



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1539/PT
CMH&JK:wj

p2
SUB^d
EHS

DOA:.....Bolhorst, BB0218 - Medical marijuana

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

IN 2/5

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

HEALTH

Current law prohibits a person from manufacturing, distributing, or delivering tetrahydrocannabinols; possessing THC with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess THC; using drug paraphernalia; or possessing drug paraphernalia. This bill creates a medical use defense to such THC-related prosecutions and forfeiture actions for a person who is registered with DHS as having a specified debilitating medical condition or undergoing a specified debilitating treatment. The bill also prohibits the arrest or prosecution of such a person for those offenses. The defense and prohibition do not apply under certain circumstances, such as 1) if the person does not have a valid registry identification card; 2) if the amount of cannabis involved is more than 12 plants or three ounces of leaves or flowers; 3) if, while under the influence of THC, the person drives a motor vehicle or engages in other conduct that endangers another person; or 4) if the person smokes cannabis on a school bus or public transit or on school premises.

Under the bill, DHS must establish a medical cannabis registry, and a person may apply to DHS for a registry identification card. The bill specifies that the following medical conditions or treatments qualify a person for the registry: cancer, glaucoma, AIDS or 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; opioid abatement or reduction or treatment for opioid addiction; a chronic or debilitating disease or medical condition or the treatment of such a disease or condition that causes cachexia, severe pain, severe nausea, seizures, or severe and persistent muscle spasms; and any other medical condition or treatment DHS designates as a debilitating medical condition or treatment. DHS must issue a qualified applicant a registry identification card unless, in the previous ten years, the applicant was serving a sentence or on probation for certain violent felony convictions. DHS must keep registry information and applications confidential except for verifying status for law enforcement purposes.

Under the bill, DHS also must license and regulate dispensaries to facilitate medical THC. The bill prohibits a dispensary from being located within 500 feet of a school, from distributing to one person more than 12 cannabis plants or three ounces of cannabis leaves or flowers, and from possessing an excessive quantity of cannabis. An applicant for a dispensary license must pay an initial application fee of \$250, and a dispensary must pay an annual fee of \$5,000.

The bill requires DHS to promulgate rules to allow entities to grow cannabis and distribute it to dispensaries. The bill also requires DHS to register entities as THC-testing laboratories.

The bill changes state law regarding THC. It does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing THC and applies to both intrastate and interstate violations.

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.

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NSA-ES

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 20.435 (1) (gq) of the statutes is created to read:
- 2 20.435 (1) (gq) *Medical cannabis registry.* All moneys received as fees under
- 3 s. 146.44 (2) (a) 4. and (ac) 3. and (4m), for the purposes of the Medical Cannabis
- 4 Registry Program under s. 146.44.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

- 5 **SECTION 2.** 20.435 (1) (jm) of the statutes is created to read:

1 (2) The department shall promulgate rules allowing entities to grow cannabis
2 and distribute cannabis and tetrahydrocannabinols to dispensaries, shall develop
3 security guidelines for the entities, and shall regulate such entities. The department
4 may not limit the amount of cannabis or tetrahydrocannabinols for the purposes of
5 this subsection.

6 **50.592 Licensing.** The department shall issue licenses to operate as a
7 dispensary and shall decide which and how many applicants receive a license based
8 on all of the following:

9 (1) Convenience to treatment teams and the preferences of treatment teams.

10 (2) The ability of an applicant to provide to treatment teams a sufficient
11 amount of tetrahydrocannabinols.

12 (3) The experience the applicant has running a nonprofit organization or a
13 business.

14 (4) The preferences of the governing bodies with jurisdiction over the area in
15 which the applicants are located.

16 (5) The ability of the applicant to keep records confidential and maintain a safe
17 and secure facility.

18 (6) The ability of the applicant to abide by the prohibitions under s. 50.593.

19 **50.593 Prohibitions.** The department may issue a license under this
20 subchapter to an applicant only if the applicant has been a resident of this state for
21 at least the 2 years immediately preceding the application. The department may not
22 issue a license to, and must revoke a license of, any entity to which any of the
23 following applies:

24 (1) The entity is located within 500 feet of a public or private elementary or
25 secondary school, including a charter school.

1 (2) The dispensary distributes to a treatment team a number of cannabis
2 plants or an amount of usable cannabis that, in the period of distribution, results in
3 the treatment team possessing more than the maximum authorized amount.

4 (3) The dispensary possesses a number of cannabis plants or an amount of
5 usable cannabis that exceeds the combined maximum authorized amount for all of
6 the treatment teams that use the dispensary by a number or an amount determined
7 by the department by rule to be unacceptable.

8 **50.594 Licensing procedure.** (1) An application for a license under this
9 subchapter shall be in writing on a form provided by the department and include the
10 licensing application fee under sub. (2) (a).

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

12 (b) The annual fee for a dispensary is \$5,000.

13 (3) A dispensary license is valid unless revoked. Each license shall be issued
14 only for the applicant named in the application and may not be transferred or
15 assigned.

16 **50.595 Distribution of medical tetrahydrocannabinols.** (1) A dispensary
17 may deliver or distribute tetrahydrocannabinols and drug paraphernalia to a
18 member of a treatment team if the dispensary receives a copy of the qualifying
19 patient's written certification or registry identification card.

20 (2) A dispensary may possess or manufacture tetrahydrocannabinols and drug
21 paraphernalia with the intent to deliver or distribute under sub. (1).

22 (2m) An entity operating under rules promulgated under s. 50.591 (2) may
23 possess tetrahydrocannabinols, possess or manufacture tetrahydrocannabinols with
24 the intent to deliver or distribute to a dispensary, or deliver or distribute
25 tetrahydrocannabinols to a dispensary.

1 **(3)** A dispensary may have 2 locations, one for cultivation or production and
2 one for distribution.

3 **(4)** A dispensary shall have all tetrahydrocannabinols and cannabis tested for
4 mold, fungus, pesticides, and other contaminants and may not distribute
5 tetrahydrocannabinols or cannabis that test positive for mold, fungus, pesticides, or
6 other contaminants if the contaminants, or level of contaminants, are identified by
7 the testing laboratories under s. 50.596 to be potentially unsafe to a qualifying
8 patient's health.

9 **(5)** A dispensary or an entity operating under rules promulgated under s.
10 50.591 (2) may cultivate cannabis, including cultivating cannabis outdoors.

11 **50.596 Testing laboratories.** The department shall register entities as
12 tetrahydrocannabinols-testing laboratories. The laboratories may possess or
13 manufacture tetrahydrocannabinols and drug paraphernalia and shall perform the
14 following services:

15 **(1)** Test cannabis and tetrahydrocannabinols produced for dispensaries for
16 potency and for mold, fungus, pesticides, and other contaminants.

17 **(2)** Research findings related to medication with tetrahydrocannabinols,
18 including findings that identify potentially unsafe levels of contaminants.

19 **(3)** Provide training to persons who hold registry identification cards,
20 treatment teams, persons employed by dispensaries, and entities that grow cannabis
21 and distribute to dispensaries cannabis and tetrahydrocannabinols, as provided by
22 rules promulgated under s. 50.591 (2), on the following:

23 **(a)** The safe and efficient cultivation, harvesting, packaging, labeling, and
24 distribution of cannabis and tetrahydrocannabinols.

25 **(b)** Security and inventory accountability procedures.

1 (c) The most recent research on medication with tetrahydrocannabinols.

2 **50.597 Confidentiality.** The department may disclose to a law enforcement
3 agency only information necessary to verify that a dispensary has a license issued
4 under this subchapter, an entity is complying with rules under s. 50.591 (2), or an
5 entity is registered under s. 50.596.

6 **SECTION 4.** 59.54 (25) (a) (intro.) of the statutes is amended to read:

7 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit
8 the possession of marijuana, as defined in s. 961.01 (14), subject to par. (c) and the
9 exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the
10 ordinance; except that if. Any ordinance enacted under this paragraph shall provide
11 a person who is prosecuted under it with the defenses that the person has under s.
12 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint
13 is issued regarding an allegation of possession of more than 25 grams of marijuana,
14 or ^{the} possession of any amount of marijuana following a conviction in this state for
15 possession of marijuana, ^{and} the subject of the complaint ^{has been convicted of a violation under} may not be prosecuted under
16 this subsection for the same action that is the subject of the complaint unless all of
17 the following occur:

18 **SECTION 5.** 59.54 (25) (c) of the statutes is created to read:

19 59.54 (25) (c) A person may not be prosecuted under an ordinance enacted
20 under par. (a) if, under s. 968.072 (2) or (4) (b), the person would not be subject to
21 prosecution under s. 961.41 (3g) (e).

22 **SECTION 6.** 59.54 (25m) of the statutes is amended to read:

23 59.54 (25m) DRUG PARAPHERNALIA. The board may enact an ordinance to
24 prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574
25 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance.

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1 Any ordinance enacted under this subsection shall provide a person prosecuted
2 under it with the defenses that the person has under s. 961.5755 to prosecutions
3 under s. 961.573 (1), 961.574 (1), or 961.575 (1). A person may not be prosecuted
4 under an ordinance enacted under this subsection if, under s. 968.072 (3) or (4) (b),
5 the person would not be subject to prosecution under s. 961.573 (1), 961.574 (1), or
6 961.575 (1). The board may enforce an ordinance enacted under this subsection in
7 any municipality within the county.

8 **SECTION 7.** 66.0107 (1) (bm) of the statutes is amended to read:

9 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
10 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)
11 (intro.), and provide a forfeiture for a violation of the ordinance; ~~except that if.~~ Any
12 ordinance enacted under this paragraph shall provide a person who is prosecuted
13 under it with the defenses that the person has under s. 961.436 to prosecutions under
14 s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint is issued regarding an allegation
15 of ^{the} 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; ^{and} the subject
17 of the complaint ^{has been convicted of a prior violation under s. 961.41 (3g) (e), the} may not be prosecuted under this paragraph for the same action that ^{subject}
18 is the subject of the complaint unless the charges are dismissed or the district
19 attorney declines to prosecute the case.

20 **SECTION 8.** 66.0107 (1) (bp) of the statutes is amended to read:

21 66.0107 (1) (bp) Enact and enforce an ordinance to prohibit conduct that is the
22 same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or
23 (2) and provide a forfeiture for violation of the ordinance. Any ordinance enacted
24 under this paragraph shall provide a person prosecuted under it with the defenses
25 that the person has under s. 961.5755 to prosecutions under s. 961.573 (1), 961.574

1 (1), or 961.575 (1). A person may not be prosecuted under an ordinance enacted
2 under this paragraph if, under s. 968.072 (3) or (4) (b), the person would not be subject
3 to prosecution under s. 961.573 (1), 961.574 (1), or 961.575 (1).

4 SECTION 9. 66.0414 of the statutes is created to read:

5 **66.0414 Cultivation of tetrahydrocannabinols.** No village, town, city, or
6 county may enact or enforce an ordinance or a resolution that prohibits cultivating
7 tetrahydrocannabinols or cannabis outdoors if the cultivation is by one of the
8 following:

9 (1) A dispensary, as defined in s. 50.59 (1).

10 (2) A person who is cultivating tetrahydrocannabinols for medication with
11 tetrahydrocannabinols, as defined in s. 146.44 (1) (c), if the amount of cannabis does
12 not exceed the maximum authorized amount, as defined in s. 961.01 (14c).

13 (3) An entity that is cultivating cannabis for distribution as permitted under
14 rules promulgated under s. 50.591 (2).

15 SECTION 10. 66.1201 (2m) of the statutes is amended to read:

16 66.1201 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
17 facility, or privilege under ss. 66.1201 to 66.1211 may not be denied the right, benefit,
18 facility, or privilege in any manner for any purpose nor be discriminated against
19 because of sex, race, color, creed, or sexual orientation; status as a victim of domestic
20 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the
21 person holds, or has applied for, a registry identification card, as defined in s. 146.44
22 (1) (g), has been the subject of a written certification, as defined in s. 146.44 (1) (h),
23 or is or has been a member of a treatment team, as defined in s. 961.01 (20t); or
24 national origin.

25 SECTION 11. 66.1213 (3) of the statutes is amended to read:

1 66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
2 facility, or privilege under this section may not be denied the right, benefit, facility,
3 or privilege in any manner for any purpose nor be discriminated against because of
4 sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse,
5 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
6 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
7 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or
8 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
9 origin.

10 **SECTION 12.** 66.1301 (2m) of the statutes is amended to read:

11 66.1301 (2m) DISCRIMINATION. Persons entitled to any right, benefit, facility,
12 or privilege under ss. 66.1301 to 66.1329 may not be denied the right, benefit, facility,
13 or privilege in any manner for any purpose nor be discriminated against because of
14 sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse,
15 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
16 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
17 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or
18 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
19 origin.

20 **SECTION 13.** 66.1331 (2m) of the statutes is amended to read:

21 66.1331 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
22 facility, or privilege under this section may not be denied the right, benefit, facility,
23 or privilege in any manner for any purpose nor be discriminated against because of
24 sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse,
25 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person

1 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
2 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or
3 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
4 origin.

5 **SECTION 14.** 66.1333 (3) (e) 2. of the statutes is amended to read:

6 66.1333 (3) (e) 2. Persons otherwise entitled to any right, benefit, facility, or
7 privilege under this section may not be denied the right, benefit, facility, or privilege
8 in any manner for any purpose nor be discriminated against because of sex, race,
9 color, creed, or sexual orientation;; status as a victim of domestic abuse, sexual
10 assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person holds, or
11 has applied for, a registry identification card, as defined in s. 146.44 (1) (g), has been
12 the subject of a written certification, as defined in s. 146.44 (1) (h), or is or has been
13 a member of a treatment team, as defined in s. 961.01 (20t); or national origin.

14 **SECTION 15.** 77.52 (13) of the statutes is amended to read:

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

1 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
2 (51), (52), (66), and (67), and (69).

3 **SECTION 16.** 77.53 (10) of the statutes is amended to read:

4 77.53 (10) For the purpose of the proper administration of this section and to
5 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
6 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
7 (d), or taxable services sold by any person for delivery in this state is sold for storage,
8 use, or other consumption in this state until the contrary is established. The burden
9 of proving the contrary is upon the person who makes the sale unless that person
10 takes from the purchaser an electronic or paper certificate, in a manner prescribed
11 by the department, to the effect that the property, or items, property, or goods under
12 s. 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise
13 exempt from the tax, except that no certificate is required for the sale of tangible
14 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
15 services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n),
16 (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), (52), and (67), and (69).

17 **SECTION 17.** 77.54 (69) of the statutes is created to read:

18 77.54 (69) The sales price from the sales of and the storage, use, or other
19 consumption of medical tetrahydrocannabinols and drug paraphernalia delivered or
20 distributed by a dispensary licensed under s. 50.592.

21 **SECTION 18.** 106.50 (1m) (h) of the statutes is amended to read:

22 106.50 (1m) (h) "Discriminate" means to segregate, separate, exclude, or treat
23 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)
24 because of sex, race, color, sexual orientation, disability, religion, national origin,
25 marital status, or family status; status as a victim of domestic abuse, sexual assault,

1 or stalking; whether the person holds, or has applied for, a registry identification
2 card, as defined in s. 146.44 (1) (g), has been the subject of a written certification, as
3 defined in s. 146.44 (1) (h), or is or has been a member of a treatment team, as defined
4 in s. 961.01 (20t); lawful source of income;; age;; or ancestry.

5 **SECTION 19.** 146.44 of the statutes is created to read:

6 **146.44 Medical Cannabis Registry Program. (1) DEFINITIONS.** In this
7 section:

8 (a) “Applicant” means a person who is applying for a registry identification card
9 under sub. (2) (a) or (ac).

10 (ag) “Bona fide practitioner-patient relationship” means a relationship
11 between the practitioner and the patient that includes all of the following:

12 1. An assessment of the patient’s medical history and current medical condition
13 by the practitioner, including an in-person physical examination if appropriate.

14 2. A consultation between the practitioner and the patient with respect to the
15 patient’s debilitating medical condition or treatment.

16 3. Availability by the practitioner to provide follow-up care and treatment to
17 the patient, including patient examinations.

18 (b) “Debilitating medical condition or treatment” means any of the following:

19 1. Cancer, glaucoma, acquired immunodeficiency syndrome, a positive test for
20 the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV,
21 Crohn’s disease, a hepatitis C virus infection, Alzheimer’s disease, amyotrophic
22 lateral sclerosis, nail-patella syndrome, Ehlers-Danlos Syndrome, post-traumatic
23 stress disorder, or the treatment of these conditions.

24 2. Opioid abatement or reduction or treatment for opioid addiction.

1 3. 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 4. 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 of health services under s. 961.436 (5).

8 (c) "Medication with tetrahydrocannabinols" means any of the following:

9 1. The use of tetrahydrocannabinols in any form by a qualifying patient to
10 alleviate the symptoms or effects of the qualifying patient's debilitating medical
11 condition or treatment.

12 2. The acquisition, possession, cultivation, or transportation of
13 tetrahydrocannabinols in any form by a qualifying patient if done to facilitate his or
14 her use of the tetrahydrocannabinols under subd. 1.

15 3. The acquisition, possession, cultivation, or transportation of
16 tetrahydrocannabinols in any form by a primary caregiver of a qualifying patient,
17 the transfer of tetrahydrocannabinols in any form between a qualifying patient and
18 his or her primary caregivers, or the transfer of tetrahydrocannabinols in any form
19 between persons who are primary caregivers for the same qualifying patient if all of
20 the following apply:

21 a. The acquisition, possession, cultivation, transportation, or transfer of the
22 tetrahydrocannabinols is done to facilitate the qualifying patient's use of
23 tetrahydrocannabinols under subd. 1. or 2.

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

4 (cm) "Out-of-state registry identification card" means a document that is valid
5 as provided under sub. (7) (f).

6 (d) "Primary caregiver" means a person who has agreed to help a qualifying
7 patient in his or her medication with tetrahydrocannabinols and who has a registry
8 identification card.

9 (e) "Qualifying patient" means a person who has been diagnosed in the course
10 of a bona fide practitioner-patient relationship as having or undergoing a
11 debilitating medical condition or treatment but does not include a person under the
12 age of 18 years unless all of the following apply:

13 1. The person's practitioner has explained the potential risks and benefits of
14 medication with tetrahydrocannabinols to the person and to a parent, guardian, or
15 person having legal custody of the person.

16 2. The parent, guardian, or person having legal custody provides the
17 practitioner a written statement consenting to do all of the following:

18 a. Allow medication with tetrahydrocannabinols for the person.

19 b. Serve as a primary caregiver for the person.

20 c. Manage the person's medication with tetrahydrocannabinols.

21 (f) "Registrant" means a person to whom a registry identification card is issued.

22 (g) "Registry identification card" means a document issued by the department
23 under sub. (4) that identifies a person as a qualifying patient or primary caregiver.

24 (h) "Written certification" means a statement written by a person's practitioner
25 if all of the following apply:

1 1. The statement indicates that, in the practitioner's professional opinion, the
2 person has or is undergoing a debilitating medical condition or treatment and the
3 potential benefits of medication with tetrahydrocannabinols would likely outweigh
4 the health risks for the person.

5 2. The statement indicates that the opinion described in subd. 1. was made in
6 the course of a bona fide practitioner-patient relationship.

7 3. The statement is signed by the practitioner or is contained in the person's
8 medical records.

9 **(2) APPLICATION.** (a) An adult who is claiming to be a qualifying patient may
10 apply for a registry identification card by submitting to the department all of the
11 following:

12 1. A signed application form that contains the applicant's name, address, and
13 date of birth.

14 2. A written certification.

15 3. The name, address, and telephone number of the applicant's current
16 practitioner, as listed in the written certification.

17 4. A registration fee in an amount determined by the department, but not to
18 exceed \$150.

19 5. Any information that the department determines is necessary for a
20 background check under par. (am).

21 (ac) A person who is at least 21 years of age may apply for a registry
22 identification card as a primary caregiver by submitting to the department all of the
23 following:

24 1. A signed application form that contains the applicant's name, address, and
25 date of birth.

1 2. A copy of a written certification or copy of a registration identification card
2 for each qualifying patient for whom the applicant will be the primary caregiver.

3 3. A registration fee of \$250.

4 4. Any information that the department determines is necessary for a
5 background check under par. (am).

6 (am) 1. In this paragraph:

7 a. "Background check" means a search of department of justice records to
8 determine whether an applicant for a registry identification card has been convicted
9 of a disqualifying offense.

10 b. "Disqualifying offense" means a violent crime under s. 165.84 (7) (ab) or a
11 substantially similar violation of federal law that is a felony.

12 2. The department shall convey the information provided by an applicant
13 under par. (a) or (ac) to the department of justice, and the department of justice shall
14 perform a background check on the applicant.

15 3. If the department of justice determines that the applicant has been convicted
16 of a disqualifying offense, the department of health services shall deny the
17 application unless at least 10 years has passed since the completion of any sentence
18 imposed for any disqualifying offense, including any period of incarceration, parole,
19 and extended supervision, and any period of probation imposed for a disqualifying
20 offense.

21 (b) The department shall promulgate rules specifying how a parent, guardian,
22 or person having legal custody of a child may apply for a registry identification card
23 for the child and the circumstances under which the department may approve or
24 deny the application.

1 **(3) PROCESSING THE APPLICATION.** The department shall verify the information
2 the applicant submitted under sub. (2) (a) or (ac) and shall approve or deny the
3 application within 30 days after receiving it. The department may deny an
4 application submitted under sub. (2) (a) or (ac) only if one of the following applies:

5 (a) The applicant did not provide the required information or provided false
6 information.

7 (b) The department is required to deny the application under sub. (2) (am) 3.

8 (c) The department is required to deny the application under the rules
9 promulgated under sub. (2) (b).

10 **(4) ISSUING A REGISTRY IDENTIFICATION CARD.** The department shall issue an
11 applicant a registry identification card within 5 days after approving the application
12 under sub. (3). Unless voided under sub. (5) (b) or (c) or revoked under rules
13 promulgated under sub. (7) (d), a registry identification card expires 2 years from the
14 date of issuance. A registry identification card shall contain all of the following:

15 (a) The name, address, and date of birth of all of the following:

16 1. The registrant.

17 2. Each primary caregiver, if the registrant is a qualifying patient.

18 3. Each qualifying patient, if the registrant is a primary caregiver.

19 (b) The date of issuance and expiration date of the registry identification card.

20 (c) A photograph of the registrant.

21 (d) Other information the department may require by rule.

22 **(4m) ANNUAL FEE.** Primary caregivers shall pay an annual fee of \$250.

23 **(5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT.** (a) 1. An adult
24 registrant shall notify the department of any change in the registrant's name and
25 address. An adult registrant who is a qualifying patient shall notify the department

1 of any change in his or her practitioner, of any significant improvement in his or her
2 health as it relates to his or her debilitating medical condition or treatment, and if
3 a primary caregiver stops helping the registrant in the registrant's medication with
4 tetrahydrocannabinols. A registrant who is a primary caregiver shall notify the
5 department if the registrant becomes a primary caregiver for an additional
6 qualifying patient and shall include with the notice a copy of a written certification
7 or copy of a registration identification card for each additional qualifying patient.

8 2. If a qualifying patient is a child, a primary caregiver for the child shall
9 provide the department with any information that the child, if he or she were an
10 adult qualifying patient, would have to provide under subd. 1. within 10 days after
11 the date of the change to which the information relates.

12 (b) If a registrant fails to notify the department within 10 days after any change
13 for which notification is required under par. (a) 1., his or her registry identification
14 card is void. If a registrant fails to comply with par. (a) 2., the registry identification
15 card for the qualifying patient to whom the information under par. (a) 2. relates is
16 void.

17 (c) If a qualifying patient's registry identification card becomes void under par.
18 (b), the registry identification card for each of the qualifying patient's primary
19 caregivers with regard to that qualifying patient is void. The department shall send
20 written notice of this fact to each such primary caregiver.

21 **(6) RECORDS.** (a) The department shall maintain a list of all registrants.

22 (b) Notwithstanding s. 19.35 and except as provided in par. (c) and sub. (2) (am),
23 the department may not disclose information from an application submitted or a
24 registry identification card issued under this section.

1 (c) The department may disclose to a law enforcement agency, upon the request
2 of the law enforcement agency, only information necessary to verify that a person
3 possesses a valid registry identification card.

4 (7) RULES. The department shall promulgate rules that do all of the following:

5 (a) Create a form for an application under sub. (2).

6 (b) Specify how the department will verify under sub. (3) the information
7 submitted under sub. (2).

8 (c) Specify how and under what circumstances registry identification cards
9 may be renewed.

10 (d) Specify how and under what changed circumstances a registry
11 identification card may be revoked.

12 (e) Specify under what circumstances an applicant whose application is denied
13 may reapply.

14 (f) Ensure that out-of-state registry identification cards are valid only if all of
15 the following apply:

16 1. The person holding the out-of-state registry identification card has been
17 diagnosed with a debilitating medical condition that has been approved by the
18 jurisdiction that issued the card.

19 2. The out-of-state registry identification card allows for medication with
20 tetrahydrocannabinols by the person who holds the card, the card is valid in the
21 jurisdiction in which it was provided, and the person who holds the card is a resident
22 of that jurisdiction.

23 3. The person who holds the card has not been a resident of Wisconsin for a
24 period longer than a period the department determines would allow the person to
25 apply for a registry identification card in Wisconsin.

1 (g) Create guidelines for issuing registry identification cards, and for obtaining
2 and distributing cannabis and tetrahydrocannabinols for medication with
3 tetrahydrocannabinols, to persons under the care of the department who have a
4 debilitating medical condition or treatment.

5 **SECTION 20.** 234.29 of the statutes is amended to read:

6 **234.29 Equality of occupancy and employment.** The authority shall
7 require that occupancy of housing projects assisted under this chapter be open to all
8 regardless of sex, race, religion, or sexual orientation,; status as a victim of domestic
9 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the
10 person holds, or has applied for, a registry identification card, as defined in s. 146.44
11 (1) (g), has been the subject of a written certification, as defined in s. 146.44 (1) (h),
12 or is or has been a member of a treatment team, as defined in s. 961.01 (20t); or creed,
13 and that contractors and subcontractors engaged in the construction of economic
14 development or housing projects, shall provide an equal opportunity for
15 employment, without discrimination as to sex, race, religion, sexual orientation, or
16 creed.

17 **SECTION 21.** 289.33 (3) (d) of the statutes is amended to read:

18 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,
19 authorization, approval, variance or exception or any restriction, condition of
20 approval or other restriction, regulation, requirement or prohibition imposed by a
21 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
22 a town, city, village, county or special purpose district, including without limitation
23 because of enumeration any ordinance, resolution or regulation adopted under s.
24 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),
25 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),

1 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),
2 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),
3 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3),
4 (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16),
5 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70
6 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (7), (8),
7 and (10), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34,
8 61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415,
9 87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III
10 of ch. 91.

11 **SECTION 22.** 349.02 (2) (b) 4. of the statutes is amended to read:

12 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or
13 66.0107 (1) (bm).

14 **SECTION 23.** 767.41 (5) (am) (intro.) of the statutes is amended to read:

15 767.41 (5) (am) (intro.) Subject to pars. (bm) ~~and~~, (c), and (d), in determining
16 legal custody and periods of physical placement, the court shall consider all facts
17 relevant to the best interest of the child. The court may not prefer one parent or
18 potential custodian over the other on the basis of the sex or race of the parent or
19 potential custodian. Subject to pars. (bm) ~~and~~, (c), and (d), the court shall consider
20 the following factors in making its determination:

21 **SECTION 24.** 767.41 (5) (d) of the statutes is created to read:

22 767.41 (5) (d) The court may not consider as a factor in determining the legal
23 custody of a child whether a parent or potential custodian holds, or has applied for,
24 a registry identification card, as defined in s. 146.44 (1) (g), is or has been the subject
25 of a written certification, as defined in s. 146.44 (1) (h), or is or has been a qualifying

1 patient, as defined in s. 146.44 (1) (e), or a primary caregiver, as defined in s. 146.44
2 (1) (d), unless the parent or potential custodian's behavior creates an unreasonable
3 danger to the child that can be clearly articulated and substantiated.

4 **SECTION 25.** 767.451 (5m) (a) of the statutes is amended to read:

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

9 **SECTION 26.** 767.451 (5m) (d) of the statutes is created to read:

10 767.451 (5m) (d) In an action to modify a legal custody order, the court may not
11 consider as a factor in making a determination whether a parent or potential
12 custodian holds, or has applied for, a registry identification card, as defined in s.
13 146.44 (1) (g), is or has been the subject of a written certification, as defined in s.
14 146.44 (1) (h), or is or has been a qualifying patient, as defined in s. 146.44 (1) (e), or
15 a primary caregiver, as defined in s. 146.44 (1) (d), unless the parent or potential
16 custodian's behavior creates an unreasonable danger to the child that can be clearly
17 articulated and substantiated.

18 **SECTION 27.** 961.01 (5m) of the statutes is created to read:

19 961.01 (5m) "Debilitating medical condition or treatment" has the meaning
20 given in s. 146.44 (1) (b).

21 **SECTION 28.** 961.01 (12v) of the statutes is created to read:

22 961.01 (12v) "Lockable, enclosed facility" means an enclosed indoor or outdoor
23 area that is lockable, or requires a security device, to permit access only by a member
24 of a qualifying patient's treatment team.

25 **SECTION 29.** 961.01 (14c) of the statutes is created to read:

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1 961.01 (14c) "Maximum authorized amount" means 12 live cannabis plants or
2 3 ounces of usable cannabis.

3 **SECTION 30.** 961.01 (14g) of the statutes is created to read:

4 961.01 (14g) "Medication with tetrahydrocannabinols" has the meaning given
5 in s. 146.44 (1) (c).

6 **SECTION 31.** 961.01 (17k) of the statutes is created to read:

7 961.01 (17k) "Out-of-state registry identification card" has the meaning given
8 in s. 146.44 (1) (cm).

9 **SECTION 32.** 961.01 (19m) of the statutes is created to read:

10 961.01 (19m) "Primary caregiver" has the meaning given in s. 146.44 (1) (d).

11 **SECTION 33.** 961.01 (20hm) of the statutes is created to read:

12 961.01 (20hm) "Qualifying patient" has the meaning given in s. 146.44 (1) (e).

13 **SECTION 34.** 961.01 (20ht) of the statutes is created to read:

14 961.01 (20ht) "Registry identification card" has the meaning given in s. 146.44
15 (1) (g).

16 **SECTION 35.** 961.01 (20t) of the statutes is created to read:

17 961.01 (20t) "Treatment team" means a qualifying patient and his or her
18 primary caregivers.

19 **SECTION 36.** 961.01 (21f) of the statutes is created to read:

20 961.01 (21f) "Usable cannabis" means cannabis leaves or flowers but does not
21 include seeds, stalks, or roots or any ingredients combined with the leaves or flowers.

22 **SECTION 37.** 961.01 (21t) of the statutes is created to read:

23 961.01 (21t) "Written certification" has the meaning given in s. 146.44 (1) (h).

24 **SECTION 38.** 961.436 of the statutes is created to read:

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1 **961.436 Medical use defense in cases involving**
2 **tetrahydrocannabinols. (1)** A member of a qualifying patient's treatment team
3 has a defense to prosecution under s. 961.41 (1) (h) or (1m) (h) for manufacturing, or
4 possessing with intent to manufacture, tetrahydrocannabinols if all of the following
5 apply:

6 (a) The manufacture or possession is by the treatment team for medication with
7 tetrahydrocannabinols.

8 (b) The amount of cannabis does not exceed the maximum authorized amount.

9 (c) Any live cannabis plants are in a lockable, enclosed facility unless a member
10 of a qualifying patient's treatment team is accessing the plants or has the plants in
11 his or her possession.

12 (d) If the member is a primary caregiver, he or she is not a primary caregiver
13 to more than 10 qualifying patients.

14 **(2)** A member of a qualifying patient's treatment team has a defense to
15 prosecution under s. 961.41 (1) (h) or (1m) (h) for distributing or delivering, or
16 possessing with intent to distribute or deliver, tetrahydrocannabinols to another
17 member of the treatment team if all of the following apply:

18 (a) The distribution, delivery, or possession is by the treatment team for
19 medication with tetrahydrocannabinols.

20 (b) The amount of cannabis does not exceed the maximum authorized amount.

21 (c) Any live cannabis plants are in a lockable, enclosed facility unless a member
22 of a qualifying patient's treatment team is accessing the plants or has the plants in
23 his or her possession.

24 (d) If the member is a primary caregiver, he or she is not a primary caregiver
25 to more than 10 qualifying patients.

1 **(3)** (a) Except as provided in par. (b), a member of a qualifying patient's
2 treatment team has a defense to a prosecution under s. 961.41 (3g) (e) if all of the
3 following apply:

4 1. The possession or attempted possession is by the treatment team for
5 medication with tetrahydrocannabinols.

6 2. The amount of cannabis does not exceed the maximum authorized amount.

7 3. Any live cannabis plants are in a lockable, enclosed facility unless a member
8 of a qualifying patient's treatment team is accessing the plants or has the plants in
9 his or her possession.

10 4. If the member is a primary caregiver, he or she is not a primary caregiver
11 to more than 10 qualifying patients.

12 (b) A person may not assert the defense described in par. (a) if, while he or she
13 possesses or attempts to possess tetrahydrocannabinols, any of the following applies:

14 1. The person drives or operates a motor vehicle while under the influence of
15 tetrahydrocannabinols in violation of s. 346.63 (1) or a local ordinance in conformity
16 with s. 346.63 (1).

17 2. While under the influence of tetrahydrocannabinols, the person operates
18 heavy machinery or engages in any other conduct that endangers the health or
19 well-being of another person.

20 3. The person smokes cannabis in, on, or at any of the following places:

21 a. A school bus or a public transit vehicle.

22 b. The person's place of employment.

23 c. Public or private school premises.

24 d. A juvenile correctional facility.

25 e. A jail or adult correctional facility.

1 f. A public park, beach, or recreation center.

2 g. A youth center.

3 (4) For the purposes of a defense raised under sub. (1), (2), or (3) (a), a valid
4 registry identification card, a valid out-of-state registry identification card, or a
5 written certification is presumptive evidence that the person identified on the card
6 as a qualifying patient or the subject of the written certification is a qualifying
7 patient and that, if the person uses tetrahydrocannabinols, he or she does so to
8 alleviate the symptoms or effects of a debilitating medical condition or treatment.

9 (5) Notwithstanding s. 227.12 (1), any person may petition the department of
10 health services to promulgate a rule to designate a medical condition or treatment
11 as a debilitating medical condition or treatment. The department of health services
12 shall promulgate rules providing for public notice of and a public hearing regarding
13 a petition, with the public hearing providing persons an opportunity to comment
14 upon the petition. After the hearing, but no later than 180 days after the submission
15 of the petition, the department of health services shall approve or deny the petition.
16 The department of health service's decision to approve or deny a petition is subject
17 to judicial review under s. 227.52.

18 **SECTION 39.** 961.55 (8) (c), (d) and (e) of the statutes are created to read:

19 961.55 (8) (c) A valid registry identification card or a valid out-of-state registry
20 identification card.

21 (d) The person's written certification, if the person is a qualifying patient.

22 (e) A written certification for a qualifying patient for whom the person is a
23 primary caregiver.

24 **SECTION 40.** 961.555 (2) (am) 6. of the statutes is amended to read:

1 961.555 (2) (am) 6. The property is contraband that is subject to forfeiture
2 under s. 961.55 (6), (6m), or, unless the defendant invokes a defense under s. 961.436
3 or 961.5755, under s. 961.55 (6) or (7).

4 **SECTION 41.** 961.555 (2r) of the statutes is created to read:

5 961.555 (2r) MEDICAL USE DEFENSE. (a) In an action to forfeit property seized
6 under s. 961.55, the person who was in possession of the property when it was seized
7 has a defense to the forfeiture of the property if any of the following applies:

8 1. The person was prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
9 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property but had
10 a valid defense under s. 961.436 (1), (2), or (3) (a) or 961.5755 (1) (a) or (2).

11 2. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
12 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,
13 if the person had been, he or she would have had a valid defense under s. 961.436 (1),
14 (2), or (3) (a) or 961.5755 (1) (a) or (2).

15 (b) The owner of property seized under s. 961.55 who is raising a defense under
16 par. (a) shall do so in the answer to the complaint that he or she serves under sub.
17 (2) (b). If a property owner raises such a defense in his or her answer, the state must,
18 as part of the burden of proof specified in sub. (3), prove that the facts constituting
19 the defense do not exist.

20 **SECTION 42.** 961.56 (1) of the statutes is amended to read:

21 961.56 (1) It Except as provided in s. 961.555 (2r) (b) and except for any
22 presumption arising under s. 961.436 (4) or 961.5755 (3), it is not necessary for the
23 state to negate any exemption or exception in this chapter in any complaint,
24 information, indictment or other pleading or in any trial, hearing or other proceeding

1 under this chapter. ~~The, and the~~ burden of proof of any exemption or exception is
2 upon the person claiming it.

3 **SECTION 43.** 961.5755 of the statutes is created to read:

4 **961.5755 Medical tetrahydrocannabinols defense in drug**
5 **paraphernalia cases.** (1) (a) Except as provided in par. (b), a member of a
6 treatment team has a defense to prosecution under s. 961.573 (1) if he or she uses,
7 or possesses with the primary intent to use, drug paraphernalia for medication with
8 tetrahydrocannabinols.

9 (b) This subsection does not apply if while the person uses, or possesses with
10 the primary intent to use, drug paraphernalia s. 961.436 (3) (b) 1., 2., or 3. applies.

11 (2) A member of a treatment team has a defense to prosecution under s. 961.574
12 (1) or 961.575 (1) if he or she delivers, possesses with intent to deliver, or
13 manufactures with intent to deliver to another member of his or her treatment team
14 drug paraphernalia, knowing that it will be primarily used by the treatment team
15 for medication with tetrahydrocannabinols.

16 (3) For the purposes of a defense raised under sub. (1) (a) or (2), a valid registry
17 identification card, a valid out-of-state registry identification card, or a written
18 certification is presumptive evidence that the person identified on the valid registry
19 identification card or valid out-of-state registry identification card as a qualifying
20 patient or the subject of the written certification is a qualifying patient and that, if
21 the person uses tetrahydrocannabinols, he or she does so to alleviate the symptoms
22 or effects of his or her debilitating medical condition or treatment.

23 **SECTION 44.** 968.072 of the statutes is created to read:

24 **968.072 Medical cannabis; arrest and prosecution.** (1) DEFINITIONS. In
25 this section:

- 1 (a) "Lockable, enclosed facility" has the meaning given in s. 961.01 (12v).
- 2 (am) "Maximum authorized amount" has the meaning given in s. 961.01 (14c).
- 3 (b) "Medication with tetrahydrocannabinols" has the meaning given in s.
4 961.01 (14g).
- 5 (bm) "Out-of-state registry identification card" has the meaning given in s.
6 146.44 (1) (cm).
- 7 (c) "Primary caregiver" has the meaning given in s. 146.44 (1) (d).
- 8 (d) "Qualifying patient" has the meaning given in s. 146.44 (1) (e).
- 9 (e) "Registry identification card" has the meaning given in s. 146.44 (1) (g).
- 10 (f) "Treatment team" has the meaning given in s. 961.01 (20t).
- 11 (g) "Written certification" has the meaning given in s. 146.44 (1) (h).
- 12 **(2) LIMITATIONS ON ARRESTS AND PROSECUTION; MEDICAL CANNABIS.** Unless s.
13 961.436 (3) (b) 1., 2., or 3. applies, a member of a qualifying patient's treatment team
14 may not be arrested or prosecuted for a violation of s. 961.41 (1) (h), (1m) (h), or (3g)
15 (e) if all of the following apply:
- 16 (a) The member manufactures, distributes, delivers, or possesses
17 tetrahydrocannabinols for medication with tetrahydrocannabinols by the treatment
18 team.
- 19 (b) The member possesses a valid registry identification card, a valid
20 out-of-state registry identification card, or a copy of the qualifying patient's written
21 certification.
- 22 (c) The quantity of cannabis does not exceed the maximum authorized amount.
- 23 (d) Any live cannabis plants are in a lockable, enclosed facility unless the
24 member is accessing the plants or has the plants in his or her possession.

1 (e) If the member is a primary caregiver, he or she is not a primary caregiver
2 to more than 10 qualifying patients.

3 **(3) LIMITATIONS ON ARRESTS AND PROSECUTION; DRUG PARAPHERNALIA FOR MEDICAL**
4 **CANNABIS.** (a) Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a treatment
5 team may not be arrested or prosecuted for a violation of s. 961.573 (1) if all of the
6 following apply:

7 1. The member uses, or possesses with the primary intent to use, drug
8 paraphernalia only for medication with tetrahydrocannabinols.

9 2. The member possesses a valid registry identification card, a valid
10 out-of-state registry identification card, or a copy of the qualifying patient's written
11 certification.

12 3. The member does not possess more than the maximum authorized amount
13 of cannabis.

14 4. Any live cannabis plants are in a lockable, enclosed facility unless the
15 member is accessing the plants or has the plants in his or her possession.

16 5. If the member is a primary caregiver, he or she is not a primary caregiver
17 to more than 10 qualifying patients.

18 (b) Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a treatment team
19 may not be arrested or prosecuted for a violation of s. 961.574 (1) or 961.575 (1) if all
20 of the following apply:

21 1. The member delivers, possesses with intent to deliver, or manufactures with
22 intent to deliver to another member of his or her treatment team drug paraphernalia,
23 knowing that it will be primarily used by the treatment team for medication with
24 tetrahydrocannabinols.

1 2. The member possesses a valid registry identification card, a valid
2 out-of-state registry identification card, or a copy of the qualifying patient's written
3 certification.

4 3. The member does not possess more than the maximum authorized amount
5 of cannabis.

6 4. Any live cannabis plants are in a lockable, enclosed facility unless the
7 member is accessing the plants or has the plants in his or her possession.

8 5. If the member is a primary caregiver, he or she is not a primary caregiver
9 to more than 10 qualifying patients.

10 **(4) LIMITATIONS ON ARRESTS, PROSECUTION, AND OTHER SANCTIONS.** (a) A
11 practitioner may not be arrested and a practitioner, hospital, or clinic may not be
12 subject to prosecution, denied any right or privilege, or penalized in any manner for
13 making or providing a written certification in good faith.

14 (b) An employee of a dispensary licensed under subch. IV of ch. 50, of an entity
15 operating under the rules promulgated under s. 50.591 (2), or of a testing laboratory
16 under s. 50.596 may not be arrested and such employee may not be subject to
17 prosecution, denied any right or privilege, or penalized in any manner for any good
18 faith action under subch. IV of ch. 50.

19 **(5) PENALTY FOR FALSE STATEMENTS.** Whoever intentionally provides false
20 information to a law enforcement officer in an attempt to avoid arrest or prosecution
21 under this section for a violation of s. 961.41 (1) (h), (1m) (h), or (3g) (e), 961.573 (1),
22 961.574 (1), or 961.575 (1) may be fined not more than \$500.

23 **SECTION 45.** 968.12 (6) of the statutes is created to read:

24 968.12 **(6) MEDICAL CANNABIS.** A person's possession, use, or submission of or
25 connection with an application for a registry identification card under s. 146.44 (2),

1 the issuance of such a card under s. 146.44 (4), or a person's possession of such a card,
2 a valid out-of-state registry identification card, as defined in s. 146.44 (1) (cm), or
3 an original or a copy of a written certification, as defined in s. 146.44 (1) (h), may not,
4 by itself, constitute probable cause under sub. (1) or otherwise subject any person or
5 the property of any person to inspection by any governmental agency.

6 **SECTION 46.** 968.19 of the statutes is renumbered 968.19 (1) and amended to
7 read:

8 968.19 (1) Property Except as provided in sub. (2), property seized under a
9 search warrant or validly seized without a warrant shall be safely kept by the officer,
10 who may leave it in the custody of the sheriff and take a receipt therefor, so long as
11 necessary for the purpose of being produced as evidence on any trial.

12 **SECTION 47.** 968.19 (2) of the statutes is created to read:

13 968.19 (2) A law enforcement agency that has seized a live cannabis plant is
14 not responsible for the plant's care and maintenance.

15 **SECTION 48.** 968.20 (1g) (intro.) of the statutes is amended to read:

16 968.20 (1g) (intro.) The court shall order such notice as it deems adequate to
17 be given the district attorney and, unless notice was provided under s. 968.26 (7), to
18 all persons who have or may have an interest in the property. The court shall hold
19 a hearing to hear all claims to its true ownership. Except for a hearing commenced
20 by the court, the hearing shall occur no more than 30 days after a motion is filed
21 except that either party may, by agreement or for good cause, move the court for one
22 extension of no more than 10 days. Any motion may be supported by affidavits or
23 other submissions. If the right to possession is proved to the court's satisfaction, it
24 shall order the property, ~~other than contraband or property covered under sub. (1m)~~
25 ~~or (1r) or s. 173.21 (4) or 968.205,~~ returned if the court finds any of the following:

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Insert A

CRIMES

Under current law, if a person possesses or attempts to possess THC, the person may be fined not more than \$1,000 or imprisoned for not more than six months or both for a first offense and is guilty of a Class I felony for a second or subsequent offense. Under this bill, unless the person has previously been convicted of a controlled substance violation, a person who possesses THC as a first offense is subject to a civil forfeiture of between \$150 and \$300; a person who possesses THC as a second offense is subject to a fine of up to \$500 and imprisonment of up to 30 days or both; and a person who possesses THC as a third offense is subject to a fine of up to \$10,000 and imprisonment of up to nine months. Under this bill, a person who possesses THC as a fourth offense, or a person who possesses THC after being previously convicted of a different controlled substance violation, is guilty of a Class I felony.

Insert 24-24

SECTION 1. 961.14 (4) (t) 1. of the statutes is amended to read:

961.14 (4) (t) 1. Cannabidiol in a form without a psychoactive effect that is dispensed as provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32 (2m) (b).

History: 1971 c. 219; 1981 c. 206; 1989 a. 121; 1993 a. 98, 118; 1995 a. 225; 1995 a. 448 ss. 157 to 165; Stats. 1995 s. 961.14; 1997 a. 220; 1999 a. 21; 2001 a. 16; 2005 a. 52; 2011 a. 31; 2013 a. 267, 351; 2017 a. 4, 60, 100; 2017 a. 364 s. 49; 2017 a. 365 s. 111; ss. CSB 2.15, 2.16, 2.17, 2.18, 2.19, 2.20, 2.21, 2.22, 2.31, 2.32, 2.33, 2.34, 2.41, 2.42, 2.45, 2.46, 2.47, 2.49, 2.50, 2.51, 2.52, 2.53, 2.55, 2.56, 2.57, 2.59, 2.60, 2.61, 2.62, 2.63, 2.64 Wis. adm. code.

NOTE: See 1979-80 Statutes and 1993-94 Statutes for notes on actions by controlled substances board under s. 161.11 (1), 1993 Stats.

SECTION 2. 961.32 (1m) of the statutes is renumbered 961.32.

SECTION 3. 961.32 (2m) of the statutes is repealed.

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

SECTION 5. 961.41 (3g) (e) of the statutes is renumbered 961.41 (3g) (e) 1. and amended to read:

961.41 (3g) (e) 1. If a ~~No person possesses or attempts may possess or attempt~~ to possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled

1 substance analog of tetrahydrocannabinols, the person may be fined not more than
2 \$1,000 or imprisoned for not more than 6 months or both upon a first conviction and.

3 3. A person who violates subd. 1. is guilty of a Class I felony for a 2nd if the
4 violation is the person's 4th or subsequent offense. For purposes of this paragraph,
5 an offense is considered a 2nd or subsequent offense violation or if, prior to the
6 offender's person's conviction of the offense, the offender for the violation, the person
7 has at any time been convicted of any felony or misdemeanor under this chapter or
8 under any statute of the United States or of any state relating to controlled
9 substances, controlled substance analogs, narcotic drugs, marijuana, or depressant,
10 stimulant, or hallucinogenic drugs, except for a conviction for the possession of
11 tetrahydrocannabinols.

History: 1971 c. 219, 307; 1973 c. 12; 1981 c. 90, 314; 1985 a. 328; 1987 a. 339, 403; 1989 a. 31, 56, 121; 1991 a. 39; 138; 1993 a. 98, 118, 437, 482; 1995 a. 201; 1995 a. 448 ss. 243 to 266, 487 to 490; Stats. 1995 s. 961.41; 1997 a. 220, 283; 1999 a. 21, 32, 48, 57; 2001 a. 16, 109; 2003 a. 33, 49, 139, 320, 325, 327; 2005 a. 14, 25, 52, 262; 2007 a. 20; 2009 a. 28, 180; 2011 a. 31; 2013 a. 20, 166, 196, 351; 2015 a. 195 s. 83.

12 **SECTION 6.** 961.41 (3g) (e) 2. of the statutes is created to read:

13 961.41 (3g) (e) 2. Except as provided in subd. 3., a person who violates subd.

14 1.:

15 a. Shall be subject to a forfeiture of not less than \$150 and not more than \$300
16 if the violation is the person's first violation.

17 b. May be fined up to \$500 and imprisoned up to 30 days, or both, if the violation
18 is the person's 2nd violation.

19 c. May be fined up to \$10,000 and imprisoned up to 9 months, or both, if the
20 violation is the person's 3rd violation.

21
22 Insert 27-18

23 **SECTION 7.** 961.48 (5) of the statutes is amended to read:

1 **961.48 (5)** This section does not apply if the person is presently charged with
2 a violation of s. 961.41 (3g) (e) 1. or a felony under s. 961.41 (3g) (c), (d), ~~(e)~~, or (g).

History: 1971 c. 219; 1985 a. 328; 1987 a. 339; 1989 a. 121; 1993 a. 98, 118, 482, 490; 1995 a. 402; 1995 a. 448 s. 288; Stats. 1995 s. 961.48; 1997 a. 35 ss. 340, 584; 1997 a. 220; 1999 a. 48; 2001 a. 109; 2003 a. 49.

3 **SECTION 8.** 961.495 of the statutes is amended to read:

4 **961.495 Possession or attempted possession of a controlled substance**
5 **on or near certain places.** If any person violates s. 961.41 (3g), except if the
6 violation is punishable under s. 961.41 (3g) (e) 1., by possessing or attempting to
7 possess a controlled substance included in schedule I or II, a controlled substance
8 analog of a controlled substance included in schedule I or II or ketamine or
9 flunitrazepam while in or on the premises of a scattered-site public housing project,
10 while in or on or otherwise within 1,000 feet of a state, county, city, village, or town
11 park, a jail or correctional facility, a multiunit public housing project, a swimming
12 pool open to members of the public, a youth center or a community center, while in
13 or on or otherwise within 1,000 feet of any private or public school premises or of any
14 premises of a tribal school, as defined in s. 115.001 (15m), or while in or on or
15 otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court
16 shall, in addition to any other penalties that may apply to the crime, impose 100
17 hours of community service work for a public agency or a nonprofit charitable
18 organization. The court shall ensure that the defendant is provided a written
19 statement of the terms of the community service order and that the community
20 service order is monitored. Any organization or agency acting in good faith to which
21 a defendant is assigned pursuant to an order under this section has immunity from
22 any civil liability in excess of \$25,000 for acts or omissions by or impacting on the
23 defendant.

History: 1989 a. 31, 121; 1991 a. 39; 1993 a. 87, 118, 281, 490; 1995 a. 448 s. 290; Stats. 1995 s. 961.495; 1999 a. 57; 2009 a. 302.

1 **SECTION 9.** 961.52 (2) (a) 1. ✓ and 2. ✓ of the statutes are amended to read:

2 961.52 (2) (a) 1. Places where persons authorized under s. 961.32 (1m) ✓ to
3 possess controlled substances in this state are required by federal law to keep
4 records; and

5 2. Places including factories, warehouses, establishments and conveyances in
6 which persons authorized under s. 961.32 (1m) ✓ to possess controlled substances in
7 this state are permitted by federal law to hold, manufacture, compound, process, sell,
8 deliver or otherwise dispose of any controlled substance.

History: 1971 c. 219; 1983 a. 538; 1985 a. 29; 1993 a. 482; 1995 a. 448 s. 294; Stats. 1995 s. 961.52; 2017 a. 4.

9

10 Insert 34-17

11 **SECTION 9310. Initial applicability; District Attorneys.**

12 (1) POSSESSION OF MARIJUANA. The renumbering and amendment of s. 961.41
13 (3g) (e) ✓ and the creation of s. 961.41 (3g) (e) 2. ✓ first apply to violations committed on
14 the effective date of this subsection but do not preclude the counting of other
15 violations as prior violations under section ^{s.} 961.41 (3g) (e).



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1603/2
PJH&GMM:sac:jf

2013 ASSEMBLY BILL 891

March 27, 2014 - Introduced by Representatives GOYKE, JOHNSON, BARNES, HEBL, SINICKI, SARGENT, HULSEY, POPE, BERCEAU and PASCH, cosponsored by Senator L. TAYLOR. Referred to Committee on Criminal Justice.

1 **AN ACT to amend** 59.54 (25), 66.0107 (1) (bm), 938.34 (14s) (a) (intro.), 938.34
2 (14t), 938.343 (2), 961.48 (5) and 961.495; and **to repeal and recreate** 961.41
3 (3g) (e) of the statutes; **relating to:** possession of tetrahydrocannabinols, and
4 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may not possess marijuana or another substance containing tetrahydrocannabinol (THC). In general, a person who violates this prohibition is guilty of a misdemeanor and may be fined not more than \$1,000, imprisoned for not more than six months, or both. A person who commits a second or subsequent violation is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both. Current law also authorizes counties and municipalities to enact ordinances prohibiting the possession of 25 grams or less of marijuana. A violation of such an ordinance is a civil offense punishable by a forfeiture (a civil fine). The ordinance, however, cannot be used to prosecute a person who has previously been convicted of possessing marijuana.

Under this bill, a person who commits a first offense of possession of THC commits a civil offense, punishable by a forfeiture of not less than \$150 nor more than \$300. Under the bill, a person who commits a second offense of possession of THC is guilty of a Class C misdemeanor and may be fined up to \$500, imprisoned for up to 30 days, or both. A person who commits a third offense is guilty of a Class A misdemeanor, and may be fined up to \$10,000, imprisoned for up to nine months, or both. Under the bill, a person who commits a fourth or subsequent possession of THC

ASSEMBLY BILL 891

offense, or who has been convicted of a prior crime related to any controlled substance except possession of THC, is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both.

The bill allows a county or municipality to enact ordinances that make the first possession of any amount of marijuana a civil offense, punishable by a forfeiture. The ordinance, however, cannot be used to prosecute a person who has committed a prior offense of possessing THC.

Similarly, the bill provides that a person under 17 years of age (juvenile) who is found to have committed a first violation of possession of THC is subject to the dispositions specified in the Juvenile Justice Code for a juvenile who violates a civil law rather than to the delinquency dispositions specified in the Juvenile Justice Code for a juvenile who violates a criminal law. Under the bill, a juvenile who is found to have committed a first violation of possession of THC may be ordered to pay a forfeiture not to exceed \$50 or to participate in a teen court program, in community service work, or in an alcohol or other drug abuse treatment or education program.

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 concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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:

SECTION 1. 59.54 (25) of the statutes is amended to read:

59.54 (25) POSSESSION OF MARIJUANA. The board may enact and enforce an ordinance to prohibit the possession of ~~25 grams or less of~~ marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance; except that any person who is charged with possession of more than 25 grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana, an offense punishable under s. 961.41 (3g) (e) in this state shall not be prosecuted under this subsection. Any ordinance enacted under this subsection applies in every municipality within the county.

SECTION 2. 66.0107 (1) (bm) of the statutes is amended to read:

INSERT
A-ES
CORRECTIONAL SYSTEM
JUVENILE CORRECTIONAL SYSTEM

1
2
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ASSEMBLY BILL 891

1 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
 2 ~~25 grams or less of marijuana~~, as defined in s. 961.01 (14), subject to the exceptions
 3 in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance;
 4 except that any person who is charged with ~~possession of more than 25 grams of~~
 5 ~~marijuana, or who is charged with possession of any amount of marijuana following~~
 6 ~~a conviction an offense punishable under s. 961.41 (3g) (e) for possession of~~
 7 marijuana, in this state shall not be prosecuted under this paragraph.

INSERT
23-18

8 **SECTION 3.** 938.34 (14s) (a) (intro.) of the statutes is amended to read:

9 938.34 (14s) (a) (intro.) In addition to any other dispositions imposed under
 10 this section, if the juvenile is found to have ~~violated~~ committed a violation of s. 961.41
 11 (3g) that would be a felony or misdemeanor if committed by an adult, the court shall
 12 order one of the following penalties:

13 **SECTION 4.** 938.34 (14t) of the statutes is amended to read:

14 938.34 (14t) POSSESSION OF A CONTROLLED SUBSTANCE OR CONTROLLED SUBSTANCE
 15 ANALOG ON OR NEAR CERTAIN PREMISES. If the juvenile is adjudicated delinquent under
 16 a violation of s. 961.41 (3g) by possessing or attempting to possess a controlled
 17 substance included in schedule I or II under ch. 961, a controlled substance analog
 18 of a controlled substance included in schedule I or II under ch. 961 or ketamine or
 19 flunitrazepam while in or on the premises of a scattered-site public housing project,
 20 as defined in s. 961.01 (20i), while in or on or otherwise within 1,000 feet of a state,
 21 county, city, village, or town park, a jail or correctional facility, as defined in s. 961.01
 22 (12m), a multiunit public housing project, as defined in s. 961.01 (14m), a swimming
 23 pool open to members of the public, a youth center, as defined in s. 961.01 (22), or a
 24 community center, while in or on or otherwise within 1,000 feet of any private, tribal,
 25 or public school premises, or while in or on or otherwise within 1,000 feet of a school

INS. 23-18
ASSEMBLY BILL 891

SECTION 4

1 bus, as defined in s. 340.01 (56), the court shall require that the juvenile participate
2 for 100 hours in a supervised work program or other community service work under
3 sub. (5g). This subsection does not apply to a violation that would be punishable
4 under s. 961.41 (3g) (e) 1. if committed by an adult.

5 **SECTION 5.** 938.343 (2) of the statutes is amended to read:

6 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum
7 forfeiture that may be imposed on an adult for committing that violation or, if the
8 violation is only applicable to a person under 18 years of age or is a violation that
9 would be punishable under s. 961.41 (3g) (e) 1. if committed by an adult, \$50. The
10 order shall include a finding that the juvenile alone is financially able to pay and
11 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,
12 the court may suspend any license issued under ch. 29 or suspend the juvenile's
13 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court
14 shall immediately take possession of the suspended license if issued under ch. 29 or,
15 if the license is issued under ch. 343, the court may take possession of, and if
16 possession is taken, shall destroy, the license. The court shall forward to the
17 department which issued the license the notice of suspension stating that the
18 suspension is for failure to pay a forfeiture imposed by the court, together with any
19 license issued under ch. 29 of which the court takes possession. If the forfeiture is
20 paid during the period of suspension, the court shall immediately notify the
21 department, which shall, if the license is issued under ch. 29, return the license to
22 the person. Any recovery under this subsection shall be reduced by the amount
23 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

24 **SECTION 6.** 961.41 (3g) (e) of the statutes is repealed and recreated to read:

ASSEMBLY BILL 891

1 961.41 (3g) (e) *Tetrahydrocannabinols*. Any person who possesses or attempts
2 to possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled
3 substance analog of tetrahydrocannabinols:

4 1. Shall forfeit not less than \$150 nor more than \$300, except as provided in
5 subds. 2 to 4.

6 2. Is guilty of a Class C misdemeanor if the number of convictions under this
7 section in the person's lifetime equals 2 and subd. 4.b. does not apply.

8 3. Is guilty of a Class A misdemeanor if the number of convictions under this
9 section in the person's lifetime equals 3 and subd. 4.b. does not apply.

10 4. Is guilty of a Class I felony if either of the following apply:

11 a. The number of convictions under this section in the person's lifetime equals
12 4 or more.

13 b. The person has been convicted of any felony or misdemeanor under this
14 chapter, except a misdemeanor punishable under subd. 2. or 3., or under any statute
15 of the United States or of any state relating to controlled substances, controlled
16 substance analogs, narcotic drugs, or depressant, stimulant, or hallucinogenic
17 drugs.

18 **SECTION 7.** 961.48 (5) of the statutes is amended to read:

19 961.48 (5) This section does not apply if the person is presently charged with
20 an offense punishable under s. 961.41 (3g) (e) or with a felony under s. 961.41 (3g)
21 (c), (d), (e), or (g).

22 **SECTION 8.** 961.495 of the statutes is amended to read:

23 **961.495 Possession or attempted possession of a controlled substance**
24 **on or near certain places.** If any person violates s. 961.41 (3g) by possessing or
25 attempting to possess a controlled substance included in schedule I or II, a controlled

ASSEMBLY BILL 891**SECTION 8**

1 substance analog of a controlled substance included in schedule I or II or ketamine
2 or flunitrazepam while in or on the premises of a scattered-site public housing
3 project, while in or on or otherwise within 1,000 feet of a state, county, city, village,
4 or town park, a jail or correctional facility, a multiunit public housing project, a
5 swimming pool open to members of the public, a youth center or a community center,
6 while in or on or otherwise within 1,000 feet of any private or public school premises
7 or of any premises of a tribal school, as defined in s. 115.001 (15m), or while in or on
8 or otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court
9 shall, in addition to any other penalties that may apply to the crime, impose 100
10 hours of community service work for a public agency or a nonprofit charitable
11 organization. The court shall ensure that the defendant is provided a written
12 statement of the terms of the community service order and that the community
13 service order is monitored. Any organization or agency acting in good faith to which
14 a defendant is assigned pursuant to an order under this section has immunity from
15 any civil liability in excess of \$25,000 for acts or omissions by or impacting on the
16 defendant. This section does not apply to an offense punishable under s. 961.41 (3g)

17 (e) 1.

18 **SECTION 9. Initial applicability.**

19 (1) This act first applies to offenses committed on the effective date of this
20 subsection.

21 (END)

Marijuana Language

- ✓ Please move the appropriation to 20.435(6), DHS program 6 and create a separate PR appropriation in 20.115 DATCP program 7. ✓ SWB
- ✓ Place the responsibility to register individuals with DHS and place responsibility to register and regulate dispensaries and growers with DATCP. ✓ MCP
- ✓ Create language that clarifies any medical marijuana sold in Wisconsin must be grown in Wisconsin. MCP
- ✓ Create language that allows medical marijuana to be recommended by a practitioner working under the direction of a physician. SWB
- Grant DHS, DOR and DATCAP emergency rule promulgation.
- ✓ In Section 3 50.591(2) please amend based on the example below:

(2) The department shall promulgate rules determine polices allowing entities to grow cannabis and distribute cannabis and tetrahydrocannabinols to dispensaries, shall develop security guidelines for the entities, and shall regulate such entities. ~~The department may not limit the amount of cannabis or tetrahydrocannabinols for the purposes of this subsection.~~

Regarding Taxation:

- ✓ In section 15 77.52(13) remove the reference to (69) that was added.
- ✓ In Section 16 77.53(10) remove the reference to (69) that was added.
- ✓ Repeal Section 17 77.54(69)
- Create an excise tax modeled after Subchapter III of Chapter 139 – Tobacco Products Tax and its administrative provisions:
 - DOR business tax registration and permit required
 - Monthly electronic returns
 - Surcharge imposed on "dispensary's list price" as described below
 - Allow the department's collection agents the authority to search for cash or personal property with assistance from law enforcement to pay delinquent tax debt. For example:
 - If a dispensary fails to pay surcharge, authorized personnel of the department of revenue, with the assistance of any law enforcement officer within their respective jurisdictions, may search the premises of a dispensary to seize any personal property or cash for sale and payment of the delinquent surcharge.
- Add requirements for personal liability and successor liability for unpaid surcharge owing to the state.
 - Any officer, employee, fiduciary or agent who is responsible for paying surcharge, interest, penalties or other charges under this subchapter incurred by another person, as defined in s. 77.51(10), is personally liable for those taxes, interest, penalties, or other charges. Sections 71.88(1)(a), and (2)(a), 71.89 and 71.90, as they apply to appeals of income or franchise tax assessments, apply to appeals of assessments under this subsection.

o Explicitly provide that the sales/use tax exemption under sec. 77.54(14), Wis. Stats., does not apply to marijuana.

o Include language comparable to the other tobacco products tax administrative provisions such as:

- 139.83, administration and enforcement
- 139.832, police powers
- 139.835, timely filing
- 139.84, requirements for security (surety bond)
- 139.85, interest and penalties provisions
- 139.11(3), requirements for keeping records in an acceptable condition.

similar req under 139.82

• 10% surcharge on dispensary list price, defined as follows.

o "Dispensary's list price" means the total price of marijuana sold or dispensed by the dispensary or authorized person of dispensary, to an unrelated person. The total price shall include any charges by the dispensary or authorized person that are necessary to complete the sale and shall not be reduced by costs or expenses incurred by the dispensary or authorized person, such as fees, delivery, freight, transportation, packaging, handling, marketing, taxes, and import fees or duties, regardless of whether such costs or expenses are separately stated on the invoice. The total price shall not be reduced by the value or cost of discounts or free promotional or sample products. In this subsection, a dispensary or authorized person is considered related to another person if the two parties have significant common purposes and substantial common membership, or directly or indirectly substantial common direction or control.

o The dispensary shall not separately state the surcharge on an invoice or other similar document given to the purchaser or recipient of the marijuana.

I did not include this

net

• Effective date of the first day of the **twelfth** month following publication.

• DOR recommends a requirement for "face-to-face" sales, similar to sec. 125.272 for alcohol beverage sales or cigarette and tobacco products in sec. 134.65 (1m), Wis. Stats.

• DOR suggests a \$50 late filing fee and require the reports be filed electronically, similar to other excise taxes.

Except for emergency rules + rule-making authority?

Pfotenhauer, Mary

From: Hanaman, Cathlene
Sent: Monday, February 18, 2019 12:57 PM
To: Pfotenhauer, Mary
Subject: FW: 1539/P2

From: Bollhorst, Nathan - DOA <Nathan.Bollhorst@wisconsin.gov>
Sent: Monday, February 18, 2019 12:53 PM
To: Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Cc: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Subject: 1539/P2

Cathlene,

Please include this additional change to 1539/P2, create a clause similar to 146.44(3) that requires DATCP to approve or deny a dispensaries application within 60 days.

Thank you,



Nathan Bollhorst | Executive Policy & Budget Analyst
Department of Administration
Division of Executive Budget and Finance
Nathan.Bollhorst@wisconsin.gov
Main: (608) 267-7980