocannabinols under 21 USC 841 to 865.

21 **SECTION 57.** 115.35 (1) of the statutes is renumbered 115.35 (1) (a) (intro.) and
22 amended to read:

23 115.35 (1) (a) (intro.) A critical health problems education program is
24 established in the department. The program shall be a systematic and integrated
25 program designed to provide appropriate learning experiences based on scientific

MS
32-20

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1 knowledge of the human organism as it functions within its environment and
2 designed to favorably influence the health, understanding, attitudes and practices
3 of the individual child which will enable him or her to adapt to changing health
4 problems of our society. The program shall be designed to educate youth with regard
5 to critical health problems and shall include, but not be limited to, the following
6 topics as the basis for comprehensive education curricula in all elementary and
7 secondary schools: ~~controlled~~

8 1. Controlled substances, as defined in s. 961.01 (4); controlled substance
9 analogs, as defined in s. 961.01 (4m); alcohol; and tobacco; ~~mental.~~

10 2. Mental health; ~~sexually.~~

11 3. Sexually transmitted diseases, including acquired immunodeficiency
12 syndrome; ~~human.~~

13 4. Human growth and development; ~~and.~~

14 5. Other related health and safety topics as determined by the department.

15 (b) Participation in the human growth and development topic of the curricula
16 described in par. (a) shall be entirely voluntary. The department may not require a
17 school board to use a specific human growth and development curriculum.

18 **SECTION 58.** 115.35 (1) (a) 6. of the statutes is created to read:

19 115.35 (1) (a) 6. Beginning in the ²⁰¹⁹⁻²⁰ ~~2018-19~~ school year, the program shall also
20 include scientific, evidence-based and grade-level ^{appropriate} information about
21 the common uses of marijuana, how marijuana use affects an individual's behavior,
22 body, and brain, and the health and behavior risks associated with marijuana use
23 and abuse.

24 **SECTION 59.** 121.02 (1) (L) ⁸ ~~7~~. of the statutes is created to read:

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SECTION 59

1

121.02 (1) (L) ⁸7. Beginning in the ²⁰¹⁹⁻²⁰2018-19 school year, as part of the health curriculum, in one of grades 5 to 8 and in one of grades 9 to 12, provide pupils with the instruction about marijuana described in s. 115.35 (1) (a) 6. ✓

2

3

4

SECTION 60. Subchapter IV (title) of chapter 139 [precedes 139.97] of the statutes is created to read:

5

6

CHAPTER 139

7

SUBCHAPTER IV

8

MARIJUANA TAX AND REGULATION

9

SECTION 61. 139.97 of the statutes is created to read: ✓

10

139.97 Definitions. In this subchapter:

11

(1) "Department" means the department of revenue.

12

(2) "Lot" means a definite quantity of marijuana or usable marijuana identified by a lot number, every portion or package of which is consistent with the factors that appear in the labeling.

15

(3) "Lot number" means a number that specifies the person who holds a valid permit under this subchapter and the harvesting or processing date for each lot.

17

(4) "Marijuana" has the meaning given in s. 961.70 (3). ✓

18

(5) "Marijuana distributor" means a person in this state who purchases usable marijuana from a marijuana processor and who sells the usable marijuana to a marijuana retailer for the purpose of resale to consumers.

21

(6) "Marijuana processor" means a person in this state who processes marijuana into usable marijuana, packages and labels usable marijuana for sale in retail outlets, and sells usable marijuana at wholesale to marijuana distributors.

24

(7) "Marijuana producer" means a person in this state who produces marijuana and sells it at wholesale to marijuana processors.

25

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SECTION 61

1 (8) "Marijuana retailer" means a person in this state who sells usable
2 marijuana at a retail outlet.

3 (9) "Permittee" means a marijuana producer, marijuana processor, marijuana
4 distributor, or marijuana retailer who is issued a permit under s. 139.972. ✓

5 (10) "Retail outlet" means a location for the retail sale of usable marijuana.

6 (11) "Sales price" has the meaning given in s. 77.51 (15b). ✓

7 (12) "Usable marijuana" means marijuana that has been processed for human
8 consumption and includes dried marijuana flowers, marijuana-infused products,
9 and marijuana edibles.

10 SECTION 62. 139.971 of the statutes is created to read: ✓

11 **139.971 Marijuana tax.** (1) (a) An excise tax is imposed on a marijuana
12 producer at the rate of 15 percent of the sales price on each wholesale sale in this state
13 of marijuana to a marijuana processor.

14 (b) An excise tax is imposed on a marijuana retailer at the rate of 10 percent
15 of the sales price on each retail sale in this state of usable marijuana.

16 (2) Each person liable for the taxes imposed under sub. (1) shall pay the taxes
17 to the department no later than the 15th day of the month following the month in
18 which the person's tax liability is incurred and shall include with the payment a
19 return on a form prescribed by the department.

20 (3) For purposes of this section, a marijuana producer may not sell marijuana
21 directly to a marijuana distributor or marijuana retailer, and a marijuana retailer
22 may purchase usable marijuana for resale only from a marijuana distributor.

23 SECTION 63. 139.972 of the statutes is created to read: ✓

24 **139.972 Permits required.** (1) (a) No person may operate in this state as a
25 marijuana producer, marijuana processor, marijuana distributor, or marijuana

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1 retailer without first filing an application for and obtaining the proper permit from
2 the department to perform such operations. In addition, no person may operate in
3 this state as a marijuana producer or marijuana processor without first filing an
4 application for and obtaining the proper permit under s. 94.55. ✓

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

8 (c) Subject to ss. 111.321, 111.322, and 111.335, ^{or a} no permit under this section
9 may be granted to any person to whom any of the following applies:

10 1. The person has been convicted of a violent misdemeanor, as defined in s.
11 941.29 (1g) (b), at least 3 times. ✓

12 2. The person has been convicted of a violent felony, as defined in s. 941.29 (1g)
13 (a), unless pardoned. ✓

14 3. During the preceding 3 years, the person has been committed under s. 51.20
15 for being drug dependent. ✓

16 4. The person chronically and habitually uses alcohol beverages or other
17 substances to the extent that his or her normal faculties are impaired. A person is
18 presumed to chronically and habitually use alcohol beverages or other substances to
19 the extent that his or her normal faculties are impaired if, within the preceding 3
20 years, any of the following applies:

21 a. The person has been committed for involuntary treatment under s. 51.45
22 (13). ✓

23 b. The person has been convicted of a violation of s. 941.20 (1) (b). ✓

24 c. In 2 or more cases arising out of separate incidents, a court has found the
25 person to have committed a violation of s. 346.63 or a local ordinance in conformity

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1 with that section; a violation of a law of a federally recognized American Indian tribe
2 or band in this state in conformity with s. 346.63; or a violation of the law of another
3 jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while
4 intoxicated, while under the influence of a controlled substance, a controlled
5 substance analog, or a combination thereof, with an excess or specified range of
6 alcohol concentration, or while under the influence of any drug to a degree that
7 renders the person incapable of safely driving, as those or substantially similar
8 terms are used in that jurisdiction's laws.

9 5. The person has income ^{that} ~~which~~ comes principally from gambling or has been
10 convicted of 2 or more gambling offenses.

11 6. The person has been guilty of crimes relating to prostitution.

12 7. The person has been guilty of crimes relating to loaning money or anything
13 of value to persons holding licenses or permits pursuant to ch. 125. ✓

14 8. The person is under the age of 21.

15 9. The person has not been a resident of this state continuously for at least 90
16 days prior to the application date.

17 (d) 1. Before the department issues a new or renewed permit under this section,
18 the department shall give notice of the permit application to the governing body of
19 the municipality where ~~the~~ ^{the} permit applicant intends to operate the premises of
20 a marijuana producer, marijuana processor, marijuana distributor, or marijuana
21 retailer. No later than 30 days after the department submits the notice, the
22 governing body of the municipality may file with the department a written objection
23 to granting or renewing the permit. At the municipality's request, the department
24 may extend the period for filing objections.

ASSEMBLY BILL 482**SECTION 63**

1 2. A written objection filed under subd. 1. shall provide all the facts on which
2 the objection is based. In determining whether to grant or deny a permit for which
3 an objection has been filed under this paragraph, the department shall give
4 substantial weight to objections from a municipality based on chronic illegal activity
5 associated with the premises for which the applicant seeks a permit, the premises
6 of any other operation in this state for which the applicant holds or has held a valid
7 permit or license, the conduct of the applicant's patrons inside or outside the
8 premises of any other operation in this state for which the applicant holds or has held
9 a valid permit or license, and local zoning ordinances. In this subdivision, "chronic
10 illegal activity" means a pervasive pattern of activity that threatens the public
11 health, safety, and welfare of the municipality, including any crime or ordinance
12 violation, and is documented in crime statistics, police reports, emergency medical
13 response data, calls for service, field data, or similar law enforcement agency records. ✓

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

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

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

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

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1 (2) Each person who applies for a permit under this section shall submit with
2 the application a \$250 fee. Each person who is granted a permit under this section
3 shall annually pay to the department a \$2,000 fee for as long as the person holds a
4 valid permit under this section. A permit issued under this section is valid for one
5 year and may be renewed, except that the department may revoke or suspend a
6 permit prior to its expiration. A person is not entitled to a refund of the fees paid
7 under this subsection if the person's permit is denied, revoked, or suspended.

8 (3) The department may not issue a permit under this section to operate any
9 premises which are within 500 feet of the perimeter of the grounds of any elementary
10 or secondary school, playground, recreation facility, child care facility, public park,
11 public transit facility, or library.

12 (4) Under this section, a separate permit is required for and issued to each class
13 of permittee[^] and the permit holder shall perform only the operations authorized by
14 the permit. A permit issued under this section is not transferable from one person
15 to another or from one premises to another. A separate permit is required for each
16 place in this state where the operations of a marijuana producer, marijuana
17 processor, marijuana distributor, or marijuana retailer occur, including each retail
18 outlet. No person who has been issued a permit to operate as a marijuana retailer,
19 or who has any direct or indirect financial interest in the operation of a marijuana
20 retailer, shall be issued a permit to operate as a marijuana producer, marijuana
21 processor, or marijuana distributor.

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

24 **SECTION 64.** 139.973 of the statutes is created to read:

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1 **139.973 Regulation.** (1) (a) No permittee may employ an individual who is
2 under the age of 21 to work in the business to which the permit relates.

3 (b) Subject to ss. 111.321, 111.322, and 111.335, no permittee may employ an
4 individual if any of the conditions under s. 139.972 (1) (c) 1. to 7. apply to the ^{and applies}
5 individual.

6 (2) A retail outlet shall sell no products or services other than usable marijuana
7 or paraphernalia intended for the storage or use of usable marijuana.

8 (3) No marijuana retailer may allow a person who is under the age of 21 to enter
9 or be on the premises of a retail outlet in violation of s. 961.71 (2m). ✓

10 (4) The maximum amount of usable marijuana that a retail outlet may sell to
11 an individual consumer in a single transaction may not exceed the permissible
12 amount under s. 961.70 (5). ✓

13 (4m) A marijuana retailer may not collect, retain, or distribute personal
14 information regarding the retailer's customers except that which is necessary to
15 complete a sale of usable marijuana.

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

20 (6) No marijuana retailer may display usable marijuana in a manner that is
21 visible to the general public from a public right-of-way.

22 (7) No marijuana retailer or employee of a retail outlet may consume, or allow
23 to be consumed, any usable marijuana on the premises of the retail outlet.

24 (7m) A marijuana retailer may operate a retail outlet only between the hours
25 of 8 a.m. and 8 p.m.

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1 (8) Except as provided under sub. (5), no marijuana producer, marijuana
2 processor, marijuana distributor, or marijuana retailer may place or maintain, or
3 cause to be placed or maintained, an advertisement of usable marijuana in any form
4 or through any medium.

5 (9) (a) On a schedule determined by the department, every marijuana producer
6 and marijuana processor shall submit representative samples of the marijuana and
7 usable marijuana produced or processed by the marijuana producer or marijuana
8 processor to a testing laboratory registered under s. 50.86 for testing marijuana and
9 usable marijuana in order to certify that the marijuana and usable marijuana
10 comply with standards prescribed by the department by rule, including testing for
11 potency and for mold, fungus, pesticides, and other contaminants. The laboratory
12 testing the sample shall destroy any part of the sample that remains after the
13 testing.

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

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

23 (10) (a) A marijuana processor shall affix a label to all usable marijuana that
24 the marijuana processor sells to marijuana distributors. The label shall specify the

all of the following:
1.
include
N.S.
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1 ingredients and the concentration of tetrahydrocannabinols in the usable
2 marijuana.

3 (b) No marijuana processor may make usable marijuana using marijuana
4 grown outside of this state. The label on each package of usable marijuana sold in
5 this state before January 1, 2023, shall indicate that the usable marijuana is made
6 in this state.

7 (11) (a) No permittee may sell marijuana or usable marijuana that contains
8 more than 3 parts tetrahydrocannabinols to one part cannabidiol.

9 (b) No permittee may sell marijuana or usable marijuana that tests positive
10 under sub. (9) (a) for mold, fungus, pesticides, or other contaminants if the
11 contaminants, or level of contaminants, are identified by a testing laboratory to be
12 potentially unsafe to the consumer.

13 (12) Immediately after beginning employment with a marijuana retailer, every
14 employee of a marijuana retailer shall receive training, approved by the department,
15 on the safe handling of usable marijuana offered for sale and on security and
16 inventory accountability procedures related to such sales.

17 **SECTION 65.** 139.974 of the statutes is created to read:

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

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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 shall publish production and sales statistics.

ASSEMBLY BILL 482**SECTION 66**

1 **SECTION 66.** 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 or usable marijuana
12 is produced, processed, made, sold, or stored to determine whether the permittee is
13 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. A separate suit need not be filed for each separate
24 payment made by any taxpayer, but a recovery may be had in one suit for as many
25 payments as may have been made.

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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
12 (2) 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 or usable marijuana is
18 sold, possessed, stored, or manufactured without a lawful permit or in violation of
19 s. 139.972 or 139.973 is declared a public nuisance and may be closed and abated as
20 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 **(11)** The tax imposed under this subchapter does apply to the sale, distribution,
25 or delivery of medical marijuana as described in s. 50.85 (1). ✓

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SECTION 67

1 **SECTION 67.** 139.976 of the statutes is created to read:

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

9 **SECTION 68.** 139.977 of the statutes is created to read:

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

16 **(2)** If marijuana or usable marijuana on which the tax has not been paid is
17 seized as provided under sub. (1), it may be given to law enforcement officers to use
18 in criminal investigations or sold to qualified buyers by the department, without
19 notice. If the department finds that the marijuana or usable marijuana may
20 deteriorate or become unfit for use in criminal investigations or for sale, or that those
21 uses would otherwise be impractical, the department may order ^{it} ~~them~~ destroyed.

22 **(3)** If marijuana or usable marijuana on which the tax has been paid is seized
23 as provided under sub. (1), it shall be returned to the true owner if ownership can be
24 ascertained and the owner or the owner's agent is not involved in the violation
25 resulting in the seizure. If the ownership cannot be ascertained or if the owner or

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1 the owner's agent was guilty of the violation that resulted in the seizure of the
2 marijuana or usable marijuana, it may be sold or otherwise disposed of as provided
3 in sub. (2).

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

23 **SECTION 69.** 139.978 of the statutes is created to read:

24 **139.978 Interest and penalties.** (1) Any person who makes or signs any
25 false or fraudulent report under this subchapter or who attempts to evade the tax

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1 imposed by s. 139.971, or who aids in or abets the evasion or attempted evasion of
2 that tax, may be fined not more than \$10,000 or imprisoned for not more than 9
3 months or both.

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

7 (3) Any person who refuses to permit the examination or inspection authorized
8 under s. 139.975 (3) may be fined not more than \$500 or imprisoned not more than
9 6 months or both. The department shall immediately suspend or revoke the permit
10 of any person who refuses to permit the examination or inspection authorized under
11 s. 139.975 (3).

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

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

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

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

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

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

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

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

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

14 ~~SECTION 70. 139.979 of the statutes is created to read:~~

15 **139.979 Personal use.** An individual who possesses no more than 6
16 marijuana plants at any one time is not subject to the tax imposed under s. 139.971. ✓
17 An individual who possesses more than 6 marijuana plants at any one time shall
18 apply for the appropriate permit under s. 139.972 ✓ and pay the appropriate tax
19 imposed under s. 139.971. ✓

20 ~~SECTION 71. 139.980 of the statutes is created to read:~~

21 **139.980 Agreement with tribes.** The department may enter into an
22 agreement with a federally recognized American Indian Tribe in this state for the
23 administration and enforcement of this subchapter and to provide refunds of the tax
24 imposed under s. 139.971 on marijuana sold on tribal land by or to enrolled members
25 of the tribe residing on the tribal land.

ASSEMBLY BILL 482**SECTION 72**

1 **SECTION 72.** 146.40 (1) (bo) of the statutes is amended to read:

2 146.40 (1) (bo) "Hospice" means a hospice that is licensed under subch. ~~VI~~ VII
3 of ch. 50.

4 **SECTION 73.** 146.44 of the statutes is created to read:

5 **146.44 Medical Marijuana Registry Program.** (1) **DEFINITIONS.** In this
6 section:

7 (a) "Applicant" means a person who is applying for a registry identification card
8 under sub. (2) (a).

9 (b) "Debilitating medical condition or treatment" has the meaning given in s.
10 50.80 (2).

11 (c) "Medical use of tetrahydrocannabinols" has the meaning given in s. 50.80
12 (4).

13 (d) "Out-of-state registry identification card" means a document issued by an
14 entity listed in the rule promulgated under sub. (7) (f) that identifies the person as
15 a qualifying patient or primary caregiver, or an equivalent designation.

16 (e) "Primary caregiver" has the meaning given in s. 50.80 (5).

17 (f) "Qualifying patient" has the meaning given in s. 50.80 (6).

18 (g) "Registrant" means a person to whom a registry identification card is issued
19 under sub. (4).

20 (h) "Registry identification card" means a document issued by the department
21 under this section that identifies a person as a qualifying patient or primary
22 caregiver.

23 (i) "Written certification" has the meaning given in s. 50.80 (10).