



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRBa1386/1  
CH/JK/MP/SB/JM:wlj

**ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY BILL 599**

February 23, 2022 - Offered by Representatives HESSELBEIN, ANDERSON, BROSTOFF, CONSIDINE, DOYLE, GOYKE, HEBL, HONG, B. MEYERS, MCGUIRE, MOORE OMOKUNDE, NEUBAUER, OHNSTAD, POPE, SHANKLAND, SHELTON, SNODGRASS, SINICKI, SPREITZER, STUBBS, SUBECK, VINING and VRUWINK.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 2: delete the material beginning with “regulating” and ending  
3 with “authority,” on line 3 and substitute “medical cannabis, providing an exemption  
4 from emergency rule procedures, granting rule-making authority, making an  
5 appropriation.”.

6 **2.** Page 2, line 1: delete the material beginning with that line and ending with  
7 page 4, line 19, and substitute:

8 “**SECTION 1.** 20.115 (7) (ge) of the statutes is created to read:

9 20.115 (7) (ge) *Medical cannabis licenses and registration.* All moneys received  
10 under s. 94.57 (4) to license and regulate producers, processors, and dispensaries,  
11 and to register laboratories, under s. 94.57.

12 **SECTION 2.** 20.435 (1) (gq) of the statutes is created to read:

1           20.435 (1) (gq) *Medical cannabis registry*. All moneys received as fees under  
2 s. 146.44 (2) (a) 4. and (ac) 3. and (4m) for the purposes of the medical cannabis  
3 registry program under s. 146.44.

4           **SECTION 3.** 59.54 (25) (a) (intro.) of the statutes is amended to read:

5           59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit  
6 the possession of marijuana, as defined in s. 961.01 (14), subject to par. (c) and the  
7 exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the  
8 ordinance; except that if. Any ordinance enacted under this paragraph shall provide  
9 a person who is prosecuted under it with the defenses that the person has under s.  
10 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint  
11 is issued regarding an allegation of possession of more than 25 grams of marijuana,  
12 or possession of any amount of marijuana following a conviction in this state for  
13 possession of marijuana, the subject of the complaint may not be prosecuted under  
14 this subsection for the same action that is the subject of the complaint unless all of  
15 the following occur:

16           **SECTION 4.** 59.54 (25) (c) of the statutes is created to read:

17           59.54 (25) (c) A person may not be prosecuted under an ordinance enacted  
18 under par. (a) if, under s. 968.072 (2) or (4) (b), the person would not be subject to  
19 prosecution under s. 961.41 (3g) (e).

20           **SECTION 5.** 59.54 (25m) of the statutes is amended to read:

21           59.54 (25m) **DRUG PARAPHERNALIA.** The board may enact an ordinance to  
22 prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574  
23 (1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance.  
24 Any ordinance enacted under this subsection shall provide a person prosecuted  
25 under it with the defenses that the person has under s. 961.5755 to prosecutions

1 under s. 961.573 (1), 961.574 (1), or 961.575 (1). A person may not be prosecuted  
2 under an ordinance enacted under this subsection if, under s. 968.072 (3) or (4) (b),  
3 the person would not be subject to prosecution under s. 961.573 (1), 961.574 (1), or  
4 961.575 (1). The board may enforce an ordinance enacted under this subsection in  
5 any municipality within the county.

6 **SECTION 6.** 66.0107 (1) (bm) of the statutes is amended to read:

7 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of  
8 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)  
9 (intro.), and provide a forfeiture for a violation of the ordinance; ~~except that if.~~ Any  
10 ordinance enacted under this paragraph shall provide a person who is prosecuted  
11 under it with the defenses that the person has under s. 961.436 to prosecutions under  
12 s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint is issued regarding an allegation  
13 of possession of more than 25 grams of marijuana, or possession of any amount of  
14 marijuana following a conviction in this state for possession of marijuana, the subject  
15 of the complaint may not be prosecuted under this paragraph for the same action that  
16 is the subject of the complaint unless the charges are dismissed or the district  
17 attorney declines to prosecute the case.

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

19 66.0107 (1) (bp) Enact and enforce an ordinance to prohibit conduct that is the  
20 same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or  
21 (2) and provide a forfeiture for violation of the ordinance. Any ordinance enacted  
22 under this paragraph shall provide a person prosecuted under it with the defenses  
23 that the person has under s. 961.5755 to prosecutions under s. 961.573 (1), 961.574  
24 (1), or 961.575 (1). A person may not be prosecuted under an ordinance enacted

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

3 **SECTION 8.** 66.0440 of the statutes is created to read:

4 **66.0440 Medical cannabis.** No village, town, city, or county may enact or  
5 enforce an ordinance or a resolution that prohibits producing, processing,  
6 dispensing, testing, or possessing medical cannabis if those actions are lawfully done  
7 by any of the following:

8 (1) A licensee under s. 94.57.

9 (2) If the amount of cannabis does not exceed the maximum authorized  
10 amount, as defined in s. 961.01 (14c), a person who has a valid registry identification  
11 card, as defined in s. 146.44 (1) (g), and is any of the following:

12 (a) A qualifying patient, as defined in s. 146.44 (1) (e), who is taking the actions  
13 to provide medical cannabis for his or her own use.

14 (b) A primary caregiver, as defined in s. 146.44 (1) (d), who is taking the actions  
15 to provide medical cannabis for his or her qualifying patient.

16 **SECTION 9.** 66.1201 (2m) of the statutes is amended to read:

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

1           **SECTION 10.** 66.1213 (3) of the statutes is amended to read:

2           66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit,  
3 facility, or privilege under this section 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 11.** 66.1301 (2m) of the statutes is amended to read:

12           66.1301 (2m) DISCRIMINATION. Persons entitled to any right, benefit, facility,  
13 or privilege under ss. 66.1301 to 66.1329 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 12.** 66.1331 (2m) of the statutes is amended to read:

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

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

6 **SECTION 13.** 66.1333 (3) (e) 2. of the statutes is amended to read:

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

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

16 77.52 (13) For the purpose of the proper administration of this section and to  
17 prevent evasion of the sales tax it shall be presumed that all receipts are subject to  
18 the tax until the contrary is established. The burden of proving that a sale of tangible  
19 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services  
20 is not a taxable sale at retail is upon the person who makes the sale unless that  
21 person takes from the purchaser an electronic or a paper certificate, in a manner  
22 prescribed by the department, to the effect that the property, item, good, or service  
23 is purchased for resale or is otherwise exempt, except that no certificate is required  
24 for the sale of tangible personal property, or items, property, or goods under sub. (1)  
25 (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 (70).~~

3 **SECTION 15.** 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 (70).~~

17 **SECTION 16.** 77.54 (70) of the statutes is created to read:

18 77.54 (70) The sales price from the sales of and the storage, use, or other  
19 consumption of medical cannabis and drug paraphernalia delivered or distributed  
20 by a dispensary licensed under s. 94.57.

21 **SECTION 17.** 94.57 of the statutes is created to read:

22 **94.57 Medical cannabis. (1) DEFINITIONS.** In this section:

23 (b) “Dispensary” means a person who obtains packaged and labeled medical  
24 cannabis from a licensed processor and dispenses that cannabis, and cannabis  
25 paraphernalia, at a permanent location to a member of a treatment team holding a

1 valid registry identification card, regardless of whether the dispensing is done in  
2 exchange for monetary consideration.

3 (c) “Laboratory” means a person who obtains medical cannabis from a licensed  
4 processor and tests that cannabis for tetrahydrocannabinol content and the presence  
5 of molds, pesticides, heavy metals, and other contaminants.

6 (d) “Licensee” means a producer, processor, or dispensary that holds a valid  
7 license under this section.

8 (e) “Maximum authorized amount” has the meaning given in s. 961.01 (14c).

9 (f) “Medical cannabis” means a cannabis plant or usable cannabis that is  
10 intended to be used by a qualifying patient registered under s. 146.44 to alleviate the  
11 symptoms or effects of the patient’s debilitating medical condition or treatment.

12 (g) “Processor” means a person who obtains medical cannabis from a licensed  
13 producer, processes the medical cannabis into usable cannabis or individual  
14 cannabis plants, packages and labels the usable cannabis or cannabis plants, and  
15 transfers or sells the packaged and labeled usable cannabis or cannabis plants to a  
16 licensed dispensary.

17 (h) “Producer” means a person who plants, grows, cultivates, or harvests more  
18 than 12 cannabis plants for medical cannabis and transfers or sells the medical  
19 cannabis to a licensed processor.

20 (i) “Qualifying patient” has the meaning given in s. 146.44 (1) (e).

21 (j) “Registry identification card” has the meaning given in s. 146.44 (1) (g).

22 (k) “School” has the meaning given in s. 118.257 (1) (d).

23 (L) “Treatment team” has the meaning given in s. 961.01 (20t).

24 (m) “Usable cannabis” has the meaning given in s. 961.01 (21f).



1           **(2) LICENSE REQUIRED.** No person may operate in this state as a producer,  
2 processor, or dispensary without a license issued by the department under this  
3 section. A person who engages in more than one of these activities shall obtain a  
4 separate license for each activity. A licensee may engage in the licensed activity at  
5 more than one location without obtaining a separate license. No licensee may  
6 operate at more than 2 separate locations, regardless of the number of licenses held.  
7 A person who is an employee of a licensee is not required to obtain a separate license.  
8 A person is not required to obtain a license under this section if the person handles  
9 only industrial hemp and holds a valid license under s. 94.55.

10           **(3) LICENSE CRITERIA.** (a) The department may issue a license under this section  
11 to an applicant only if the applicant has been a resident of this state for at least the  
12 2 years immediately preceding the date of application.

13           (b) The department may not issue a license to, and must revoke a license of, any  
14 entity to which any of the following applies:

15           1. The entity is located within 500 feet of a school, including a charter school.

16           2. If the entity is a dispensary, the dispensary distributes to a member of a  
17 treatment team a number of cannabis plants or an amount of usable cannabis that,  
18 in the period of distribution, results in the treatment team possessing more than the  
19 maximum authorized amount.

20           3. The dispensary possesses a number of cannabis plants or an amount of  
21 usable cannabis that exceeds the combined maximum authorized amount for all of  
22 the treatment teams that use the dispensary by a number or an amount determined  
23 by the department by rule to be unacceptable.

24           4. The applicant, or a principal officer or board member of the applicant, has  
25 a financial interest in a registered laboratory.

1           **(4) LICENSING PROCEDURE; FEES; LICENSE TERM.** (a) An application for a license  
2 under this section shall be in writing on a form provided by the department and  
3 include the licensing application fee under par. (b) 1.

4           (b) 1. A licensing application fee shall be an amount determined by the  
5 department but not less than \$250.

6           2. The annual fee for a licensee shall be an amount determined by the  
7 department but not less than \$5,000.

8           (c) A license is valid unless revoked. Each license shall be issued only for the  
9 applicant named in the application and may not be transferred or assigned.

10          **(5) PRODUCERS.** (a) A licensed producer may plant, grow, cultivate, and harvest  
11 medical cannabis, including planting, growing, cultivating, and harvesting  
12 outdoors; transfer or sell the medical cannabis to a licensed processor; and engage  
13 in any related activities that are necessary for the operation, such as possessing,  
14 storing, and transporting the medical cannabis.

15          (b) A licensed producer may not plant, grow, cultivate, or harvest medical  
16 cannabis for personal, family, or household use.

17          **(6) PROCESSORS.** (a) A licensed processor may obtain medical cannabis from a  
18 licensed producer; process the medical cannabis into usable cannabis or individual  
19 cannabis plants; transfer samples of the usable cannabis or individual cannabis  
20 plants to a registered laboratory; package and label the usable cannabis or individual  
21 cannabis plants; transfer or sell the usable cannabis or individual cannabis plants  
22 to a licensed dispensary; and engage in any related activities that are necessary for  
23 the operation, such as possessing, storing, and transporting the usable cannabis or  
24 individual cannabis plants.

1 (b) Before distributing medical cannabis to a licensed dispensary, a licensed  
2 processor shall provide samples of each type of cannabis plant and usable cannabis  
3 that it processes to a registered laboratory to test for mold, fungus, pesticides, and  
4 other contaminants and may not distribute medical cannabis that tests positive for  
5 mold, fungus, pesticides, or other contaminants if the contaminants or the level of  
6 contaminants is identified by the laboratory as being potentially unsafe to an  
7 individual's health.

8 **(7) DISPENSARIES.** (a) A licensed dispensary may obtain packaged, labeled  
9 medical cannabis from a licensed processor; dispense the medical cannabis according  
10 to the provisions of this section; and engage in any related activities that are  
11 necessary for the operation, such as possessing, storing, and transporting the  
12 medical cannabis.

13 (b) A licensed dispensary may dispense medical cannabis only to a person who  
14 presents a valid registry identification card.

15 (c) The department shall determine which and how many applicants for a  
16 dispensary license receive a license on the basis of all of the following:

- 17 1. Convenience to treatment teams and the preferences of treatment teams.
- 18 2. The ability of the applicant to provide to treatment teams a sufficient amount  
19 of medical cannabis.
- 20 3. The experience the applicant has running a nonprofit organization or a  
21 business.
- 22 4. The preferences of the governing bodies with jurisdiction over the area in  
23 which the applicants are located.
- 24 5. The ability of the applicant to keep records confidential and maintain a safe  
25 and secure facility.

1           6. The ability of the applicant to abide by the prohibitions under sub. (3) (b).

2           **(8) LABORATORIES.** The department shall register entities as medical cannabis  
3 testing laboratories. The department may not register a laboratory if any principal  
4 officer or board member of the entity has any financial interest in a licensee or an  
5 applicant for a license under this section. A registered laboratory may obtain  
6 samples of medical cannabis from a licensed processor; test and certify the  
7 tetrahydrocannabinol content of the medical cannabis and whether the medical  
8 cannabis contains any contaminants; and engage in any related activities that are  
9 necessary for the operation, such as possessing, storing, and transporting the  
10 medical cannabis. Registered laboratories shall perform the following services:

11           (a) Testing medical cannabis for potency and for mold, fungus, pesticides, and  
12 other contaminants.

13           (b) Researching findings related to medical cannabis, including findings that  
14 identify potentially unsafe levels of contaminants.

15           (c) Providing training to persons who hold registry identification cards,  
16 treatment teams, and persons employed by licensees on all of the following:

17           1. The safe and efficient cultivation, harvesting, packaging, labeling, and  
18 distribution of medical cannabis.

19           2. Security and inventory accountability procedures.

20           3. The most recent research on medical cannabis.

21           **(9) CONFIDENTIALITY.** The department may disclose to a law enforcement  
22 agency only information necessary to verify that a licensee has a valid license issued  
23 under this section, an entity is complying with rules promulgated under sub. (11), or  
24 a laboratory is registered under sub. (8).

1           **(10) INSPECTIONS.** The department may inspect, without prior notice, the  
2 premises of an applicant, licensee, or registered laboratory and any records required  
3 to be retained by a licensee or registered laboratory.

4           **(11) RULES.** (a) The department shall promulgate rules to administer and  
5 enforce this section. Rules promulgated under this subsection shall be designed to  
6 promote and prioritize producers, processors, and dispensaries that are small, local  
7 organizations.

8           (b) When promulgating rules under this subsection, the department may, as  
9 necessary, use the procedure under s. 227.24 to promulgate emergency rules.  
10 Notwithstanding s. 227.24 (1) (a) and (3), when promulgating emergency rules under  
11 this subsection, the department is not required to provide evidence that  
12 promulgating a rule under this subsection as an emergency rule is necessary for the  
13 preservation of the public peace, health, safety, or welfare and is not required to  
14 provide a finding of emergency for a rule promulgated under this subsection.  
15 Notwithstanding s. 227.24 (1) (c) and (2), initial emergency rules and subsequent  
16 emergency rules promulgated under this subsection remain in effect until the date  
17 on which permanent rules take effect. Notwithstanding s. 227.24 (1) (e) 1d. and 1g.,  
18 for emergency rules promulgated under this subsection, the department is not  
19 required to prepare a statement of scope of the rules or to submit the proposed rules  
20 in final draft form to the governor for approval.

21           **SECTION 18.** 101.123 (1) (h) (intro.) of the statutes is amended to read:

22           101.123 (1) (h) (intro.) “Smoking” means burning or holding, or inhaling or  
23 exhaling smoke from, any of the following items containing tobacco or cannabis:

24           **SECTION 19.** 102.43 (9) (e) of the statutes is amended to read:

1           102.43 (9) (e) The employee’s employment with the employer has been  
2 suspended or terminated due to misconduct, as defined in s. 108.04 (5), or substantial  
3 fault, as defined in s. 108.04 (5g) (a), by the employee connected with the employee’s  
4 work, subject to s. 108.04 (5m).

5           **SECTION 20.** 106.50 (1m) (h) of the statutes is amended to read:

6           106.50 (1m) (h) “Discriminate” means to segregate, separate, exclude, or treat  
7 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)  
8 because of sex, race, color, sexual orientation, disability, religion, national origin,  
9 marital status, or family status;; status as a victim of domestic abuse, sexual assault,  
10 or stalking; whether the person holds, or has applied for, a registry identification  
11 card, as defined in s. 146.44 (1) (g), has been the subject of a written certification, as  
12 defined in s. 146.44 (1) (h), or is or has been a member of a treatment team, as defined  
13 in s. 961.01 (20t); lawful source of income;; age; or ancestry.

14           **SECTION 21.** 108.04 (5m) of the statutes is created to read:

15           108.04 (5m) USE OF MEDICAL CANNABIS. (a) In this subsection:

- 16           1. “Medical cannabis” has the meaning given in s. 94.57 (1) (f).
- 17           2. “Registry identification card” has the meaning given in s. 146.44 (1) (g).
- 18           3. “Written certification” has the meaning given in s. 146.44 (1) (h).

19           (b) Notwithstanding sub. (5), “misconduct,” for purposes of sub. (5), does not  
20 include any of the following:

- 21           1. A positive test for cannabis components or metabolites, in the absence of  
22 other actions or conduct that constitutes misconduct under sub. (5). This subdivision  
23 applies only with respect to an employee with a valid written certification and a valid  
24 registry identification card.

1           2. A violation of the employer’s policy concerning the use of cannabis, if all of  
2 the following apply:

3           a. The employee was using medical cannabis in accordance with a valid written  
4 certification.

5           b. The employee held a valid registry identification card.

6           c. The employee did not use or possess medical cannabis on the employer’s  
7 premises or during working hours.

8           d. The use did not impair the individual’s ability to adequately perform the  
9 job-related responsibilities of that individual’s employment.

10          (c) Notwithstanding sub. (5g), “substantial fault,” for purposes of sub. (5g), does  
11 not include any of the following:

12           1. A positive test for cannabis components or metabolites, in the absence of  
13 other acts or omissions that constitute substantial fault under sub. (5). This  
14 subdivision applies only with respect to an employee with a valid written  
15 certification and a valid registry identification card.

16          2. A violation of the employer’s policy concerning the use of cannabis, if all of  
17 the following apply:

18           a. The employee was using medical cannabis in accordance with a valid written  
19 certification.

20           b. The employee held a valid registry identification card.

21           c. The employee did not use or possess medical cannabis on the employer’s  
22 premises or during working hours.

23           d. The use did not impair the individual’s ability to adequately perform the  
24 job-related responsibilities of that individual’s employment.

25          **SECTION 22.** 111.32 (15) of the statutes is created to read:

1           111.32 (15) “Use of a lawful product off the employer’s premises during  
2 nonworking hours” includes the use of medical cannabis, as defined in s. 94.57 (1) (f),  
3 off the employer’s premises during nonworking hours but only if such use is in  
4 accordance with a valid written certification, as defined in s. 146.44 (1) (h), and the  
5 use is by an individual who holds a valid registry identification card, as defined in  
6 s. 146.44 (1) (g).

7           **SECTION 23.** 111.34 (1) (c) of the statutes is created to read:

8           111.34 (1) (c) 1. Except as provided in subd. 2., refusing to hire or employ,  
9 barring, suspending, or terminating an individual, or discriminating against an  
10 individual in promotion, in compensation, or in terms, conditions, or privileges of  
11 employment, based on the individual’s use of medical cannabis, as defined in s. 94.57  
12 (1) (f), if such use is in accordance with a valid written certification, as defined in s.  
13 146.44 (1) (h), and the individual holds a valid registry identification card, as defined  
14 in s. 146.44 (1) (g).

15           2. Subdivision 1. does not apply if any of the following applies:

16           a. The employee uses or possesses medical cannabis on the employer’s premises  
17 or during working hours.

18           b. The use impairs the individual’s ability to undertake adequately the  
19 job-related responsibilities of that individual’s employment.

20           c. The refusal, bar, suspension, termination, or discrimination is necessary for  
21 the employer to avoid losing a monetary or licensing-related benefit under federal  
22 law or regulations.

23           **SECTION 24.** 111.35 (2) (e) of the statutes is amended to read:

24           111.35 (2) (e) Conflicts with any federal or state statute, rule or regulation.

25           This paragraph does not apply with respect to any conflict between the use of medical



1 cannabis described in s. 111.32 (15) and violations concerning marijuana or  
2 tetrahydrocannabinols under 21 USC 841 to 865.

3 **SECTION 25.** 111.35 (2) (f) of the statutes is created to read:

4 111.35 (2) (f) In the case of use of medical cannabis described in s. 111.32 (15),  
5 would result in the employer losing a monetary or licensing-related benefit under  
6 federal law or regulations.

7 **SECTION 26.** 146.44 of the statutes is created to read:

8 **146.44 Medical cannabis registry program. (1) DEFINITIONS.** In this  
9 section:

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

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

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

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

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

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

21 1. Cancer, glaucoma, acquired immunodeficiency syndrome, a positive test for  
22 the presence of human immunodeficiency virus, antigen or nonantigenic products of  
23 human immunodeficiency virus, or an antibody to human immunodeficiency virus,  
24 Crohn’s disease, a hepatitis C virus infection, Alzheimer’s disease, amyotrophic

1 lateral sclerosis, nail-patella syndrome, Ehlers-Danlos syndrome, post-traumatic  
2 stress disorder, or the treatment of these conditions.

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

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

8 4. Any other medical condition or any other treatment for a medical condition  
9 designated as a debilitating medical condition or treatment in rules promulgated by  
10 the department under s. 961.436 (5).

11 (c) "Medical cannabis" has the meaning given in s. 94.57 (1) (f).

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

14 (cp) "Practitioner" means a person licensed as a physician, as defined in s.  
15 448.01 (5), a physician assistant, or an advanced practice nurse prescriber certified  
16 under s. 441.16 (2).

17 (d) "Primary caregiver" means a person who has agreed to help a qualifying  
18 patient use or acquire medical cannabis and who has a registry identification card.

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

23 1. The person's practitioner has explained the potential risks and benefits of  
24 using medical cannabis to the person and to a parent, guardian, or person having  
25 legal custody of the person.

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

3           a. Allow the person to use medical cannabis.

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

5           c. Manage the person's use of medical cannabis.

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

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

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

11           1. The statement indicates that, in the practitioner's professional opinion, the  
12 person has or is undergoing a debilitating medical condition or treatment and the  
13 potential benefits of using medical cannabis would likely outweigh the health risks  
14 for the person.

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

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

19           **(1m)** PRACTITIONER RESTRICTIONS. (a) No practitioner may provide himself or  
20 herself or any member of his or her family with a written certification for submission  
21 with an application under sub. (2).

22           (b) No practitioner who provides a written certification under this section may  
23 have a financial interest in any way connected to a person or entity that produces,  
24 processes, dispenses, or tests cannabis.

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, except that for an applicant who is a recipient of medical assistance  
11 under subch. IV of ch. 49, is receiving benefits under the federal social security  
12 disability insurance program under 42 USC 423 or the federal supplemental security  
13 income program under 42 USC 1381, or is a veteran, the fee shall be \$50.

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

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

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

21           3. A registration fee of \$250.

22           (b) The department shall promulgate rules specifying how a parent, guardian,  
23 or person having legal custody of a child may apply for a registry identification card  
24 for the child and the circumstances under which the department may approve or  
25 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 any 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 the rules  
8 promulgated under sub. (2) (b).

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

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

15           1. The registrant.

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

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

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

19           (c) A photograph of the registrant.

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

21           **(4m) ANNUAL FEE.** Primary caregivers shall pay an annual fee of \$250.

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

1 health as it relates to his or her debilitating medical condition or treatment, and if  
2 a primary caregiver stops helping the registrant use or acquire medical cannabis.  
3 A registrant who is a primary caregiver shall notify the department if the registrant  
4 becomes a primary caregiver for an additional qualifying patient and shall include  
5 with the notice a copy of a written certification or copy of a registration identification  
6 card for each additional qualifying patient.

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

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

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

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

21 (b) Notwithstanding s. 19.35 and except as provided in par. (c), the department  
22 may not disclose information from an application submitted or a registry  
23 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 (bm) Specify how photographs under sub. (4) (c) must be taken and the  
9 requirements for such photographs.

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

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

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

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

18 1. The person holding the out-of-state registry identification card has been  
19 diagnosed with or is undergoing a debilitating medical condition or treatment that  
20 has been approved by the jurisdiction that issued the card.

21 2. The out-of-state registry identification card allows for the use of medical  
22 cannabis by the person who holds the card, the card is valid in the jurisdiction in  
23 which it was provided, and the person who holds the card is a resident of that  
24 jurisdiction.

1           3. The person who holds the out-of-state registry identification card has not  
2 been a resident of Wisconsin for a period longer than a period the department  
3 determines would allow the person to apply for a registry identification card in  
4 Wisconsin.

5           (g) Create guidelines for issuing registry identification cards, and for obtaining  
6 and distributing medical cannabis, to persons under the care of the department who  
7 have a debilitating medical condition or treatment.

8           **SECTION 27.** 234.29 of the statutes is amended to read:

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

20           **SECTION 28.** 289.33 (3) (d) of the statutes is amended to read:

21           289.33 (3) (d) “Local approval” includes any requirement for a permit, license,  
22 authorization, approval, variance or exception or any restriction, condition of  
23 approval or other restriction, regulation, requirement or prohibition imposed by a  
24 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by  
25 a town, city, village, county or special purpose district, including without limitation



1 because of enumeration any ordinance, resolution or regulation adopted under s.  
2 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),  
3 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),  
4 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),  
5 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),  
6 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3),  
7 (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16),  
8 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70  
9 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (7), (8),  
10 and (10), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34,  
11 61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415,  
12 87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III  
13 of ch. 91.

14 **SECTION 29.** 349.02 (2) (b) 4. of the statutes is amended to read:

15 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or  
16 66.0107 (1) (bm).

17 **SECTION 30.** 450.03 (1) (em) of the statutes is created to read:

18 450.03 (1) (em) Any person acting within the scope of a valid medical cannabis  
19 producer, processor, or dispensary license under s. 94.57.

20 **SECTION 31.** 450.03 (1) (ep) of the statutes is created to read:

21 450.03 (1) (ep) An individual who plants, grows, cultivates, or harvests no more  
22 than 12 cannabis plants if the individual is any of the following:

23 1. A qualifying patient, as defined in s. 146.44 (1) (e), who is taking the actions  
24 to provide medical cannabis for his or her own use.

1           2. A primary caregiver, as defined in s. 146.44 (1) (d), who is taking the actions  
2 to provide medical cannabis for his or her qualifying patient.

3           **SECTION 32.** 450.07 (1) of the statutes is amended to read:

4           450.07 (1) Except as provided under sub. subs. (1m) and (1s), no person may  
5 engage in manufacturing in this state unless the person obtains a manufacturer's  
6 license from the board. For the issuance of a license under this subsection, the  
7 applicant shall pay the initial credential fee determined by the department under s.  
8 440.03 (9) (a).

9           **SECTION 33.** 450.07 (1s) of the statutes is created to read:

10          450.07 (1s) (a) No license under this section is required for a person acting  
11 within the scope of a valid medical cannabis producer, processor, or dispensary  
12 license under s. 94.57.

13          (b) No license under this section is required for an individual who plants, grows,  
14 cultivates, or harvests no more than 12 cannabis plants if the individual is any of the  
15 following:

16           1. A qualifying patient, as defined in s. 146.44 (1) (e), who is taking the actions  
17 to provide medical cannabis for his or her own use.

18           2. A primary caregiver, as defined in s. 146.44 (1) (d), who is taking the actions  
19 to provide medical cannabis for his or her qualifying patient.

20          **SECTION 34.** 450.071 (1) of the statutes is renumbered 450.071 (1) (a) and  
21 amended to read:

22          450.071 (1) (a) ~~No~~ Except as provided in par. (b), no person may engage in the  
23 wholesale distribution of a prescription drug in this state without obtaining a license  
24 from the board for each facility from which the person distributes prescription drugs.

1           **(b) 1.** The board shall exempt from the licensure requirement under this section  
2 a manufacturer that distributes prescription drugs or devices manufactured by the  
3 manufacturer from licensing and other requirements under this section to the extent  
4 the license or requirement is not required under federal law or regulation, unless the  
5 board determines that it is necessary to apply a requirement to a manufacturer.

6           **SECTION 35.** 450.071 (1) (b) 2. and 3. of the statutes are created to read:

7           450.071 **(1)** (b) 2. No license under this section is required for a person acting  
8 within the scope of a valid medical cannabis producer, processor, or dispensary  
9 license under s. 94.57.

10           3. No license under this section is required for an individual who plants, grows,  
11 cultivates, or harvests no more than 12 cannabis plants if the individual is any of the  
12 following:

13           a. A qualifying patient, as defined in s. 146.44 (1) (e), who is taking the actions  
14 to provide medical cannabis for his or her own use.

15           b. A primary caregiver, as defined in s. 146.44 (1) (d), who is taking the actions  
16 to provide medical cannabis for his or her qualifying patient.

17           **SECTION 36.** 767.41 (5) (am) (intro.) of the statutes, as affected by 2021  
18 Wisconsin Act 37, is amended to read:

19           767.41 **(5)** (am) (intro.) Subject to pars. (bm) ~~and~~, (c), and (d), in determining  
20 legal custody and periods of physical placement, the court shall consider all facts  
21 relevant to the best interest of the child. The court may not prefer one parent or  
22 potential custodian over the other on the basis of the sex or race of the parent or  
23 potential custodian. Subject to pars. (bm) ~~and~~, (c), and (d), the court shall consider  
24 all of the following factors, which are not necessarily listed in order of importance,  
25 in making its determination:

1           **SECTION 37.** 767.41 (5) (d) of the statutes is created to read:

2           767.41 (5) (d) The court may not consider as a factor in determining the legal  
3 custody of a child whether a parent or potential custodian holds, or has applied for,  
4 a registry identification card, as defined in s. 146.44 (1) (g), is or has been the subject  
5 of a written certification, as defined in s. 146.44 (1) (h), or is or has been a qualifying  
6 patient, as defined in s. 146.44 (1) (e), or a primary caregiver, as defined in s. 146.44  
7 (1) (d), unless the parent or potential custodian's behavior creates an unreasonable  
8 danger to the child that can be clearly articulated and substantiated.

9           **SECTION 38.** 767.451 (5m) (a) of the statutes is amended to read:

10           767.451 (5m) (a) Subject to pars. (b) ~~and~~, (c), and (d), in all actions to modify  
11 legal custody or physical placement orders, the court shall consider the factors under  
12 s. 767.41 (5) (am), subject to s. 767.41 (5) (bm), and shall make its determination in  
13 a manner consistent with s. 767.41.

14           **SECTION 39.** 767.451 (5m) (d) of the statutes is created to read:

15           767.451 (5m) (d) In an action to modify a legal custody order, the court may not  
16 consider as a factor in making a determination whether a parent or potential  
17 custodian holds, or has applied for, a registry identification card, as defined in s.  
18 146.44 (1) (g), is or has been the subject of a written certification, as defined in s.  
19 146.44 (1) (h), or is or has been a qualifying patient, as defined in s. 146.44 (1) (e), or  
20 a primary caregiver, as defined in s. 146.44 (1) (d), unless the parent or potential  
21 custodian's behavior creates an unreasonable danger to the child that can be clearly  
22 articulated and substantiated.

23           **SECTION 40.** 961.01 (5m) of the statutes is created to read:

24           961.01 (5m) "Debilitating medical condition or treatment" has the meaning  
25 given in s. 146.44 (1) (b).

1           **SECTION 41.** 961.01 (12v) of the statutes is created to read:

2           961.01 (**12v**) “Lockable, enclosed facility” means an enclosed indoor or outdoor  
3 area that is capable of being locked or that requires a security device and that permits  
4 access only by a member of a treatment team.

5           **SECTION 42.** 961.01 (14c) of the statutes is created to read:

6           961.01 (**14c**) “Maximum authorized amount” means 12 live cannabis plants  
7 and 3 ounces of usable cannabis.

8           **SECTION 43.** 961.01 (14g) of the statutes is created to read:

9           961.01 (**14g**) “Medical cannabis” has the meaning given in s. 94.57 (1) (f).

10          **SECTION 44.** 961.01 (17k) of the statutes is created to read:

11          961.01 (**17k**) “Out-of-state registry identification card” has the meaning given  
12 in s. 146.44 (1) (cm).

13          **SECTION 45.** 961.01 (19m) of the statutes is created to read:

14          961.01 (**19m**) “Primary caregiver” has the meaning given in s. 146.44 (1) (d).

15          **SECTION 46.** 961.01 (20hm) of the statutes is created to read:

16          961.01 (**20hm**) “Qualifying patient” has the meaning given in s. 146.44 (1) (e).

17          **SECTION 47.** 961.01 (20ht) of the statutes is created to read:

18          961.01 (**20ht**) “Registry identification card” has the meaning given in s. 146.44  
19 (1) (g).

20          **SECTION 48.** 961.01 (20t) of the statutes is created to read:

21          961.01 (**20t**) “Treatment team” means a qualifying patient and his or her  
22 primary caregivers.

23          **SECTION 49.** 961.01 (21f) of the statutes is created to read:

24          961.01 (**21f**) “Usable cannabis” means cannabis leaves or flowers but does not  
25 include seeds, stalks, or roots or any ingredients combined with the leaves or flowers.

1           **SECTION 50.** 961.01 (21t) of the statutes is created to read:

2           961.01 (21t) “Written certification” has the meaning given in s. 146.44 (1) (h).

3           **SECTION 51.** 961.436 of the statutes is created to read:

4           **961.436 Medical cannabis defense. (1)** A member of a qualifying patient’s  
5 treatment team has a defense to prosecution under s. 961.41 (1) (h) or (1m) (h) for  
6 manufacturing, or possessing with intent to manufacture, tetrahydrocannabinols if  
7 all of the following apply:

8           (a) The manufacture or possession is by the treatment team to use medical  
9 cannabis.

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

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

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

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

20           (a) The distribution, delivery, or possession is by the treatment team to use  
21 medical cannabis.

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

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

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

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

6 1. The possession or attempted possession is by the treatment team to use  
7 medical cannabis.

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

9 3. 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 4. If the member is a primary caregiver, he or she is not a primary caregiver  
13 to more than 10 qualifying patients.

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

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

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

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

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

24 b. The person's place of employment.

25 c. Public or private school premises.

- 1 d. A juvenile correctional facility.
- 2 e. A jail or adult correctional facility.
- 3 f. A public park, beach, or recreation center.
- 4 g. A youth center.

5 (4) For the purposes of a defense raised under sub. (1), (2), or (3) (a), a valid  
6 registry identification card, a valid out-of-state registry identification card, or a  
7 written certification is presumptive evidence that the element under sub. (1) (a), (2)  
8 (a), or (3) (a) 1. has been satisfied.

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 52.** 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 53.** 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 54.** 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 55.** 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 56.** 961.5755 of the statutes is created to read:

4 **961.5755 Medical cannabis defense in drug paraphernalia cases. (1) (a)**

5 Except as provided in par. (b), a member of a treatment team has a defense to  
6 prosecution under s. 961.573 (1) if he or she uses, or possesses with the primary  
7 intent to use, drug paraphernalia to use medical cannabis.

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

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

15 **(3)** For the purposes of a defense raised under sub. (1) (a) or (2), a valid registry  
16 identification card, a valid out-of-state registry identification card, or a written  
17 certification is presumptive evidence that the defense is valid.

18 **SECTION 57.** 968.072 of the statutes is created to read:

19 **968.072 Medical cannabis; arrest and prosecution. (1) DEFINITIONS.** In  
20 this section:

21 (a) “Lockable, enclosed facility” has the meaning given in s. 961.01 (12v).

22 (am) “Maximum authorized amount” has the meaning given in s. 961.01 (14c).

23 (b) “Medical cannabis” has the meaning given in s. 94.57 (1) (f).

24 (bm) “Out-of-state registry identification card” has the meaning given in s.  
25 146.44 (1) (cm).

- 1 (bt) “Practitioner” has the meaning given in s. 146.44 (1) (cp).
- 2 (c) “Primary caregiver” has the meaning given in s. 146.44 (1) (d).
- 3 (d) “Qualifying patient” has the meaning given in s. 146.44 (1) (e).
- 4 (e) “Registry identification card” has the meaning given in s. 146.44 (1) (g).
- 5 (f) “Treatment team” has the meaning given in s. 961.01 (20t).
- 6 (g) “Written certification” has the meaning given in s. 146.44 (1) (h).
- 7 **(2) LIMITATIONS ON ARRESTS AND PROSECUTION; MEDICAL CANNABIS.** Unless s.
- 8 961.436 (3) (b) 1., 2., or 3. applies, a member of a qualifying patient’s treatment team
- 9 may not be arrested or prosecuted for a violation of s. 961.41 (1) (h), (1m) (h), or (3g)
- 10 (e) if all of the following apply:
- 11 (a) The member manufactures, distributes, delivers, or possesses
- 12 tetrahydrocannabinols for the use of medical cannabis by the treatment team.
- 13 (b) The member possesses a valid registry identification card, a valid
- 14 out-of-state registry identification card, or a copy of the qualifying patient’s written
- 15 certification.
- 16 (c) The quantity of cannabis does not exceed the maximum authorized amount.
- 17 (d) Any live cannabis plants are in a lockable, enclosed facility unless the
- 18 member is accessing the plants or has the plants in his or her possession.
- 19 (e) If the member is a primary caregiver, he or she is not a primary caregiver
- 20 to more than 10 qualifying patients.
- 21 **(3) LIMITATIONS ON ARRESTS AND PROSECUTION; DRUG PARAPHERNALIA FOR MEDICAL**
- 22 **CANNABIS.** (a) Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a treatment
- 23 team may not be arrested or prosecuted for a violation of s. 961.573 (1) if all of the
- 24 following apply:

1           1. The member uses, or possesses with the primary intent to use, drug  
2 paraphernalia only to use medical cannabis.

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

6           3. The member does not possess more than the maximum authorized amount  
7 of cannabis.

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

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

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

15           1. The member delivers, possesses with intent to deliver, or manufactures with  
16 intent to deliver to another member of his or her treatment team drug paraphernalia,  
17 knowing that it will be primarily used by the treatment team to use medical  
18 cannabis.

19           2. 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           3. The member does not possess more than the maximum authorized amount  
23 of cannabis.

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

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

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

7           (b) An employee of a licensee under s. 94.57 or of a laboratory registered under  
8 s. 94.57 (8) may not be arrested and such employee may not be subject to prosecution,  
9 denied any right or privilege, or penalized in any manner for any good faith action  
10 under s. 94.57.

11           **(5) PENALTY FOR FALSE STATEMENTS.** Whoever intentionally provides false  
12 information to a law enforcement officer in an attempt to avoid arrest or prosecution  
13 under this section for a violation of s. 961.41 (1) (h), (1m) (h), or (3g) (e), 961.573 (1),  
14 961.574 (1), or 961.575 (1) may be fined not more than \$500.

15           **SECTION 58.** 968.12 (6) of the statutes is created to read:

16           **968.12 (6) MEDICAL CANNABIS.** A person's possession, use, or submission of or  
17 connection with an application for a registry identification card under s. 146.44 (2),  
18 the issuance of such a card under s. 146.44 (4), or a person's possession of such a card,  
19 a valid out-of-state registry identification card, as defined in s. 146.44 (1) (cm), or  
20 an original or a copy of a written certification, as defined in s. 146.44 (1) (h), may not,  
21 by itself, constitute probable cause under sub. (1) or otherwise subject any person or  
22 the property of any person to inspection by any governmental agency.

23           **SECTION 59.** 968.19 of the statutes is renumbered 968.19 (1) and amended to  
24 read:

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

5           **SECTION 60.** 968.19 (2) of the statutes is created to read:

6           968.19 (2) A law enforcement agency that has seized a live cannabis plant is  
7 not responsible for the plant's care and maintenance.

8           **SECTION 61.** 968.20 (1j) of the statutes is created to read:

9           968.20 (1j) (a) In this subsection:

10           1. "Drug paraphernalia" has the meaning given in s. 961.571 (1) (a).

11           2. "Tetrahydrocannabinols" means a substance included in s. 961.14 (4) (t).

12           (b) Notwithstanding sub. (1g), the court may return drug paraphernalia or  
13 tetrahydrocannabinols that have been seized to the person from whom they were  
14 seized if any of the following applies:

15           1. The person was prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),  
16 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property but had  
17 a valid defense under s. 961.436 (1), (2), or (3) (a) or 961.5755 (1) (a) or (2).

18           2. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),  
19 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,  
20 if the person had been, he or she would have had a valid defense under s. 961.436 (1),  
21 (2), or (3) (a) or 961.5755 (1) (a) or (2).

22           **SECTION 62. Nonstatutory provisions.**

23           (1) NOTIFICATION OF RULE MAKING. If the department of agriculture, trade and  
24 consumer protection or the department of health services promulgates rules under  
25 s. 94.57 (11) or s. 146.44 (2) (b) or (7) before the first day of the 13th month beginning

1 after the effective date of this subsection, the department that promulgates the rules  
2 shall provide notice to the legislative reference bureau of the effective date of those  
3 rules, and the legislative reference bureau shall publish a notice of that date in the  
4 Wisconsin Administrative Register under s. 35.93 (2).

5 **SECTION 63. Effective dates.** This act takes effect on the day after publication,  
6 except as follows:

7 (1) The treatment of s. 94.57 (2) to (10) takes effect on the first day of the 13th  
8 month beginning after publication or on the date specified in the notice under  
9 SECTION 62 (1) of this act, whichever is sooner.

10 (2) The treatment of s. 146.44 (1m) to (6) takes effect on the first day of the 13th  
11 month beginning after publication or on the date specified in the notice under  
12 SECTION 62 (1) of this act, whichever is sooner.”.

13 (END)