

1 **SECTION 160.** 346.637 of the statutes is amended to read:

2 **346.637 Driver awareness program.** The department shall conduct a
3 campaign to educate drivers in this state concerning:

4 **(1)** The laws relating to operating a motor vehicle and drinking alcohol, using
5 tetrahydrocannabinols, controlled substances, or controlled substance analogs, or
6 using any combination of alcohol, tetrahydrocannabinols, controlled substances, and
7 controlled substance analogs.

8 **(2)** The effects of alcohol, tetrahydrocannabinols, controlled substances, or
9 controlled substance analogs, or the use of them in any combination, on a person's
10 ability to operate a motor vehicle.

11 **SECTION 161.** 346.65 (2m) (a) of the statutes is amended to read:

12 **346.65 (2m)** (a) In imposing a sentence under sub. (2) for a violation of s. 346.63
13 (1) (am) or (b) or (5) or a local ordinance in conformity therewith, the court shall
14 review the record and consider the aggravating and mitigating factors in the matter.
15 If the amount of alcohol in the person's blood or urine or the amount of a restricted
16 controlled substance or tetrahydrocannabinols in the person's blood is known, the
17 court shall consider that amount as a factor in sentencing. The chief judge of each
18 judicial administrative district shall adopt guidelines, under the chief judge's
19 authority to adopt local rules under SCR 70.34, for the consideration of aggravating
20 and mitigating factors.

21 **SECTION 162.** 346.65 (2q) of the statutes is amended to read:

22 **346.65 (2q)** Any person violating s. 346.63 (2m) or (2p) shall forfeit \$200. If
23 there was a minor passenger under 16 years of age in the motor vehicle at the time
24 of the violation that gave rise to the conviction under s. 346.63 (2m) or (2p), the person
25 shall be fined \$400.

1 **SECTION 163.** 346.93 (1) of the statutes is amended to read:

2 346.93 (1) No underage person, as defined under s. 125.02 (20m), may
3 knowingly possess, transport, or have under his or her control any alcohol beverage
4 or tetrahydrocannabinols in any motor vehicle unless the. This subsection does not
5 prohibit a person who is employed by a brewer, brewpub, alcohol beverage licensee,
6 wholesaler, retailer, distributor, manufacturer, or rectifier and is from possessing,
7 transporting, or having ~~such beverage~~ alcohol beverages in a motor vehicle under his
8 or her control during his or her working hours and in the course of employment, as
9 provided under s. 125.07 (4) (bm).

 ***NOTE: Please let me know if you did not intend to include a prohibition on
minors transporting marijuana in this draft.

10 **SECTION 164.** 346.935 (1) of the statutes is amended to read:

11 346.935 (1) No person may drink alcohol beverages; burn, inhale, or ingest
12 products containing tetrahydrocannabinol; or inhale nitrous oxide while he or she
13 is in any motor vehicle when the vehicle is upon a highway.

14 **SECTION 165.** 346.935 (2) of the statutes is amended to read:

15 346.935 (2) No person may possess on his or her person, in a privately owned
16 motor vehicle upon a public highway, any bottle or receptacle containing alcohol
17 beverages, tetrahydrocannabinols, or nitrous oxide if the bottle or receptacle has
18 been opened, the seal has been broken or the contents of the bottle or receptacle have
19 been partially removed or released.

20 **SECTION 166.** 346.935 (3) of the statutes is amended to read:

21 346.935 (3) The owner of a privately owned motor vehicle, or the driver of the
22 vehicle if the owner is not present in the vehicle, shall not keep, or allow to be kept
23 in the motor vehicle when it is upon a highway any bottle or receptacle containing

1 alcohol beverages, tetrahydrocannabinols, or nitrous oxide if the bottle or receptacle
2 has been opened, the seal has been broken or the contents of the bottle or receptacle
3 have been partially removed or released. This subsection does not apply if the bottle
4 or receptacle is kept in the trunk of the vehicle or, if the vehicle has no trunk, in some
5 other area of the vehicle not normally occupied by the driver or passengers. A utility
6 compartment or glove compartment is considered to be within the area normally
7 occupied by the driver and passengers.

****NOTE: This draft does not change s. 346.935 (4) (b) to allow use of
tetrahydrocannabinols by passengers in a limousine or bus. Please let me know if you
want this provision altered.

8 **SECTION 167.** 349.02 (2) (b) 4. of the statutes is amended to read:

9 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or
10 66.0107 (1) (bm).

11 **SECTION 168.** 349.03 (2m) of the statutes is amended to read:

12 349.03 (2m) Notwithstanding sub. (2), a municipal court may suspend a license
13 for a violation of a local ordinance in conformity with s. 346.63 (1) ~~or~~, (2m), or (2p).

14 **SECTION 169.** 349.06 (1m) of the statutes is amended to read:

15 349.06 (1m) Notwithstanding sub. (1), a municipal court may suspend a license
16 for a violation of a local ordinance in conformity with s. 346.63 (1) ~~or~~, (2m), or (2p).

17 **SECTION 170.** 350.01 (10v) (a) of the statutes is amended to read:

18 350.01 (10v) (a) A controlled substance included in schedule I under ch. 961
19 ~~other than a tetrahydrocannabinol~~.

20 **SECTION 171.** 350.01 (10v) (e) of the statutes is repealed.

21 **SECTION 172.** 350.01 (21g) of the statutes is created to read:

22 350.01 (21g) "Tetrahydrocannabinols concentration" has the meaning given in
23 s. 23.33 (1) (k).

1 **SECTION 173.** 350.101 (1) (bg) of the statutes is created to read:

2 350.101 (1) (bg) *Operating with tetrahydrocannabinols concentration at or*
3 *above specified levels.* No person may engage in the operation of a snowmobile while
4 the person has a tetrahydrocannabinols concentration of 5.0 or more.

5 **SECTION 174.** 350.101 (1) (cg) of the statutes is created to read:

6 350.101 (1) (cg) *Operating with tetrahydrocannabinols concentration at or*
7 *above specified levels; below age 21.* If a person has not attained the age of 21, the
8 person may not engage in the operation of a snowmobile while he or she has a
9 tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0.

10 **SECTION 175.** 350.101 (1) (d) of the statutes is amended to read:

11 350.101 (1) (d) *Related charges.* A person may be charged with and a prosecutor
12 may proceed upon a complaint based upon a violation of any combination of par. (a),
13 (b), (bg), or (bm) for acts arising out of the same incident or occurrence. If the person
14 is charged with violating any combination of par. (a), (b), (bg), or (bm), the offenses
15 shall be joined. If the person is found guilty of any combination of par. (a), (b), (bg),
16 or (bm) for acts arising out of the same incident or occurrence, there shall be a single
17 conviction for purposes of sentencing and for purposes of counting convictions under
18 s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b), (bg), and (bm) each require proof of a
19 fact for conviction which the others do not require.

20 **SECTION 176.** 350.101 (1) (e) of the statutes is renumbered 350.101 (1) (e) 1. and
21 amended to read:

22 350.101 (1) (e) 1. In an action under par. (bm) that is based on the defendant
23 allegedly having a detectable amount of methamphetamine, or
24 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
25 the defendant has a defense if he or she proves by a preponderance of the evidence

1 that at the time of the incident or occurrence he or she had a valid prescription for
2 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
3 acid, ~~or delta-9-tetrahydrocannabinol.~~

4 **SECTION 177.** 350.101 (1) (e) 2. of the statutes is created to read:

5 350.101 (1) (e) 2. In an action under par. (bg) or (cg) that is based on the
6 defendant allegedly having a prohibited tetrahydrocannabinols concentration, the
7 defendant has a defense if he or she proves by a preponderance of the evidence that
8 at the time of the incident or occurrence he or she had a valid prescription for
9 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

10 **SECTION 178.** 350.101 (2) (bg) of the statutes is created to read:

11 350.101 (2) (bg) *Causing injury with tetrahydrocannabinols concentrations at*
12 *or above specified levels.* No person who has a tetrahydrocannabinols concentration
13 of 5.0 or more may cause injury to another person by the operation of a snowmobile.

14 **SECTION 179.** 350.101 (2) (c) of the statutes is amended to read:

15 350.101 (2) (c) *Related charges.* A person may be charged with and a prosecutor
16 may proceed upon a complaint based upon a violation of any combination of par. (a),
17 (b), (bg), or (bm) for acts arising out of the same incident or occurrence. If the person
18 is charged with violating any combination of par. (a), (b), (bg), or (bm) in the
19 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty
20 of any combination of par. (a), (b), (bg), or (bm) for acts arising out of the same incident
21 or occurrence, there shall be a single conviction for purposes of sentencing and for
22 purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b),
23 (bg), and (bm) each require proof of a fact for conviction which the others do not
24 require.

25 **SECTION 180.** 350.101 (2) (d) 1. of the statutes is amended to read:

1 350.101 (2) (d) 1. In an action under this subsection, the defendant has a
2 defense if he or she proves by a preponderance of the evidence that the injury would
3 have occurred even if he or she had been exercising due care and he or she had not
4 been under the influence of an intoxicant or did not have an alcohol concentration
5 of 0.08 or more, a tetrahydrocannabinols concentration of 5.0 or more, or a detectable
6 amount of a restricted controlled substance in his or her blood.

7 **SECTION 181.** 350.101 (2) (d) 2. of the statutes is amended to read:

8 350.101 (2) (d) 2. In an action under par. (bm) that is based on the defendant
9 allegedly having a detectable amount of methamphetamine, or
10 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,
11 the defendant has a defense if he or she proves by a preponderance of the evidence
12 that at the time of the incident or occurrence he or she had a valid prescription for
13 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric
14 acid, ~~or delta-9-tetrahydrocannabinol~~.

15 **SECTION 182.** 350.101 (2) (d) 3. of the statutes is created to read:

16 350.101 (2) (d) 3. In an action under par. (bg) that is based on the defendant
17 allegedly having a prohibited tetrahydrocannabinols concentration, the defendant
18 has a defense if he or she proves by a preponderance of the evidence that at the time
19 of the incident or occurrence he or she had a valid prescription for
20 tetrahydrocannabinol or he or she was a qualifying patient, as defined in s. 50.80 (6).

21 **SECTION 183.** 350.104 (4) of the statutes is amended to read:

22 350.104 (4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE. The results
23 of a chemical test required or administered under sub. (1), (2) or (3) are admissible
24 in any civil or criminal action or proceeding arising out of the acts committed by a
25 person alleged to have violated the intoxicated snowmobiling law on the issue of

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

7 **SECTION 184.** 350.11 (3) (a) 1. of the statutes is amended to read:

8 350.11 (3) (a) 1. Except as provided under subds. 2. and 3., a person who violates
9 s. 350.101 (1) (a), (b), (bg), or (bm) or s. 350.104 (5) shall forfeit not less than \$400 nor
10 more than \$550.

11 **SECTION 185.** 350.11 (3) (a) 2. of the statutes is amended to read:

12 350.11 (3) (a) 2. Except as provided under subd. 3., a person who violates s.
13 350.101 (1) (a), (b), (bg), or (bm) or 350.104 (5) and who, within 5 years prior to the
14 arrest for the current violation, was convicted previously under the intoxicated
15 snowmobiling law or the refusal law shall be fined not less than \$300 nor more than
16 \$1,000 and shall be imprisoned not less than 5 days nor more than 6 months.

17 **SECTION 186.** 350.11 (3) (a) 3. of the statutes is amended to read:

18 350.11 (3) (a) 3. A person who violates s. 350.101 (1) (a), (b), (bg), or (bm) or
19 350.104 (5) and who, within 5 years prior to the arrest for the current violation, was
20 convicted 2 or more times previously under the intoxicated snowmobiling law or
21 refusal law shall be fined not less than \$600 nor more than \$2,000 and shall be
22 imprisoned not less than 30 days nor more than one year in the county jail.

23 **SECTION 187.** 350.11 (3) (a) 4. of the statutes is amended to read:

24 350.11 (3) (a) 4. A person who violates s. 350.101 (1) (c) or (cg) or 350.104 (5)
25 and who has not attained the age of 19 shall forfeit not more than \$50.

1 **SECTION 188.** 350.11 (3) (d) of the statutes is amended to read:

2 350.11 (3) (d) *Alcohol, controlled substances or controlled substance analogs,*
3 *or tetrahydrocannabinols; assessment.* In addition to any other penalty or order, a
4 person who violates s. 350.101 (1) or (2) or 350.104 (5) or who violates s. 940.09 or
5 940.25 if the violation involves the operation of a snowmobile, shall be ordered by the
6 court to submit to and comply with an assessment by an approved public treatment
7 facility for an examination of the person's use of alcohol, controlled substances or
8 controlled substance analogs, or tetrahydrocannabinols. The assessment order shall
9 comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an
10 assessment ordered under this paragraph constitutes contempt of court, punishable
11 under ch. 785.

12 **SECTION 189.** 609.83 of the statutes is amended to read:

13 **609.83 Coverage of drugs and devices.** Limited service health
14 organizations, preferred provider plans, and defined network plans are subject to ss.
15 632.853 and 632.895 (16p) and (16t).

16 **SECTION 190.** 632.895 (16p) of the statutes is created to read:

17 **632.895 (16p) MEDICAL USE OF MARIJUANA.** (a) In this subsection, "medical use
18 of tetrahydrocannabinols" has the meaning given in s. 50.80 (4).

19 (b) Every disability insurance policy and every self-insured health plan of the
20 state or of a county, city, town, village, or school district that provides coverage of
21 prescription drugs and devices shall provide coverage for the medical use of
22 tetrahydrocannabinols in accordance with subch. VI of ch. 50 and any equipment or
23 supplies necessary for the medical use of tetrahydrocannabinols.

1 (c) Coverage under par. (b) may be subject only to the exclusions, limitations,
2 and cost-sharing provisions that apply generally to the coverage of prescription
3 drugs or devices that is provided under the policy or self-insured health plan.

4 **SECTION 191.** 767.41 (5) (am) (intro.) of the statutes is amended to read:

5 767.41 (5) (am) (intro.) Subject to pars. (bm) ~~and~~, (c), and (d), in determining
6 legal custody and periods of physical placement, the court shall consider all facts
7 relevant to the best interest of the child. The court may not prefer one parent or
8 potential custodian over the other on the basis of the sex or race of the parent or
9 potential custodian. Subject to pars. (bm) ~~and~~, (c), and (d), the court shall consider
10 the following factors in making its determination:

11 **SECTION 192.** 767.41 (5) (d) of the statutes is created to read:

12 767.41 (5) (d) The court may not consider as a factor in determining the legal
13 custody of a child whether a parent or potential custodian holds or has applied for
14 a registry identification card, as defined in s. 146.44 (1) (h), is or has been the subject
15 of a written certification, as defined in s. 50.80 (10), or is or has been a qualifying
16 patient, as defined in s. 50.80 (6), or a primary caregiver, as defined in s. 50.80 (5),
17 unless the parent or potential custodian's behavior creates an unreasonable danger
18 to the child that can be clearly articulated and substantiated.

19 **SECTION 193.** 767.451 (5m) (a) of the statutes is amended to read:

20 767.451 (5m) (a) Subject to pars. (b) ~~and~~, (c), and (d) in all actions to modify
21 legal custody or physical placement orders, the court shall consider the factors under
22 s. 767.41 (5) (am), subject to s. 767.41 (5) (bm), and shall make its determination in
23 a manner consistent with s. 767.41.

24 **SECTION 194.** 767.451 (5m) (d) of the statutes is created to read:

1 767.451 (5m) (d) In an action to modify a legal custody order, the court may not
2 consider as a factor in making a determination whether a parent or potential
3 custodian holds or has applied for a registry identification card, as defined in s.
4 146.44 (1) (h), is or has been the subject of a written certification, as defined in s.
5 50.80 (10), or is or has been a qualifying patient, as defined in s. 50.80 (6), or a
6 primary caregiver, as defined in s. 50.80 (5), unless the parent or potential
7 custodian's behavior creates an unreasonable danger to the child that can be clearly
8 articulated and substantiated.

9 **SECTION 195.** 885.235 (1) (d) 1. of the statutes is amended to read:

10 885.235 (1) (d) 1. A controlled substance included in schedule I under ch. 961
11 ~~other than a tetrahydrocannabinol.~~

12 **SECTION 196.** 885.235 (1) (d) 5. of the statutes is repealed.

13 **SECTION 197.** 885.235 (1) (e) of the statutes is created to read:

14 885.235 (1) (e) "Tetrahydrocannabinols concentration" has the meaning given
15 in s. 23.33 (1) (k).

16 **SECTION 198.** 885.235 (1g) (intro.) of the statutes is amended to read:

17 885.235 (1g) (intro.) In any action or proceeding in which it is material to prove
18 that a person was under the influence of an intoxicant or had a prohibited alcohol or
19 tetrahydrocannabinols concentration or a specified alcohol concentration while
20 operating or driving a motor vehicle or, if the vehicle is a commercial motor vehicle,
21 on duty time, while operating a motorboat, except a sailboat operating under sail
22 alone, while operating a snowmobile, while operating an all-terrain vehicle or utility
23 terrain vehicle or while handling a firearm, evidence of the amount of alcohol or
24 tetrahydrocannabinols in the person's blood at the time in question, as shown by
25 chemical analysis of a sample of the person's blood or urine or evidence of the amount

1 of alcohol in the person's breath, is admissible on the issue of whether he or she was
2 under the influence of an intoxicant or had a prohibited alcohol or
3 tetrahydrocannabinols concentration or a specified alcohol concentration if the
4 sample was taken within 3 hours after the event to be proved. The chemical analysis
5 shall be given effect as follows without requiring any expert testimony as to its effect:

6 **SECTION 199.** 885.235 (1g) (ag) of the statutes is created to read:

7 885.235 (1g) (ag) The fact that the analysis shows that the person had a
8 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0 is relevant
9 evidence on the issue of being under the combined influence of
10 tetrahydrocannabinols and alcohol, a controlled substance, a controlled substance
11 analog, or any other drug, but, except as provided in sub. (1L), is not to be given any
12 prima facie effect.

13 **SECTION 200.** 885.235 (1g) (cg) of the statutes is created to read:

14 885.235 (1g) (cg) The fact that the analysis shows that the person had a
15 tetrahydrocannabinols concentration of 5.0 or more is prima facie evidence that he
16 or she had a tetrahydrocannabinols concentration of 5.0 or more.

17 **SECTION 201.** 885.235 (1L) of the statutes is created to read:

18 885.235 (1L) In any action under s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63
19 (2p), or 350.101 (1) (cg), evidence of the amount of tetrahydrocannabinols in the
20 person's blood at the time in question, as shown by chemical analysis of a sample of
21 the person's blood or urine, is admissible on the issue of whether he or she had a
22 tetrahydrocannabinols concentration in the range specified in s. 23.33 (4c) (a) 3g.,
23 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1) (cg) if the sample was taken within 3
24 hours after the event to be proved. The fact that the analysis shows that the person
25 had a tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0

1 is prima facie evidence that the person had a tetrahydrocannabinols concentration
2 in the range specified in s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63 (2p), or 350.101
3 (1) (cg).

4 **SECTION 202.** 885.235 (1m) of the statutes is amended to read:

5 885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681
6 (1) (bn), 346.63 (2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the
7 person's blood at the time in question, as shown by chemical analysis of a sample of
8 the person's blood or urine or evidence of the amount of alcohol in the person's breath,
9 is admissible on the issue of whether he or she had an alcohol concentration in the
10 range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m),
11 or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the
12 sample was taken within 3 hours after the event to be proved. The fact that the
13 analysis shows that the person had an alcohol concentration of more than 0.0 but not
14 more than 0.08 is prima facie evidence that the person had an alcohol concentration
15 in the range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn) 1., 346.63
16 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7).

17 **SECTION 203.** 885.235 (4) of the statutes is amended to read:

18 885.235 (4) The provisions of this section relating to the admissibility of
19 chemical tests for alcohol or tetrahydrocannabinols concentration or intoxication or
20 for determining whether a person had a detectable amount of a restricted controlled
21 substance in his or her blood shall not be construed as limiting the introduction of
22 any other competent evidence bearing on the question of whether or not a person was
23 under the influence of an intoxicant, had a detectable amount of a restricted
24 controlled substance in his or her blood, had a specified alcohol or
25 tetrahydrocannabinols concentration, or had an alcohol concentration in the range

1 specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m), or
2 350.101 (1) (c), or had a tetrahydrocannabinols concentration in the range specified
3 in s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1) (cg).

4 **SECTION 204.** 895.047 (3) (a) of the statutes is amended to read:

5 895.047 (3) (a) If the defendant proves by clear and convincing evidence that
6 at the time of the injury the claimant was under the influence of any controlled
7 substance or controlled substance analog to the extent prohibited under s. 346.63 (1)
8 (a), or had an alcohol concentration, as defined in s. 340.01 (1v), of 0.08 or more or
9 a tetrahydrocannabinols concentration, as defined in s. 23.33 (1) (k), of 5.0 or more,
10 there shall be a rebuttable presumption that the claimant's intoxication or drug use
11 was the cause of his or her injury.

12 **SECTION 205.** 905.04 (4) (f) of the statutes is amended to read:

13 905.04 (4) (f) *Tests for intoxication.* There is no privilege concerning the results
14 of or circumstances surrounding any chemical tests for intoxication or for alcohol
15 concentration, as defined in s. 340.01 (1v), or tetrahydrocannabinols concentration,
16 as defined in s. 23.33 (1) (k).

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

18 939.22 (33) (a) A controlled substance included in schedule I under ch. 961
19 ~~other than a tetrahydrocannabinol.~~

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

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

22 939.22 (39g) "Tetrahydrocannabinols concentration" has the meaning given in
23 s. 23.33 (1) (k).

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

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

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

4 940.09 (1) (dg) Causes the death of an unborn child by the operation or
5 handling of a vehicle while the person has a tetrahydrocannabinols concentration of
6 5.0 or more.

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

8 940.09 (1g) (bg) Causes the death of another by the operation or handling of
9 a firearm or airgun while the person has a tetrahydrocannabinols concentration of
10 5.0 or more.

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

12 940.09 (1g) (dg) Causes the death of an unborn child by the operation or
13 handling of a firearm or airgun while the person has a tetrahydrocannabinols
14 concentration of 5.0 or more.

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

16 940.09 (1m) (a) A person may be charged with and a prosecutor may proceed
17 upon an information based upon a violation of any combination of sub. (1) (a), (am),
18 ~~or (b), or (bg)~~; any combination of sub. (1) (a), (am), ~~(bg)~~, or (bm); any combination of
19 sub. (1) (c), (cm), ~~or (d), or (dg)~~; any combination of sub. (1) (c), (cm), ~~(dg)~~, or (e); any
20 combination of sub. (1g) (a), (am), ~~or (b), or (bg)~~; or any combination of sub. (1g) (c),
21 (cm), ~~or (d), or (dg)~~ for acts arising out of the same incident or occurrence.

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

23 940.09 (1m) (b) If a person is charged in an information with any of the
24 combinations of crimes referred to in par. (a), the crimes shall be joined under s.
25 971.12. If the person is found guilty of more than one of the crimes so charged for

1 acts arising out of the same incident or occurrence, there shall be a single conviction
2 for purposes of sentencing and for purposes of counting convictions under s. 23.33
3 (13) (b) 2. and 3., under s. 23.335 (23) (c) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under
4 s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bg), (bm),
5 (c), (cm), (d), (dg), and (e) each require proof of a fact for conviction which the others
6 do not require, and sub. (1g) (a), (am), (b), (bg), (c), (cm), ~~and (d)~~, and (dg) each require
7 proof of a fact for conviction which the others do not require.

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

9 940.09 (2) (a) In any action under this section, the defendant has a defense if
10 he or she proves by a preponderance of the evidence that the death would have
11 occurred even if he or she had been exercising due care and he or she had not been
12 under the influence of an intoxicant, did not have a detectable amount of a restricted
13 controlled substance in his or her blood, did not have a tetrahydrocannabinols
14 concentration of 5.0 or greater, or did not have an alcohol concentration described
15 under sub. (1) (b), (bm), (d) or (e) or (1g) (b) or (d).

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

17 940.09 (2) (b) In any action under sub. (1) (am) or (cm) or (1g) (am) or (cm) that
18 is based on the defendant allegedly having a detectable amount of
19 methamphetamine or gamma-hydroxybutyric acid or
20 ~~delta-9-tetrahydrocannabinol~~ in his or her blood, the defendant has a defense if he
21 or she proves by a preponderance of the evidence that at the time of the incident or
22 occurrence he or she had a valid prescription for methamphetamine or one of its
23 metabolic precursors or gamma-hydroxybutyric acid or
24 ~~delta-9-tetrahydrocannabinol~~.

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

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

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

8 940.25 (1) (bg) Causes great bodily harm to another human being by the
9 operation of a vehicle while the person has a tetrahydrocannabinols concentration
10 of 5.0 or more.

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

12 940.25 (1) (dg) Causes great bodily harm to an unborn child by the operation
13 of a vehicle while the person has a tetrahydrocannabinols concentration of 5.0 or
14 more.

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

16 940.25 (1m) (a) A person may be charged with and a prosecutor may proceed
17 upon an information based upon a violation of any combination of sub. (1) (a), (am),
18 ~~or (b), or (bg)~~; any combination of sub. (1) (a), (am), ~~(bg)~~, or (bm); any combination of
19 sub. (1) (c), (cm), ~~or (d), or (dg)~~; or any combination of sub. (1) (c), (cm), ~~(dg)~~, or (e) for
20 acts arising out of the same incident or occurrence.

21 (b) If a person is charged in an information with any of the combinations of
22 crimes referred to in par. (a), the crimes shall be joined under s. 971.12. If the person
23 is found guilty of more than one of the crimes so charged for acts arising out of the
24 same incident or occurrence, there shall be a single conviction for purposes of
25 sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3.,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **CHAPTER 961**

16 **SUBCHAPTER VIII**

17 **REGULATION OF MARIJUANA**

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **961.71 Underage persons prohibitions; penalties.** (1) (a) 1. No permittee
13 may sell, distribute, or deliver marijuana to any underage person, except that a
14 permittee that is also a compassion center may sell, distribute, or deliver to an
15 underage person who is a qualifying patient or to a treatment team.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 controlled substance in his or her blood, and offenses concerning the operation of
2 commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

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

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

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

14 967.055 (1m) (b) 1. A controlled substance included in schedule I under ch. 961
15 ~~other than a tetrahydrocannabinol.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **973.016 Special disposition for marijuana-related crimes. (1)**

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

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

19 2. One of the following applies:

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

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

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

1 2. If the court receiving a petition under subd. 1. determines that par. (a)
2 applies, the court shall schedule a hearing to consider the petition. At the hearing,
3 if the court determines that par. (a) 2. b. applies, the court shall resentence the person
4 or adjust the probation and change the record to reflect the lesser crime, and, if the
5 court determines that par. (a) 2. a. applies, the court shall dismiss the conviction and
6 expunge the record. Before resentencing, adjusting probation, or dismissing a
7 conviction under this subdivision, the court shall determine that the action does not
8 present an unreasonable risk of danger to public safety.

9 3. If the court resentsences the person or adjusts probation, the person shall
10 receive credit for time or probation served for the relevant offense.

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

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

17 2. One of the following applies:

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

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

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

24 2. If the court receiving a petition under subd. 1. determines that par. (a)
25 applies, the court shall schedule a hearing to consider the petition. At the hearing,

1 if the court determines that par. (a) 2. b. applies, the court shall redesignate the crime
2 to a lesser crime and change the record to reflect the lesser crime, and if the court
3 determines that par. (a) 2. a. applies, the court shall expunge the conviction. Before
4 redesignating or expunging under this subdivision, the court shall determine that
5 the action does not present an unreasonable risk of danger to public safety.

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

10 **SECTION 259. Nonstatutory provisions.**

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

17 **SECTION 260. Initial applicability.**

18 (1) **INSURANCE COVERAGE OF MEDICAL USE OF MARIJUANA.**

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

23 (b) For policies or plans that are affected by a collective bargaining agreement
24 containing provisions inconsistent with this act, the treatment of ss. 609.83 and
25 632.895 (16p) first applies to policy or plan years beginning on the effective date of

1 this paragraph or on the day on which the collective bargaining agreement is newly
2 established, extended, modified, or renewed, whichever is later.

3 (END)

Walkenhorst Barber, Sarah

From: Hanaman, Cathlene
Sent: Wednesday, April 17, 2019 1:07 PM
To: Walkenhorst Barber, Sarah
Subject: FW: Marijuana legalization final request

Importance: High

Sarah:

Do you have time to do this?

From: Bagley, McKenzie <McKenzie.Bagley@legis.wisconsin.gov>
Sent: Wednesday, April 17, 2019 1:06 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Subject: Marijuana legalization final request
Importance: High

Hi Cathlene,

My apologies for the short notice, but we are preparing to release the marijuana bill tomorrow. I had one quick final request if it is at all possible to do today, and then we are ready to jacket the bill:

On page 25-

CHAPTER 50 SUBCHAPTER VI DISTRIBUTION AND TESTING CENTERS 50.80

(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.

We would like to include all IBD (irritable bowel diseases), including Crohn's and Colitis if this needs to be specified. We've had a number of people concerned that the medical provisions of the bill only include Crohn's and not other similar diseases.

Please don't hesitate to reach out with any questions!

Thanks,
McKenzie

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

Kreye, Joseph

From: Cathlene Hanaman <cathleneh@gmail.com>
Sent: Wednesday, April 17, 2019 3:32 PM
To: Walkenhorst Barber, Sarah; Kreye, Joseph
Subject: Fwd: Marijuana legalization final request

Can you run to a /1 and jacket?

Sent from my iPhone

Begin forwarded message:

That's perfect, thank you! Can we get it jacketed when you are able?

Best,
McKenzie

From: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Sent: Wednesday, April 17, 2019 1:27 PM
To: Bagley, McKenzie <McKenzie.Bagley@legis.wisconsin.gov>
Subject: RE: Marijuana legalization final request

Thanks! You'll get it shortly.

From: Bagley, McKenzie <McKenzie.Bagley@legis.wisconsin.gov>
Sent: Wednesday, April 17, 2019 1:06 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Subject: Marijuana legalization final request
Importance: High

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Please don't hesitate to reach out with any questions!

Thanks,
McKenzie

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



State of Wisconsin
2019 - 2020 LEGISLATURE

1

LRB-0154/P5
ALL:wlj&kjf

No
change

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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 this paragraph or on the day on which the collective bargaining agreement is newly
2 established, extended, modified, or renewed, whichever is later.

3 (END)

Walker, Dan

From: LRB.Legal
To: Rep.Sargent@legis.wisconsin.gov
Subject: Draft review: LRB -0154/1
Attachments: 19-0154/1

State of Wisconsin - Legislative Reference Bureau
One East Main Street - Suite 200 - Madison

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Cathlene M. Hanaman, Deputy Chief and Chief Operating Officer, at (608) 504-5858, at cathlene.hanaman@legis.wisconsin.gov, or at One East Main Street, Suite 200.

We will jacket this draft for the Assembly and rush the jacket over immediately.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at LRB.Legal@legis.wisconsin.gov or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.