



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0154/P4
ALL:wlj&kjf

RS

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN 4/17
Requested ASAP
today, pls

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),
16 346.93 (1), 346.935 (1), 346.935 (2), 346.935 (3), 349.02 (2) (b) 4., 349.03 (2m),
17 349.06 (1m), 350.01 (10v) (a), 350.101 (1) (d), 350.101 (2) (c), 350.101 (2) (d) 1.,
18 350.101 (2) (d) 2., 350.104 (4), 350.11 (3) (a) 1., 350.11 (3) (a) 2., 350.11 (3) (a)
19 3., 350.11 (3) (a) 4., 350.11 (3) (d), 609.83, 767.41 (5) (am) (intro.), 767.451 (5m)
20 (a), 885.235 (1) (d) 1., 885.235 (1g) (intro.), 885.235 (1m), 885.235 (4), 895.047
21 (3) (a), 905.04 (4) (f), 939.22 (33) (a), 940.09 (1m) (a), 940.09 (1m) (b), 940.09 (2)
22 (a), 940.09 (2) (b), 940.25 (1m), 940.25 (2) (a), 940.25 (2) (b), 941.20 (1) (bm),
23 961.41 (1r), 961.41 (3g) (c), 961.41 (3g) (d), 961.41 (3g) (em), 961.47 (1), 961.48
24 (3), 961.48 (5), 961.49 (1m) (intro.), 961.571 (1) (a) 11. (intro.), 967.055 (1) (a),
25 967.055 (1) (b), 967.055 (1m) (b) 1., 967.055 (2) (a), 971.365 (1) (a), 971.365 (1)

1 (b), 971.365 (1) (c) and 971.365 (2); and **to create** 20.115 (7) (ge), 20.435 (1) (gq),
2 20.435 (1) (jm), 20.566 (1) (bn), 23.33 (1) (k), 23.33 (4c) (a) 2g., 23.33 (4c) (a) 3g.,
3 23.33 (4c) (a) 5. b., 23.33 (4c) (b) 2n., 23.33 (4c) (b) 4. c., 23.335 (1) (zLg), 23.335
4 (12) (a) 2g., 23.335 (12) (a) 3m., 23.335 (12) (a) 5. b., 23.335 (12) (b) 2g., 23.335
5 (12) (b) 5. b., 30.50 (13p), 30.50 (13t), 30.681 (1) (b) 1g., 30.681 (1) (bn) 2., 30.681
6 (1) (d) 2., 30.681 (2) (b) 1g., 30.681 (2) (d) 1. c., subchapter VI of chapter 50
7 [precedes 50.80], 66.0414, 77.54 (69), 94.56, 100.145, 108.02 (18r), 108.04 (5m),
8 108.133 (1) (a) 2., 111.32 (9m), 111.32 (11m), 115.35 (1) (a) 6., 121.02 (1) (L) 8.,
9 subchapter IV of chapter 139 [precedes 139.97], 146.44, 146.46, 157.06 (11)
10 (hm), 340.01 (66m), 343.305 (5) (dm), 346.63 (1) (d) 2., 346.63 (2) (b) 3., 346.63
11 (2p), 350.01 (21g), 350.101 (1) (bg), 350.101 (1) (cg), 350.101 (1) (e) 2., 350.101
12 (2) (bg), 350.101 (2) (d) 3., 632.895 (16p), 767.41 (5) (d), 767.451 (5m) (d), 885.235
13 (1) (e), 885.235 (1g) (ag), 885.235 (1g) (cg), 885.235 (1L), 939.22 (39g), 940.09 (1)
14 (bg), 940.09 (1) (dg), 940.09 (1g) (bg), 940.09 (1g) (dg), 940.09 (2) (c), 940.25 (1)
15 (bg), 940.25 (1) (dg), 940.25 (2) (c), 941.20 (1) (bg), subchapter VIII of chapter
16 961 [precedes 961.70] and 973.016 of the statutes; **relating to:** marijuana
17 possession, regulation of marijuana distribution and cultivation, medical
18 marijuana, operating a motor vehicle while under the influence of marijuana,
19 requiring the exercise of rule-making authority, granting rule-making
20 authority, making an appropriation, and 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 permit applicant with 20 or more employees may not receive a permit from DATCP or DOR unless 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.

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

3 **20.566 Revenue, department of**

4 (1) COLLECTION OF TAXES

5 (bn) Administration and enforcement

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

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

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

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

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

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

2 20.435 (1) (jm) *Licensing and support services for compassion centers.* All
3 moneys received under s. 50.84 to regulate and license compassion centers under
4 subch. VI of ch. 50.

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

6 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
7 for the purposes specified in ss. 48.685 (2) (am) and (b), (3) (a) and (b), and (5) (a),
8 48.686 (2) (am), (3) (am) and (bm), and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065
9 (2) (am) and (b) 1., (3) (a) and (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495,
10 50.52 (2) (a), 50.57, 50.981, and 146.40 (4r) (b) and (er), and subch. ~~VI~~ VII of ch. 50
11 and to conduct health facilities plan and rule development activities, for accrediting
12 nursing homes, convalescent homes, and homes for the aged, to conduct capital
13 construction and remodeling plan reviews under ss. 50.02 (2) (b) and 50.36 (2), and
14 for the costs of inspecting, licensing or certifying, and approving facilities, issuing
15 permits, and providing technical assistance, that are not specified under any other
16 paragraph in this subsection. All moneys received under ss. 48.685 (8), 48.686 (2)
17 (ag), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025, 50.065 (8), 50.13, 50.36 (2), 50.49
18 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and 50.981, all moneys received from
19 fees for the costs of inspecting, licensing or certifying, and approving facilities,
20 issuing permits, and providing technical assistance, that are not specified under any
21 other paragraph in this subsection, and all moneys received under s. 50.135 (2) shall
22 be credited to this appropriation account.

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

24 20.566 (1) (bn) *Administration and enforcement of marijuana tax and*
25 *regulation.* The amounts in the schedule for the purposes of administering the

1 marijuana tax imposed under subch. IV of ch. 139 and for the costs incurred in
2 enforcing the taxing and regulation of marijuana producers, marijuana processors,
3 and marijuana retailers under subch. IV of ch. 139.

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

5 23.33 (1) (jo) 1. A controlled substance included in schedule I under ch. 961
6 ~~other than a tetrahydrocannabinol.~~

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

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

9 23.33 (1) (k) "Tetrahydrocannabinols concentration" means the number of
10 nanograms of tetrahydrocannabinols per milliliter of blood.

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

12 23.33 (4c) (a) 2g. 'Operating with a tetrahydrocannabinols concentration at or
13 above specified levels.' No person may engage in the operation of an all-terrain
14 vehicle or utility terrain vehicle while the person has a tetrahydrocannabinols
15 concentration of 5.0 or more.

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

17 23.33 (4c) (a) 3g. 'Operating with a tetrahydrocannabinols concentration at
18 specified levels; below age 21.' If a person has not attained the age of 21, the person
19 may not engage in the operation of an all-terrain vehicle or utility terrain vehicle
20 while he or she has a tetrahydrocannabinols concentration of more than 0.0 but less
21 than 5.0.

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

23 23.33 (4c) (a) 4. 'Related charges.' A person may be charged with and a
24 prosecutor may proceed upon a complaint based upon a violation of any combination
25 of subd. 1., 2., 2g., or 2m. for acts arising out of the same incident or occurrence. If

1 the person is charged with violating any combination of subd. 1., 2., 2g., or 2m., the
2 offenses shall be joined. If the person is found guilty of any combination of subd. 1.,
3 2., 2g., or 2m. for acts arising out of the same incident or occurrence, there shall be
4 a single conviction for purposes of sentencing and for purposes of counting
5 convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., 2g., and 2m. each require
6 proof of a fact for conviction which the others do not require.

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

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

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

17 23.33 (4c) (a) 5. b. In an action under subd. 2g. or 3g. that is based on the
18 defendant allegedly having a prohibited tetrahydrocannabinols concentration, the
19 defendant has a defense if he or she proves by a preponderance of the evidence that
20 at the time of the incident or occurrence he or she had a valid prescription for
21 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

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

23 23.33 (4c) (b) 2n. 'Causing injury while operating with tetrahydrocannabinols
24 concentration at or above specified levels.' No person who has a

1 tetrahydrocannabinols concentration of 5.0 or more may cause injury to another
2 person by the operation of an all-terrain vehicle or utility terrain vehicle.

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

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

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

15 23.33 (4c) (b) 4. a. In an action under this paragraph, the defendant has a
16 defense if he or she proves by a preponderance of the evidence that the injury would
17 have occurred even if he or she had been exercising due care and he or she had not
18 been under the influence of an intoxicant, did not have an alcohol concentration of
19 0.08 or more, ~~or did not have a detectable amount of a restricted controlled substance~~
20 in his or her blood, or did not have a tetrahydrocannabinols concentration of 5.0 or
21 more.

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

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

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

5 **SECTION 19.** 23.33 (4c) (b) 4. c. of the statutes is created to read:

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

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

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

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

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

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

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

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

12 23.33 (13) (b) 3. A person who violates sub. (4c) (a) 1., 2., 2g., or 2m. or (4p) (e)
13 and who, within 5 years prior to the arrest for the current violation, was convicted
14 2 or more times previously under the intoxicated operation of an all-terrain vehicle
15 or utility terrain vehicle law or refusal law shall be fined not less than \$600 nor more
16 than \$2,000 and shall be imprisoned not less than 30 days nor more than one year
17 in the county jail.

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

19 23.33 (13) (b) 4. A person who violates sub. (4c) (a) 3. or 3g. or (4p) (e) and who
20 has not attained the age of 21 shall forfeit not more than \$50.

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

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

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

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

8 23.335 (1) (zgm) 1. A controlled substance included in schedule I under ch. 961
9 ~~other than a tetrahydrocannabinol.~~

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

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

12 23.335 (1) (zLg) "Tetrahydrocannabinols concentration" has the meaning given
13 in s. 340.01 (66m).

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

15 23.335 (12) (a) 2g. No person may engage in the operation of an off-highway
16 motorcycle while the person has a tetrahydrocannabinols concentration of 5.0 or
17 more.

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

19 23.335 (12) (a) 3m. If a person has not attained the age of 21, the person may
20 not engage in the operation of an off-highway motorcycle while he or she has a
21 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0.

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

23 23.335 (12) (a) 4. A person may be charged with and a prosecutor may proceed
24 upon a complaint based upon a violation of any combination of subd. 1., 2., 2g., or 2m.
25 for acts arising out of the same incident or occurrence. If the person is charged with

1 violating any combination of subd. 1., 2., 2g., or 2m., the offenses shall be joined. If
2 the person is found guilty of any combination of subd. 1., 2., 2g., or 2m. for acts arising
3 out of the same incident or occurrence, there shall be a single conviction for purposes
4 of sentencing and for purposes of counting convictions under sub. (23) (c) 2. and 3.
5 Subdivisions 1., 2., 2g., and 2m. each require proof of a fact for conviction which the
6 others do not require.

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

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

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

17 23.335 (12) (a) 5. b. In an action under subd. 2g. or 3m. that is based on the
18 defendant allegedly having a prohibited tetrahydrocannabinols concentration, the
19 defendant has a defense if he or she proves by a preponderance of the evidence that
20 at the time of the incident or occurrence he or she had a valid prescription for
21 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

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

23 23.335 (12) (b) 2g. No person who has a tetrahydrocannabinols concentration
24 of 5.0 or more may cause injury to another person by the operation of an off-highway
25 motorcycle.

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

2 23.335 (12) (b) 3. A person may be charged with and a prosecutor may proceed
3 upon a complaint based upon a violation of any combination of subd. 1., 2., 2g., or 2m.
4 for acts arising out of the same incident or occurrence. If the person is charged with
5 violating any combination of subd. 1., 2., 2g., or 2m. in the complaint, the crimes shall
6 be joined under s. 971.12. If the person is found guilty of any combination of subd.
7 1., 2., 2g., or 2m. for acts arising out of the same incident or occurrence, there shall
8 be a single conviction for purposes of sentencing and for purposes of counting
9 convictions under sub. (23) (c) 2. and 3. Subdivisions 1., 2., 2g., and 2m. each require
10 proof of a fact for conviction which the others do not require.

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

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

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

21 23.335 (12) (b) 5. a. In an action under subd. 2m. that is based on the defendant
22 allegedly having a detectable amount of methamphetamine, or
23 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
24 the defendant has a defense if he or she proves by a preponderance of the evidence
25 that at the time of the incident or occurrence he or she had a valid prescription for

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

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

4 23.335 (12) (b) 5. b. In an action under subd. 2g. that is based on the defendant
5 allegedly having a prohibited tetrahydrocannabinols concentration, the defendant
6 has a defense if he or she proves by a preponderance of the evidence that at the time
7 of the incident or occurrence he or she had a valid prescription for
8 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

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

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

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

21 23.335 (23) (c) 1. Except as provided under subds. 2., 3., and 4., a person who
22 violates sub. (12) (a) 1., 2., 2g., or 2m. or (h) shall forfeit not less than \$150 nor more
23 than \$300.

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

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

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

7 23.335 (23) (c) 3. Except as provided in subd. 4., a person who violates sub. (12)
8 (a) 1., 2., 2g., or 2m. or (h) and who, within 5 years prior to the arrest for the current
9 violation, was convicted 2 or more times previously under the intoxicated operation
10 of an off-highway motorcycle law shall be fined not less than \$600 nor more than
11 \$2,000 and shall be imprisoned not less than 30 days nor more than one year in the
12 county jail.

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

14 23.335 (23) (c) 4. A person who violates sub. (12) (a) 3. or 3m. or (h) and who
15 has not attained the age of 21 shall forfeit not more than \$50.

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

17 30.50 (10m) (a) A controlled substance included in schedule I under ch. 961
18 ~~other than a tetrahydrocannabinol.~~

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

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

21 30.50 (13p) "Tetrahydrocannabinols concentration" means the number of
22 nanograms of tetrahydrocannabinols per milliliter of blood.

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

24 30.50 (13t) "Tetrahydrocannabinols concentration" has the meaning given in
25 s. 340.01 (66m).

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

2 30.681 (1) (b) (title) *Operating after using a controlled substance ~~or~~ alcohol, or*
3 *tetrahydrocannabinols.*

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

5 30.681 (1) (b) 1g. No person may engage in the operation of a motorboat while
6 the person has a tetrahydrocannabinols concentration of 5.0 or more.

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

8 30.681 (1) (bn) (title) *Operating with alcohol or tetrahydrocannabinols*
9 *concentrations at specified levels; below legal drinking age.*

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

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

12 30.681 (1) (bn) 2. A person who has not attained the legal age, as defined in s.
13 961.70 (2), may not engage in the operation of a motorboat while he or she has a
14 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0.

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

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

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

3 30.681 (1) (d) 1. In an action under par. (b) 1m. that is based on the defendant
4 allegedly having a detectable amount of methamphetamine, or
5 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
6 the defendant has a defense if he or she proves by a preponderance of the evidence
7 that at the time of the incident or occurrence he or she had a valid prescription for
8 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
9 acid, ~~or delta-9-tetrahydrocannabinol~~.

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

11 30.681 (1) (d) 2. In an action under par. (b) 1g. or (bn) 2. that is based on the
12 defendant allegedly having a prohibited tetrahydrocannabinols concentration, the
13 defendant has a defense if he or she proves by a preponderance of the evidence that
14 at the time of the incident or occurrence he or she had a valid prescription for
15 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

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

17 30.681 (2) (b) (title) *Causing injury after using a controlled substance or,*
18 *alcohol, or tetrahydrocannabinols.*

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

20 30.681 (2) (b) 1g. No person who has a tetrahydrocannabinols concentration
21 of 5.0 or more may cause injury to another person by the operation of a motorboat.

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

23 30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor
24 may proceed upon a complaint based upon a violation of any combination of par. (a)
25 or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence. If the

1 person is charged with violating any combination of par. (a) or (b) 1., 1g., 1m., or 2.
2 in the complaint, the crimes shall be joined under s. 971.12. If the person is found
3 guilty of any combination of par. (a) or (b) 1., 1g., 1m., or 2. for acts arising out of the
4 same incident or occurrence, there shall be a single conviction for purposes of
5 sentencing and for purposes of counting convictions under s. 30.80 (6) (a) 2. and 3.
6 Paragraphs (a) and (b) 1., 1g., 1m., and 2. each require proof of a fact for conviction
7 which the others do not require.

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

9 30.681 (2) (d) 1. a. In an action under this subsection for a violation of the
10 intoxicated boating law where the defendant was operating a motorboat that is not
11 a commercial motorboat, the defendant has a defense if he or she proves by a
12 preponderance of the evidence that the injury would have occurred even if he or she
13 had been exercising due care and he or she had not been under the influence of an
14 intoxicant or did not have an alcohol concentration of 0.08 or more or a
15 tetrahydrocannabinols concentration of 5.0 or more or a detectable amount of a
16 restricted controlled substance in his or her blood.

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

18 30.681 (2) (d) 1. b. In an action under par. (b) 1m. that is based on the defendant
19 allegedly having a detectable amount of methamphetamine, or
20 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
21 the defendant has a defense if he or she proves by a preponderance of the evidence
22 that at the time of the incident or occurrence he or she had a valid prescription for
23 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
24 acid, ~~or delta-9-tetrahydrocannabinol~~.

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

1 30.681 (2) (d) 1. c. In an action under par. (b) 1g. that is based on the defendant
2 allegedly having a prohibited tetrahydrocannabinols concentration, the defendant
3 has a defense if he or she proves by a preponderance of the evidence that at the time
4 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 62.** 30.684 (4) of the statutes is amended to read:

7 30.684 (4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE. The results
8 of a chemical test required or administered under sub. (1), (2) or (3) are admissible
9 in any civil or criminal action or proceeding arising out of the acts committed by a
10 person alleged to have violated the intoxicated boating law on the issue of whether
11 the person was under the influence of an intoxicant or the issue of whether the person
12 had alcohol concentrations or tetrahydrocannabinols concentrations at or above
13 specified levels or a detectable amount of a restricted controlled substance in his or
14 her blood. Results of these chemical tests shall be given the effect required under s.
15 885.235. This section does not limit the right of a law enforcement officer to obtain
16 evidence by any other lawful means.

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

18 30.80 (6) (d) *Alcohol, controlled substances or controlled substance analogs, or*
19 *tetrahydrocannabinols; examination.* In addition to any other penalty or order, a
20 person who violates s. 30.681 (1) or (2) or 30.684 (5) or who violates s. 940.09 or 940.25
21 if the violation involves the operation of a motorboat, shall be ordered by the court
22 to submit to and comply with an assessment by an approved public treatment facility
23 for an examination of the person's use of alcohol, controlled substances or controlled
24 substance analogs, or tetrahydrocannabinols. Intentional failure to comply with an

1 assessment ordered under this paragraph constitutes contempt of court, punishable
2 under ch. 785.

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

4 49.148 (4) (a) A Wisconsin works Works agency shall require a participant in
5 a community service job or transitional placement who, after August 22, 1996, was
6 convicted in any state or federal court of a felony that had as an element possession,
7 use or distribution of a controlled substance to submit to a test for use of a controlled
8 substance as a condition of continued eligibility. If the test results are positive, the
9 Wisconsin works Works agency shall decrease the presanction benefit amount for
10 that participant by not more than 15 percent for not fewer than 12 months, or for the
11 remainder of the participant's period of participation in a community service job or
12 transitional placement, if less than 12 months. If, at the end of 12 months, the
13 individual is still a participant in a community service job or transitional placement
14 and submits to another test for use of a controlled substance and if the results of the
15 test are negative, the Wisconsin works Works agency shall discontinue the reduction
16 under this paragraph. In this subsection, "controlled substance" does not include
17 tetrahydrocannabinols in any form including tetrahydrocannabinols contained in
18 marijuana, obtained from marijuana, or chemically synthesized.

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

20 49.45 (23) (g) 5. Require, as a condition of eligibility, that an applicant or
21 enrollee submit to a drug screening assessment and, if indicated, a drug test, as
22 specified by the department in the waiver amendment. The department may not test
23 under this subdivision for tetrahydrocannabinols in any form including
24 tetrahydrocannabinols contained in marijuana, obtained from marijuana, or
25 chemically synthesized.

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

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

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

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

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

CHAPTER 50

SUBCHAPTER VI

DISTRIBUTION AND

TESTING CENTERS

50.80 Definitions. In this subchapter:

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

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

(a) Cancer; glaucoma; acquired immunodeficiency syndrome; a positive test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV;

Crohn's disease; a hepatitis C virus infection; Alzheimer's disease; amyotrophic lateral sclerosis; nail patella syndrome; Ehlers-Danlos Syndrome; post-traumatic stress disorder; or the treatment of these conditions.

*inflammatory
bowel disease,
including
ulcerative
colitis
or*

23

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

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

8 **(2m)** “Department” means the department of health services.

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

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

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

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

18 (c) The acquisition, possession, cultivation, or transportation of
19 tetrahydrocannabinols in any form by a primary caregiver of a qualifying patient,
20 the transfer of tetrahydrocannabinols in any form between a qualifying patient and
21 his or her primary caregiver, or the transfer of tetrahydrocannabinols in any form
22 between persons who are primary caregivers for the same qualifying patient if all of
23 the following apply:

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

4 2. It is not practicable for the qualifying patient to acquire, possess, cultivate,
5 or transport tetrahydrocannabinols independently, or the qualifying patient is under
6 18 years of age.

7 **(4m)** "Physician" means a person licensed under s. 448.04 (1) (a).

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

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

14 (a) The person's physician has explained the potential risks and benefits of the
15 medical use of tetrahydrocannabinols to the person and to a parent, guardian, or
16 individual who has legal custody of the person.

17 (b) The parent, guardian, or individual who has legal custody of the person
18 provides the physician a written statement consenting to do all of the following:

19 1. Allow the person's medical use of tetrahydrocannabinols.

20 2. Serve as a primary caregiver for the person.

21 3. Manage the person's medical use of tetrahydrocannabinols.

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

23 **(8)** "Treatment team" means a qualifying patient and his or her primary
24 caregivers.

25 **(9)** "Usable marijuana" has the meaning given in s. 139.97 (13).

1 (10) “Written certification” means a statement made by a person’s physician
2 if all of the following apply:

3 (a) The statement indicates that, in the physician’s professional opinion, the
4 person has or is undergoing a debilitating medical condition or treatment and the
5 potential benefits of the person’s use of tetrahydrocannabinols under sub. (4) (a)
6 would likely outweigh the health risks for the person.

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

11 (c) The statement is signed by the physician or is contained in the person’s
12 medical records.

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

15 **50.81 Departmental powers and duties. (1)** The department shall provide
16 licensing, regulation, record keeping, and security for compassion centers.

17 **(2)** Notwithstanding s. 227.12 (1), any person may petition the department to
18 promulgate a rule to designate a medical condition or treatment as a debilitating
19 medical condition or treatment. The department shall promulgate rules providing
20 for public notice of and a public hearing regarding any such petition, with the public
21 hearing providing persons an opportunity to comment upon the petition. After the
22 hearing, but no later than 180 days after the submission of the petition, the
23 department shall approve or deny the petition. The department’s decision to approve
24 or deny a petition is subject to judicial review under s. 227.52.

1 **50.82 Licensing.** The department shall issue licenses to a pharmacist or a
2 pharmacy to operate as a compassion center and shall decide which and how many
3 applicants for a license receive a license based on all of the following:

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

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

7 (3) The preferences of the governing bodies with jurisdiction over the area in
8 which the applicants are located.

9 (4) The ability of the applicant to keep records confidential and maintain a safe
10 and secure facility.

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

12 **50.83 Prohibitions.** The department may not issue a license to operate as a
13 compassion center to, and must revoke a license of, any organization to which any
14 of the following applies:

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

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

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

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

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

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

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

9 **50.85 Distribution of medical marijuana.** (1) A compassion center may
10 sell, distribute, or deliver tetrahydrocannabinols or drug paraphernalia intended for
11 the storage or use of usable marijuana to a member of a treatment team if the
12 compassion center receives a copy of the qualifying patient's written certification or
13 registry identification card.

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

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

18 (4) A compassion center shall have all tetrahydrocannabinols tested for mold,
19 fungus, pesticides, and other contaminants and may not sell, distribute, or deliver
20 tetrahydrocannabinols that test positive for mold, fungus, pesticides, or other
21 contaminants if the contaminants, or level of contaminants, are identified by the
22 testing laboratories under s. 50.86 (2) to be potentially unsafe to a qualifying
23 patient's health.

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

1 **50.86 Testing laboratories.** The department shall register entities as
2 tetrahydrocannabinols testing laboratories. The laboratories may possess or
3 manufacture tetrahydrocannabinols or drug paraphernalia and shall perform the
4 following services:

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

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

10 (3) Provide training to persons who hold registry identification cards or written
11 certifications, to treatment teams, and to persons employed by compassion centers
12 on the following:

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

15 (b) Security and inventory accountability procedures.

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

17 **SECTION 69.** Subchapter VI (title) of chapter 50 [precedes 50.90] of the statutes
18 is renumbered subchapter VII (title) of chapter 50 [precedes 50.90].

19 **SECTION 70.** 51.49 (1) (d) of the statutes is amended to read:

20 51.49 (1) (d) "Operating while intoxicated" means a violation of s. 346.63 (1) ~~or~~,
21 (2m), or (2p) or a local ordinance in conformity therewith or of s. 346.63 (2) or (6),
22 940.09 (1) or 940.25.

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

24 59.54 (25) (title) POSSESSION REGULATION OF MARIJUANA.

25 **SECTION 72.** 59.54 (25) (a) (intro.) of the statutes is amended to read:

1 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit
2 the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in
3 s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance that
4 is consistent with s. 961.71 or 961.72; except that if a complaint is issued regarding
5 an allegation of possession of more than 25 grams of marijuana, or possession of any
6 amount of marijuana following a conviction in this state for possession of marijuana
7 alleging a violation of s. 961.72 (2) (b) 2., (c) 3., or (d) 4., the subject of the complaint
8 may not be prosecuted under this subsection for the same action that is the subject
9 of the complaint unless all of the following occur:

10 **SECTION 73.** 66.0107 (1) (bm) of the statutes is amended to read:

11 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
12 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)
13 (intro.), and provide a forfeiture for a violation of the ordinance that is consistent
14 with s. 961.71 or 961.72; except that if a complaint is issued regarding an allegation
15 of possession of more than 25 grams of marijuana, or possession of any amount of
16 marijuana following a conviction in this state for possession of marijuana alleging
17 a violation of s. 961.72 (2) (b) 2., (c) 3., or (d) 4., the subject of the complaint may not
18 be prosecuted under this paragraph for the same action that is the subject of the
19 complaint unless the charges are dismissed or the district attorney declines to
20 prosecute the case.

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

22 **66.0414 Cultivation of tetrahydrocannabinols.** No city, village, town, or
23 county may prohibit cultivating tetrahydrocannabinols outdoors if the cultivation is
24 by one of the following:

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

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

4 **(3)** An individual who has no more than 6 marijuana plants at one time for his
5 or her personal use.

6 **SECTION 75.** 77.52 (13) of the statutes is amended to read:

7 **77.52 (13)** For the purpose of the proper administration of this section and to
8 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
9 the tax until the contrary is established. The burden of proving that a sale of tangible
10 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
11 is not a taxable sale at retail is upon the person who makes the sale unless that
12 person takes from the purchaser an electronic or a paper certificate, in a manner
13 prescribed by the department, to the effect that the property, item, good, or service
14 is purchased for resale or is otherwise exempt, except that no certificate is required
15 for the sale of tangible personal property, or items, property, or goods under sub. (1)
16 (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10),
17 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
18 (51), (52), (66), and (67), and (69).

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

20 **77.53 (10)** For the purpose of the proper administration of this section and to
21 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
22 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
23 (d), or taxable services sold by any person for delivery in this state is sold for storage,
24 use, or other consumption in this state until the contrary is established. The burden
25 of proving the contrary is upon the person who makes the sale unless that person

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

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

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

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

13 **94.56 Marijuana producers and processors. (1) DEFINITIONS.** In this
14 section:

15 (a) "Labor peace agreement" means an agreement between a person applying
16 for a permit under this section and a labor organization, as defined in s. 5.02 (8m),
17 that does all of the following:

18 1. Prohibits labor organizations and its members from engaging in picketing,
19 work stoppages, boycotts, and any other economic interference with persons doing
20 business in this state.

21 2. Prohibits the applicant from disrupting the efforts of the labor organization
22 to communicate with and to organize and represent the applicant's employees.

23 3. Provides the labor organization access at reasonable times to areas in which
24 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.

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

4 (c) "Marijuana processor" has the meaning given in s. 139.97 (6).

5 (d) "Marijuana producer" has the meaning given in s. 139.97 (7).

6 (e) "Usable marijuana" has the meaning given in s. 139.97 (13).

7 (f) "Permittee" means a marijuana producer or marijuana processor who is
8 issued a permit under this section.

9 **(2) PERMIT REQUIRED.** (a) No person may operate in this state as a marijuana
10 producer or marijuana processor without a permit from the department. A person
11 who acts as a marijuana producer and a marijuana processor shall obtain a separate
12 permit for each activity. A person is not required to obtain a permit under this section
13 if the person produces or processes only industrial hemp and holds a valid license
14 under s. 94.55.

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

18 (c) Subject to ss. 111.321, 111.322, and 111.335, a permit under this section may
19 not be granted to any person to whom any of the following applies:

20 1. The person has been convicted of a violent misdemeanor, as defined in s.
21 941.29 (1g) (b), at least 3 times.

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

24 3. During the preceding 3 years, the person has been committed under s. 51.20
25 for being drug dependent.

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

6 a. The person has been committed for involuntary treatment under s. 51.45
7 (13).

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

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

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

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

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

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

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

3 (cm) Notwithstanding ss. 66.0134 and 947.21, an 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 a 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.

20 (d) 1. Before the department issues a new or renewed permit under this section,
21 the department shall give notice of the permit application to the governing body of
22 the municipality where the permit applicant intends to operate the premises of a
23 marijuana producer or marijuana processor. No later than 30 days after the
24 department submits the notice, the governing body of the municipality may file with

1 the department a written objection to granting or renewing the permit. At the
2 municipality's request, the department may extend the period for filing objections.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **(7) PENALTIES.** (a) Any person who violates the requirements under sub. (2) or
13 (3) or any of the requirements established by the rules promulgated under sub. (6)
14 shall be fined not less than \$100 nor more than \$500 or imprisoned not more than
15 6 months or both.

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

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

21 **100.145 Recreational marijuana logotype.** The department shall design
22 an official logotype, appropriate for including on a label affixed to recreational
23 marijuana under s. 139.973 (10) (a). The department shall design the logotype to be
24 distinguishable from any logotype for medical marijuana.

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

1 108.02 **(18r)** MARIJUANA. “Marijuana” has the meaning given in s. 111.32 (11m).

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

3 108.04 **(5m)** DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5),
4 “misconduct,” for purposes of sub. (5), does not include the employee’s use of
5 marijuana off the employer’s premises during nonworking hours or a violation of the
6 employer’s policy concerning such use, unless termination of the employee because
7 of that use is permitted under s. 111.35.

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

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

14 108.133 **(1)** (a) 1. Notwithstanding s. 108.02 (9), “controlled substance” has the
15 meaning given in 21 USC 802, except as provided in subd. 2.

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

17 108.133 **(1)** (a) 2. “Controlled substance” does not include
18 tetrahydrocannabinols, commonly known as “THC,” in any form including
19 tetrahydrocannabinols contained in marijuana, obtained from marijuana, or
20 chemically synthesized.

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

22 111.32 **(9m)** “Lawful product” includes marijuana.

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

24 111.32 **(11m)** “Marijuana” means all parts of the plants of the genus Cannabis,
25 whether growing or not; the seeds thereof; the resin extracted from any part of the

1 plant; and every compound, manufacture, salt, derivative, mixture, or preparation
2 of the plant, its seeds or resin, including tetrahydrocannabinols.

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

4 111.35 (2) (e) Conflicts with any federal or state statute, rule or regulation.

5 This paragraph does not apply with respect to violations concerning marijuana or
6 tetrahydrocannabinols under 21 USC 841 to 865.

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

8 114.09 (2) (bm) 1. (intro.) Except as provided in subd. 1. a. or b., the court shall
9 order the person violating sub. (1) (b) 1. or 1m. to submit to and comply with an
10 assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for
11 examination of the person's use of alcohol, tetrahydrocannabinols, controlled
12 substances, or controlled substance analogs and development of an airman safety
13 plan for the person. The court shall notify the person, the department, and the proper
14 federal agency of the assessment order. The assessment order shall:

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

16 114.09 (2) (bm) 4. The assessment report shall order compliance with an
17 airman safety plan. The report shall inform the person of the fee provisions under
18 s. 46.03 (18) (f). The safety plan may include a component that makes the person
19 aware of the effect of his or her offense on a victim and a victim's family. The safety
20 plan may include treatment for the person's misuse, abuse, or dependence on alcohol,
21 tetrahydrocannabinols, controlled substances, or controlled substance analogs. If
22 the plan requires inpatient treatment, the treatment shall not exceed 30 days. An
23 airman safety plan under this paragraph shall include a termination date consistent
24 with the plan that shall not extend beyond one year. The county department under

1 s. 51.42 shall assure notification of the department of transportation and the person
2 of the person's compliance or noncompliance with assessment and treatment.

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

5 115.35 (1) (a) (intro.) A critical health problems education program is
6 established in the department. The program shall be a systematic and integrated
7 program designed to provide appropriate learning experiences based on scientific
8 knowledge of the human organism as it functions within its environment and
9 designed to favorably influence the health, understanding, attitudes and practices
10 of the individual child which will enable him or her to adapt to changing health
11 problems of our society. The program shall be designed to educate youth with regard
12 to critical health problems and shall include, but not be limited to, the following
13 topics as the basis for comprehensive education curricula in all elementary and
14 secondary schools: ~~controlled~~

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

17 2. Mental health; ~~sexually.~~

18 3. Sexually transmitted diseases, including acquired immunodeficiency
19 syndrome; ~~human.~~

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

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

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

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

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

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

7 121.02 (1) (L) 8. Beginning in the 2019-20 school year, as part of the health
 8 curriculum, in one of grades 5 to 8 and in one of grades 9 to 12, provide pupils with
 9 the instruction about marijuana described in s. 115.35 (1) (a) 6.

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

12 **CHAPTER 139**

13 SUBCHAPTER IV

14 MARIJUANA TAX AND REGULATION

15 **139.97 Definitions.** In this subchapter:

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

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

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

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

23 (5) “Marijuana distributor” means a person in this state who purchases or
 24 receives usable marijuana from a marijuana processor and who sells or otherwise

1 transfers the usable marijuana to a marijuana retailer or to a compassion center, as
2 defined in s. 50.80 (1), for the purpose of resale to consumers.

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

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

9 (8) "Marijuana retailer" means a person in this state that sells usable
10 marijuana at a retail outlet, not including a compassion center, as defined in s. 50.80
11 (1).

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

15 (a) A marijuana processor.

16 (b) A marijuana distributor.

17 (c) A marijuana retailer.

18 (10) "Permittee" means a marijuana producer, marijuana processor, marijuana
19 distributor, marijuana retailer, or microbusiness that is issued a permit under s.
20 139.972.

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

22 (12) "Sales price" has the meaning given in s. 77.51 (15b).

23 (13) "Usable marijuana" means marijuana that has been processed for human
24 consumption and includes dried marijuana flowers, marijuana-infused products,
25 and marijuana edibles.

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

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

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

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

17 **139.972 Permits required.** (1) (a) No person may operate in this state as a
18 marijuana producer, marijuana processor, marijuana distributor, marijuana
19 retailer, or microbusiness without first filing an application for and obtaining the
20 proper permit from the department to perform such operations. In addition, no
21 person may operate in this state as a marijuana producer or marijuana processor
22 without first filing an application for and obtaining the proper permit under s. 94.56.

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

1 (c) Subject to ss. 111.321, 111.322, and 111.335, a permit under this section may
2 not be granted to any person to whom any of the following applies:

3 1. The person has been convicted of a violent misdemeanor, as defined in s.
4 941.29 (1g) (b), at least 3 times.

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

7 3. During the preceding 3 years, the person has been committed under s. 51.20
8 for being drug dependent.

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

14 a. The person has been committed for involuntary treatment under s. 51.45
15 (13).

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

17 c. In 2 or more cases arising out of separate incidents, a court has found the
18 person to have committed a violation of s. 346.63 or a local ordinance in conformity
19 with that section; a violation of a law of a federally recognized American Indian tribe
20 or band in this state in conformity with s. 346.63; or a violation of the law of another
21 jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while
22 intoxicated, while under the influence of a controlled substance, a controlled
23 substance analog, or a combination thereof, with an excess or specified range of
24 alcohol concentration, or while under the influence of any drug to a degree that

1 renders the person incapable of safely driving, as those or substantially similar
2 terms are used in that jurisdiction's laws.

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

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

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

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

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

11 (cm) Notwithstanding ss. 66.0134 and 947.21, an applicant with 20 or more
12 employees may not receive a permit under this section to operate as a marijuana
13 distributor or marijuana retailer unless the applicant certifies to the department
14 that the applicant has entered into a labor peace agreement, as defined in s. 94.56
15 (1) (a), and will abide by the terms of the agreement as a condition of maintaining
16 a valid permit under this section. The applicant shall submit to the department a
17 copy of the page of the labor peace agreement that contains the signatures of the
18 union representative and the applicant.

19 (cn) The department shall use a competitive scoring system to determine which
20 applicants are eligible to receive a permit under this section. The department shall
21 issue permits to the highest scoring applicants that it determines will best protect
22 the environment; provide stable, family-supporting jobs to local residents; ensure
23 worker and consumer safety; operate secure facilities; and uphold the laws of the
24 jurisdictions in which they operate. The department may deny a permit to an
25 applicant with a low score, as determined under this paragraph. The department

1 may request that the applicant provide any information or documentation that the
2 department deems necessary for purposes of making a determination under this
3 paragraph.

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

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

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

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

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

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

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

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

23 (4) Under this section, a separate permit is required for and issued to each class
24 of permittee, and the permit holder may perform only the operations authorized by
25 the permit. A permit issued under this section is not transferable from one person