



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0154/P2
ALL:wlj&kjf

P3
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT

1 **AN ACT to repeal** 23.33 (1) (jo) 5., 23.335 (1) (zgm) 5., 30.50 (10m) (e), 340.01
2 (50m) (e), 350.01 (10v) (e), 885.235 (1) (d) 5., 939.22 (33) (e), 961.11 (4g), 961.14
3 (4) (t), 961.32 (2m), 961.38 (1n), 961.41 (1) (h), 961.41 (1m) (h), 961.41 (1q),
4 961.41 (3g) (e), 961.571 (1) (a) 7., 961.571 (1) (a) 11. e., 961.571 (1) (a) 11. k. and
5 L. and 967.055 (1m) (b) 5.; **to renumber** 30.681 (1) (bn) and subchapter VI
6 (title) of chapter 50 [precedes 50.90]; **to renumber and amend** 23.33 (4c) (a)
7 5., 23.335 (12) (a) 5., 23.335 (12) (b) 5., 30.681 (1) (d), 108.133 (1) (a), 115.35 (1),
8 346.63 (1) (d), 350.101 (1) (e), 961.01 (14) and 961.34; **to amend** 20.435 (6) (jm),
9 23.33 (1) (jo) 1., 23.33 (4c) (a) 4., 23.33 (4c) (b) 3., 23.33 (4c) (b) 4. a., 23.33 (4c)
10 (b) 4. b., 23.33 (4p) (d), 23.33 (13) (b) 1., 23.33 (13) (b) 2., 23.33 (13) (b) 3., 23.33
11 (13) (b) 4., 23.33 (13) (e), 23.335 (1) (zgm) 1., 23.335 (12) (a) 4., 23.335 (12) (b)
12 3., 23.335 (12) (b) 4., 23.335 (12) (i), 23.335 (23) (c) 1., 23.335 (23) (c) 2., 23.335
13 (23) (c) 3., 23.335 (23) (c) 4., 30.50 (10m) (a), 30.681 (1) (b) (title), 30.681 (1) (bn)
14 (title), 30.681 (1) (c), 30.681 (2) (b) (title), 30.681 (2) (c), 30.681 (2) (d) 1. a., 30.681
15 (2) (d) 1. b., 30.684 (4), 30.80 (6) (d), 49.148 (4) (a), 49.45 (23) (g) 5., 49.79 (1) (b),

1 50.56 (3), 51.49 (1) (d), 59.54 (25) (title), 59.54 (25) (a) (intro.), 66.0107 (1) (bm),
2 77.52 (13), 77.53 (10), 111.35 (2) (e), 114.09 (2) (bm) 1. (intro.), 114.09 (2) (bm)
3 4., 146.40 (1) (bo), 146.81 (1) (L), 146.997 (1) (d) 18., 157.06 (11) (i), 289.33 (3)
4 (d), 340.01 (50m) (a), 343.06 (1) (d), 343.10 (5) (a) 1., 343.10 (5) (a) 2., 343.10 (8)
5 (intro.), 343.12 (7) (a) 9., 343.12 (7) (a) 11., 343.16 (2) (b), 343.16 (5) (a), 343.30
6 (1p), 343.30 (1q) (c) 1. (intro.), 343.30 (1q) (d) 1., 343.30 (1q) (h), 343.305 (2),
7 343.305 (3) (a), 343.305 (3) (am), 343.305 (3) (ar) 1., 343.305 (3) (b), 343.305 (5)
8 (b), 343.305 (5) (d), 343.305 (6) (a), 343.305 (7) (a), 343.305 (8) (b) 2. bm., 343.305
9 (8) (b) 2. d., 343.305 (8) (b) 4m. a., 343.305 (8) (b) 5. b., 343.305 (8) (b) 6. b.,
10 343.305 (9) (a) 5. a., 343.305 (9) (a) 5. c., 343.305 (9) (am) 5. a., 343.305 (9) (am)
11 5. c., 343.305 (9) (d), 343.305 (10) (c) 1. (intro.), 343.305 (10) (d), 343.305 (10)
12 (em), 343.307 (1) (d), 343.307 (2) (e), 343.31 (1) (am), 343.31 (2), 343.315 (2) (a)
13 2., 343.315 (2) (a) 5., 343.315 (2) (a) 6., 343.315 (2) (bm) 2., 343.32 (2) (bj), 343.38
14 (1) (d) 2., 343.44 (1) (a), 343.44 (1) (b), 344.576 (2) (b), 346.63 (1) (b), 346.63 (2)
15 (a) 2., 346.63 (2) (b) 1., 346.63 (2) (b) 2., 346.637, 346.65 (2m) (a), 346.65 (2q),
16 349.02 (2) (b) 4., 349.03 (2m), 349.06 (1m), 350.01 (10v) (a), 350.101 (1) (d),
17 350.101 (2) (c), 350.101 (2) (d) 1., 350.101 (2) (d) 2., 350.104 (4), 350.11 (3) (a)
18 1., 350.11 (3) (a) 2., 350.11 (3) (a) 3., 350.11 (3) (a) 4., 350.11 (3) (d), 609.83, 767.41
19 (5) (am) (intro.), 767.451 (5m) (a), 885.235 (1) (d) 1., 885.235 (1g) (intro.),
20 885.235 (1m), 885.235 (4), 895.047 (3) (a), 905.04 (4) (f), 939.22 (33) (a), 940.09
21 (1m) (a), 940.09 (1m) (b), 940.09 (2) (a), 940.09 (2) (b), 940.25 (1m), 940.25 (2)
22 (a), 940.25 (2) (b), 941.20 (1) (bm), 961.41 (1r), 961.41 (3g) (c), 961.41 (3g) (d),
23 961.41 (3g) (em), 961.47 (1), 961.48 (3), 961.48 (5), 961.49 (1m) (intro.), 961.571
24 (1) (a) 11. (intro.), 967.055 (1) (a), 967.055 (1) (b), 967.055 (1m) (b) 1., 967.055
25 (2) (a), 971.365 (1) (a), 971.365 (1) (b), 971.365 (1) (c) and 971.365 (2); and *to*

1 **create** 20.115 (7) (ge), 20.435 (1) (gq), 20.435 (1) (jm), 20.566 (1) (bn), 23.33 (1)
2 (k), 23.33 (4c) (a) 2g., 23.33 (4c) (a) 3g., 23.33 (4c) (a) 5. b., 23.33 (4c) (b) 2n., 23.33
3 (4c) (b) 4. c., 23.335 (1) (zLg), 23.335 (12) (a) 2g., 23.335 (12) (a) 3m., 23.335 (12)
4 (a) 5. b., 23.335 (12) (b) 2g., 23.335 (12) (b) 5. b., 30.50 (13p), 30.50 (13t), 30.681
5 (1) (b) 1g., 30.681 (1) (bn) 2., 30.681 (1) (d) 2., 30.681 (2) (b) 1g., 30.681 (2) (d)
6 1. c., subchapter VI of chapter 50 [precedes 50.80], 66.0414, 77.54 (69), 94.56,
7 100.145, 108.02 (18r), 108.04 (5m), 108.133 (1) (a) 2., 111.32 (9m), 111.32 (11m),
8 115.35 (1) (a) 6., 121.02 (1) (L) 8., subchapter IV of chapter 139 [precedes
9 139.97], 146.44, 146.46, 157.06 (11) (hm), 340.01 (66m), 343.305 (5) (dm), 346.63
10 (1) (d) 2., 346.63 (2) (b) 3., 346.63 (2p), 350.01 (21g), 350.101 (1) (bg), 350.101
11 (1) (cg), 350.101 (1) (e) 2., 350.101 (2) (bg), 350.101 (2) (d) 3., 632.895 (16p),
12 767.41 (5) (d), 767.451 (5m) (d), 885.235 (1) (e), 885.235 (1g) (ag), 885.235 (1g)
13 (cg), 885.235 (1L), 939.22 (39g), 940.09 (1) (bg), 940.09 (1) (dg), 940.09 (1g) (bg),
14 940.09 (1g) (dg), 940.09 (2) (c), 940.25 (1) (bg), 940.25 (1) (dg), 940.25 (2) (c),
15 941.20 (1) (bg), subchapter VIII of chapter 961 [precedes 961.70] and 973.016
16 of the statutes; **relating to:** marijuana possession, regulation of marijuana
17 distribution and cultivation, medical marijuana, operating a motor vehicle
18 while under the influence of marijuana, requiring the exercise of rule-making
19 authority, granting rule-making authority, making an appropriation, and
20 providing a penalty.

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.

RECREATIONAL USE OF MARIJUANA

With respect to recreational use of marijuana, the bill changes state law to permit a Wisconsin resident who is at least 21 years of age to possess no more than two ounces of marijuana and to permit a nonresident of Wisconsin who is at least 21 years of age to possess no more than one-quarter ounce of marijuana. Generally, under the bill, 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. The bill also eliminates the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption.

The bill 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 privilege of doing business in this state. The bill requires a person to obtain separate permits from the Department of Revenue to produce, process, distribute, or sell marijuana, and requires marijuana producers and processors to obtain additional permits from the Department of Agriculture, Trade and Consumer Protection. The requirements for obtaining these permits differ based on whether the permit is issued by DOR or DATCP but, in general, a person may not obtain such a permit if he or she is not a state resident, is under the age of 21, or has been convicted of certain crimes; in addition, a person may not operate under a DOR permit within 500 feet of a school, playground, recreation facility, child care facility, public park, public transit facility, or library and may not operate as a marijuana producer under a DATCP permit within 500 feet of a school. A person who holds a permit from DOR must also comply with certain operational requirements.

Under the bill, a person who does not have a permit from DOR 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. The bill prohibits a DOR permittee from selling, distributing, or transferring marijuana to a minor and from allowing 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 the 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.

In addition, under the bill, a person who is cultivating marijuana plants without a permit who possesses more than six marijuana plants that have reached the flowering stage but not more than 12 at one time is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. If the person possesses more than 12 plants that have reached the flowering stage 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.

MEDICAL USE OF MARIJUANA

With respect to the medical use of marijuana, the 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 purpose of verifying that a person possesses a valid registry identification card. The 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. The 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. The 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. The 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.

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 THC in accordance with requirements specified in the bill and any equipment or supplies necessary for the medical use of THC. The coverage of the medical use of THC 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.

GENERAL REGULATION OF 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 the 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. The 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 because of 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 because of 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 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.

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 on the sole basis of a positive test for the use of marijuana by a potential recipient.

The 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.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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:

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

2019-20 2020-21

1 **20.566 Revenue, department of**

2 (1) COLLECTION OF TAXES

3 (bn) Administration and enforcement

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

5 **SECTION 2.** 20.115 (7) (ge) of the statutes is created to read:

6 20.115 (7) (ge) *Marijuana producers and processors; official logotype.* All
7 moneys received under s. 94.56 for regulation of activities relating to marijuana
8 under s. 94.56, for conducting public awareness campaigns under s. 94.56, and for
9 the creation of a logotype under s. 100.145.

10 **SECTION 3.** 20.435 (1) (gq) of the statutes is created to read:

11 20.435 (1) (gq) *Medical marijuana registry program; physician education and*
12 *public awareness campaign; official logotype.* All moneys received under s. 146.44
13 for costs relating to the administration of the medical marijuana registry program
14 under s. 146.44, for educating physicians about the availability of medical marijuana
15 and conducting public awareness campaigns under s. 146.44, and for the creation of
16 a logotype under s. 146.46.

17 **SECTION 4.** 20.435 (1) (jm) of the statutes is created to read:

18 20.435 (1) (jm) *Licensing and support services for compassion centers.* All
19 moneys received under s. 50.84 to regulate and license compassion centers under
20 subch. VI of ch. 50.

21 **SECTION 5.** 20.435 (6) (jm) of the statutes is amended to read:

22 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
23 for the purposes specified in ss. 48.685 (2) (am) and (b), (3) (a) and (b), and (5) (a),
24 48.686 (2) (am), (3) (am) and (bm), and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065

1 (2) (am) and (b) 1., (3) (a) and (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495,
2 50.52 (2) (a), 50.57, 50.981, and 146.40 (4r) (b) and (er), and subch. ~~VI~~ VII of ch. 50
3 and to conduct health facilities plan and rule development activities, for accrediting
4 nursing homes, convalescent homes, and homes for the aged, to conduct capital
5 construction and remodeling plan reviews under ss. 50.02 (2) (b) and 50.36 (2), and
6 for the costs of inspecting, licensing or certifying, and approving facilities, issuing
7 permits, and providing technical assistance, that are not specified under any other
8 paragraph in this subsection. All moneys received under ss. 48.685 (8), 48.686 (2)
9 (ag), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025, 50.065 (8), 50.13, 50.36 (2), 50.49
10 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and 50.981, all moneys received from
11 fees for the costs of inspecting, licensing or certifying, and approving facilities,
12 issuing permits, and providing technical assistance, that are not specified under any
13 other paragraph in this subsection, and all moneys received under s. 50.135 (2) shall
14 be credited to this appropriation account.

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

16 20.566 (1) (bn) *Administration and enforcement of marijuana tax and*
17 *regulation.* The amounts in the schedule for the purposes of administering the
18 marijuana tax imposed under subch. IV of ch. 139 and for the costs incurred in
19 enforcing the taxing and regulation of marijuana producers, marijuana processors,
20 and marijuana retailers under subch. IV of ch. 139.

21 **SECTION 7.** 23.33 (1) (jo) 1. of the statutes is amended to read:

22 23.33 (1) (jo) 1. A controlled substance included in schedule I under ch. 961
23 ~~other than a tetrahydrocannabinol.~~

24 **SECTION 8.** 23.33 (1) (jo) 5. of the statutes is repealed.

25 **SECTION 9.** 23.33 (1) (k) of the statutes is created to read:

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

3 **SECTION 10.** 23.33 (4c) (a) 2g. of the statutes is created to read:

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

8 **SECTION 11.** 23.33 (4c) (a) 3g. of the statutes is created to read:

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

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

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

24 **SECTION 13.** 23.33 (4c) (a) 5. of the statutes is renumbered 23.33 (4c) (a) 5. a.
25 and amended to read:

1 23.33 (4c) (a) 5. a. In an action under subd. 2m. that is based on the defendant
2 allegedly having a detectable amount of methamphetamine, or
3 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
4 the defendant has a defense if he or she proves by a preponderance of the evidence
5 that at the time of the incident or occurrence he or she had a valid prescription for
6 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
7 acid, ~~or delta-9-tetrahydrocannabinol~~.

8 **SECTION 14.** 23.33 (4c) (a) 5. b. of the statutes is created to read:

9 23.33 (4c) (a) 5. b. In an action under subd. 2g. or 3g. that is based on the
10 defendant allegedly having a prohibited tetrahydrocannabinols concentration, the
11 defendant has a defense if he or she proves by a preponderance of the evidence that
12 at the time of the incident or occurrence he or she had a valid prescription for
13 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

14 **SECTION 15.** 23.33 (4c) (b) 2n. of the statutes is created to read:

15 23.33 (4c) (b) 2n. 'Causing injury while operating with tetrahydrocannabinols
16 concentration at or above specified levels.' No person who has a
17 tetrahydrocannabinols concentration of 5.0 or more may cause injury to another
18 person by the operation of an all-terrain vehicle or utility terrain vehicle.

19 **SECTION 16.** 23.33 (4c) (b) 3. of the statutes is amended to read:

20 23.33 (4c) (b) 3. 'Related charges.' A person may be charged with and a
21 prosecutor may proceed upon a complaint based upon a violation of any combination
22 of subd. 1., 2., ~~or 2m.~~, or 2n. for acts arising out of the same incident or occurrence.
23 If the person is charged with violating any combination of subd. 1., 2., ~~or 2m.~~, or 2n.
24 in the complaint, the crimes shall be joined under s. 971.12. If the person is found
25 guilty of any combination of subd. 1., 2., ~~or 2m.~~, or 2n. for acts arising out of the same

1 incident or occurrence, there shall be a single conviction for purposes of sentencing
2 and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions
3 1., 2., ~~and 2m., and 2n.~~ each require proof of a fact for conviction which the others do
4 not require.

5 **SECTION 17.** 23.33 (4c) (b) 4. a. of the statutes is amended to read:

6 23.33 (4c) (b) 4. a. In an action under this paragraph, the defendant has a
7 defense if he or she proves by a preponderance of the evidence that the injury would
8 have occurred even if he or she had been exercising due care and he or she had not
9 been under the influence of an intoxicant, did not have an alcohol concentration of
10 0.08 or more, ~~or~~ did not have a detectable amount of a restricted controlled substance
11 in his or her blood, or did not have a tetrahydrocannabinols concentration of 5.0 or
12 more.

13 **SECTION 18.** 23.33 (4c) (b) 4. b. of the statutes is amended to read:

14 23.33 (4c) (b) 4. b. In an action under subd. 2m. 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 19.** 23.33 (4c) (b) 4. c. of the statutes is created to read:

22 23.33 (4c) (b) 4. c. In an action under subd. 2n. that is based on the defendant
23 allegedly having a prohibited tetrahydrocannabinols concentration, the defendant
24 has a defense if he or she proves by a preponderance of the evidence that at the time

1 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 20.** 23.33 (4p) (d) of the statutes is amended to read:

4 23.33 (4p) (d) *Admissibility; effect of test results; other evidence.* The results
5 of a chemical test required or administered under par. (a), (b) or (c) are admissible
6 in any civil or criminal action or proceeding arising out of the acts committed by a
7 person alleged to have violated the intoxicated operation of an all-terrain vehicle or
8 utility terrain vehicle law on the issue of whether the person was under the influence
9 of an intoxicant or the issue of whether the person had alcohol concentrations or
10 tetrahydrocannabinols concentrations at or above specified levels or a detectable
11 amount of a restricted controlled substance in his or her blood. Results of these
12 chemical tests shall be given the effect required under s. 885.235. This subsection
13 does not limit the right of a law enforcement officer to obtain evidence by any other
14 lawful means.

15 **SECTION 21.** 23.33 (13) (b) 1. of the statutes is amended to read:

16 23.33 (13) (b) 1. Except as provided under subds. 2. and 3., a person who
17 violates sub. (4c) (a) 1., 2., 2g., or 2m. or (4p) (e) shall forfeit not less than \$150 nor
18 more than \$300.

19 **SECTION 22.** 23.33 (13) (b) 2. of the statutes is amended to read:

20 23.33 (13) (b) 2. Except as provided under subd. 3., a person who violates sub.
21 (4c) (a) 1., 2., 2g., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the
22 current violation, was convicted previously under the intoxicated operation of an
23 all-terrain vehicle or utility terrain vehicle law or the refusal law shall be fined not
24 less than \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days
25 nor more than 6 months.

1 **SECTION 23.** 23.33 (13) (b) 3. of the statutes is amended to read:

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

8 **SECTION 24.** 23.33 (13) (b) 4. of the statutes is amended to read:

9 23.33 (13) (b) 4. A person who violates sub. (4c) (a) 3. or 3g. or (4p) (e) and who
10 has not attained the age of 21 shall forfeit not more than \$50.

11 **SECTION 25.** 23.33 (13) (e) of the statutes is amended to read:

12 23.33 (13) (e) *Alcohol, controlled substances or controlled substance analogs,*
13 *tetrahydrocannabinols; assessment.* In addition to any other penalty or order, a
14 person who violates sub. (4c) (a) or (b) or (4p) (e) or who violates s. 940.09 or 940.25
15 if the violation involves the operation of an all-terrain vehicle or utility terrain
16 vehicle, shall be ordered by the court to submit to and comply with an assessment
17 by an approved public treatment facility for an examination of the person's use of
18 alcohol, controlled substances or controlled substance analogs, or
19 tetrahydrocannabinols. The assessment order shall comply with s. 343.30 (1q) (c) 1.
20 a. to c. Intentional failure to comply with an assessment ordered under this
21 paragraph constitutes contempt of court, punishable under ch. 785.

22 **SECTION 26.** 23.335 (1) (zgm) 1. of the statutes is amended to read:

23 23.335 (1) (zgm) 1. A controlled substance included in schedule I under ch. 961
24 ~~other than a tetrahydrocannabinol.~~

25 **SECTION 27.** 23.335 (1) (zgm) 5. of the statutes is repealed.

1 **SECTION 28.** 23.335 (1) (zLg) of the statutes is created to read:

2 23.335 (1) (zLg) “Tetrahydrocannabinols concentration” has the meaning given
3 in s. 340.01 (66m).

4 **SECTION 29.** 23.335 (12) (a) 2g. of the statutes is created to read:

5 23.335 (12) (a) 2g. No person may engage in the operation of an off-highway
6 motorcycle while the person has a tetrahydrocannabinols concentration of 5.0 or
7 more.

8 **SECTION 30.** 23.335 (12) (a) 3m. of the statutes is created to read:

9 23.335 (12) (a) 3m. If a person has not attained the age of 21, the person may
10 not engage in the operation of an off-highway motorcycle while he or she has a
11 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0.

12 **SECTION 31.** 23.335 (12) (a) 4. of the statutes is amended to read:

13 23.335 (12) (a) 4. A person may be charged with and a prosecutor may proceed
14 upon a complaint based upon a violation of any combination of subd. 1., 2., 2g., or 2m.
15 for acts arising out of the same incident or occurrence. If the person is charged with
16 violating any combination of subd. 1., 2., 2g., or 2m., the offenses shall be joined. If
17 the person is found guilty of any combination of subd. 1., 2., 2g., or 2m. for acts arising
18 out of the same incident or occurrence, there shall be a single conviction for purposes
19 of sentencing and for purposes of counting convictions under sub. (23) (c) 2. and 3.
20 Subdivisions 1., 2., 2g., and 2m. each require proof of a fact for conviction which the
21 others do not require.

22 **SECTION 32.** 23.335 (12) (a) 5. of the statutes is renumbered 23.335 (12) (a) 5.
23 a. and amended to read:

24 23.335 (12) (a) 5. a. In an action under subd. 2m. that is based on the defendant
25 allegedly having a detectable amount of methamphetamine, or

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

6 **SECTION 33.** 23.335 (12) (a) 5. b. of the statutes is created to read:

7 23.335 (12) (a) 5. b. In an action under subd. 2g. or 3m. that is based on the
8 defendant allegedly having a prohibited tetrahydrocannabinols concentration, the
9 defendant has a defense if he or she proves by a preponderance of the evidence that
10 at the time of the incident or occurrence he or she had a valid prescription for
11 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

12 **SECTION 34.** 23.335 (12) (b) 2g. of the statutes is created to read:

13 23.335 (12) (b) 2g. No person who has a tetrahydrocannabinols concentration
14 of 5.0 or more may cause injury to another person by the operation of an off-highway
15 motorcycle.

16 **SECTION 35.** 23.335 (12) (b) 3. of the statutes is amended to read:

17 23.335 (12) (b) 3. A person may be charged with and a prosecutor may proceed
18 upon a complaint based upon a violation of any combination of subd. 1., 2., 2g., or 2m.
19 for acts arising out of the same incident or occurrence. If the person is charged with
20 violating any combination of subd. 1., 2., 2g., or 2m. in the complaint, the crimes shall
21 be joined under s. 971.12. If the person is found guilty of any combination of subd.
22 1., 2., 2g., or 2m. for acts arising out of the same incident or occurrence, there shall
23 be a single conviction for purposes of sentencing and for purposes of counting
24 convictions under sub. (23) (c) 2. and 3. Subdivisions 1., 2., 2g., and 2m. each require
25 proof of a fact for conviction which the others do not require.

1 **SECTION 36.** 23.335 (12) (b) 4. of the statutes is amended to read:

2 23.335 (12) (b) 4. In an action under this paragraph, the defendant has a
3 defense if he or she proves by a preponderance of the evidence that the injury would
4 have occurred even if he or she had been exercising due care and even if he or she had
5 not been under the influence of an intoxicant to a degree which rendered him or her
6 incapable of safe operation, did not have an alcohol concentration of 0.08 or more, or
7 did not have a detectable amount of a restricted controlled substance in his or her
8 blood, or did not have a tetrahydrocannabinols concentration of 5.0 or more.

9 **SECTION 37.** 23.335 (12) (b) 5. of the statutes is renumbered 23.335 (12) (b) 5.
10 a. and amended to read:

11 23.335 (12) (b) 5. a. In an action under subd. 2m. that is based on the defendant
12 allegedly having a detectable amount of methamphetamine, or
13 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
14 the defendant has a defense if he or she proves by a preponderance of the evidence
15 that at the time of the incident or occurrence he or she had a valid prescription for
16 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
17 acid, ~~or delta-9-tetrahydrocannabinol.~~

18 **SECTION 38.** 23.335 (12) (b) 5. b. of the statutes is created to read:

19 23.335 (12) (b) 5. b. In an action under subd. 2g. that is based on the defendant
20 allegedly having a prohibited tetrahydrocannabinols concentration, the defendant
21 has a defense if he or she proves by a preponderance of the evidence that at the time
22 of the incident or occurrence he or she had a valid prescription for
23 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

24 **SECTION 39.** 23.335 (12) (i) of the statutes is amended to read:

1 23.335 (12) (i) *Chemical tests; effect of test results.* The results of a chemical
2 test required or administered under par. (f) or (g) are admissible in any civil or
3 criminal action or proceeding arising out of the acts committed by a person alleged
4 to have violated the intoxicated operation of an off-highway motorcycle law on the
5 issue of whether the person was under the influence of an intoxicant or the issue of
6 whether the person had alcohol concentrations or tetrahydrocannabinols
7 concentrations at or above specified levels or a detectable amount of a restricted
8 controlled substance in his or her blood. Results of these chemical tests shall be given
9 the effect required under s. 885.235. Paragraphs (f) to (h) do not limit the right of
10 a law enforcement officer to obtain evidence by any other lawful means.

11 **SECTION 40.** 23.335 (23) (c) 1. of the statutes is amended to read:

12 23.335 (23) (c) 1. Except as provided under subds. 2., 3., and 4., a person who
13 violates sub. (12) (a) 1., 2., 2g., or 2m. or (h) shall forfeit not less than \$150 nor more
14 than \$300.

15 **SECTION 41.** 23.335 (23) (c) 2. of the statutes is amended to read:

16 23.335 (23) (c) 2. Except as provided under subds. 3. and 4., a person who
17 violates sub. (12) (a) 1., 2., 2g., or 2m. or (h) and who, within 5 years prior to the arrest
18 for the current violation, was convicted previously under the intoxicated operation
19 of an off-highway motorcycle law shall be fined not less than \$300 nor more than
20 \$1,100 and shall be imprisoned not less than 5 days nor more than 6 months.

21 **SECTION 42.** 23.335 (23) (c) 3. of the statutes is amended to read:

22 23.335 (23) (c) 3. Except as provided in subd. 4., a person who violates sub. (12)
23 (a) 1., 2., 2g., or 2m. or (h) and who, within 5 years prior to the arrest for the current
24 violation, was convicted 2 or more times previously under the intoxicated operation
25 of an off-highway motorcycle law shall be fined not less than \$600 nor more than

1 \$2,000 and shall be imprisoned not less than 30 days nor more than one year in the
2 county jail.

3 **SECTION 43.** 23.335 (23) (c) 4. of the statutes is amended to read:

4 23.335 (23) (c) 4. A person who violates sub. (12) (a) 3. or 3m. or (h) and who
5 has not attained the age of 21 shall forfeit not more than \$50.

6 **SECTION 44.** 30.50 (10m) (a) of the statutes is amended to read:

7 30.50 (10m) (a) A controlled substance included in schedule I under ch. 961
8 ~~other than a tetrahydrocannabinol.~~

9 **SECTION 45.** 30.50 (10m) (e) of the statutes is repealed.

10 **SECTION 46.** 30.50 (13p) of the statutes is created to read:

11 30.50 (13p) "Tetrahydrocannabinols concentration" means the number of
12 nanograms of tetrahydrocannabinols per milliliter of blood.

13 **SECTION 47.** 30.50 (13t) of the statutes is created to read:

14 30.50 (13t) "Tetrahydrocannabinols concentration" has the meaning given in
15 s. 340.01 (66m).

16 **SECTION 48.** 30.681 (1) (b) (title) of the statutes is amended to read:

17 30.681 (1) (b) (title) *Operating after using a controlled substance ~~or~~, alcohol, or*
18 *tetrahydrocannabinols.*

19 **SECTION 49.** 30.681 (1) (b) 1g. of the statutes is created to read:

20 30.681 (1) (b) 1g. No person may engage in the operation of a motorboat while
21 the person has a tetrahydrocannabinols concentration of 5.0 or more.

22 **SECTION 50.** 30.681 (1) (bn) (title) of the statutes is amended to read:

23 30.681 (1) (bn) (title) *Operating with alcohol or tetrahydrocannabinols*
24 *concentrations at specified levels; below legal drinking age.*

25 **SECTION 51.** 30.681 (1) (bn) of the statutes is renumbered 30.681 (1) (bn) 1.

1 **SECTION 52.** 30.681 (1) (bn) 2. of the statutes is created to read:

2 30.681 (1) (bn) 2. A person who has not attained the legal age, as defined in s.
3 961.70 (2), may not engage in the operation of a motorboat while he or she has a
4 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0.

5 **SECTION 53.** 30.681 (1) (c) of the statutes is amended to read:

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

15 **SECTION 54.** 30.681 (1) (d) of the statutes is renumbered 30.681 (1) (d) 1. and
16 amended to read:

17 30.681 (1) (d) 1. In an action under par. (b) 1m. that is based on the defendant
18 allegedly having a detectable amount of methamphetamine, or
19 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
20 the defendant has a defense if he or she proves by a preponderance of the evidence
21 that at the time of the incident or occurrence he or she had a valid prescription for
22 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
23 acid, ~~or delta-9-tetrahydrocannabinol~~.

24 **SECTION 55.** 30.681 (1) (d) 2. of the statutes is created to read:

1 30.681 (1) (d) 2. In an action under par. (b) 1g. or (bn) 2. that is based on the
2 defendant allegedly having a prohibited tetrahydrocannabinols concentration, the
3 defendant has a defense if he or she proves by a preponderance of the evidence that
4 at the time of the incident or occurrence he or she had a valid prescription for
5 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

6 **SECTION 56.** 30.681 (2) (b) (title) of the statutes is amended to read:

7 30.681 (2) (b) (title) *Causing injury after using a controlled substance or*
8 *alcohol, or tetrahydrocannabinols.*

9 **SECTION 57.** 30.681 (2) (b) 1g. of the statutes is created to read:

10 30.681 (2) (b) 1g. No person who has a tetrahydrocannabinols concentration
11 of 5.0 or more may cause injury to another person by the operation of a motorboat.

12 **SECTION 58.** 30.681 (2) (c) of the statutes is amended to read:

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

23 **SECTION 59.** 30.681 (2) (d) 1. a. of the statutes is amended to read:

24 30.681 (2) (d) 1. a. In an action under this subsection for a violation of the
25 intoxicated boating law where the defendant was operating a motorboat that is not

1 a commercial motorboat, the defendant has a defense if he or she proves by a
2 preponderance of the evidence that the injury would have occurred even if he or she
3 had been exercising due care and he or she had not been under the influence of an
4 intoxicant or did not have an alcohol concentration of 0.08 or more or a
5 tetrahydrocannabinols concentration of 5.0 or more or a detectable amount of a
6 restricted controlled substance in his or her blood.

7 **SECTION 60.** 30.681 (2) (d) 1. b. of the statutes is amended to read:

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

15 **SECTION 61.** 30.681 (2) (d) 1. c. of the statutes is created to read:

16 30.681 (2) (d) 1. c. In an action under par. (b) 1g. that is based on the defendant
17 allegedly having a prohibited tetrahydrocannabinols concentration, the defendant
18 has a defense if he or she proves by a preponderance of the evidence that at the time
19 of the incident or occurrence he or she had a valid prescription for
20 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

21 **SECTION 62.** 30.684 (4) of the statutes is amended to read:

22 30.684 (4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE. The results
23 of a chemical test required or administered under sub. (1), (2) or (3) are admissible
24 in any civil or criminal action or proceeding arising out of the acts committed by a
25 person alleged to have violated the intoxicated boating law on the issue of whether

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

7 **SECTION 63.** 30.80 (6) (d) of the statutes is amended to read:

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

17 **SECTION 64.** 49.148 (4) (a) of the statutes is amended to read:

18 49.148 (4) (a) A Wisconsin works Works agency shall require a participant in
19 a community service job or transitional placement who, after August 22, 1996, was
20 convicted in any state or federal court of a felony that had as an element possession,
21 use or distribution of a controlled substance to submit to a test for use of a controlled
22 substance as a condition of continued eligibility. If the test results are positive, the
23 Wisconsin works Works agency shall decrease the presanction benefit amount for
24 that participant by not more than 15 percent for not fewer than 12 months, or for the
25 remainder of the participant's period of participation in a community service job or

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

8 **SECTION 65.** 49.45 (23) (g) 5. of the statutes is amended to read:

9 49.45 (23) (g) 5. Require, as a condition of eligibility, that an applicant or
10 enrollee submit to a drug screening assessment and, if indicated, a drug test, as
11 specified by the department in the waiver amendment. The department may not test
12 under this subdivision for tetrahydrocannabinols in any form including
13 tetrahydrocannabinols contained in marijuana, obtained from marijuana, or
14 chemically synthesized.

15 **SECTION 66.** 49.79 (1) (b) of the statutes is amended to read:

16 49.79 (1) (b) “Controlled substance” has the meaning given in 21 USC 802 (6),
17 except “controlled substance” does not include tetrahydrocannabinols in any form
18 including tetrahydrocannabinols contained in marijuana, obtained from marijuana,
19 or chemically synthesized.

20 **SECTION 67.** 50.56 (3) of the statutes is amended to read:

21 50.56 (3) Notwithstanding sub. (2), insofar as a conflict exists between this
22 subchapter, or the rules promulgated under this subchapter, and subch. I, II or VI
23 VII, or the rules promulgated under subch. I, II or VI VII, the provisions of this
24 subchapter and the rules promulgated under this subchapter control.

1 **SECTION 68.** Subchapter VI of chapter 50 [precedes 50.80] of the statutes is
2 created to read:

3 **CHAPTER 50**

4 SUBCHAPTER VI

5 DISTRIBUTION AND

6 TESTING CENTERS

7 **50.80 Definitions.** In this subchapter:

8 (1) “Compassion center” means a licensed organization that grows, sells,
9 distributes, or delivers marijuana for the medical use of tetrahydrocannabinols.

10 (2) “Debilitating medical condition or treatment” means any of the following:

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

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

20 (c) Any other medical condition or any other treatment for a medical condition
21 designated as a debilitating medical condition or treatment in rules promulgated by
22 the department under s. 50.81 (2).

23 **(2m)** “Department” means the department of health services.

24 **(3)** “Maximum medicinal amount” means 6 live marijuana plants and 3 ounces
25 of usable marijuana.

1 (4) “Medical use of tetrahydrocannabinols” means any of the following:

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

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

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

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

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

20 (4m) “Physician” means a person licensed under s. 448.04 (1) (a).

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

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 who has legal custody of the person.

7 (b) The parent, guardian, or individual who has 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 (13).

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.

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.

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
23 on the following:

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

1 (b) Security and inventory accountability procedures.

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

3 **SECTION 69.** 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 70.** 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 71.** 59.54 (25) (title) of the statutes is amended to read:

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

11 **SECTION 72.** 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 73.** 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

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 74.** 66.0414 of the statutes is created to read:

8 **66.0414 Cultivation of tetrahydrocannabinols.** No city, village, town, or
9 county may prohibit cultivating tetrahydrocannabinols outdoors if the cultivation is
10 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 75.** 77.52 (13) of the statutes is amended to read:

18 77.52 (13) For the purpose of the proper administration of this section and to
19 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
20 the tax until the contrary is established. The burden of proving that a sale of tangible
21 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
22 is not a taxable sale at retail is upon the person who makes the sale unless that
23 person takes from the purchaser an electronic or a paper certificate, in a manner
24 prescribed by the department, to the effect that the property, item, good, or service
25 is purchased for resale or is otherwise exempt, except that no certificate is required

1 for the sale of tangible personal property, or items, property, or goods under sub. (1)
2 (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10),
3 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
4 (51), (52), (66), and (67), and (69).

5 **SECTION 76.** 77.53 (10) of the statutes is amended to read:

6 77.53 (10) For the purpose of the proper administration of this section and to
7 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
8 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
9 (d), or taxable services sold by any person for delivery in this state is sold for storage,
10 use, or other consumption in this state until the contrary is established. The burden
11 of proving the contrary is upon the person who makes the sale unless that person
12 takes from the purchaser an electronic or paper certificate, in a manner prescribed
13 by the department, to the effect that the property, or items, property, or goods under
14 s. 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise
15 exempt from the tax, except that no certificate is required for the sale of tangible
16 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
17 services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n),
18 (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), (52), and (67), and (69).

19 **SECTION 77.** 77.54 (69) of the statutes is created to read:

20 77.54 (69) The sales price from the sale of and the storage, use, or other
21 consumption of usable marijuana, as defined in s. 139.97 (13), provided by a
22 compassion center, as defined in s. 50.80 (1).

23 **SECTION 78.** 94.56 of the statutes is created to read:

24 **94.56 Marijuana producers and processors. (1) DEFINITIONS.** In this
25 section:

- 1 (a) "Marijuana" has the meaning given in s. 961.70 (3).
- 2 (b) "Marijuana processor" has the meaning given in s. 139.97 (6).
- 3 (c) "Marijuana producer" has the meaning given in s. 139.97 (7).
- 4 (d) "Usable marijuana" has the meaning given in s. 139.97 (13).
- 5 (e) "Permittee" means a marijuana producer or marijuana processor who is
- 6 issued a permit under this section.

7 **(2) PERMIT REQUIRED.** (a) No person may operate in this state as a marijuana

8 producer or marijuana processor without a permit from the department. A person

9 who acts as a marijuana producer and a marijuana processor shall obtain a separate

10 permit for each activity. A person is not required to obtain a permit under this section

11 if the person produces or processes only industrial hemp and holds a valid license

12 under s. 94.55.

13 (b) This subsection applies to all officers, directors, agents, and stockholders

14 holding 5 percent or more of the stock of any corporation applying for a permit under

15 this section.

16 (c) Subject to ss. 111.321, 111.322, and 111.335, a permit under this section may

17 not be granted to any person to whom any of the following applies:

18 1. The person has been convicted of a violent misdemeanor, as defined in s.

19 941.29 (1g) (b), at least 3 times.

20 2. The person has been convicted of a violent felony, as defined in s. 941.29 (1g)

21 (a), unless pardoned.

22 3. During the preceding 3 years, the person has been committed under s. 51.20

23 for being drug dependent.

24 4. The person chronically and habitually uses alcohol beverages or other

25 substances to the extent that his or her normal faculties are impaired. A person is

1 presumed to chronically and habitually use alcohol beverages or other substances to
2 the extent that his or her normal faculties are impaired if, within the preceding 3
3 years, any of the following applies:

4 a. The person has been committed for involuntary treatment under s. 51.45
5 (13).

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

7 c. In 2 or more cases arising out of separate incidents, a court has found the
8 person to have committed a violation of s. 346.63 or a local ordinance in conformity
9 with that section; a violation of a law of a federally recognized American Indian tribe
10 or band in this state in conformity with s. 346.63; or a violation of the law of another
11 jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while
12 intoxicated, while under the influence of a controlled substance, a controlled
13 substance analog, or a combination thereof, with an excess or specified range of
14 alcohol concentration, or while under the influence of any drug to a degree that
15 renders the person incapable of safely driving, as those or substantially similar
16 terms are used in that jurisdiction's laws.

17 5. The person has income that comes principally from gambling or has been
18 convicted of 2 or more gambling offenses.

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

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

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

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

1 (d) 1. Before the department issues a new or renewed permit under this section,
2 the department shall give notice of the permit application to the governing body of
3 the municipality where the permit applicant intends to operate the premises of a
4 marijuana producer or marijuana processor. No later than 30 days after the
5 department submits the notice, the governing body of the municipality may file with
6 the department a written objection to granting or renewing the permit. At the
7 municipality's request, the department may extend the period for filing objections.

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

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

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

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

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

7 **(3) FEES; TERM.** (a) Each person who applies for a permit under this section
8 shall submit with the application a \$250 fee. A permit issued under this section is
9 valid for one year and may be renewed, except that the department may revoke or
10 suspend a permit prior to its expiration. A person is not entitled to a refund of the
11 fees paid under this subsection if the person's permit is denied, revoked, or
12 suspended.

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

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

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

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

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

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

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

6 (5) EDUCATION AND AWARENESS CAMPAIGN. The department shall develop and
7 make available training programs for marijuana producers on how to safely and
8 efficiently plant, grow, cultivate, harvest, and otherwise handle marijuana, and for
9 marijuana processors on how to safely and efficiently produce and handle marijuana
10 products and test marijuana for contaminants. The department shall conduct an
11 awareness campaign to inform potential marijuana producers and marijuana
12 processors of the availability and viability of marijuana as a crop or product in this
13 state.

14 (6) RULES. The department shall promulgate rules necessary to administer and
15 enforce this section, including rules relating to the inspection of the plants, facilities,
16 and products of permittees and training requirements for employees of permittees.

17 (7) PENALTIES. (a) Any person who violates the requirements under sub. (2) or
18 (3) or any of the requirements established by the rules promulgated under sub. (6)
19 shall be fined not less than \$100 nor more than \$500 or imprisoned not more than
20 6 months or both.

21 (b) In addition to the penalties imposed under par. (a), the department shall
22 revoke the permit of any person convicted of any violation described under par. (a)
23 and not issue another permit to that person for a period of 2 years following the
24 revocation.

25 **SECTION 79.** 100.145 of the statutes is created to read:

1 **100.145 Recreational marijuana logotype.** The department shall design
2 an official logotype, appropriate for including on a label affixed to recreational
3 marijuana under s. 139.973 (10) (a). The department shall design the logotype to be
4 distinguishable from any logotype for medical marijuana.

5 **SECTION 80.** 108.02 (18r) of the statutes is created to read:

6 108.02 (18r) MARIJUANA. “Marijuana” has the meaning given in s. 111.32 (11m).

7 **SECTION 81.** 108.04 (5m) of the statutes is created to read:

8 108.04 (5m) DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5),
9 “misconduct,” for purposes of sub. (5), does not include the employee’s use of
10 marijuana off the employer’s premises during nonworking hours or a violation of the
11 employer’s policy concerning such use, unless termination of the employee because
12 of that use is permitted under s. 111.35.

13 (b) Notwithstanding sub. (5g), “substantial fault,” for purposes of sub. (5g), does
14 not include the employee’s use of marijuana off the employer’s premises during
15 nonworking hours or a violation of the employer’s policy concerning such use, unless
16 termination of the employee because of that use is permitted under s. 111.35.

17 **SECTION 82.** 108.133 (1) (a) of the statutes is renumbered 108.133 (1) (a) 1. and
18 amended to read:

19 108.133 (1) (a) 1. Notwithstanding s. 108.02 (9), “controlled substance” has the
20 meaning given in 21 USC 802, except as provided in subd. 2.

21 **SECTION 83.** 108.133 (1) (a) 2. of the statutes is created to read:

22 108.133 (1) (a) 2. “Controlled substance” does not include
23 tetrahydrocannabinols, commonly known as “THC,” in any form including
24 tetrahydrocannabinols contained in marijuana, obtained from marijuana, or
25 chemically synthesized.

1 **SECTION 84.** 111.32 (9m) of the statutes is created to read:

2 111.32 **(9m)** “Lawful product” includes marijuana.

3 **SECTION 85.** 111.32 (11m) of the statutes is created to read:

4 111.32 **(11m)** “Marijuana” means all parts of the plants of the genus Cannabis,
5 whether growing or not; the seeds thereof; the resin extracted from any part of the
6 plant; and every compound, manufacture, salt, derivative, mixture, or preparation
7 of the plant, its seeds or resin, including tetrahydrocannabinols.

8 **SECTION 86.** 111.35 (2) (e) of the statutes is amended to read:

9 111.35 **(2)** (e) Conflicts with any federal or state statute, rule or regulation.
10 This paragraph does not apply with respect to violations concerning marijuana or
11 tetrahydrocannabinols under 21 USC 841 to 865.

12 **SECTION 87.** 114.09 (2) (bm) 1. (intro.) of the statutes is amended to read:

13 114.09 **(2)** (bm) 1. (intro.) Except as provided in subd. 1. a. or b., the court shall
14 order the person violating sub. (1) (b) 1. or 1m. to submit to and comply with an
15 assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for
16 examination of the person’s use of alcohol, tetrahydrocannabinols, controlled
17 substances, or controlled substance analogs and development of an airman safety
18 plan for the person. The court shall notify the person, the department, and the proper
19 federal agency of the assessment order. The assessment order shall:

20 **SECTION 88.** 114.09 (2) (bm) 4. of the statutes is amended to read:

21 114.09 **(2)** (bm) 4. The assessment report shall order compliance with an
22 airman safety plan. The report shall inform the person of the fee provisions under
23 s. 46.03 (18) (f). The safety plan may include a component that makes the person
24 aware of the effect of his or her offense on a victim and a victim’s family. The safety
25 plan may include treatment for the person’s misuse, abuse, or dependence on alcohol,

1 tetrahydrocannabinols, controlled substances, or controlled substance analogs. If
2 the plan requires inpatient treatment, the treatment shall not exceed 30 days. An
3 airman safety plan under this paragraph shall include a termination date consistent
4 with the plan that shall not extend beyond one year. The county department under
5 s. 51.42 shall assure notification of the department of transportation and the person
6 of the person's compliance or noncompliance with assessment and treatment.

7 **SECTION 89.** 115.35 (1) of the statutes is renumbered 115.35 (1) (a) (intro.) and
8 amended to read:

9 115.35 (1) (a) (intro.) A critical health problems education program is
10 established in the department. The program shall be a systematic and integrated
11 program designed to provide appropriate learning experiences based on scientific
12 knowledge of the human organism as it functions within its environment and
13 designed to favorably influence the health, understanding, attitudes and practices
14 of the individual child which will enable him or her to adapt to changing health
15 problems of our society. The program shall be designed to educate youth with regard
16 to critical health problems and shall include, but not be limited to, the following
17 topics as the basis for comprehensive education curricula in all elementary and
18 secondary schools: ~~controlled~~

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

21 2. Mental health; ~~sexually.~~

22 3. Sexually transmitted diseases, including acquired immunodeficiency
23 syndrome; ~~human.~~

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

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

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

4 **SECTION 90.** 115.35 (1) (a) 6. of the statutes is created to read:

5 115.35 (1) (a) 6. Beginning in the 2019-20 school year, the program shall also
6 include scientific, evidence-based and grade-level-appropriate information about
7 the common uses of marijuana, how marijuana use affects an individual's behavior,
8 body, and brain, and the health and behavior risks associated with marijuana use
9 and abuse.

10 **SECTION 91.** 121.02 (1) (L) 8. of the statutes is created to read:

11 121.02 (1) (L) 8. Beginning in the 2019-20 school year, as part of the health
12 curriculum, in one of grades 5 to 8 and in one of grades 9 to 12, provide pupils with
13 the instruction about marijuana described in s. 115.35 (1) (a) 6.

14 **SECTION 92.** Subchapter IV of chapter 139 [precedes 139.97] of the statutes is
15 created to read:

16 CHAPTER 139

17 SUBCHAPTER IV

18 MARIJUANA TAX AND REGULATION

19 **139.97 Definitions.** In this subchapter:

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

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

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

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

2 (5) “Marijuana distributor” means a person in this state who purchases or
3 receives usable marijuana from a marijuana processor and who sells or otherwise
4 transfers the usable marijuana to a marijuana retailer or to a compassion center, as
5 defined in s. 50.80 (1), for the purpose of resale to consumers.

6 (6) “Marijuana processor” means a person in this state who processes
7 marijuana into usable marijuana, packages and labels usable marijuana for sale in
8 retail outlets or in compassion centers, as defined in s. 50.80 (1), and sells at
9 wholesale or otherwise transfers usable marijuana to marijuana distributors.

10 (7) “Marijuana producer” means a person in this state who produces marijuana
11 and sells it at wholesale or otherwise transfers it to marijuana processors.

12 (8) “Marijuana retailer” means a person in this state that sells usable
13 marijuana at a retail outlet, not including a compassion center, as defined in s. 50.80
14 (1).

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

18 (a) A marijuana processor.

19 (b) A marijuana distributor.

20 (c) A marijuana retailer.

21 (10) “Permittee” means a marijuana producer, marijuana processor, marijuana
22 distributor, marijuana retailer, or microbusiness that is issued a permit under s.
23 139.972.

24 (11) “Retail outlet” means a location for the retail sale of usable marijuana.

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

1 (13) “Usable marijuana” means marijuana that has been processed for human
2 consumption and includes dried marijuana flowers, marijuana-infused products,
3 and marijuana edibles.

4 **139.971 Marijuana tax.** (1) (a) An excise tax is imposed on a marijuana
5 producer at the rate of 15 percent of the sales price on each wholesale sale or transfer
6 in this state of marijuana to a marijuana processor. This paragraph applies to a
7 microbusiness that transfers marijuana to a processing operation within the
8 microbusiness.

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

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

15 (3) For purposes of this section, a marijuana producer may not sell marijuana
16 directly to a marijuana distributor or marijuana retailer, and a marijuana retailer
17 may purchase usable marijuana for resale only from a marijuana distributor. This
18 subsection does not apply to a microbusiness that transfers marijuana or usable
19 marijuana to another operation with the microbusiness.

20 **139.972 Permits required.** (1) (a) No person may operate in this state as a
21 marijuana producer, marijuana processor, marijuana distributor, marijuana
22 retailer, or microbusiness without first filing an application for and obtaining the
23 proper permit from the department to perform such operations. In addition, no
24 person may operate in this state as a marijuana producer or marijuana processor
25 without first filing an application for and obtaining the proper permit under s. 94.56.

1 (b) This section 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 (c) Subject to ss. 111.321, 111.322, and 111.335, a permit under this section may
5 not 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

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 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 (d) 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 permit applicant intends to operate the premises of a
16 marijuana producer, marijuana processor, marijuana distributor, marijuana
17 retailer, or microbusiness. No later than 30 days after the department submits the
18 notice, the governing body of the municipality may file with the department a written
19 objection to granting or renewing the permit. At the municipality's request, the
20 department may extend the period for filing objections.

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

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

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

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

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

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

20 (2) Each person who applies for a permit under this section shall submit with
21 the application a \$250 fee. Each person who is granted a permit under this section
22 shall annually pay to the department a \$2,000 fee for as long as the person holds a
23 valid permit under this section. A permit issued under this section is valid for one
24 year and may be renewed, except that the department may revoke or suspend a

1 permit prior to its expiration. A person is not entitled to a refund of the fees paid
2 under this subsection if the person's permit is denied, revoked, or suspended.

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

7 (4) Under this section, a separate permit is required for and issued to each class
8 of permittee, and the permit holder may perform only the operations authorized by
9 the permit. A permit issued under this section is not transferable from one person
10 to another or from one premises to another. A separate permit is required for each
11 place in this state where the operations of a marijuana producer, marijuana
12 processor, marijuana distributor, marijuana retailer, or microbusiness occur,
13 including each retail outlet. No person who has been issued a permit to operate as
14 a marijuana retailer, or who has any direct or indirect financial interest in the
15 operation of a marijuana retailer, shall be issued a permit to operate as a marijuana
16 producer, marijuana processor, or marijuana distributor. A person who has been
17 issued a permit to operate as a microbusiness is not required to hold separate permits
18 to operate as a marijuana processor, marijuana distributor, or marijuana retailer,
19 but shall specify on the person's application for a microbusiness permit the activities
20 that the person will be engaged in as a microbusiness.

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

23 **139.973 Regulation.** (1) (a) No permittee may employ an individual who is
24 under the age of 21 to work in the business to which the permit relates.

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

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

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

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

11 **(4m)** A marijuana retailer may not collect, retain, or distribute personal
12 information regarding the retailer's customers except that which is necessary to
13 complete a sale of usable marijuana.

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

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

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

22 **(7m)** A marijuana retailer may operate a retail outlet only between the hours
23 of 8 a.m. and 8 p.m.

24 **(8)** Except as provided under sub. (5), no marijuana producer, marijuana
25 processor, marijuana distributor, marijuana retailer, or microbusiness may place or

1 maintain, or cause to be placed or maintained, an advertisement of usable marijuana
2 in any form or through any medium.

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

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

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

20 (10) (a) A marijuana processor or a microbusiness that operates as a marijuana
21 processor shall affix a label to all usable marijuana that the marijuana processor or
22 microbusiness sells to marijuana distributors. The label may not be designed to
23 appeal to persons under the age of 18. The label shall include all of the following:

24 1. The ingredients and the tetrahydrocannabinols concentration in the usable
25 marijuana.