

1 under s. 23.335 (23) (c) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q)
2 and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), ~~(bg)~~, (bm),
3 (c), (cm), (d), ~~(dg)~~, and (e) each require proof of a fact for conviction which the others
4 do not require.

5 **SECTION 214.** 940.25 (2) (a) of the statutes is amended to read:

6 940.25 (2) (a) The defendant has a defense if he or she proves by a
7 preponderance of the evidence that the great bodily harm would have occurred even
8 if he or she had been exercising due care and he or she had not been under the
9 influence of an intoxicant, did not have a detectable amount of a restricted controlled
10 substance in his or her blood, did not have a tetrahydrocannabinols concentration of
11 5.0 or greater, or did not have an alcohol concentration described under sub. (1) (b),
12 (bm), (d) or (e).

13 **SECTION 215.** 940.25 (2) (b) of the statutes is amended to read:

14 940.25 (2) (b) In any action under this section that is based on the defendant
15 allegedly having a detectable amount of methamphetamine, or
16 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
17 the defendant has a defense if he or she proves by a preponderance of the evidence
18 that at the time of the incident or occurrence he or she had a valid prescription for
19 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
20 acid, ~~or delta-9-tetrahydrocannabinol~~.

21 **SECTION 216.** 940.25 (2) (c) of the statutes is created to read:

22 940.25 (2) (c) In any action under this section that is based on the defendant
23 allegedly having a tetrahydrocannabinols concentration that is 5.0 or greater, the
24 defendant has a defense if he or she proves by a preponderance of the evidence that

1 at the time of the incident or occurrence he or she had a valid prescription for
2 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

3 **SECTION 217.** 941.20 (1) (bg) of the statutes is created to read:

4 941.20 (1) (bg) Operates or goes armed with a firearm while he or she has a
5 tetrahydrocannabinols concentration that is 5.0 or greater. A defendant has a
6 defense to any action under this paragraph if he or she proves by a preponderance
7 of the evidence that at the time of the incident or occurrence he or she had a valid
8 prescription for tetrahydrocannabinol or he or she was a qualifying patient, as
9 defined in s. 50.80 (6).

10 **SECTION 218.** 941.20 (1) (bm) of the statutes is amended to read:

11 941.20 (1) (bm) Operates or goes armed with a firearm while he or she has a
12 detectable amount of a restricted controlled substance in his or her blood. A
13 defendant has a defense to any action under this paragraph that is based on the
14 defendant allegedly having a detectable amount of methamphetamine, or
15 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
16 if he or she proves by a preponderance of the evidence that at the time of the incident
17 or occurrence he or she had a valid prescription for methamphetamine or one of its
18 metabolic precursors, or gamma-hydroxybutyric acid, ~~or~~
19 delta-9-tetrahydrocannabinol.

20 **SECTION 219.** 961.01 (14) of the statutes is renumbered 961.70 (3) and amended
21 to read:

22 961.70 (3) "Marijuana" means all parts of the plants of the genus Cannabis,
23 whether growing or not, with a tetrahydrocannabinols concentration that is greater
24 than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from
25 any part of the plant; and every compound, manufacture, salt, derivative, mixture,

1 or preparation of the plant, its seeds or resin, ~~including tetrahydrocannabinols.~~
2 “Marijuana” does include the mature stalks if mixed with other parts of the plant,
3 but does not include fiber produced from the stalks, oil or cake made from the seeds
4 of the plant, any other compound, manufacture, salt, derivative, mixture, or
5 preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or
6 cake or the sterilized seed of the plant which is incapable of germination.

7 **SECTION 220.** 961.11 (4g) of the statutes is repealed.

8 **SECTION 221.** 961.14 (4) (t) of the statutes is repealed.

9 **SECTION 222.** 961.32 (2m) of the statutes is repealed.

10 **SECTION 223.** 961.34 of the statutes is renumbered 961.75, and 961.75 (title),
11 as renumbered, is amended to read:

12 **961.75 (title) ~~Controlled substances~~ Marijuana therapeutic research.**

13 **SECTION 224.** 961.38 (1n) of the statutes is repealed.

14 **SECTION 225.** 961.41 (1) (h) of the statutes is repealed.

15 **SECTION 226.** 961.41 (1m) (h) of the statutes is repealed.

16 **SECTION 227.** 961.41 (1q) of the statutes is repealed.

17 **SECTION 228.** 961.41 (1r) of the statutes is amended to read:

18 **961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under
19 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight
20 of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin,
21 psilocybin, amphetamine, methamphetamine, tetrahydrocannabinols, synthetic
22 cannabinoids, or substituted cathinones, or any controlled substance analog of any
23 of these substances together with any compound, mixture, diluent, plant material
24 or other substance mixed or combined with the controlled substance or controlled
25 substance analog. ~~In addition, in determining amounts under subs. (1) (h) and (1m)~~

1 ~~(h), the amount of tetrahydrocannabinols means anything included under s. 961.14~~
2 ~~(4) (t) and includes the weight of any marijuana.~~

3 **SECTION 229.** 961.41 (3g) (c) of the statutes is amended to read:

4 **961.41 (3g) (c) Cocaine and cocaine base.** If a person possesses or attempts to
5 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine
6 base, the person shall be fined not more than \$5,000 and may be imprisoned for not
7 more than one year in the county jail upon a first conviction and is guilty of a Class
8 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense
9 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the
10 offense, the offender has at any time been convicted of any felony or misdemeanor
11 under this chapter or under any statute of the United States or of any state relating
12 to controlled substances, controlled substance analogs, narcotic drugs, marijuana,
13 or depressant, stimulant, or hallucinogenic drugs.

14 **SECTION 230.** 961.41 (3g) (d) of the statutes is amended to read:

15 **961.41 (3g) (d) Certain hallucinogenic and stimulant drugs.** If a person
16 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,
17 amphetamine, 3,4-methylenedioxymethamphetamine, methcathinone, cathinone,
18 N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm),
19 (u) to (xb), or (7) (L), psilocin, or psilocybin, or a controlled substance analog of
20 lysergic acid diethylamide, phencyclidine, amphetamine,
21 3,4-methylenedioxymethamphetamine, methcathinone, cathinone,
22 N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm),
23 (u) to (xb), or (7) (L), psilocin, or psilocybin, the person may be fined not more than
24 \$5,000 or imprisoned for not more than one year in the county jail or both upon a first
25 conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For

1 purposes of this paragraph, an offense is considered a 2nd or subsequent offense if,
2 prior to the offender's conviction of the offense, the offender has at any time been
3 convicted of any felony or misdemeanor under this chapter or under any statute of
4 the United States or of any state relating to controlled substances, controlled
5 substance analogs, narcotic drugs, ~~marijuana~~, or depressant, stimulant, or
6 hallucinogenic drugs.

7 **SECTION 231.** 961.41 (3g) (e) of the statutes is repealed.

8 **SECTION 232.** 961.41 (3g) (em) of the statutes is amended to read:

9 961.41 (3g) (em) *Synthetic cannabinoids*. If a person possesses or attempts to
10 possess a controlled substance specified in s. 961.14 (4) (tb), or a controlled substance
11 analog of a controlled substance specified in s. 961.14 (4) (tb), the person may be fined
12 not more than \$1,000 or imprisoned for not more than 6 months or both upon a first
13 conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For
14 purposes of this paragraph, an offense is considered a 2nd or subsequent offense if,
15 prior to the offender's conviction of the offense, the offender has at any time been
16 convicted of any felony or misdemeanor under this chapter or under any statute of
17 the United States or of any state relating to controlled substances, controlled
18 substance analogs, narcotic drugs, ~~marijuana~~, or depressant, stimulant, or
19 hallucinogenic drugs.

20 **SECTION 233.** 961.47 (1) of the statutes is amended to read:

21 961.47 (1) Whenever any person who has not previously been convicted of any
22 offense under this chapter, or of any offense under any statute of the United States
23 or of any state or of any county ordinance relating to controlled substances or
24 controlled substance analogs, narcotic drugs, ~~marijuana~~ or stimulant, depressant,
25 or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted

1 possession of a controlled substance or controlled substance analog under s. 961.41
2 (3g) (b), the court, without entering a judgment of guilt and with the consent of the
3 accused, may defer further proceedings and place him or her on probation upon terms
4 and conditions. Upon violation of a term or condition, the court may enter an
5 adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the
6 terms and conditions, the court shall discharge the person and dismiss the
7 proceedings against him or her. Discharge and dismissal under this section shall be
8 without adjudication of guilt and is not a conviction for purposes of disqualifications
9 or disabilities imposed by law upon conviction of a crime, including the additional
10 penalties imposed for 2nd or subsequent convictions under s. 961.48. There may be
11 only one discharge and dismissal under this section with respect to any person.

12 **SECTION 234.** 961.48 (3) of the statutes is amended to read:

13 961.48 (3) For purposes of this section, a felony offense under this chapter is
14 considered a 2nd or subsequent offense if, prior to the offender's conviction of the
15 offense, the offender has at any time been convicted of any felony or misdemeanor
16 offense under this chapter or under any statute of the United States or of any state
17 relating to controlled substances or controlled substance analogs, narcotic drugs,
18 ~~marijuana~~ or depressant, stimulant, or hallucinogenic drugs.

19 **SECTION 235.** 961.48 (5) of the statutes is amended to read:

20 961.48 (5) This section does not apply if the person is presently charged with
21 a felony under s. 961.41 (3g) (c), (d), ~~(e)~~, or (g).

22 **SECTION 236.** 961.49 (1m) (intro.) of the statutes is amended to read:

23 961.49 (1m) (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), (f), or (g)
24 ~~or (h)~~ by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (f), or (g)
25 ~~or (h)~~ by possessing with intent to deliver or distribute, cocaine, cocaine base, heroin,

1 phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine,
2 methamphetamine, or methcathinone ~~or any form of tetrahydrocannabinols~~ or a
3 controlled substance analog of any of these substances and the delivery, distribution
4 or possession takes place under any of the following circumstances, the maximum
5 term of imprisonment prescribed by law for that crime may be increased by 5 years:

6 **SECTION 237.** 961.571 (1) (a) 7. of the statutes is repealed.

7 **SECTION 238.** 961.571 (1) (a) 11. (intro.) of the statutes is amended to read:

8 961.571 (1) (a) 11. (intro.) Objects used, designed for use or primarily intended
9 for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish
10 or hashish oil into the human body, such as:

11 **SECTION 239.** 961.571 (1) (a) 11. e. of the statutes is repealed.

12 **SECTION 240.** 961.571 (1) (a) 11. k. and L. of the statutes are repealed.

13 **SECTION 241.** Subchapter VIII of chapter 961 [precedes 961.70] of the statutes
14 is created to read:

15 **CHAPTER 961**

16 **SUBCHAPTER VIII**

17 **REGULATION OF MARIJUANA**

18 **961.70 Definitions.** In this subchapter:

19 (1) "Compassion center" has the meaning given in s. 50.80 (1).

20 (2) "Legal age" means 21 years of age.

21 (5) "Permissible amount" means one of the following:

22 (a) For a person who is a resident of Wisconsin, an amount that does not exceed
23 2 ounces of usable marijuana.

24 (b) For a person who is not a resident of Wisconsin, an amount that does not
25 exceed one-quarter ounce of usable marijuana.

1

(6) "Permittee" has the meaning given under s. 139.97 (9).

10

2

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

3

(8) "Retail outlet" has the meaning given in s. 139.97 (10).

11

4

(9) "Tetrahydrocannabinols concentration" means the percent of delta-9-tetrahydrocannabinol content per dry weight of any part of the plant Cannabis, or per volume or weight of marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant Cannabis regardless of moisture content.

9

(10) "Treatment team" has the meaning given in s. 50.80 (8).

10

(11) "Underage person" means a person who has not attained the legal age.

11

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

13

12

961.71 Underage persons prohibitions; penalties. (1) (a) 1. No permittee

13

may sell, distribute, or deliver marijuana to any underage person, except that a permittee that is also a compassion center may sell, distribute, or deliver to an underage person who is a qualifying patient or to a treatment team.

14

15

16

2. No permittee or compassion center may directly or indirectly permit an underage person to violate sub. (2m).

17

18

(b) 1. A permittee that violates par. (a) 1. or 2. may be subject to a forfeiture of not more than \$500 and to a suspension of the permittee's permit for an amount of time not to exceed 30 days.

19

20

21

2. A compassion center that violates par. (a) 2. may be subject to a forfeiture of not more than \$500.

22

23

(c) In determining whether a permittee or compassion center has violated par. (a) 2., all relevant circumstances surrounding the presence of the underage person may be considered. In determining whether a permittee has violated par. (a) 1., all

24

25

1 relevant circumstances surrounding the selling, distributing, or delivering of
2 marijuana may be considered. In addition, proof of all of the following facts by the
3 permittee or compassion center is a defense to any prosecution for a violation under
4 par. (a):

5 1. That the underage person falsely represented that he or she had attained the
6 legal age.

7 2. That the appearance of the underage person was such that an ordinary and
8 prudent person would believe that the underage person had attained the legal age.

9 3. That the action was made in good faith and in reliance on the representation
10 and appearance of the underage person in the belief that the underage person had
11 attained the legal age.

12 4. That the underage person supported the representation under subd. 1. with
13 documentation that he or she had attained the legal age.

14 **(2)** Any underage person who does any of the following is subject to a forfeiture
15 of not less than \$250 nor more than \$500:

16 (a) Procures or attempts to procure marijuana from a permittee.

17 (b) Falsely represents his or her age for the purpose of receiving marijuana from
18 a permittee.

19 (c) Knowingly possesses or consumes marijuana, except that this paragraph
20 does not apply to an underage person who is a qualifying patient.

21 (d) Violates sub. (2m).

22 **(2m)** An underage person not accompanied by his or her parent, guardian, or
23 spouse who has attained the legal age may not enter, knowingly attempt to enter, or
24 be on the premises of a retail outlet that is not a compassion center. An underage
25 person not accompanied by his or her parent, guardian, or spouse who has attained

1 the legal age or by his or her treatment team may not enter, knowingly attempt to
2 enter, or be on the premises of a compassion center.

3 (3) An individual who has attained the legal age and who knowingly does any
4 of the following may be subject to a forfeiture that does not exceed \$1,000:

5 (a) Permits or fails to take action to prevent a violation of sub. (2) (c) on premises
6 owned by the individual or under the individual's control.

7 (b) Encourages or contributes to a violation of sub. (2) (a).

8 **961.72 Restrictions; penalties.** (1) No person except a permittee or a
9 compassion center may sell, or possess with the intent to sell, marijuana. No person
10 may distribute or deliver, or possess with the intent to distribute or deliver,
11 marijuana except a permittee or except a compassion center or a member of a
12 treatment team who distributes or delivers, or possesses with the intent to distribute
13 or deliver, to a qualifying patient. Any person who violates a prohibition under this
14 subsection is guilty of the following:

15 (a) Except as provided in par. (b), a Class I felony.

16 (b) If the individual to whom the marijuana is, or is intended to be, sold,
17 distributed, or delivered has not attained the legal age and the actual or intended
18 seller, distributor, or deliverer is at least 3 years older than the individual to whom
19 the marijuana is, or is intended to be, sold, distributed, or delivered, a Class H felony.

20 (2) (a) A person that is not a permittee or a compassion center who possesses
21 an amount of marijuana that exceeds the permissible amount but does not exceed 28
22 grams of marijuana is subject to a civil forfeiture not to exceed \$1,000 or
23 imprisonment not to exceed 90 days or both.

1 (b) A person who is not a permittee, a compassion center, a qualifying patient,
2 or a treatment team member who possesses an amount of marijuana that exceeds 28
3 grams of marijuana:

4 1. Except as provided in subd. 2., a Class B misdemeanor.

5 2. A Class I felony if the person has taken action to hide how much marijuana
6 the person possesses and any of the following applies:

7 a. The person has in place a system that could alert the person if law
8 enforcement approaches an area that contains marijuana if the system exceeds a
9 security system that would be used by a reasonable person in the person's region.

10 b. The person has in place a method of intimidating individuals who approach
11 an area that contains marijuana if the method exceeds a method that would be used
12 by a reasonable person in the person's region.

13 c. The person has rigged a system so that any individual approaching the area
14 may be injured or killed by the system.

15 (c) A person who is not a permittee, a compassion center, a qualifying patient,
16 or a treatment team member who cultivates ^{possesses} more than 6 marijuana plants ^{that have reached the flowering stage} at one
17 time is one of the following:

18 1. Except as provided in subds. 2. and 3., subject to a civil forfeiture not to
19 exceed \$1,000 or imprisonment not to exceed 90 days or both.

20 2. Except as provided in subd. 3., guilty of a Class B misdemeanor if the number
21 of marijuana plants is more than 12.

22 3. Guilty of a Class I felony if the number of marijuana plants is more than 12,
23 if the individual has taken action to hide how many marijuana plants are being
24 cultivated, and if any of the following applies: ^{the number of}

1 a. The person has in place a system that could alert the person if law
 2 enforcement approaches an area that contains marijuana plants if the system
 3 exceeds a security system that would be used by a reasonable person in the person's
 4 region.

5 b. The person has in place a method of intimidating individuals who approach
 6 an area that contains marijuana plants if the method exceeds a method that would
 7 be used by a reasonable person in the person's region.

8 c. The person has rigged a system so that any individual approaching the area
 9 that contains marijuana plants may be injured or killed by the system.

10 (d) No person except a qualifying patient, a member of a treatment team, a
 11 permittee, or a compassion center may ^{possess} cultivate marijuana plants. Any person who
 12 violates this prohibition must apply for a permit under s. 139.979; in addition, the
 13 person is one of the following:

14 1. Except as provided in subds. 2., 3., and 4., subject to a civil forfeiture that
 15 is not more than twice the permitting fee under s. 139.979.

16 2. Except as provided in subds. 3. and 4., subject to a civil forfeiture not to
 17 exceed \$1,000 or imprisonment not to exceed 90 days or both if the number of
 18 marijuana plants is more than 6.

19 3. Except as provided in subd. 4., guilty of a Class B misdemeanor if the number
 20 of marijuana plants is more than 12.

21 4. Guilty of a Class I felony if the number of marijuana plants is more than 12,
 22 if the person has taken action to hide how many marijuana plants are being
 23 cultivated, and if any of the following applies:

24 a. The person has in place a system that could alert the person if law
 25 enforcement approaches an area that contains marijuana plants if the system

that have reached the flowering stage

1 exceeds a security system that would be used by a reasonable person in the person's
2 region.

3 b. The person has in place a method of intimidating individuals who approach
4 an area that contains marijuana plants if the method exceeds a method that would
5 be used by a reasonable person in the person's region.

6 c. The person has rigged a system so that any individual approaching the area
7 that contains marijuana plants may be injured or killed by the system.

8 (e) Whoever uses or displays marijuana in a public space is subject to a civil
9 forfeiture of not more than \$100.

10 **(3)** Any person except a compassion center who sells or attempts to sell
11 marijuana via mail, telephone, or Internet is guilty of a Class A misdemeanor.

12 **SECTION 242.** 967.055 (1) (a) of the statutes is amended to read:

13 967.055 (1) (a) The legislature intends to encourage the vigorous prosecution
14 of offenses concerning the operation of motor vehicles by persons under the influence
15 of an intoxicant, a controlled substance, a controlled substance analog or any
16 combination of an intoxicant, controlled substance and controlled substance analog,
17 under the influence of any other drug to a degree which renders him or her incapable
18 of safely driving, or under the combined influence of an intoxicant and any other drug
19 to a degree which renders him or her incapable of safely driving or having a
20 prohibited alcohol concentration, as defined in s. 340.01 (46m), or having a
21 tetrahydrocannabinols concentration of 5.0 or greater, offenses concerning the
22 operation of motor vehicles by persons with a detectable amount of a restricted
23 controlled substance in his or her blood, and offenses concerning the operation of
24 commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

25 **SECTION 243.** 967.055 (1) (b) of the statutes is amended to read:

1 967.055 (1) (b) The legislature intends to encourage the vigorous prosecution
2 of offenses concerning the operation of motorboats by persons under the influence of
3 an intoxicant, a controlled substance, a controlled substance analog or any
4 combination of an intoxicant, controlled substance and controlled substance analog
5 to a degree which renders him or her incapable of operating a motorboat safely, or
6 under the combined influence of an intoxicant and any other drug to a degree which
7 renders him or her incapable of operating a motorboat safely or having an alcohol
8 concentration of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or
9 greater.

10 **SECTION 244.** 967.055 (1m) (b) 1. of the statutes is amended to read:

11 967.055 (1m) (b) 1. A controlled substance included in schedule I under ch. 961
12 ~~other than a tetrahydrocannabinol.~~

13 **SECTION 245.** 967.055 (1m) (b) 5. of the statutes is repealed.

14 **SECTION 246.** 967.055 (2) (a) of the statutes is amended to read:

15 967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss
16 or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity
17 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the
18 use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply
19 to the court. The application shall state the reasons for the proposed amendment or
20 dismissal. The court may approve the application only if the court finds that the
21 proposed amendment or dismissal is consistent with the public's interest in deterring
22 the operation of motor vehicles by persons who are under the influence of an
23 intoxicant, a controlled substance, a controlled substance analog or any combination
24 of an intoxicant, controlled substance and controlled substance analog, under the
25 influence of any other drug to a degree which renders him or her incapable of safely

1 driving, or under the combined influence of an intoxicant and any other drug to a
2 degree which renders him or her incapable of safely driving, in deterring the
3 operation of motor vehicles by persons with a detectable amount of a restricted
4 controlled substance in his or her blood, in deterring the operation of motor vehicles
5 by persons with a tetrahydrocannabinols concentration that is 5.0 or greater, or in
6 deterring the operation of commercial motor vehicles by persons with an alcohol
7 concentration of 0.04 or more. The court may not approve an application to amend
8 the vehicle classification from a commercial motor vehicle to a noncommercial motor
9 vehicle unless there is evidence in the record that the motor vehicle being operated
10 by the defendant at the time of his or her arrest was not a commercial motor vehicle.

11 **SECTION 247.** 971.365 (1) (a) of the statutes is amended to read:

12 971.365 (1) (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1)
13 (cm), (d), (e), (f), or (g) ~~or~~ (h) involving more than one violation, all violations may be
14 prosecuted as a single crime if the violations were pursuant to a single intent and
15 design.

16 **SECTION 248.** 971.365 (1) (b) of the statutes is amended to read:

17 971.365 (1) (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41
18 (1m) (cm), (d), (e), (f), or (g) ~~or~~ (h) involving more than one violation, all violations may
19 be prosecuted as a single crime if the violations were pursuant to a single intent and
20 design.

21 **SECTION 249.** 971.365 (1) (c) of the statutes is amended to read:

22 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41
23 (3g) (dm), 1999 stats., or s. 961.41 (3g) (am), (c), (d), ~~(e)~~, or (g) involving more than
24 one violation, all violations may be prosecuted as a single crime if the violations were
25 pursuant to a single intent and design.

1 **SECTION 250.** 971.365 (2) of the statutes is amended to read:

2 971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent
3 prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m)
4 (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats.,
5 or s. 961.41 (1) (cm), (d), (e), (f), or (g), ~~or~~ (h), (1m) (cm), (d), (e), (f), or (g), ~~or~~ (h) or (3g)
6 (am), (c), (d), ~~(e)~~, or (g) on which no evidence was received at the trial on the original
7 charge.

8 **SECTION 251.** 973.016 of the statutes is created to read:

9 **973.016 Special disposition for marijuana-related crimes. (1)**
10 **RESENTENCING PERSONS SERVING A SENTENCE OR PROBATION.** (a) A person serving a
11 sentence or on probation may request resentencing or dismissal as provided under
12 par. (b) if all of the following apply:

13 1. The sentence or probation period was imposed for a violation of s. 961.41 (1)
14 (h), 2017 stats., s. 961.41 (1m) (h), 2017 stats., or s. 961.41 (3g) (e), 2017 stats.

15 2. One of the following applies:

16 a. The person would not have been guilty of a crime had the violation occurred
17 on or after the effective date of this subd. 2. a. [LRB inserts date].

18 b. The person would have been guilty of a lesser crime had the violation
19 occurred on or after the effective date of this subd. 2. b. [LRB inserts date].

20 (b) 1. A person to whom par. (a) applies shall file a petition with the sentencing
21 court to request resentencing, adjustment of probation, or dismissal.

22 2. If the court receiving a petition under subd. 1. determines that par. (a)
23 applies, the court shall schedule a hearing to consider the petition. At the hearing,
24 if the court determines that par. (a) 2. b. applies, the court shall resentence the person
25 or adjust the probation, and, if the court determines that par. (a) 2. a. applies, the

1 court shall dismiss the conviction. Before resentencing, adjusting probation, or
2 dismissing a conviction under this subdivision, the court shall determine that the
3 action does not present an unreasonable risk of danger to public safety.

4 3. If the court resentences the person or adjusts probation, the person shall
5 receive credit for time or probation served for the relevant offense.

6 **(2) REDESIGNATING OFFENSE FOR PERSONS WHO COMPLETED A SENTENCE OR**
7 **PROBATION.** (a) A person who has completed his or her sentence or period of probation
8 may request under par. (b) expungement of the conviction because the conviction is
9 legally invalid or redesignation to a lesser crime if all of the following apply:

10 1. The sentence or probation period was imposed for a violation of s. 961.41 (1)
11 (h), 2017 stats., s. 961.41 (1m) (h), 2017 stats., or s. 961.41 (3g) (e), 2017 stats.

12 2. One of the following applies:

13 a. The person would not have been guilty of a crime had the violation occurred
14 on or after the effective date of this subd. 2. a. [LRB inserts date].

15 b. The person would have been guilty of a lesser crime had the violation
16 occurred on or after the effective date of this subd. 2. b. [LRB inserts date].

17 (b) 1. A person to whom par. (a) applies shall file a petition with the sentencing
18 court to request expungement or redesignation.

19 2. If the court receiving a petition under subd. 1. determines that par. (a)
20 applies, the court shall schedule a hearing to consider the petition. At the hearing,
21 if the court determines that par. (a) 2. b. applies, the court shall redesignate the crime
22 to a lesser crime, and if the court determines that par. (a) 2. a. applies, the court shall
23 expunge the conviction. Before redesignating or expunging under this subdivision,
24 the court shall determine that the action does not present an unreasonable risk of
25 danger to public safety.

Insert 32 - 16 JK

1 **SECTION 1.** 77.52 (13) of the statutes is amended to read:

2 **77.52 (13)** For the purpose of the proper administration of this section and to
3 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
4 the tax until the contrary is established. The burden of proving that a sale of tangible
5 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
6 is not a taxable sale at retail is upon the person who makes the sale unless that
7 person takes from the purchaser an electronic or a paper certificate, in a manner
8 prescribed by the department, to the effect that the property, item, good, or service
9 is purchased for resale or is otherwise exempt, except that no certificate is required
10 for the sale of tangible personal property, or items, property, or goods under sub. (1)
11 (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10),
12 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
13 (51), (52), (66), and (67), and (69).

History: 1973 c. 156; 1975 c. 39; 1977 c. 29, 142, 418; 1979 c. 174, 221; 1981 c. 20, 317; 1983 a. 2, 27; 1983 a. 189 ss. 99, 103, 107, 329 (12); 1983 a. 341, 510, 544; 1985 a. 29, 149; 1987 a. 27, 399; 1989 a. 31, 335; 1991 a. 39, 316; 1993 a. 112, 213, 308, 437; 1995 a. 27, 225, 351; 1997 a. 27, 237, 291; 1999 a. 9, 83; 1999 a. 150 s. 672; 2001 a. 16, 104, 109; 2003 a. 33, 321; 2005 a. 149, 327, 344; 2007 a. 11, 20, 42, 97; 2009 a. 2, 12, 28, 330; 2011 a. 18, 32; 2013 a. 20, 185; 2015 a. 84, 216; 2017 a. 17, 59, 324, 365, 367.

14 **SECTION 2.** 77.53 (10) of the statutes is amended to read:

15 **77.53 (10)** For the purpose of the proper administration of this section and to
16 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
17 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
18 (d), or taxable services sold by any person for delivery in this state is sold for storage,
19 use, or other consumption in this state until the contrary is established. The burden
20 of proving the contrary is upon the person who makes the sale unless that person
21 takes from the purchaser an electronic or paper certificate, in a manner prescribed
22 by the department, to the effect that the property, or items, property, or goods under

1 s. 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise
 2 exempt from the tax, except that no certificate is required for the sale of tangible
 3 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
 4 services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n),
 5 (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), (52), and (67), and (69).

History: 1971 c. 125, 211; 1977 c. 29, 418; 1979 c. 1, 174; 1981 c. 317; 1983 a. 2; 1985 a. 29; 1987 a. 27, 268, 399; 1991 a. 39, 316; 1993 a. 16, 112; 1995 a. 27, 209; 1997 a. 27, 41, 237; 1999 a. 31; 2001 a. 109; 2003 a. 321; 2005 a. 441; 2007 a. 11, 20; 2009 a. 2, 28, 276, 330; 2011 a. 208; 2013 a. 20; 2015 a. 84; 2017 a. 59, 367; s. 35.17 correction in (10).

6 **SECTION 3.** 77.54 (69) of the statutes is created to read:

7 77.54 (69) The sales price from the sale of and the storage, use, or other
 8 consumption of usable marijuana, as defined in s. 139.97 (13), provided by a
 9 compassion center, as defined in s. 50.80⁽¹⁾

10 **INSERT 33-4 (MCP)**

11 A person is not required to obtain a permit under this section if the person
 12 produces or processes only industrial hemp and holds a valid license under s. 94.55.
 13

Insert 42 - 4 JK

14 (9) "Microbusiness" means a marijuana producer ^{one that} who produces marijuana in
 15 one area that is less than 10,000 square feet and who also operates as any 2 of the
 16 following:

- 17 (a) A marijuana processor.
- 18 (b) A marijuana distributor.
- 19 (c) A marijuana retailer.

Insert 42 - 14 JK

1 This paragraph applies to a microbusiness that transfers marijuana to a
2 processing operation within the microbusiness.

Insert 42 - 23 JK

3 This subsection does not apply to a microbusiness that transfers marijuana or
4 usable marijuana to another operation with the microbusiness.

Insert 46 - 21 JK

5 A person who has been issued a permit to operate as a microbusiness is not
6 required to hold separate permits to operate as a marijuana processor, marijuana
7 distributor, or marijuana retailer, but shall specify on the person's application for a
8 microbusiness permit the activities that the person will be engaged in as a
9 microbusiness.

Hanaman, Cathlene

From: Bagley, McKenzie
Sent: Monday, February 18, 2019 3:59 PM
To: Hanaman, Cathlene
Subject: AB 482

Hi Cathlene,

We have a few thoughts regarding AB-482 that may need to be addressed in the bill/we would like your advisement on:

- 1) Gun owner protections: ensuring that law abiding gun owners are not restricted from using or purchasing firearms due to their use of legal marijuana, or legal participation in the marijuana industry.
 - a. Concealed carry permits
 - b. Sale of firearms
(<https://www.apnews.com/bbb3ef37357d4799bec33cb2d36a7bae> <https://www.wesa.fm/post/wolf-we-wont-take-guns-away-medical-marijuana-users>)
- 2) Religious freedoms: addressing religious entities that use cannabis as a religious sacrament and how to best regulate/ also protect religious freedoms
 - a. Example: The Rastafari Church sees cannabis as sacramental and uses it for spiritual purposes
- 3) Open containers: Having regulations for marijuana similar to alcohol policies when it comes to open containers in a vehicle.
 - a. Example: Someone on their way home from a dispensary with a package and sealed marijuana product is following the law, while someone with open marijuana or paraphernalia is not.

If any of these issues don't make sense to tackle in this bill, or there is nothing that can be done, we defer to you. Also, due to unexpected circumstances, we are currently planning to significantly advance our timeline for the introduction of the bill. Please let us know what else you may need before jacketing, and a timeline for these changes (we know how busy you must be, so thank you in advance!).

Don't hesitate to call with any questions, and thank you so much for your help!

Best,
McKenzie

McKenzie Bagley
Office of Representative Sargent
48th Assembly District
(608)-266-0960