



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1539/P2
CMH/JK/SWB/EHS:wj

P3

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

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

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INSERTS

1. Medical Marijuana

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.

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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 may be subject to a fine of up to \$500 or imprisonment of up to 30 days or both; and a person who possesses THC as a third offense may be subject to a fine of up to \$10,000 or imprisonment of up to nine months or both. Under the 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.

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

The bill provides that a person under 17 years of age 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.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.435 (1) ^{(g) (gd)} (gq) of the statutes is created to read:

2 20.435 (1) ^{(b) (gd)} (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. ^{ge}

5 **SECTION 2.** 20.435 (1) ^{20.115 (7) (e)} (jm) of the statutes is created to read:

6 20.435 (1) ^{20.115 (7) (e)} (jm) *Licensing and support services for dispensaries*. All moneys

7 received under s. ^{94.57 (5)} 50.594 to license and regulate dispensaries, and to register

8 laboratories, under ^{s. 94.57} subch. IV of ch. 50.

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

9 **SECTION 3.** Subchapter IV of chapter 50 [precedes 50.59] of the statutes is

10 created to read:

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CHAPTER 50

SUBCHAPTER IV

DISTRIBUTION AND TESTING CENTERS

50.59 ^{(1) (cs)} **Definitions.** In this ^{section} subchapter,

^{(1) (a)} **(1)** "Dispensary" means an entity licensed under ^{at this section} s. 50.592 that cultivates, acquires, manufactures, possesses, delivers, transfers, transports, sells, or dispenses

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SECTION 3

1 cannabis, tetrahydrocannabinols, paraphernalia, or related supplies and
2 educational materials to treatment teams and other dispensaries.

3 (2) "Maximum authorized amount" has the meaning given in s. 961.01 (14c).

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

6 (4) "Qualifying patient" has the meaning given in s. 146.44 (1) (e).

7 (5) "Registry identification card" has the meaning given in s. 146.44 (1) (g).

8 (6) "Treatment team" has the meaning given in s. 961.01 (20t).

9 (7) "Usable cannabis" has the meaning given in s. 961.01 (21f).

10 (8) "Written certification" has the meaning given in s. 146.44 (1) (h).

11 **50.591** (2) **Departmental powers and duties.** (1) (a) The department shall
12 provide licensing, regulation, record keeping, and security for dispensaries.

13 (2) The department shall promulgate rules ^{determino policias} allowing entities to grow cannabis
14 and distribute cannabis and tetrahydrocannabinols to dispensaries, shall develop
15 security guidelines for the entities, and shall regulate such entities. The department
16 may not limit the amount of cannabis or tetrahydrocannabinols for the purposes of
17 this subsection.

18 **50.592** (3) **Licensing.** The department shall issue licenses to operate as a
19 dispensary and shall decide which and how many applicants receive a license based
20 on the basis of on all of the following:

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

22 (2) (b) The ability of an applicant to provide to treatment teams a sufficient
23 amount of tetrahydrocannabinols.

24 (3) (c) The experience the applicant has running a nonprofit organization or a
25 business.

1 ^{e (4)} (4) The preferences of the governing bodies with jurisdiction over the area in
2 which the applicants are located.

3 ^{e (5)} (5) The ability of the applicant to keep records confidential and maintain a safe
4 and secure facility.

5 ^{e (6)} (6) The ability of the applicant to abide by the prohibitions under s. 50.593.

6 ^{e (4)} 50.593 ⁽⁵⁾ **Prohibitions.** The department may issue a license under this
7 subchapter ^{section} to an applicant only if the applicant has been a resident of this state for
8 at least the 2 years immediately preceding the application. The department may not
9 issue a license to, and must revoke a license of, any entity to which any of the
10 following applies:

11 ^{e (a)} (1) The entity is located within 500 feet of a public or private elementary or
12 secondary school, including a charter school.

13 ^{e (b)} (2) The dispensary distributes to a treatment team a number of cannabis
14 plants or an amount of usable cannabis that, in the period of distribution, results in
15 the treatment team possessing more than the maximum authorized amount.

16 ^{e (c)} (3) The dispensary possesses a number of cannabis plants or an amount of
17 usable cannabis that exceeds the combined maximum authorized amount for all of
18 the treatment teams that use the dispensary by a number or an amount determined
19 by the department by rule to be unacceptable.

20 ⁽⁵⁾ ⁽³⁾ ^(a) **50.594 Licensing procedure.** (1) An application for a license under this
21 subchapter shall be in writing on a form provided by the department and include the
22 licensing application fee under sub. (2) (a).

23 ^{e (b) 1.} (2) (a) A licensing application fee ^{is} \$250. *an amount shall be determined by the department but not less than*

24 ^{e 2.} (b) The annual fee for a dispensary ^{is} \$5,000. *x2*

1 (3) A dispensary license is valid unless revoked. Each license shall be issued
2 only for the applicant named in the application and may not be transferred or
3 assigned. department shall approve or deny an application for a dispensary
4 license. Within 60 days after receiving it.

5 **50.595 Distribution of medical tetrahydrocannabinols.** (1) A dispensary
6 may deliver or distribute tetrahydrocannabinols and drug paraphernalia to a
7 member of a treatment team if the dispensary receives a copy of the qualifying
8 patient's written certification or registry identification card. *only if done in a face-to-face transaction, and if the tetrahydrocannabinols are contained in or derived from cannabis grown in this state*

9 (2) A dispensary may possess or manufacture tetrahydrocannabinols and drug
10 paraphernalia with the intent to deliver or distribute under sub. (1). *par. (a) under par. (f)*

11 (2m) An entity operating under rules promulgated under s. 50.591 (2) may
12 possess tetrahydrocannabinols, possess or manufacture tetrahydrocannabinols with
13 the intent to deliver or distribute to a dispensary, or deliver or distribute
14 tetrahydrocannabinols to a dispensary. *sub. (2) policies determined*

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

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

23 (5) A dispensary or an entity operating under rules promulgated under s.
24 50.591 (2) may cultivate cannabis, including cultivating cannabis outdoors. *policies determined*

25 **50.596 Testing laboratories.** The department shall register entities as
tetrahydrocannabinols-testing laboratories. The laboratories may possess or

1 manufacture tetrahydrocannabinols and drug paraphernalia and shall perform the
2 following services:

3 (1) ^(a) Test cannabis and tetrahydrocannabinols produced for dispensaries for
4 potency and for mold, fungus, pesticides, and other contaminants.

5 (2) ^(b) Research findings related to medication with tetrahydrocannabinols,
6 including findings that identify potentially unsafe levels of contaminants.

7 (3) ^(c) Provide training to persons who hold registry identification cards,
8 treatment teams, persons employed by dispensaries, and entities that grow cannabis
9 and distribute to dispensaries cannabis and tetrahydrocannabinols, as provided by

10 ^{policies determined} rules promulgated under s. 50.591 ^{sub.} (2), on the following:

11 (a) ^{1.} The safe and efficient cultivation, harvesting, packaging, labeling, and
12 distribution of cannabis and tetrahydrocannabinols.

13 (b) ^{2.} Security and inventory accountability procedures.

14 (c) ^{3.} The most recent research on medication with tetrahydrocannabinols.

15 **50.597** ⁽⁸⁾ ⁽⁵⁾ **Confidentiality.** The department may disclose to a law enforcement
16 agency only information necessary to verify that a dispensary has a license issued
17 under this subchapter, an entity is complying with ^{policies determined} rules under s. 50.591 (2), or an
18 entity is registered under s. 50.596. ^{sub.} ⁽⁵⁾ ⁷

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

20 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit
21 the possession of marijuana, as defined in s. 961.01 (14), subject to par. (c) and the
22 exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the
23 ordinance; except that if. Any ordinance enacted under this paragraph shall provide
24 a person who is prosecuted under it with the defenses that the person has under s.
25 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint

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1 is issued regarding an allegation of possession of more than 25 grams of marijuana,
 2 or the possession of any amount of marijuana following a conviction in this state for
 3 possession of marijuana, and the subject of the complaint has been convicted of a
 4 prior violation under s. 961.41 (3g) (e), the subject may not be prosecuted under this
 5 subsection for the same action that is the subject of the complaint unless all of the
 6 following occur:

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

8 59.54 (25) (c) A person may not be prosecuted under an ordinance enacted
 9 under par. (a) if, under s. 968.072 (2) or (4) (b), the person would not be subject to
 10 prosecution under s. 961.41 (3g) (e).

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

12 59.54 (25m) DRUG PARAPHERNALIA. The board may enact an ordinance to
 13 prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574
 14 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance.
 15 Any ordinance enacted under this subsection shall provide a person prosecuted
 16 under it with the defenses that the person has under s. 961.5755 to prosecutions
 17 under s. 961.573 (1), 961.574 (1), or 961.575 (1). A person may not be prosecuted
 18 under an ordinance enacted under this subsection if, under s. 968.072 (3) or (4) (b),
 19 the person would not be subject to prosecution under s. 961.573 (1), 961.574 (1), or
 20 961.575 (1). The board may enforce an ordinance enacted under this subsection in
 21 any municipality within the county.

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

23 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
 24 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)
 25 (intro.), and provide a forfeiture for a violation of the ordinance; except that if Any

1 ordinance enacted under this paragraph shall provide a person who is prosecuted
2 under it with the defenses that the person has under s. 961.436 to prosecutions under
3 s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint is issued regarding an allegation
4 of the possession of more than 25 grams of marijuana, or possession of any amount
5 of marijuana following a conviction in this state for possession of marijuana, and the
6 subject of the complaint has been convicted of a prior violation under s. 961.41 (3g)
7 (e), the subject may not be prosecuted under this paragraph for the same action that
8 is the subject of the complaint unless the charges are dismissed or the district
9 attorney declines to prosecute the case.

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

11 66.0107 (1) (bp) Enact and enforce an ordinance to prohibit conduct that is the
12 same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or
13 (2) and provide a forfeiture for violation of the ordinance. Any ordinance enacted
14 under this paragraph shall provide a person prosecuted under it with the defenses
15 that the person has under s. 961.5755 to prosecutions under s. 961.573 (1), 961.574
16 (1), or 961.575 (1). A person may not be prosecuted under an ordinance enacted
17 under this paragraph if, under s. 968.072 (3) or (4) (b), the person would not be subject
18 to prosecution under s. 961.573 (1), 961.574 (1), or 961.575 (1).

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

20 **66.0414 Cultivation of tetrahydrocannabinols.** No village, town, city, or
21 county may enact or enforce an ordinance or a resolution that prohibits cultivating
22 tetrahydrocannabinols or cannabis outdoors if the cultivation is by one of the
23 following:

24 (1) A dispensary, as defined in s. 50.59(1)^{294.57}(a)

SECTION 9

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

4 (3) An entity that is cultivating cannabis for distribution as permitted under
5 ^{polices determined} rules promulgated under s. ^{94.57} 50.591(2).

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

7 66.1201 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
8 facility, or privilege under ss. 66.1201 to 66.1211 may not be denied the right, benefit,
9 facility, or privilege in any manner for any purpose nor be discriminated against
10 because of sex, race, color, creed, or sexual orientation; status as a victim of domestic
11 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the
12 person holds, or has applied for, a registry identification card, as defined in s. 146.44
13 (1) (g), has been the subject of a written certification, as defined in s. 146.44 (1) (h),
14 or is or has been a member of a treatment team, as defined in s. 961.01 (20t); or
15 national origin.

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

17 66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
18 facility, or privilege under this section may not be denied the right, benefit, facility,
19 or privilege in any manner for any purpose nor be discriminated against because of
20 sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse,
21 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
22 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
23 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or
24 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
25 origin.

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

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

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

12 **66.1331 (2m) DISCRIMINATION.** Persons otherwise entitled to any right, benefit,
13 facility, or privilege under this section may not be denied the right, benefit, facility,
14 or privilege in any manner for any purpose nor be discriminated against because of
15 sex, race, color, creed, or sexual orientation; status as a victim of domestic abuse,
16 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
17 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
18 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or
19 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
20 origin.

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

22 **66.1333 (3) (e) 2.** Persons otherwise entitled to any right, benefit, facility, or
23 privilege under this section may not be denied the right, benefit, facility, or privilege
24 in any manner for any purpose nor be discriminated against because of sex, race,
25 color, creed, or sexual orientation; status as a victim of domestic abuse, sexual

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1 assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person holds, or
2 has applied for, a registry identification card, as defined in s. 146.44 (1) (g), has been
3 the subject of a written certification, as defined in s. 146.44 (1) (h), or is or has been
4 a member of a treatment team, as defined in s. 961.01 (20t); or national origin.

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

6 77.52 (13) For the purpose of the proper administration of this section and to
7 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
8 the tax until the contrary is established. The burden of proving that a sale of tangible
9 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
10 is not a taxable sale at retail is upon the person who makes the sale unless that
11 person takes from the purchaser an electronic or a paper certificate, in a manner
12 prescribed by the department, to the effect that the property, item, good, or service
13 is purchased for resale or is otherwise exempt, except that no certificate is required
14 for the sale of tangible personal property, or items, property, or goods under sub. (1)
15 (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10),
16 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
17 (51), (52), (66), and (67), and (69).

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

19 77.53 (10) For the purpose of the proper administration of this section and to
20 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
21 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
22 (d), or taxable services sold by any person for delivery in this state is sold for storage,
23 use, or other consumption in this state until the contrary is established. The burden
24 of proving the contrary is upon the person who makes the sale unless that person
25 takes from the purchaser an electronic or paper certificate, in a manner prescribed

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

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

8 77.54 (69) The sales price from the sales of and the storage, use, or other
9 consumption of medical tetrahydrocannabinols and drug paraphernalia delivered or
10 distributed by a dispensary licensed under s. 50.592.

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

12 106.50 (1m) (h) "Discriminate" means to segregate, separate, exclude, or treat
13 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)
14 because of sex, race, color, sexual orientation, disability, religion, national origin,
15 marital status, or family status;; status as a victim of domestic abuse, sexual assault,
16 or stalking; whether the person holds, or has applied for, a registry identification
17 card, as defined in s. 146.44 (1) (g), has been the subject of a written certification, as
18 defined in s. 146.44 (1) (h), or is or has been a member of a treatment team, as defined
19 in s. 961.01 (20t); lawful source of income;; age; or ancestry.

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

21 **146.44 Medical Cannabis Registry Program. (1) DEFINITIONS.** In this
22 section:

23 (a) "Applicant" means a person who is applying for a registry identification card
24 under sub. (2) (a) or (ac).

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1 (ag) "Bona fide practitioner-patient relationship" means a relationship
2 between the practitioner and the patient that includes all of the following:

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

5 2. A consultation between the practitioner and the patient with respect to the
6 patient's debilitating medical condition or treatment.

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

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

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

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

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

20 4. Any other medical condition or any other treatment for a medical condition

21 designated as a debilitating medical condition or treatment in rules promulgated by

22 ^{as determined by} the department of health services under s. 961.436 (5).

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

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

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

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

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

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

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

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

24 (e) "Qualifying patient" means a person who has been diagnosed in the course
25 of a bona fide practitioner-patient relationship as having or undergoing a

1 debilitating medical condition or treatment but does not include a person under the
2 age of 18 years unless all of the following apply:

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

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

8 a. Allow medication with tetrahydrocannabinols for the person.

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

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

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

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

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

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

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

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

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

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

6 2. A written certification.

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

9 4. A registration fee in an amount determined by the department, but not to
10 exceed \$150. *shall be an amount*

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

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

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

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

20 3. A registration fee of \$250. *shall be an amount*

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

23 (am) 1. In this paragraph:

SECTION 19

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

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

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

9 3. If the department of justice determines that the applicant has been convicted
10 of a disqualifying offense, the department of health services shall deny the
11 application unless at least 10 years has passed since the completion of any sentence
12 imposed for any disqualifying offense, including any period of incarceration, parole,
13 and extended supervision, and any period of probation imposed for a disqualifying
14 offense.

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

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

23 (a) The applicant did not provide the required information or provided false
24 information.

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

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

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

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

9 1. The registrant.

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

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

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

13 (c) A photograph of the registrant.

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

15 **(4m) ANNUAL FEE.** Primary caregivers shall pay an annual fee of \$250.

16 **(5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT.** (a) 1. An adult
17 registrant shall notify the department of any change in the registrant's name and
18 address. An adult registrant who is a qualifying patient shall notify the department
19 of any change in his or her practitioner, of any significant improvement in his or her
20 health as it relates to his or her debilitating medical condition or treatment, and if
21 a primary caregiver stops helping the registrant in the registrant's medication with
22 tetrahydrocannabinols. A registrant who is a primary caregiver shall notify the
23 department if the registrant becomes a primary caregiver for an additional
24 qualifying patient and shall include with the notice a copy of a written certification
25 or copy of a registration identification card for each additional qualifying patient.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **234.29 Equality of occupancy and employment.** The authority shall
25 require that occupancy of housing projects assisted under this chapter be open to all

1 regardless of sex, race, religion, or sexual orientation; status as a victim of domestic
2 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the
3 person holds, or has applied for, a registry identification card, as defined in s. 146.44
4 (1) (g), has been the subject of a written certification, as defined in s. 146.44 (1) (h),
5 or is or has been a member of a treatment team, as defined in s. 961.01 (20t); or creed,
6 and that contractors and subcontractors engaged in the construction of economic
7 development or housing projects, shall provide an equal opportunity for
8 employment, without discrimination as to sex, race, religion, sexual orientation, or
9 creed.

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

11 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,
12 authorization, approval, variance or exception or any restriction, condition of
13 approval or other restriction, regulation, requirement or prohibition imposed by a
14 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
15 a town, city, village, county or special purpose district, including without limitation
16 because of enumeration any ordinance, resolution or regulation adopted under s.
17 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),
18 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),
19 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),
20 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),
21 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3),
22 (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16),
23 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70
24 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (7), (8),
25 and (10), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34,

1 61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415,
2 87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III
3 of ch. 91.

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

5 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or
6 66.0107 (1) (bm).

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

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

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

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

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

23 767.451 (5m) (a) Subject to pars. (b) ~~and~~, (c), and (d), in all actions to modify
24 legal custody or physical placement orders, the court shall consider the factors under

1 s. 767.41 (5) (am), subject to s. 767.41 (5) (bm), and shall make its determination in
2 a manner consistent with s. 767.41.

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

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

12 **SECTION 27.** 938.34 (14s) (a) (intro.) of the statutes is amended to read:

13 938.34 (14s) (a) (intro.) In addition to any other dispositions imposed under
14 this section, if the juvenile is found to have violated committed a violation of s. 961.41
15 (3g) that would be a felony or misdemeanor if committed by an adult, the court shall
16 order one of the following penalties:

17 **SECTION 28.** 938.34 (14t) of the statutes is amended to read:

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

1 (12m), a multiunit public housing project, as defined in s. 961.01 (14m), a swimming
2 pool open to members of the public, a youth center, as defined in s. 961.01 (22), or a
3 community center, while in or on or otherwise within 1,000 feet of any private, tribal,
4 or public school premises, or while in or on or otherwise within 1,000 feet of a school
5 bus, as defined in s. 340.01 (56), the court shall require that the juvenile participate
6 for 100 hours in a supervised work program or other community service work under
7 sub. (5g). This subsection does not apply to a violation that would be punishable
8 under s. 961.41 (3g) (e) 1. if committed by an adult.

9 **SECTION 29.** 938.343 (2) of the statutes is amended to read:

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

1 the person. Any recovery under this subsection shall be reduced by the amount
2 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

3 **SECTION 30.** 961.01 (5m) of the statutes is created to read:

4 961.01 (5m) "Debilitating medical condition or treatment" has the meaning
5 given in s. 146.44 (1) (b).

6 **SECTION 31.** 961.01 (12v) of the statutes is created to read:

7 961.01 (12v) "Lockable, enclosed facility" means an enclosed indoor or outdoor
8 area that is lockable, or requires a security device, to permit access only by a member
9 of a qualifying patient's treatment team.

10 **SECTION 32.** 961.01 (14c) of the statutes is created to read:

11 961.01 (14c) "Maximum authorized amount" means 12 live cannabis plants or
12 3 ounces of usable cannabis.

13 **SECTION 33.** 961.01 (14g) of the statutes is created to read:

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

16 **SECTION 34.** 961.01 (17k) of the statutes is created to read:

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

19 **SECTION 35.** 961.01 (19m) of the statutes is created to read:

20 961.01 (19m) "Primary caregiver" has the meaning given in s. 146.44 (1) (d).

21 **SECTION 36.** 961.01 (20hm) of the statutes is created to read:

22 961.01 (20hm) "Qualifying patient" has the meaning given in s. 146.44 (1) (e).

23 **SECTION 37.** 961.01 (20ht) of the statutes is created to read:

24 961.01 (20ht) "Registry identification card" has the meaning given in s. 146.44
25 (1) (g).

1 **SECTION 38.** 961.01 (20t) of the statutes is created to read:

2 961.01 (20t) "Treatment team" means a qualifying patient and his or her
3 primary caregivers.

4 **SECTION 39.** 961.01 (21f) of the statutes is created to read:

5 961.01 (21f) "Usable cannabis" means cannabis leaves or flowers but does not
6 include seeds, stalks, or roots or any ingredients combined with the leaves or flowers.

7 **SECTION 40.** 961.01 (21t) of the statutes is created to read:

8 961.01 (21t) "Written certification" has the meaning given in s. 146.44 (1) (h).

9 **SECTION 41.** 961.14 (4) (t) 1. of the statutes is amended to read:

10 961.14 (4) (t) 1. Cannabidiol in a form without a psychoactive effect that is
11 dispensed as provided in s. 961.38 (1n) (a) or that is possessed as provided in s. 961.32
12 (2m) (b).

13 **SECTION 42.** 961.32 (1m) of the statutes is renumbered 961.32.

14 **SECTION 43.** 961.32 (2m) of the statutes is repealed.

15 **SECTION 44.** 961.38 (1n) of the statutes is repealed.

16 **SECTION 45.** 961.41 (3g) (e) of the statutes is renumbered 961.41 (3g) (e) 1. and
17 amended to read:

18 961.41 (3g) (e) 1. ~~If a No person possesses or attempts may possess or attempt~~
19 ~~to possess tetrahydrocannabinols included under s. 961.14 (4) (t), or a controlled~~
20 ~~substance analog of tetrahydrocannabinols, the person may be fined not more than~~
21 ~~\$1,000 or imprisoned for not more than 6 months or both upon a first conviction and,~~

22 3. A person who violates subd. 1. is guilty of a Class I felony for a 2nd if the
23 violation is the person's 4th or subsequent offense. For purposes of this paragraph,
24 an offense is considered a 2nd or subsequent offense violation or if, prior to the
25 offender's person's conviction of the offense, the offender for the violation, the person

1 has at any time been convicted of any felony or misdemeanor under this chapter or
2 under any statute of the United States or of any state relating to controlled
3 substances, controlled substance analogs, narcotic drugs, marijuana, or depressant,
4 stimulant, or hallucinogenic drugs, except for a conviction for the possession of
5 tetrahydrocannabinols.

6 **SECTION 46.** 961.41 (3g) (e) 2. of the statutes is created to read:

7 961.41 (3g) (e) 2. Except as provided in subd. 3., a person who violates subd.

8 1.:

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

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

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

15 **SECTION 47.** 961.436 of the statutes is created to read:

16 **961.436 Medical use defense in cases involving**
17 **tetrahydrocannabinols.** (1) A member of a qualifying patient's treatment team
18 has a defense to prosecution under s. 961.41 (1) (h) or (1m) (h) for manufacturing, or
19 possessing with intent to manufacture, tetrahydrocannabinols if all of the following
20 apply:

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

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

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

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

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

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

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

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

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

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

21 1. The possession or attempted possession is by the treatment team for
22 medication with tetrahydrocannabinols.

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

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

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

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

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

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

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

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

16 b. The person's place of employment.

17 c. Public or private school premises.

18 d. A juvenile correctional facility.

19 e. A jail or adult correctional facility.

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

21 g. A youth center.

22 (4) For the purposes of a defense raised under sub. (1), (2), or (3) (a), a valid
23 registry identification card, a valid out-of-state registry identification card, or a
24 written certification is presumptive evidence that the person identified on the card
25 as a qualifying patient or the subject of the written certification is a qualifying

1 patient and that, if the person uses tetrahydrocannabinols, he or she does so to
2 alleviate the symptoms or effects of a debilitating medical condition or treatment.

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

12 **SECTION 48.** 961.48 (5) of the statutes is amended to read:

13 961.48 (5) This section does not apply if the person is presently charged with
14 a violation of s. 961.41 (3g) (e) 1. or a felony under s. 961.41 (3g) (c), (d), (e), or (g).

15 **SECTION 49.** 961.495 of the statutes is amended to read:

16 **961.495 Possession or attempted possession of a controlled substance**
17 **on or near certain places.** If any person violates s. 961.41 (3g), except if the
18 violation is punishable under s. 961.41 (3g) (e) 1., by possessing or attempting to
19 possess a controlled substance included in schedule I or II, a controlled substance
20 analog of a controlled substance included in schedule I or II or ketamine or
21 flunitrazepam while in or on the premises of a scattered-site public housing project,
22 while in or on or otherwise within 1,000 feet of a state, county, city, village, or town
23 park, a jail or correctional facility, a multiunit public housing project, a swimming
24 pool open to members of the public, a youth center or a community center, while in
25 or on or otherwise within 1,000 feet of any private or public school premises or of any

1 premises of a tribal school, as defined in s. 115.001 (15m), or while in or on or
2 otherwise within 1,000 feet of a school bus, as defined in s. 340.01 (56), the court
3 shall, in addition to any other penalties that may apply to the crime, impose 100
4 hours of community service work for a public agency or a nonprofit charitable
5 organization. The court shall ensure that the defendant is provided a written
6 statement of the terms of the community service order and that the community
7 service order is monitored. Any organization or agency acting in good faith to which
8 a defendant is assigned pursuant to an order under this section has immunity from
9 any civil liability in excess of \$25,000 for acts or omissions by or impacting on the
10 defendant.

11 **SECTION 50.** 961.52 (2) (a) 1. and 2. of the statutes are amended to read:

12 961.52 (2) (a) 1. Places where persons authorized under s. 961.32 (~~1m~~) to
13 possess controlled substances in this state are required by federal law to keep
14 records; and

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

19 **SECTION 51.** 961.55 (8) (c), (d) and (e) of the statutes are created to read:

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

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

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

25 **SECTION 52.** 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 53.** 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 54.** 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 55.** 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 56.** 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.
Handwritten notes: "e policies determined" above "rules promulgated"; "registered" and "e 94.57" next to "50.596"; "e 94.57 (7)" next to "50.596"; "s. 94.57" next to "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 57.** 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 58.** 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 59.** 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 60.** 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:

Insert A - 2 JK

Finally, the bill imposes a surcharge on the sale of cannabis and tetrahydrocannabinols by a dispensary. The surcharge is equal to 10 percent of the sales price.

Insert 3 - 8 JK

1 **SECTION 1.** 20.566 (1) (bb) of the statutes is created to read:

2 20.566 (1) (bb) *Administration of the dispensary surcharge.* The amounts in
3 the schedule for the purposes of administering the dispensary surcharge imposed
4 under subch. IV of ch. 139.

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

Insert 12 - 4 JK

5 **SECTION 2.** 77.54 (14) (intro.) of the statutes is amended to read:

6 77.54 (14) (intro.) The sales price from the sales of and the storage, use, or other
7 consumption in this state of drugs that are any of the following, not including
8 cannabis and tetrahydrocannabinols procured from dispensary, as defined in s. 94.57

9 (1) (a):

History: 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 18; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284np, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332; 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 103, 109; 2003 a. 99, 128; 2005 a. 25, 74, 141, 149, 335, 366, 479; 2007 a. 11, 19, 20, 97, 130; 2009 a. 2, 28, 185, 204, 330; 2011 a. 7, 10, 32, 208, 260; 2013 a. 20, 145, 185, 324, 346; 2015 a. 55, 60, 126, 216, 251, 364; 2017 a. 17, 58, 59, 190, 231, 290; 2017 a. 364 ss. 20, 48; 2017 a. 365 s. 111; 2017 a. 366 s. 99; 2017 a. 367; s. 13.92 (2) (i); s. 35.17 correction in (9m).

Insert 13 - 19 JK

10 **SECTION 3.** Subchapter IV (title) of chapter 139 [precedes 139.97] of the
11 statutes is created to read:

CHAPTER 139

SUBCHAPTER IV

DISPENSARY SURCHARGE

15 **SECTION 4.** 139.97 of the statutes is created to read:

1 **139.97 Definitions.** In this subchapter:

2 (1) "Department" means the department of revenue.

3 (2) "Dispensary" has the meaning given in s. 94.57 (1) (a).

4 **139.971 Imposition.** (1) A surcharge is imposed on a dispensary at the rate
5 of 10 percent of the total price of cannabis and tetrahydrocannabinols sold or
6 otherwise dispensed to an unrelated person, including any charge by the dispensary
7 that is necessary to complete the sale. For purposes of this subsection, the total price
8 of cannabis and tetrahydrocannabinols shall not be reduced by costs or expenses
9 incurred by the dispensary, such as fees, delivery, freight, transportation, packaging,
10 handling, marketing, taxes, and import fees or duties, regardless of whether such
11 costs or expenses are separately stated on the invoice. The total price shall also not
12 be reduced by the value or cost of discounts or free promotional or sample products.
13 For purposes of this subsection, a dispensary is considered related to another person
14 if the 2 entities have significant common purposes and substantial common
15 membership or, directly or indirectly, substantial common direction or control.

16 (2) A dispensary shall not separately state the surcharge on an invoice or other
17 similar document given to the purchaser or recipient of the cannabis and
18 tetrahydrocannabinols.

19 (3) No dispensary may sell or otherwise dispense cannabis and
20 tetrahydrocannabinols without first obtaining a business tax registration certificate
21 as prescribed under s. 73.03 (50).

22 **139.972 Records, returns.** (1) Every dispensary shall keep accurate and
23 complete records, in the manner prescribed by the department, of all transactions
24 involving the sale or disposition of cannabis and tetrahydrocannabinols. A
25 dispensary shall preserve the records on the premises described in its business tax

1 registration certificate in such a manner as to ensure permanency and accessibility
2 for inspection at reasonable hours by authorized personnel of the department.

3 (2) Every dispensary shall render a true and correct invoice of every sale and
4 disposition of cannabis and tetrahydrocannabinols and shall on or before the 15th
5 day of each calendar month file electronically a verified report of all such sales and
6 dispositions during the preceding calendar month.

7 (3) The department shall prescribe reasonable and uniform methods of keeping
8 records and making reports and shall prescribe and furnish the necessary report
9 forms.

10 (4) If the department finds that the records of any dispensary are not kept in
11 the prescribed form or are in such condition that an unusual amount of time is
12 required to determine from them the amount of surcharge due, the department shall
13 give notice of such fact to that dispensary and require that the records be revised and
14 kept in the prescribed form. If the dispensary fails to comply within 30 days the
15 dispensary shall pay the expenses reasonably attributable to a proper examination
16 and surcharge determination at the rate of \$30 per day for each auditor. The
17 department shall send a bill for expenses and the dispensary shall pay the amount
18 of the bill within 10 days.

19 (5) If any dispensary fails to file a report when due the dispensary shall be
20 required to pay a late filing fee of \$50.

21 (6) Sections 71.78 (1), (1m), and (4) to (9) and 71.83 (2) (a) 3. and 3m., relating
22 to confidentiality of income and franchise tax returns, apply to any information
23 obtained from any person on a dispensary surcharge return, report, schedule,
24 exhibit, or other document or from an audit report pertaining to the return, report,
25 schedule, exhibit, or document, except that the department shall publish on its

1 Internet site, at least quarterly, a current list of business tax registration certificates
2 issued to dispensaries under s. 73.03 (50) and include on the list the name and
3 address of the certificate holder and the date on which the department issued the
4 certificate.

5 (7) The department may inspect the business records of any dispensary doing
6 business on a reservation or on an Indian tribe's trust land.

7 (8) Each dispensary shall collect and remit the surcharge imposed under this
8 subchapter with the reports required to be filed under this section.

9 **139.973 Administration and enforcement.** (1) Sections 139.355, 139.365,
10 139.39, and 139.40, as they apply to the tax under subch. II, apply to the
11 administration and enforcement of this subchapter.

12 (2) If a dispensary fails to pay the surcharge under this subchapter, authorized
13 personnel of the department, with the assistance of any law enforcement officer
14 within their jurisdiction, may search the premises of a dispensary to seize any
15 personal property or cash for payment of the unpaid surcharge.

16 **139.974 Police powers.** The duly authorized employees of the department
17 have all necessary police powers to prevent violations of this subchapter.

18 **139.975 Timely filing.** The provisions on timely filing under s. 71.80 (18)
19 apply to the surcharge under this subchapter.

20 **139.976 Bonds.** Section 78.11, as it applies to suppliers of motor vehicle fuel,
21 applies to persons liable for the tax under this subchapter.

22 **139.977 Interest and penalties.** (1) The interest and penalties under s.
23 139.44 (2) to (7) and (9) to (12) apply to this subchapter. In addition, a person who
24 violates s. 139.972 (8) may be fined not more than \$10,000 or imprisoned for not more
25 than 9 months or both.

1 (2) If a person fails to file any return or report required under s. 139.972 by the
2 due date, unless the person shows that that failure was due to reasonable cause and
3 not due to neglect, the department shall add to the amount of surcharge required to
4 be shown on that return 5 percent of the amount of the surcharge if the failure is for
5 not more than one month and an additional 5 percent of the surcharge for each
6 additional month or fraction of a month during which the failure continues, but not
7 more than 25 percent of the surcharge. For purposes of this subsection, the amount
8 of the surcharge required to be shown on the return shall be reduced by the amount
9 of surcharge that is paid on or before the due date and by the amount of any credit
10 against the surcharge that may be claimed on the return.

11 **139.978 Personal liability.** Any officer, employee, fiduciary, or agent who is
12 responsible for paying the surcharge, interest, penalties, or other charges under this
13 subchapter incurred by another person, as defined in s. 77.51 (10), is personally
14 liable for that surcharge, interest, penalties, or other charges. Sections 71.88 (1) (a)
15 and (2) (a), 71.89, and 71.90, as they apply to appeals of income or franchise tax
16 assessments, apply to appeals of assessments under this subsection.

17 ^{e 9785}**139.978 Prosecutions by attorney general.** Upon request by the secretary
18 of revenue, the attorney general may represent this state or assist a district attorney
19 in prosecuting any case arising under this subchapter.

20 **139.979 Rule-making authority.** (1) The department shall promulgate any
21 rules necessary for the administration of this subchapter.

22 (2) Using the procedure under s. 227.24, the department may promulgate the
23 rules required under sub. (1). Notwithstanding s. 227.24 (1) (c) and (2), emergency
24 rules promulgated under this subsection remain in effect until January 1, 2023, or
25 the date on which permanent rules take effect, whichever is sooner.

1 Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to provide
2 evidence that promulgating a rule under this subsection as an emergency rule is
3 necessary for the preservation of the public peace, health, safety, or welfare and is
4 not required to provide a finding of emergency for a rule promulgated under this
5 subsection.

**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1539/P2ins
CMH/JK/SWB/EHS:wlj

1 INSERT 15-20 (SWB)

2 (cr) "Practitioner" means a physician, advanced practice nurse, a physician
3 assistant, or other person licensed, registered, certified, or otherwise permitted to
4 distribute, dispense, conduct research with respect to, administer or use in teaching
5 or chemical analysis a controlled substance in the course of professional practice or
6 research in this state.

7 (END INSERT 15-20 (SWB))

8 INSERT 21-20 (SWB)

9 **(8) EMERGENCY RULES.** Using the procedure under s. 227.24, the department
10 may promulgate the rules required under s. 146.44. Notwithstanding s. 227.24 (1)
11 (c) and (2), emergency rules promulgated under this subsection remain in effect until
12 January 1, 2023, or the date on which permanent rules take effect, whichever is
13 sooner. Notwithstanding s. 227.24 (1) (a) and (3), the department is not required
14 to provide evidence that promulgating a rule under this subsection as an emergency
15 rule is necessary for the preservation of the public peace, health, safety, or welfare
16 and is not required to provide a finding of emergency for a rule promulgated under
17 this subsection.

18 (END INSERT 21-20 (SWB))

19
20 INSERT 7-18 (MCP)

21 **(9) RULES.** The department may promulgate rules to administer and enforce
22 this section. The department may use the procedure under s. 227.24, to promulgate
23 rules required under this section. Notwithstanding s. 227.24 (1) (c) and (2),

1 emergency rules promulgated under this subsection remain in effect until January
2 1, 2023, or the date on which permanent rules take effect, whichever is sooner.
3 Notwithstanding s. 227.24 (1) (a) and (3), the department is not required to provide
4 evidence that promulgating a rule under this subsection as an emergency rule is
5 necessary for the preservation of the public peace, health, safety, or welfare and is
6 not required to provide a finding of emergency for a rule promulgated under this
7 subsection.

8
9 INSERT 21-22 (MCP)

10 **SECTION 1.** 227.01 (13) (zo) of the statutes is created to read:

11 227.01 (13) (zo) Determines policies relating to medical cannabis under s. 94.57

12 (2).

13
14 INSERT 39-21 (MCP)

15 **SECTION 9402. Effective dates; Agriculture, Trade and Consumer**
16 **Protection.**

17 (1) MEDICAL THC. The treatment of s. 94.57 except for s. 94.57 (9) takes effect
18 on the first day of the 13th month beginning after publication.