

1           905.04 (4) (f) *Tests for intoxication*. There is no privilege concerning the results  
2 of or circumstances surrounding any chemical tests for intoxication or for alcohol  
3 concentration, as defined in s. 340.01 (1v), or tetrahydrocannabinols concentration,  
4 as defined in s. 23.33 (1) (k).

5           **SECTION 206.** 939.22 (33) (a) of the statutes is amended to read:

6           939.22 (33) (a) A controlled substance included in schedule I under ch. 961  
7 other than a tetrahydrocannabinol.

8           **SECTION 207.** 939.22 (33) (e) of the statutes is repealed.

9           **SECTION 208.** 939.22 (39g) of the statutes is created to read:

10          939.22 (39g) “Tetrahydrocannabinols concentration” has the meaning given in  
11 s. 23.33 (1) (k).

12          **SECTION 209.** 940.09 (1) (bg) of the statutes is created to read:

13          940.09 (1) (bg) Causes the death of another by the operation or handling of a  
14 vehicle while the person has a tetrahydrocannabinols concentration of 5.0 or more.

15          **SECTION 210.** 940.09 (1) (dg) of the statutes is created to read:

16          940.09 (1) (dg) Causes the death of an unborn child by the operation or  
17 handling of a vehicle while the person has a tetrahydrocannabinols concentration of  
18 5.0 or more.

19          **SECTION 211.** 940.09 (1g) (bg) of the statutes is created to read:

20          940.09 (1g) (bg) Causes the death of another by the operation or handling of  
21 a firearm or airgun while the person has a tetrahydrocannabinols concentration of  
22 5.0 or more.

23          **SECTION 212.** 940.09 (1g) (dg) of the statutes is created to read:

1       940.09 (1g) (dg) Causes the death of an unborn child by the operation or  
2 handling of a firearm or airgun while the person has a tetrahydrocannabinols  
3 concentration of 5.0 or more.

4       **SECTION 213.** 940.09 (1m) (a) of the statutes is amended to read:

5       940.09 (1m) (a) A person may be charged with and a prosecutor may proceed  
6 upon an information based upon a violation of any combination of sub. (1) (a), (am),  
7 ~~or (b), or (bg)~~; any combination of sub. (1) (a), (am), ~~(bg)~~, or (bm); any combination of  
8 sub. (1) (c), (cm), ~~or (d), or (dg)~~; any combination of sub. (1) (c), (cm), ~~(dg)~~, or (e); any  
9 combination of sub. (1g) (a), (am), ~~or (b), or (bg)~~; or any combination of sub. (1g) (c),  
10 (cm), ~~or (d), or (dg)~~ for acts arising out of the same incident or occurrence.

11       **SECTION 214.** 940.09 (1m) (b) of the statutes is amended to read:

12       940.09 (1m) (b) If a person is charged in an information with any of the  
13 combinations of crimes referred to in par. (a), the crimes shall be joined under s.  
14 971.12. If the person is found guilty of more than one of the crimes so charged for  
15 acts arising out of the same incident or occurrence, there shall be a single conviction  
16 for purposes of sentencing and for purposes of counting convictions under s. 23.33  
17 (13) (b) 2. and 3., under s. 23.335 (23) (c) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under  
18 s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), ~~(bg)~~, (bm),  
19 (c), (cm), (d), ~~(dg)~~, and (e) each require proof of a fact for conviction which the others  
20 do not require, and sub. (1g) (a), (am), (b), ~~(bg)~~, (c), (cm), ~~and (d), and (dg)~~ each require  
21 proof of a fact for conviction which the others do not require.

22       **SECTION 215.** 940.09 (2) (a) of the statutes is amended to read:

23       940.09 (2) (a) In any action under this section, the defendant has a defense if  
24 he or she proves by a preponderance of the evidence that the death would have  
25 occurred even if he or she had been exercising due care and he or she had not been

1 under the influence of an intoxicant, did not have a detectable amount of a restricted  
2 controlled substance in his or her blood, did not have a tetrahydrocannabinols  
3 concentration of 5.0 or greater, or did not have an alcohol concentration described  
4 under sub. (1) (b), (bm), (d) or (e) or (1g) (b) or (d).

5 **SECTION 216.** 940.09 (2) (b) of the statutes is amended to read:

6 940.09 (2) (b) In any action under sub. (1) (am) or (cm) or (1g) (am) or (cm) that  
7 is based on the defendant allegedly having a detectable amount of  
8 methamphetamine or gamma-hydroxybutyric acid or  
9 ~~delta-9-tetrahydrocannabinol~~ in his or her blood, the defendant has a defense if he  
10 or she proves by a preponderance of the evidence that at the time of the incident or  
11 occurrence he or she had a valid prescription for methamphetamine or one of its  
12 metabolic precursors or gamma-hydroxybutyric acid or  
13 ~~delta-9-tetrahydrocannabinol~~.

14 **SECTION 217.** 940.09 (2) (c) of the statutes is created to read:

15 940.09 (2) (c) In an action under sub. (1) (bg) or (dg) or (1g) (bg) or (dg) that is  
16 based on the defendant allegedly having a tetrahydrocannabinols concentration that  
17 is 5.0 or greater, the defendant has a defense if he or she proves by a preponderance  
18 of the evidence that at the time of the incident or occurrence he or she had a valid  
19 prescription for tetrahydrocannabinol or he or she was a qualifying patient, as  
20 defined in s. 50.80 (6).

21 **SECTION 218.** 940.25 (1) (bg) of the statutes is created to read:

22 940.25 (1) (bg) Causes great bodily harm to another human being by the  
23 operation of a vehicle while the person has a tetrahydrocannabinols concentration  
24 of 5.0 or more.

25 **SECTION 219.** 940.25 (1) (dg) of the statutes is created to read:

1           940.25 (1) (dg) Causes great bodily harm to an unborn child by the operation  
2 of a vehicle while the person has a tetrahydrocannabinols concentration of 5.0 or  
3 more.

4           **SECTION 220.** 940.25 (1m) of the statutes is amended to read:

5           940.25 (1m) (a) A person may be charged with and a prosecutor may proceed  
6 upon an information based upon a violation of any combination of sub. (1) (a), (am),  
7 ~~or (b), or (bg)~~; any combination of sub. (1) (a), (am), ~~(bg)~~, or (bm); any combination of  
8 sub. (1) (c), (cm), ~~or (d), or (dg)~~; or any combination of sub. (1) (c), (cm), ~~(dg)~~, or (e) for  
9 acts arising out of the same incident or occurrence.

10           (b) If a person is charged in an information with any of the combinations of  
11 crimes referred to in par. (a), the crimes shall be joined under s. 971.12. If the person  
12 is found guilty of more than one of the crimes so charged for acts arising out of the  
13 same incident or occurrence, there shall be a single conviction for purposes of  
14 sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3.,  
15 under s. 23.335 (23) (c) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q)  
16 and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), ~~(bg)~~, (bm),  
17 (c), (cm), (d), ~~(dg)~~, and (e) each require proof of a fact for conviction which the others  
18 do not require.

19           **SECTION 221.** 940.25 (2) (a) of the statutes is amended to read:

20           940.25 (2) (a) The defendant has a defense if he or she proves by a  
21 preponderance of the evidence that the great bodily harm would have occurred even  
22 if he or she had been exercising due care and he or she had not been under the  
23 influence of an intoxicant, did not have a detectable amount of a restricted controlled  
24 substance in his or her blood, did not have a tetrahydrocannabinols concentration of

1 5.0 or greater, or did not have an alcohol concentration described under sub. (1) (b),  
2 (bm), (d) or (e).

3 **SECTION 222.** 940.25 (2) (b) of the statutes is amended to read:

4 940.25 (2) (b) In any action under this section that is based on the defendant  
5 allegedly having a detectable amount of methamphetamine, or  
6 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
7 the defendant has a defense if he or she proves by a preponderance of the evidence  
8 that at the time of the incident or occurrence he or she had a valid prescription for  
9 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
10 acid, ~~or delta-9-tetrahydrocannabinol~~.

11 **SECTION 223.** 940.25 (2) (c) of the statutes is created to read:

12 940.25 (2) (c) In any action under this section that is based on the defendant  
13 allegedly having a tetrahydrocannabinols concentration that is 5.0 or greater, the  
14 defendant has a defense if he or she proves by a preponderance of the evidence that  
15 at the time of the incident or occurrence he or she had a valid prescription for  
16 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

17 **SECTION 224.** 941.20 (1) (bg) of the statutes is created to read:

18 941.20 (1) (bg) Operates or goes armed with a firearm while he or she has a  
19 tetrahydrocannabinols concentration that is 5.0 or greater. A defendant has a  
20 defense to any action under this paragraph if he or she proves by a preponderance  
21 of the evidence that at the time of the incident or occurrence he or she had a valid  
22 prescription for tetrahydrocannabinol or he or she was a qualifying patient, as  
23 defined in s. 50.80 (6).

24 **SECTION 225.** 941.20 (1) (bm) of the statutes is amended to read:

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

10           **SECTION 226.** 961.01 (14) of the statutes is renumbered 961.70 (3) and amended  
11           to read:

12           961.70 (3) “Marijuana” means all parts of the plants of the genus Cannabis,  
13           whether growing or not, with a tetrahydrocannabinols concentration that is greater  
14           than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from  
15           any part of the plant; and every compound, manufacture, salt, derivative, mixture,  
16           or preparation of the plant, its seeds or resin, ~~including tetrahydrocannabinols~~.  
17           “Marijuana” does include the mature stalks if mixed with other parts of the plant,  
18           but does not include fiber produced from the stalks, oil or cake made from the seeds  
19           of the plant, any other compound, manufacture, salt, derivative, mixture, or  
20           preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or  
21           cake or the sterilized seed of the plant which is incapable of germination.

22           **SECTION 227.** 961.11 (4g) of the statutes is repealed.

23           **SECTION 228.** 961.14 (4) (t) of the statutes is repealed.

24           **SECTION 229.** 961.32 (2m) of the statutes is repealed.

1           **SECTION 230.** 961.34 of the statutes is renumbered 961.75, and 961.75 (title),  
2 as renumbered, is amended to read:

3           **961.75 (title) ~~Controlled substances~~ Marijuana therapeutic research.**

4           **SECTION 231.** 961.38 (1n) of the statutes is repealed.

5           **SECTION 232.** 961.41 (1) (h) of the statutes is repealed.

6           **SECTION 233.** 961.41 (1m) (h) of the statutes is repealed.

7           **SECTION 234.** 961.41 (1q) of the statutes is repealed.

8           **SECTION 235.** 961.41 (1r) of the statutes is amended to read:

9           **961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under  
10 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight  
11 of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin,  
12 psilocybin, amphetamine, methamphetamine, tetrahydrocannabinols, synthetic  
13 cannabinoids, or substituted cathinones, or any controlled substance analog of any  
14 of these substances together with any compound, mixture, diluent, plant material  
15 or other substance mixed or combined with the controlled substance or controlled  
16 substance analog. ~~In addition, in determining amounts under subs. (1) (h) and (1m)~~  
17 ~~(h), the amount of tetrahydrocannabinols means anything included under s. 961.14~~  
18 ~~(4) (t) and includes the weight of any marijuana.~~

19           **SECTION 236.** 961.41 (3g) (c) of the statutes is amended to read:

20           **961.41 (3g) (c) *Cocaine and cocaine base.*** If a person possesses or attempts to  
21 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine  
22 base, the person shall be fined not more than \$5,000 and may be imprisoned for not  
23 more than one year in the county jail upon a first conviction and is guilty of a Class  
24 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense  
25 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the

1 offense, the offender has at any time been convicted of any felony or misdemeanor  
2 under this chapter or under any statute of the United States or of any state relating  
3 to controlled substances, controlled substance analogs, narcotic drugs, ~~marijuana~~,  
4 or depressant, stimulant, or hallucinogenic drugs.

5 **SECTION 237.** 961.41 (3g) (d) of the statutes is amended to read:

6 961.41 (3g) (d) *Certain hallucinogenic and stimulant drugs.* If a person  
7 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,  
8 amphetamine, 3,4-methylenedioxymethamphetamine, methcathinone, cathinone,  
9 N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm),  
10 (u) to (xb), or (7) (L), psilocin, or psilocybin, or a controlled substance analog of  
11 lysergic acid diethylamide, phencyclidine, amphetamine,  
12 3,4-methylenedioxymethamphetamine, methcathinone, cathinone,  
13 N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm),  
14 (u) to (xb), or (7) (L), psilocin, or psilocybin, the person may be fined not more than  
15 \$5,000 or imprisoned for not more than one year in the county jail or both upon a first  
16 conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For  
17 purposes of this paragraph, an offense is considered a 2nd or subsequent offense if,  
18 prior to the offender's conviction of the offense, the offender has at any time been  
19 convicted of any felony or misdemeanor under this chapter or under any statute of  
20 the United States or of any state relating to controlled substances, controlled  
21 substance analogs, narcotic drugs, ~~marijuana~~, or depressant, stimulant, or  
22 hallucinogenic drugs.

23 **SECTION 238.** 961.41 (3g) (e) of the statutes is repealed.

24 **SECTION 239.** 961.41 (3g) (em) of the statutes is amended to read:



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

12           **SECTION 240.** 961.47 (1) of the statutes is amended to read:

13           961.47 (1) Whenever any person who has not previously been convicted of any  
14 offense under this chapter, or of any offense under any statute of the United States  
15 or of any state or of any county ordinance relating to controlled substances or  
16 controlled substance analogs, narcotic drugs, ~~marijuana~~ or stimulant, depressant,  
17 or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted  
18 possession of a controlled substance or controlled substance analog under s. 961.41  
19 (3g) (b), the court, without entering a judgment of guilt and with the consent of the  
20 accused, may defer further proceedings and place him or her on probation upon terms  
21 and conditions. Upon violation of a term or condition, the court may enter an  
22 adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the  
23 terms and conditions, the court shall discharge the person and dismiss the  
24 proceedings against him or her. Discharge and dismissal under this section shall be  
25 without adjudication of guilt and is not a conviction for purposes of disqualifications

1 or disabilities imposed by law upon conviction of a crime, including the additional  
2 penalties imposed for 2nd or subsequent convictions under s. 961.48. There may be  
3 only one discharge and dismissal under this section with respect to any person.

4 **SECTION 241.** 961.48 (3) of the statutes is amended to read:

5 961.48 (3) For purposes of this section, a felony offense under this chapter is  
6 considered a 2nd or subsequent offense if, prior to the offender's conviction of the  
7 offense, the offender has at any time been convicted of any felony or misdemeanor  
8 offense under this chapter or under any statute of the United States or of any state  
9 relating to controlled substances or controlled substance analogs, narcotic drugs,  
10 marijuana or depressant, stimulant, or hallucinogenic drugs.

11 **SECTION 242.** 961.48 (5) of the statutes is amended to read:

12 961.48 (5) This section does not apply if the person is presently charged with  
13 a felony under s. 961.41 (3g) (c), (d), (e), or (g).

14 **SECTION 243.** 961.49 (1m) (intro.) of the statutes is amended to read:

15 961.49 (1m) (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), (f), or (g)  
16 ~~or (h)~~ by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (f), or (g)  
17 ~~or (h)~~ by possessing with intent to deliver or distribute, cocaine, cocaine base, heroin,  
18 phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine,  
19 methamphetamine, or methcathinone ~~or any form of tetrahydrocannabinols~~ or a  
20 controlled substance analog of any of these substances and the delivery, distribution  
21 or possession takes place under any of the following circumstances, the maximum  
22 term of imprisonment prescribed by law for that crime may be increased by 5 years:

23 **SECTION 244.** 961.571 (1) (a) 7. of the statutes is repealed.

24 **SECTION 245.** 961.571 (1) (a) 11. (intro.) of the statutes is amended to read:

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

4           **SECTION 246.** 961.571 (1) (a) 11. e. of the statutes is repealed.

5           **SECTION 247.** 961.571 (1) (a) 11. k. and L. of the statutes are repealed.

6           **SECTION 248.** Subchapter VIII of chapter 961 [precedes 961.70] of the statutes  
7 is created to read:

8   **CHAPTER 961**

9   **SUBCHAPTER VIII**

10                                       **REGULATION OF MARIJUANA**

11           **961.70 Definitions.** In this subchapter:

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

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

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

15           (a) For a person who is a resident of Wisconsin, an amount that does not exceed  
16 2 ounces of usable marijuana.

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

19           (6) "Permittee" has the meaning given under s. 139.97 (10).

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

21           (8) "Retail outlet" has the meaning given in s. 139.97 (11).

22           (9) "Tetrahydrocannabinols concentration" means the percent of  
23 delta-9-tetrahydrocannabinol content per dry weight of any part of the plant  
24 Cannabis, or per volume or weight of marijuana product, or the combined percent of

1 delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the  
2 plant Cannabis regardless of moisture content.

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

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

5 (12) "Usable marijuana" has the meaning given in s. 139.97 (13).

6 **961.71 Underage persons prohibitions; penalties.** (1) (a) 1. No permittee  
7 may sell, distribute, or deliver marijuana to any underage person, except that a  
8 permittee that is also a compassion center may sell, distribute, or deliver to an  
9 underage person who is a qualifying patient or to a treatment team.

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

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

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

17 (c) In determining whether a permittee or compassion center has violated par.  
18 (a) 2., all relevant circumstances surrounding the presence of the underage person  
19 may be considered. In determining whether a permittee has violated par. (a) 1., all  
20 relevant circumstances surrounding the selling, distributing, or delivering of  
21 marijuana may be considered. In addition, proof of all of the following facts by the  
22 permittee or compassion center is a defense to any prosecution for a violation under  
23 par. (a):

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

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

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

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

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

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

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

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

15           (d) Violates sub. (2m).

16           **(2m)** An underage person not accompanied by his or her parent, guardian, or  
17 spouse who has attained the legal age may not enter, knowingly attempt to enter, or  
18 be on the premises of a retail outlet that is not a compassion center. An underage  
19 person not accompanied by his or her parent, guardian, or spouse who has attained  
20 the legal age or by his or her treatment team may not enter, knowingly attempt to  
21 enter, or be on the premises of a compassion center.

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

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

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

2 **961.72 Restrictions; penalties.** (1) No person except a permittee or a  
3 compassion center may sell, or possess with the intent to sell, marijuana. No person  
4 may distribute or deliver, or possess with the intent to distribute or deliver,  
5 marijuana except a permittee or except a compassion center or a member of a  
6 treatment team who distributes or delivers, or possesses with the intent to distribute  
7 or deliver, to a qualifying patient. Any person who violates a prohibition under this  
8 subsection is guilty of the following:

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

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

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

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

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

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

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

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

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

9           (c) A person who is not a permittee, a compassion center, a qualifying patient,  
10 or a treatment team member who possesses more than 6 marijuana plants that have  
11 reached the flowering stage at one time is one of the following:

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

14           2. Except as provided in subd. 3., guilty of a Class B misdemeanor if the number  
15 of marijuana plants that have reached the flowering stage is more than 12.

16           3. Guilty of a Class I felony if the number of marijuana plants that have reached  
17 the flowering stage is more than 12, if the individual has taken action to hide the  
18 number of marijuana plants that have reached the flowering stage, and if any of the  
19 following applies:

20           a. The person has in place a system that could alert the person if law  
21 enforcement approaches an area that contains marijuana plants if the system  
22 exceeds a security system that would be used by a reasonable person in the person's  
23 region.

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

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

6           (d) No person except a qualifying patient, a member of a treatment team, a  
7 permittee, or a compassion center may possess marijuana plants that have reached  
8 the flowering stage. Any person who violates this prohibition must apply for a permit  
9 under s. 139.979; in addition, the person is one of the following:

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

12           2. Except as provided in subds. 3. and 4., subject to a civil forfeiture not to  
13 exceed \$1,000 or imprisonment not to exceed 90 days or both if the number of  
14 marijuana plants that have reached the flowering stage is more than 6.

15           3. Except as provided in subd. 4., guilty of a Class B misdemeanor if the number  
16 of marijuana plants that have reached the flowering stage is more than 12.

17           4. Guilty of a Class I felony if the number of marijuana plants that have reached  
18 the flowering stage is more than 12, if the person has taken action to hide how many  
19 marijuana plants that have reached the flowering stage are being cultivated, and if  
20 any of the following applies:

21           a. The person has in place a system that could alert the person if law  
22 enforcement approaches an area that contains marijuana plants if the system  
23 exceeds a security system that would be used by a reasonable person in the person's  
24 region.



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

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

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

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

10           **SECTION 249.** 967.055 (1) (a) of the statutes is amended to read:

11           967.055 (1) (a) The legislature intends to encourage the vigorous prosecution  
12 of offenses concerning the operation of motor vehicles by persons under the influence  
13 of an intoxicant, a controlled substance, a controlled substance analog or any  
14 combination of an intoxicant, controlled substance and controlled substance analog,  
15 under the influence of any other drug to a degree which renders him or her incapable  
16 of safely driving, or under the combined influence of an intoxicant and any other drug  
17 to a degree which renders him or her incapable of safely driving or having a  
18 prohibited alcohol concentration, as defined in s. 340.01 (46m), or having a  
19 tetrahydrocannabinols concentration of 5.0 or greater, offenses concerning the  
20 operation of motor vehicles by persons with a detectable amount of a restricted  
21 controlled substance in his or her blood, and offenses concerning the operation of  
22 commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

23           **SECTION 250.** 967.055 (1) (b) of the statutes is amended to read:

24           967.055 (1) (b) The legislature intends to encourage the vigorous prosecution  
25 of offenses concerning the operation of motorboats by persons under the influence of

1 an intoxicant, a controlled substance, a controlled substance analog or any  
2 combination of an intoxicant, controlled substance and controlled substance analog  
3 to a degree which renders him or her incapable of operating a motorboat safely, or  
4 under the combined influence of an intoxicant and any other drug to a degree which  
5 renders him or her incapable of operating a motorboat safely or having an alcohol  
6 concentration of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or  
7 greater.

8 **SECTION 251.** 967.055 (1m) (b) 1. of the statutes is amended to read:

9 967.055 (1m) (b) 1. A controlled substance included in schedule I under ch. 961  
10 ~~other than a tetrahydrocannabinol.~~

11 **SECTION 252.** 967.055 (1m) (b) 5. of the statutes is repealed.

12 **SECTION 253.** 967.055 (2) (a) of the statutes is amended to read:

13 967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss  
14 or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity  
15 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the  
16 use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply  
17 to the court. The application shall state the reasons for the proposed amendment or  
18 dismissal. The court may approve the application only if the court finds that the  
19 proposed amendment or dismissal is consistent with the public's interest in deterring  
20 the operation of motor vehicles by persons who are under the influence of an  
21 intoxicant, a controlled substance, a controlled substance analog or any combination  
22 of an intoxicant, controlled substance and controlled substance analog, under the  
23 influence of any other drug to a degree which renders him or her incapable of safely  
24 driving, or under the combined influence of an intoxicant and any other drug to a  
25 degree which renders him or her incapable of safely driving, in deterring the

1 operation of motor vehicles by persons with a detectable amount of a restricted  
2 controlled substance in his or her blood, in deterring the operation of motor vehicles  
3 by persons with a tetrahydrocannabinols concentration that is 5.0 or greater, or in  
4 deterring the operation of commercial motor vehicles by persons with an alcohol  
5 concentration of 0.04 or more. The court may not approve an application to amend  
6 the vehicle classification from a commercial motor vehicle to a noncommercial motor  
7 vehicle unless there is evidence in the record that the motor vehicle being operated  
8 by the defendant at the time of his or her arrest was not a commercial motor vehicle.

9 **SECTION 254.** 971.365 (1) (a) of the statutes is amended to read:

10 971.365 (1) (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1)  
11 (cm), (d), (e), (f), or (g) ~~or (h)~~ involving more than one violation, all violations may be  
12 prosecuted as a single crime if the violations were pursuant to a single intent and  
13 design.

14 **SECTION 255.** 971.365 (1) (b) of the statutes is amended to read:

15 971.365 (1) (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41  
16 (1m) (cm), (d), (e), (f), or (g) ~~or (h)~~ involving more than one violation, all violations may  
17 be prosecuted as a single crime if the violations were pursuant to a single intent and  
18 design.

19 **SECTION 256.** 971.365 (1) (c) of the statutes is amended to read:

20 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41  
21 (3g) (dm), 1999 stats., or s. 961.41 (3g) (am), (c), (d), ~~(e)~~, or (g) involving more than  
22 one violation, all violations may be prosecuted as a single crime if the violations were  
23 pursuant to a single intent and design.

24 **SECTION 257.** 971.365 (2) of the statutes is amended to read:

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

7           **SECTION 258.** 973.016 of the statutes is created to read:

8           **973.016 Special disposition for marijuana-related crimes. (1)**

9           RESENTENCING PERSONS SERVING A SENTENCE OR PROBATION. (a) A person serving a  
10 sentence or on probation may request resentencing or dismissal as provided under  
11 par. (b) if all of the following apply:

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

14           2. One of the following applies:

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

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

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

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

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

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

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

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

12 2. One of the following applies:

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

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

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

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

1 (3) EFFECT OF RESENTENCING, DISMISSAL, REDESIGNATION, OR EXPUNGEMENT. If the  
2 court changes or expunges a record under this section, a conviction that was changed  
3 or expunged is not considered a conviction for any purpose under state or federal law,  
4 including for purposes of s. 941.29 or 18 USC 921.

5 **SECTION 259. Nonstatutory provisions.**

6 (1) JOINT LEGISLATIVE COUNCIL STUDY. The joint legislative council shall study  
7 the implementation of the marijuana tax and regulation provided under subch. IV  
8 of ch. 139 and identify uses for the revenues generated by the tax. The joint  
9 legislative council shall report its findings, conclusions, and recommendations to the  
10 joint committee on finance no later than 2 years after the effective date of this  
11 subsection.

12 **SECTION 260. Initial applicability.**

13 (1) INSURANCE COVERAGE OF MEDICAL USE OF MARIJUANA.

14 (a) For policies and plans containing provisions inconsistent with this act, the  
15 treatment of ss. 609.83 and 632.895 (16p) first applies to policy or plan years  
16 beginning on January 1 of the year following the year in which this paragraph takes  
17 effect, except as provided in par. (b).

18 (b) For policies or plans that are affected by a collective bargaining agreement  
19 containing provisions inconsistent with this act, the treatment of ss. 609.83 and  
20 632.895 (16p) first applies to policy or plan years beginning on the effective date of  
21 this paragraph or on the day on which the collective bargaining agreement is newly  
22 established, extended, modified, or renewed, whichever is later.

23 (END)

**Insert 4 - JK**

Under the bill, a permit applicant with 20 or more employees may not receive a permit from DATCP or DOR unless the the applicant certifies that the applicant has entered into a labor peace agreement with a labor organization. The labor peace agreement prohibits the labor organization and its members from engaging in any economic interference with persons doing business in this state, prohibits the applicant from disrupting the efforts of the labor organization to communicate with and to organize and represent the applicant's employees, and provides the labor organization access to areas in which the employees work to discuss employment rights and the terms and conditions of employment. Current law prohibits the state and any local unit of government from requiring a labor peace agreement as a condition for any regulatory approval. The permit requirements under the bill are not subject to that prohibition.

The bill also requires DATCP and DOR to use a competitive scoring system to determine which applicants are eligible to receive permits. Each department must issue permits to the highest scoring applicants that it determines will best protect the environment; provide stable, family-supporting jobs to local residents; ensure worker and consumer safety; operate secure facilities; and uphold the laws of the jurisdictions in which they operate. Each department may deny a permit to an applicant with a low score.

**Insert 34 - 1 JK**

- 1 (a) "Labor peace agreement" means an agreement between a person applying  
2 for a permit under this section and a labor organization, as defined in s. 5.02 (8m),  
3 that ~~is~~ does all of the following:
- 4 1. Prohibits labor organizations and its members from engaging in picketing,  
5 work stoppages, boycotts, and any other economic interference with persons doing  
6 business in this state.
  - 7 2. Prohibits the applicant from disrupting the efforts of the labor organization  
8 to communicate with and to organize and represent the applicant's employees.
  - 9 3. Provides the labor organization access at reasonable times to areas in which  
10 the applicant's employees work for the purpose of meeting with employees to discuss

1 their right to representation, employment rights under state law, and terms and  
2 conditions of employment.

**Insert 35 - 24 JK**

3 (cm) Notwithstanding ss. 66.0134 and 947.21, a<sup>n</sup> applicant with 20 or more  
4 employees may not receive a permit under this section unless the applicant certifies  
5 to the department that the applicant has entered into a labor peace agreement and  
6 will abide by the terms of the agreement as a condition of maintaining a valid permit  
7 under this section. The applicant shall submit to the department of<sup>lea</sup> copy of the page  
8 of the labor peace agreement that contains the signatures of the union representative  
9 and the applicant.

10 (cn) The department shall use a competitive scoring system to determine which  
11 applicants are eligible to receive a permit under this section. The department shall  
12 issue permits to the highest scoring applicants that it determines will best protect  
13 the environment; provide stable, family-supporting jobs to local residents; ensure  
14 worker and consumer safety; operate secure facilities; and uphold the laws of the  
15 jurisdictions in which they operate. The department may deny a permit to an  
16 applicant with a low score, as determined under this paragraph. The department  
17 may request that the applicant provide any information or documentation that the  
18 department deems necessary for purposes of making a determination under this  
19 paragraph.

**Insert 46 - 12 JK**

20 (cm) Notwithstanding ss. 66.0134 and 947.21, a<sup>n</sup> applicant with 20 or more  
21 employees may not receive a permit under this section to operate as a marijuana  
22 distributor or marijuana retailer unless the applicant certifies to the department



1 that the applicant has entered into a labor peace agreement, as defined in s. 94.56  
2 (1) (a), and will abide by the terms of the agreement as a condition of maintaining  
3 a valid permit under this section. The applicant shall submit to the department of  
4 copy of the page of the labor peace agreement that contains the signatures of the  
5 union representative and the applicant.

6 (cn) The department shall use a competitive scoring system to determine which  
7 applicants are eligible to receive a permit under this section. The department shall  
8 issue permits to the highest scoring applicants that it determines will best protect  
9 the environment; provide stable, family-supporting jobs to local residents; ensure  
10 worker and consumer safety; operate secure facilities; and uphold the laws of the  
11 jurisdictions in which they operate. The department may deny a permit to an  
12 applicant with a low score, as determined under this paragraph. The department  
13 may request that the applicant provide any information or documentation that the  
14 department deems necessary for purposes of making a determination under this  
15 paragraph.