



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1301/P7
MCP/JK/CMH/MPG:klm/emw/wlj

DOA:.....Aslesen, BB0445 - Marijuana legalization

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT; relating to: the budget.

Analysis by the Legislative Reference Bureau

CRIME

Recreational marijuana

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. This bill changes state law so that state law allows recreational use of marijuana.

The bill changes state law to allow a Wisconsin resident who is at least 21 years old, or a qualifying patient who is at least 18 years old, to possess no more than two ounces of marijuana and to allow a nonresident of Wisconsin who is at least 21 years old to possess no more than one-quarter ounce of marijuana. Generally, under the bill, a person who possesses more than the maximum amount he or she is allowed to possess, but not more than 28 grams of marijuana, is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. A person who possesses more than 28 grams of marijuana is guilty of a Class B misdemeanor, except that, if the person takes action to hide the amount of marijuana he or she has and the person has in place a security system to alert him or her to the presence of law enforcement, a method of intimidation, or a trap that could injure or kill a person approaching the area containing the marijuana, the person is guilty of a Class I

felony. The bill also eliminates the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption.

The bill creates a process by which a person may obtain a permit to produce, process, or sell marijuana for recreational use and pay an excise tax for the privilege of doing business in this state. Sixty percent of the revenue collected from the tax is deposited into a segregated fund called the “community reinvestment fund”.

The bill requires a person to obtain separate permits from DOR to produce, process, distribute, or sell marijuana, and requires marijuana producers and processors to obtain additional permits from DATCP. The requirements for obtaining these permits differ based on whether the permit is issued by DOR or DATCP but, in general, a person may not obtain such a permit if he or she is not a state resident, is under the age of 21, or has been convicted of certain crimes; in addition, a person may not operate under a DOR permit within 500 feet of a school, playground, recreation facility, child care facility, public park, public transit facility, or library and may not operate as a marijuana producer under a DATCP permit within 500 feet of a school. A person who holds a permit from DOR must also comply with certain operational requirements.

Under the bill, a permit applicant with 20 or more employees may not receive a permit from DATCP or DOR unless the the applicant certifies that the applicant has entered into a labor peace agreement with a labor organization. The labor peace agreement prohibits the labor organization and its members from engaging in any economic interference with persons doing business in this state, prohibits the applicant from disrupting the efforts of the labor organization to communicate with and to organize and represent the applicant’s employees, and provides the labor organization access to areas in which the employees work to discuss employment rights and the terms and conditions of employment. Current law prohibits the state and any local unit of government from requiring a labor peace agreement as a condition for any regulatory approval. The permit requirements under the bill are not subject to that prohibition.

The bill also requires DATCP and DOR to use a competitive scoring system to determine which applicants are eligible to receive permits. Each department must issue permits to the highest scoring applicants that it determines will best protect the environment; provide stable, family-supporting jobs to local residents; ensure worker and consumer safety; operate secure facilities; and uphold the laws of the jurisdictions in which they operate. Each department may deny a permit to an applicant with a low score.

Under the bill, a person who does not have a permit from DOR to sell marijuana may not sell, distribute, or transfer marijuana, or possess marijuana with the intent to sell or distribute it. A person who violates the prohibition is guilty of a Class I felony except that the felony classification increases to a Class H felony if the person sells, distributes, or transfers the marijuana to a person who is under the age of 21 (minor) and the person is at least three years older than the minor. The bill prohibits a DOR permittee from selling, distributing, or transferring marijuana to a minor and from allowing a minor to be on premises for which a permit is issued. If a permittee violates one of those prohibitions, the permittee may be subject to a civil forfeiture

of not more than \$500 and the permit may be suspended for up to 30 days. Under the bill, a minor who does any of the following is subject to a forfeiture of not less than \$250 nor more than \$500: procures or attempts to procure marijuana from a permittee; falsely represents his or her age to receive marijuana from a permittee; knowingly possesses marijuana for recreational use; or knowingly enters any premises for which a permit has been issued without being accompanied by his or her parent, guardian, or spouse who is at least 21 years of age or at least 18 years of age if a qualifying patient.

In addition, under the bill, a person who is cultivating marijuana plants without a permit who possesses more than six marijuana plants that have reached the flowering stage but not more than 12 at one time is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. If the person possesses more than 12 plants that have reached the flowering stage at one time, the person is guilty of a Class B misdemeanor, except that, if the person takes action to hide the number of plants he or she has and the person has in place a security system to alert him or her to the presence of law enforcement, a method of intimidation, or a trap that could injure or kill a person approaching the area containing the plants, the person is guilty of a Class I felony.

The bill also requires DATCP to register entities as tetrahydrocannabinols (THC)-testing laboratories. The laboratories must test marijuana for contaminants; research findings on the use of medical marijuana; and provide training on safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana, security and inventory accountability, and research on medical marijuana.

Under the fair employment law, no employer or other person may engage in any act of employment discrimination against any individual on the basis of the individual's use or nonuse of lawful products off the employer's premises during nonworking hours, subject to certain exceptions, one of which is if the use impairs the individual's ability to undertake adequately the job-related responsibilities of that individual's employment. The bill specifically defines marijuana as a lawful product for purposes of the fair employment law, such that no person may engage in any act of employment discrimination against an individual because of the individual's use of marijuana off the employer's premises during nonworking hours, subject to those exceptions.

Under current law, an individual may be disqualified from receiving unemployment insurance benefits if he or she is terminated because of misconduct or substantial fault. The bill specifically provides that an employee's use of marijuana off the employer's premises during nonworking hours does not constitute misconduct or substantial fault unless termination for that use is permitted under one of the exceptions under the fair employment law. Also under current law, DWD must establish a program to test claimants who apply for UI benefits for the presence of controlled substances, as defined under federal law. If a claimant tests positive for a controlled substance, the claimant may be denied UI benefits, subject to certain exceptions and limitations. The bill excludes THC for purposes of this testing requirement. As such, under the bill, an individual who tests positive for THC may not be denied UI benefits.

The bill exempts THC, including marijuana, from drug testing for certain public assistance programs. Currently, a participant in a community service job or transitional placement under the Wisconsin Works program (W2) or a recipient of the FoodShare program, also known as the food stamp program, who is convicted of possession, use, or distribution of a controlled substance must submit to a test for controlled substances as a condition of continued eligibility. DHS is currently required to request a waiver of federal Medicaid law to require drug screening and testing as a condition of eligibility for the childless adult demonstration project in the Medical Assistance program. Current law also requires DHS to promulgate rules to develop and implement a drug screening, testing, and treatment policy for able-bodied adults without dependents in the FoodShare employment and training program. The bill exempts THC from all of those drug-testing requirements and programs. In addition, because THC is not a controlled substance under state law under the bill, the requirement under current law that DCF promulgate rules to create a controlled substance abuse screening and testing requirement for applicants for the work experience program for noncustodial parents under W2 and the Transform Milwaukee Jobs and Transitional Jobs programs does not include THC.

Unless federal law requires otherwise, the bill prohibits a hospital, physician, organ procurement organization, or other person from determining the ultimate recipient of an anatomical gift on the sole basis of a positive test for the use of marijuana by a potential recipient.

The bill requires DOR to create and maintain a medical marijuana registry program whereby a person 18 years old or older who is a qualifying patient may obtain a registry identification card and purchase marijuana from a licensed retail establishment without having to pay the sales or excise taxes imposed on that sale. Under the bill, generally, a qualifying patient is an individual who has been diagnosed by a physician as having or undergoing a debilitating medical condition or treatment but does not include a person under the age of 18 years.

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

STATE GOVERNMENT

GENERAL STATE GOVERNMENT

Equity grants

This bill requires DOA to provide grants to public, private, and nonprofit entities in this state that promote diversity and advance equity and inclusion.

HEALTH AND HUMAN SERVICES

GENERAL HEALTH AND HUMAN SERVICES

Health equity grants

This bill directs DHS to award grants to community organizations to implement community health worker care models. The bill also directs DHS to award grants to community organizations and local or tribal health departments to

hire health equity strategists and to implement health equity action plans in small geographic areas.

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.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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

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

SECTION 1. 16.282 of the statutes is created to read:

16.282 Equity grants. The department shall develop and administer a grants program to provide grants to public, private, and nonprofit entities in this state that promote diversity and advance equity and inclusion.

SECTION 2. 20.115 (7) (gc) of the statutes is amended to read:

20.115 (7) (gc) *Industrial hemp and marijuana*. All moneys received under s. 94.55 for regulation of activities relating to industrial hemp under s. 94.55 and to marijuana under s. 94.56.

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

SECTION 3. 20.115 (7) (ge) of the statutes is created to read:

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

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

SECTION 4. 20.192 (1) (t) of the statutes is created to read:

20.192 (1) (t) *Underserved community grants.* From the community reinvestment fund, the amounts in the schedule for the purpose of providing underserved community grants under s. 238.139.

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

SECTION 5. 20.255 (2) (r) of the statutes is created to read:

20.255 (2) (r) *Sparsity aid; community reinvestment fund supplement.* From the community reinvestment fund, the amounts in the schedule for sparsity aid to school districts under s. 115.436.

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

SECTION 6. 20.435 (1) (r) of the statutes is created to read:

20.435 (1) (r) *Health equity grants.* From the community reinvestment fund, the amounts in the schedule for health equity grants under s. 250.22.

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

SECTION 7. 20.437 (3) (r) of the statutes is created to read:

20.437 (3) (r) *Diversity, equity, and inclusion grants; community reinvestment fund supplement.* From the community reinvestment fund, the amounts in the schedule for diversity, equity, and inclusion grants under s. 48.47 (20).

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

SECTION 8. 20.505 (1) (t) of the statutes is created to read:

20.505 (1) (t) *Equity grants; community reinvestment fund.* From the community reinvestment fund, the amounts in the schedule for the purpose of providing grants to promote diversity and advance equity and inclusion under s. 16.282.

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

SECTION 9. 20.566 (1) (bn) of the statutes is created to read:

20.566 (1) (bn) *Administration and enforcement of marijuana tax and regulation.* The amounts in the schedule for the purposes of administering the marijuana tax imposed under subch. IV of ch. 139 and for the costs incurred in enforcing the taxing and regulation of marijuana producers, marijuana processors, and marijuana retailers 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.

SECTION 10. 20.835 (2) (eq) of the statutes is created to read:

20.835 (2) (eq) *Marijuana tax refunds.* A sum sufficient to pay refunds under subchapter IV of chapter 139.

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

SECTION 11. 25.316 of the statutes is created to read:

25.316 Community reinvestment fund. There is established a separate nonlapsible trust fund, designated the community reinvestment fund consisting of 60 percent of all moneys received from the taxes imposed under s. 139.971, including interest and penalties.

SECTION 12. 48.47 (20) of the statutes is created to read:

48.47 (20) **DIVERSITY, EQUITY, AND INCLUSION GRANTS.** From the appropriation account under s. 20.437 (3) (r), award grants to public, private, or nonprofit entities that promote diversity and advance equity and inclusion.

SECTION 13. 49.148 (4) (a) of the statutes is amended to read:

49.148 (4) (a) A Wisconsin ~~works~~ Works agency shall require a participant in a community service job or transitional placement who, after August 22, 1996, was convicted in any state or federal court of a felony that had as an element possession,

SECTION 13

use or distribution of a controlled substance to submit to a test for use of a controlled substance as a condition of continued eligibility. If the test results are positive, the Wisconsin ~~works~~ Works agency shall decrease the presanction benefit amount for that participant by not more than 15 percent for not fewer than 12 months, or for the remainder of the participant's period of participation in a community service job or transitional placement, if less than 12 months. If, at the end of 12 months, the individual is still a participant in a community service job or transitional placement and submits to another test for use of a controlled substance and if the results of the test are negative, the Wisconsin ~~works~~ Works agency shall discontinue the reduction under this paragraph. In this subsection, "controlled substance" does not include tetrahydrocannabinols in any form, including tetrahydrocannabinols contained in marijuana, obtained from marijuana, or chemically synthesized.

SECTION 14. 49.79 (1) (b) of the statutes is amended to read:

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

SECTION 15. 59.54 (25) (title) of the statutes is amended to read:

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

SECTION 16. 59.54 (25) (a) (intro.) of the statutes is amended to read:

59.54 (25) (a) (intro.) The board may enact and enforce an ordinance ~~to prohibit the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance that is consistent with s. 961.71 or 961.72; except that if a complaint is issued regarding an allegation of possession of more than 25 grams of marijuana, or possession of any~~

~~amount of marijuana following a conviction in this state for possession of marijuana alleging a violation of s. 961.72 (2) (b) 2., (c) 3., or (d) 4., the subject of the complaint may not be prosecuted under this subsection for the same action that is the subject of the complaint unless all of the following occur:~~

SECTION 17. 66.0107 (1) (bm) of the statutes is amended to read:

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

SECTION 18. 66.04185 of the statutes is created to read:

66.04185 Cultivation of tetrahydrocannabinols. No city, village, town, or county may prohibit cultivating tetrahydrocannabinols outdoors if the cultivation is by an individual who has no more than 6 marijuana plants at one time for his or her personal use.

SECTION 19. 73.17 of the statutes is created to read:

73.17 Medical marijuana registry program. (1) DEFINITIONS. In this section:

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

1. Cancer; glaucoma; acquired immunodeficiency syndrome; a positive test for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV; inflammatory bowel disease, including ulcerative colitis or 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.

2. 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, including those characteristic of epilepsy, or severe and persistent muscle spasms, including those characteristic of multiple sclerosis.

(b) "Department" means the department of revenue.

(c) "Physician" means a person licensed under s. 448.04 (1) (a).

(d) "Qualifying patient" means a person who has been diagnosed by a physician as having or undergoing a debilitating medical condition or treatment but does not include a person under the age of 18 years

(e) "Tax exemption certificate" means a certificate to claim the exemption under s. 77.54 (71).

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

(g) "Written certification" means means a statement made by a person's physician if all of the following apply:

1. The statement indicates that, in the physician's professional opinion, the person has or is undergoing a debilitating medical condition or treatment and the potential benefits of the person's use of usable marijuana would likely outweigh the health risks for the person.

2. The statement indicates that the opinion described in subd. 1. was formed after a full assessment of the person's medical history and current medical condition that was conducted no more than 6 months prior to making the statement and that was made in the course of a bona fide physician-patient relationship

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

4. The statement contains an expiration date that is no more than 48 months after issuance and the statement has not expired.

(2) APPLICATION. An adult who is claiming to be a qualifying patient may apply for a registry identification card by submitting to the department a signed application form containing or accompanied by all of the following:

(a) His or her name, address, and date of birth.

(b) A written certification.

(c) The name, address, and telephone number of the person's current physician, as listed in the written certification.

(3) PROCESSING THE APPLICATION. The department shall verify the information contained in or accompanying an application submitted under sub. (2) and shall approve or deny the application within 30 days after receiving it. The department may deny an application submitted under sub. (2) only if the required information has not been provided or if false information has been provided.

(4) ISSUING A REGISTRY IDENTIFICATION CARD AND TAX EXEMPTION CERTIFICATE. The department shall issue to the applicant a registry identification card and tax exemption certificate within 5 days after approving an application under sub. (3). Unless voided under sub. (5) (b) or revoked under rules issued by the department under sub. (7), a registry identification card and tax exemption certificate shall

expire 4 years from the date of issuance. A tax exemption certificate shall contain the information determined by the department. A registry identification card shall contain all of the following:

- (a) The name, address, and date of birth of the registrant.
- (b) The date of issuance and expiration date of the registry identification card.
- (c) A photograph of the registrant.
- (d) Other information the department may require by rule.

(5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT. (a) An adult registrant shall notify the department of any change in the registrant's name and address. An adult registrant who is a qualifying patient shall notify the department of any change in his or her physician or of any significant improvement in his or her health as it relates to his or her debilitating medical condition or treatment.

(b) If a registrant fails to notify the department within 10 days after any change for which notification is required under par. (a), his or her registry identification card and tax exemption certificate is void.

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

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

(c) The department may disclose to state or local law enforcement agencies information from an application submitted by, or from a registry identification card issued to, a specific person under this section for the purpose of verifying that the person possesses a valid registry identification card.

(7) RULES. The department shall promulgate rules to implement this section.

SECTION 20. 77.54 (71) of the statutes is created to read:

77.54 (71) The sales price from the sale of and the storage, use, or other consumption of usable marijuana, as defined in s. 139.97 (13), purchased by an individual who holds a valid certificate issued under s. 73.17 (4).

SECTION 21. 94.55 (2t) of the statutes is repealed.

SECTION 22. 94.56 of the statutes is created to read:

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

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

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

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

3. Provides the labor organization access at reasonable times to areas in which the applicant’s employees work for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment.

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

(c) “Marijuana processor” has the meaning given in s. 139.97 (6).

(d) “Marijuana producer” has the meaning given in s. 139.97 (7).

(e) “Usable marijuana” has the meaning given in s. 139.97 (13).

(f) “Permittee” means a marijuana producer or marijuana processor who is issued a permit under this section.

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

(b) This subsection applies to any of the following if they hold 5 percent or more of the stock of any corporation applying for a permit under this section

1. Officers of the corporation.
2. Directors of the corporation.
3. Agents of the corporation.
4. Stockholders of the corporation.

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

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

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

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

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

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

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

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

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

6. The person has been convicted of crimes relating to prostitution.

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

8. The person is under the age of 21.

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

(cm) Notwithstanding ss. 66.0134 and 947.21, an applicant with 20 or more employees may not receive a permit under this section unless the applicant certifies to the department that the applicant has entered into a labor peace agreement and will abide by the terms of the agreement as a condition of maintaining a valid permit

under this section. The applicant shall submit to the department a copy of the page of the labor peace agreement that contains the signatures of the union representative and the applicant.

(cn) The department shall use a competitive scoring system to determine which applicants are eligible to receive a permit under this section. The department shall issue permits to the highest scoring applicants that it determines will best protect the environment; provide stable, family-supporting jobs to local residents; ensure worker and consumer safety; operate secure facilities; and uphold the laws of the jurisdictions in which they operate. The department may deny a permit to an applicant with a low score as determined under this paragraph. The department may request that the applicant provide any information or documentation that the department deems necessary for purposes of making a determination under this paragraph.

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

2. A written objection filed under subd. 1. shall provide all the facts on which the objection is based. In determining whether to grant or deny a permit for which an objection has been filed under this paragraph, the department shall give substantial weight to objections from a municipality based on chronic illegal activity associated with the premises for which the applicant seeks a permit or the premises

of any other operation in this state for which the applicant holds or has held a valid permit or license, the conduct of the applicant's patrons inside or outside the premises of any other operation in this state for which the applicant holds or has held a valid permit or license, and local zoning ordinances. In this subdivision, "chronic illegal activity" means a pervasive pattern of activity that threatens the public health, safety, and welfare of the municipality, including any crime or ordinance violation, and that is documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar law enforcement agency records.

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

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

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

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

(3) FEES; TERM. (a) Each person who applies for a permit under this section shall submit with the application a \$250 fee. A permit issued under this section is valid for one year and may be renewed, except that the department may revoke or suspend a permit prior to its expiration. A person is not entitled to a refund of the

fees paid under this subsection if the person's permit is denied, revoked, or suspended.

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

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

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

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

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

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

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

(5) EDUCATION AND AWARENESS CAMPAIGN. The department shall develop and make available training programs for marijuana producers on how to safely and efficiently plant, grow, cultivate, harvest, and otherwise handle marijuana, and for marijuana processors on how to safely and efficiently produce and handle marijuana products and test marijuana for contaminants. The department shall conduct an awareness campaign to inform potential marijuana producers and marijuana

processors of the availability and viability of marijuana as a crop or product in this state.

(6) RULES. The department shall promulgate rules necessary to administer and enforce this section, including rules relating to the inspection of the plants, facilities, and products of permittees; training requirements for employees of permittees; and the competitive scoring system for determining which applicants are eligible to receive a permit under this section.

(7) PENALTIES. (a) Any person who violates sub. (2), fails to pay the required fee under sub. (3), or violates any of the requirements established by the rules promulgated under sub. (6) shall be fined not less than \$100 nor more than \$500 or imprisoned not more than 6 months or both.

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

SECTION 23. 94.57 of the statutes is created to read:

94.57 Testing laboratories. The department shall register entities as tetrahydrocannabinols testing laboratories. The laboratories may possess or manufacture tetrahydrocannabinols or drug paraphernalia and shall perform the following services:

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

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

(3) Provide training on the following:

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

(b) Security and inventory accountability procedures.

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

SECTION 24. 100.145 of the statutes is created to read:

100.145 Recreational marijuana logotype. The department shall design an official logotype appropriate for including on a label affixed to recreational marijuana under s. 139.973 (10) (a).

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

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

SECTION 26. 108.04 (5m) of the statutes is created to read:

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

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

SECTION 27. 111.32 (9m) of the statutes is created to read:

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

SECTION 28. 111.32 (11m) of the statutes is created to read:

111.32 (11m) “Marijuana” means all parts of the plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including tetrahydrocannabinols.

SECTION 29. 111.35 (2) (e) of the statutes is amended to read:

111.35 (2) (e) Conflicts with any federal or state statute, rule or regulation. This paragraph does not apply with respect to violations concerning marijuana or tetrahydrocannabinols under [21 USC 841](#) to [865](#).

SECTION 30. 114.09 (2) (bm) 1. (intro.) of the statutes is amended to read:

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

SECTION 31. 114.09 (2) (bm) 4. of the statutes is amended to read:

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

with the plan that shall not extend beyond one year. The county department under s. 51.42 shall assure notification of the department of transportation and the person of the person's compliance or noncompliance with assessment and treatment.

SECTION 32. 115.35 (1) of the statutes is renumbered 115.35 (1) (a) (intro.) and amended to read:

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

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

2. Mental health; ~~sexually.~~

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

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

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

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

SECTION 33. Subchapter IV of chapter 139 [precedes 139.97] of the statutes is created to read:

CHAPTER 139

SUBCHAPTER IV

MARIJUANA TAX AND REGULATION

139.97 Definitions. In this subchapter:

- (1) “Department” means the department of revenue.
- (2) “Lot” means a definite quantity of marijuana or usable marijuana identified by a lot number, every portion or package of which is consistent with the factors that appear in the labeling.
- (3) “Lot number” means a number that specifies the person who holds a valid permit under this subchapter and the harvesting or processing date for each lot.
- (4) “Marijuana” has the meaning given in s. 961.70 (3).
- (5) “Marijuana distributor” means a person in this state who purchases or receives usable marijuana from a marijuana processor and who sells or otherwise transfers the usable marijuana to a marijuana retailer for the purpose of resale to consumers.
- (6) “Marijuana processor” means a person in this state who processes marijuana into usable marijuana, packages and labels usable marijuana for sale in retail outlets, and sells at wholesale or otherwise transfers usable marijuana to marijuana distributors.
- (7) “Marijuana producer” means a person in this state who produces marijuana and sells it at wholesale or otherwise transfers it to marijuana processors.
- (8) “Marijuana retailer” means a person in this state that sells usable marijuana at a retail outlet.

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

- (a) A marijuana processor.
- (b) A marijuana distributor.
- (c) A marijuana retailer.

(10) “Permittee” means a marijuana producer, marijuana processor, marijuana distributor, marijuana retailer, or microbusiness that is issued a permit under s. 139.972.

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

(12) “Sales price” has the meaning given in s. 77.51 (15b).

(13) “Usable marijuana” means marijuana that has been processed for human consumption and includes dried marijuana flowers, marijuana-infused products, and marijuana edibles.

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

(b) An excise tax is imposed on a marijuana retailer at the rate of 10 percent of the sales price on each retail sale in this state of usable marijuana, except that the tax does not apply to sales of usable marijuana to an individual who holds a valid tax exemption certificate issued under s. 73.17 (4).

(2) Each person liable for the taxes imposed under sub. (1) shall pay the taxes to the department no later than the 15th day of the month following the month in

which the person's tax liability is incurred and shall include with the payment a return on a form prescribed by the department.

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

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

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

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

1. The person has been convicted of a violent misdemeanor, as defined in s. 941.29 (1g) (b), at least 3 times.
2. The person has been convicted of a violent felony, as defined in s. 941.29 (1g) (a), unless pardoned.
3. During the preceding 3 years, the person has been committed under s. 51.20 for being drug dependent.

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

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

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

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

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

6. The person has been convicted of crimes relating to prostitution.

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

8. The person is under the age of 21.

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

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

(cn) The department shall use a competitive scoring system to determine which applicants are eligible to receive a permit under this section. The department shall issue permits to the highest scoring applicants that it determines will best protect the environment; provide stable, family-supporting jobs to local residents; ensure worker and consumer safety; operate secure facilities; and uphold the laws of the jurisdictions in which they operate. The department shall, using criteria established by rule, score an applicant for a permit to operate as a marijuana retailer on the applicant's ability to articulate a social equity plan related to the operation of a marijuana retail establishment. The department may deny a permit to an applicant with a low score as determined under this paragraph. The department may request that the applicant provide any information or documentation that the department deems necessary for purposes of making a determination under this paragraph.

(d) 1. Before the department issues a new or renewed permit under this section, the department shall give notice of the permit application to the governing body of the municipality where the permit applicant intends to operate the premises of a

marijuana producer, marijuana processor, marijuana distributor, marijuana retailer, or microbusiness. No later than 30 days after the department submits the notice, the governing body of the municipality may file with the department a written objection to granting or renewing the permit. At the municipality's request, the department may extend the period for filing objections.

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

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

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

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

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

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

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

(4) Under this section, a separate permit is required for and issued to each class of permittee, and the permit holder may perform only the operations authorized by the permit. A permit issued under this section is not transferable from one person to another or from one premises to another. A separate permit is required for each place in this state where the operations of a marijuana producer, marijuana processor, marijuana distributor, marijuana retailer, or microbusiness occur, including each retail outlet. No person who has been issued a permit to operate as a marijuana retailer, or who has any direct or indirect financial interest in the

operation of a marijuana retailer, shall be issued a permit to operate as a marijuana producer, marijuana processor, or marijuana distributor. A person who has been issued a permit to operate as a microbusiness is not required to hold separate permits to operate as a marijuana processor, marijuana distributor, or marijuana retailer, but shall specify on the person's application for a microbusiness permit the activities that the person will be engaged in as a microbusiness.

(5) Each person issued a permit under this section shall post the permit in a conspicuous place on the premises to which the permit relates.

139.973 Regulation. (1) (a) No permittee may employ an individual who is under the age of 21 to work in the business to which the permit relates.

(b) Subject to ss. 111.321, 111.322, and 111.335, no permittee may employ an individual if any of the conditions under s. 139.972 (1) (c) 1. to 7. applies to the individual.

(2) A retail outlet shall sell no products or services other than usable marijuana or paraphernalia intended for the storage or use of usable marijuana.

(3) No marijuana retailer may allow a person who is under the age of 21 to enter or be on the premises of a retail outlet in violation of s. 961.71 (2m), unless that person is a qualifying patient, as defined in s. 73.17 (1) (d).

(4) The maximum amount of usable marijuana that a retail outlet may sell to an individual consumer in a single transaction may not exceed the permissible amount under s. 961.70 (5).

(4m) A marijuana retailer may not collect, retain, or distribute personal information regarding the retailer's customers except that which is necessary to complete a sale of usable marijuana.

(5) No marijuana retailer may display any signage in a window, on a door, or on the outside of the premises of a retail outlet that is visible to the general public from a public right-of-way, other than a single sign that is no larger than 1,600 square inches identifying the retail outlet by the permittee's business or trade name.

(6) No marijuana retailer may display usable marijuana in a manner that is visible to the general public from a public right-of-way.

(7) No marijuana retailer or employee of a retail outlet may consume, or allow to be consumed, any usable marijuana on the premises of the retail outlet.

(7m) A marijuana retailer may operate a retail outlet only between the hours of 8 a.m. and 8 p.m.

(8) Except as provided under sub. (5), no marijuana producer, marijuana processor, marijuana distributor, marijuana retailer, or microbusiness may place or maintain, or cause to be placed or maintained, an advertisement of usable marijuana in any form or through any medium.

(9) (a) On a schedule determined by the department, every marijuana producer, marijuana processor, or microbusiness shall submit representative samples of the marijuana and usable marijuana produced or processed by the marijuana producer, marijuana processor, or microbusiness to a testing laboratory registered under s. 94.57 for testing marijuana and usable marijuana in order to certify that the marijuana and usable marijuana comply with standards prescribed by the department by rule, including testing for potency and for mold, fungus, pesticides, and other contaminants. The laboratory testing the sample shall destroy any part of the sample that remains after the testing.

(b) Marijuana producers, marijuana processors, and microbusinesses shall submit the results of the testing provided under par. (a) to the department in the manner prescribed by the department by rule.

(c) If a representative sample tested under par. (a) does not meet the standards prescribed by the department, the department shall take the necessary action to ensure that the entire lot from which the sample was taken is destroyed. The department shall promulgate rules to determine lots and lot numbers for purposes of this subsection and for the reporting of lots and lot numbers to the department.

(10) (a) A marijuana processor or a microbusiness that operates as a marijuana processor shall affix a label to all usable marijuana that the marijuana processor or microbusiness sells to marijuana distributors. The label may not be designed to appeal to persons under the age of 18. The label shall include all of the following:

1. The ingredients and the tetrahydrocannabinols concentration in the usable marijuana.

2. The producer's business or trade name.

3. The licensee or registrant number.

4. The unique identification number.

5. The harvest date.

6. The strain name and product identity.

7. The net weight.

8. The activation time.

9. The name of laboratory performing any test, the test batch number, and the test analysis dates.

10. The logotype for recreational marijuana developed by the department of agriculture, trade and consumer protection under s. 100.145.

11. Warnings about all of the following:

a. Risks of marijuana use and pregnancy and risks of marijuana use by persons under the age of 18.

b. The prohibitions under ss. 23.33 (4c) (a) 2g. and 3g. and (b) 2n., 30.681 (1) (b) 1g. and (bn) 2. and (2) (b) 1g., 343.10 (5) (a) 2., 343.12 (7) (a) 11., 346.63 (1) (b), (2) (a) 2., and (2p), and 350.101 (1) (bg) and (cg) and (2) (bg).

(b) No marijuana processor or microbusiness that operates as a marijuana processor may make usable marijuana using marijuana grown outside this state. The label on each package of usable marijuana may indicate that the usable marijuana is made in this state.

(11) (a) No permittee may sell marijuana or usable marijuana that contains more than 3 parts tetrahydrocannabinols to one part cannabidiol.

(b) No permittee may sell marijuana or usable marijuana that tests positive under sub. (9) (a) for mold, fungus, pesticides, or other contaminants if the contaminants, or level of contaminants, are identified by a testing laboratory to be potentially unsafe to the consumer.

(12) Immediately after beginning employment with a permittee, every employee of a permittee shall receive training, approved by the department, on the safe handling of marijuana and usable marijuana and on security and inventory accountability procedures.

(13) The department shall deposit 60 percent of all moneys received under this subchapter into the community reinvestment fund.

139.974 Records and reports. (1) Every permittee shall keep accurate and complete records of the production and sales of marijuana and usable marijuana in this state. The records shall be kept on the premises described in the permit and in

such manner as to ensure permanency and accessibility for inspection at reasonable hours by the department's authorized personnel. The department shall prescribe reasonable and uniform methods of keeping records and making reports and shall provide the necessary forms to permittees.

(2) If the department determines that any permittee's records are not kept in the prescribed form or are in such condition that the department requires an unusual amount of time to determine from the records the amount of the tax due, the department shall give notice to the permittee that the permittee is required to revise the permittee's records and keep them in the prescribed form. If the permittee fails to comply within 30 days, the permittee shall pay the expenses reasonably attributable to a proper examination and tax determination at the rate of \$30 a day for each auditor used to make the examination and determination. The department shall send a bill for such expenses, and the permittee shall pay the amount of such bill within 10 days.

(3) If any permittee fails to file a report when due, the permittee shall be required to pay a late filing fee of \$10. A report that is mailed is filed on time if it is mailed in a properly addressed envelope with postage prepaid, the envelope is officially postmarked, or marked or recorded electronically as provided under section 7502 (f) (2) (c) of the Internal Revenue Code, on the date due, and the report is actually received by the department or at the destination that the department prescribes within 5 days of the due date. A report that is not mailed is timely if it is received on or before the due date by the department or at the destination that the department prescribes. For purposes of this subsection, "mailed" includes delivery by a delivery service designated under section 7502 (f) of the Internal Revenue Code.

(4) Sections 71.78 (1), (1m), and (4) to (9) and 71.83 (2) (a) 3. and 3m., relating to confidentiality of income, franchise, and gift tax returns, apply to any information obtained from any permittee under this subchapter on a tax return, report, schedule, exhibit, or other document or from an audit report relating to any of those documents, except that the department shall publish production and sales statistics.

139.975 Administration and enforcement. (1) The department shall administer and enforce this subchapter and promulgate rules necessary to administer and enforce this subchapter.

(2) The duly authorized employees of the department have all necessary police powers to prevent violations of this subchapter.

(3) Authorized personnel of the department of justice and the department of revenue, and any law enforcement officer, within their respective jurisdictions, may at all reasonable hours enter the premises of any permittee and examine the books and records to determine whether the tax imposed by this subchapter has been fully paid and may enter and inspect any premises where marijuana or usable marijuana is produced, processed, made, sold, or stored to determine whether the permittee is complying with this subchapter.

(4) The department may suspend or revoke the permit of any permittee who violates s. 100.30, any provision of this subchapter, or any rules promulgated under sub. (1). The department shall revoke the permit of any permittee who violates s. 100.30 3 or more times within a 5-year period.

(5) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied in s. 139.971. The aggrieved taxpayer shall pay the tax when due and, if paid under protest, may at any time within 90 days from the date of payment sue the state to recover the tax paid. If it is finally determined that any

part of the tax was wrongfully collected, the secretary of administration shall pay the amount wrongfully collected. A separate suit need not be filed for each separate payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

(6) (a) Any person may be compelled to testify in regard to any violation of this subchapter of which the person may have knowledge, even though such testimony may tend to incriminate the person, upon being granted immunity from prosecution in connection with the testimony, and upon the giving of such testimony, the person shall not be prosecuted because of the violation relative to which the person has testified.

(b) The immunity provided under par. (a) is subject to the restrictions under s. 972.085.

(7) The provisions on timely filing under s. 71.80 (18) apply to the tax imposed under this subchapter.

(8) Sections 71.74 (1), (2), (10), (11), and (14), 71.77, 71.91 (1) (a) and (c) and (2) to (7), 71.92, and 73.0301 as they apply to the taxes under ch. 71 apply to the taxes under this subchapter. Section 71.74 (13) as it applies to the collection of the taxes under ch. 71 applies to the collection of the taxes under this subchapter, except that the period during which notice of an additional assessment shall be given begins on the due date of the report under this subchapter.

(9) Any building or place of any kind where marijuana or usable marijuana is sold, possessed, stored, or manufactured without a lawful permit or in violation of s. 139.972 or 139.973 is declared a public nuisance and may be closed and abated as such.

(10) At the request of the secretary of revenue, the attorney general may represent this state or assist a district attorney in prosecuting any case arising under this subchapter.

139.976 Theft of tax moneys. All marijuana tax moneys received by a permittee for the sale of marijuana or usable marijuana on which the tax under this subchapter has become due and has not been paid are trust funds in the permittee's possession and are the property of this state. Any permittee who fraudulently withholds, appropriates, or otherwise uses marijuana tax moneys that are the property of this state is guilty of theft under s. 943.20 (1), whether or not the permittee has or claims to have an interest in those moneys.

139.977 Seizure and confiscation. (1) All marijuana and usable marijuana produced, processed, made, kept, stored, sold, distributed, or transported in violation of this subchapter, and all tangible personal property used in connection with the marijuana or usable marijuana, is unlawful property and subject to seizure by the department or a law enforcement officer. Except as provided in sub. (2), all marijuana and usable marijuana seized under this subsection shall be destroyed.

(2) If marijuana or usable marijuana on which the tax has not been paid is seized as provided under sub. (1), it may be given to law enforcement officers to use in criminal investigations or sold to qualified buyers by the department, without notice. If the department finds that the marijuana or usable marijuana may deteriorate or become unfit for use in criminal investigations or for sale, or that those uses would otherwise be impractical, the department may order it destroyed.

(3) If marijuana or usable marijuana on which the tax has been paid is seized as provided under sub. (1), it shall be returned to the true owner if ownership can be ascertained and the owner or the owner's agent is not involved in the violation

resulting in the seizure. If the ownership cannot be ascertained or if the owner or the owner's agent was guilty of the violation that resulted in the seizure of the marijuana or usable marijuana, it may be sold or otherwise disposed of as provided in sub. (2).

(4) If tangible personal property other than marijuana or usable marijuana is seized as provided under sub. (1), the department shall advertise the tangible personal property for sale by publication of a class 2 notice under ch. 985. If no person claiming a lien on, or ownership of, the property has notified the department of the person's claim within 10 days after last insertion of the notice, the department shall sell the property. If a sale is not practical the department may destroy the property. If a person claiming a lien on, or ownership of, the property notifies the department within the time prescribed in this subsection, the department may apply to the circuit court in the county where the property was seized for an order directing disposition of the property or the proceeds from the sale of the property. If the court orders the property to be sold, all liens, if any, may be transferred from the property to the sale proceeds. Neither the property seized nor the proceeds from the sale shall be turned over to any claimant of lien or ownership unless the claimant first establishes that the property was not used in connection with any violation under this subchapter or that, if so used, it was done without the claimant's knowledge or consent and without the claimant's knowledge of facts that should have given the claimant reason to believe it would be put to such use. If no claim of lien or ownership is established as provided under this subsection the property may be ordered destroyed.

139.978 Interest and penalties. (1) Any person who makes or signs any false or fraudulent report under this subchapter or who attempts to evade the tax

imposed by s. 139.971, or who aids in or abets the evasion or attempted evasion of that tax, may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(2) Any permittee who fails to keep the records required by s. 139.974 (1) and (2) shall be fined not less than \$100 nor more than \$500 or imprisoned not more than 6 months or both.

(3) Any person who refuses to permit the examination or inspection authorized under s. 139.975 (3) may be fined not more than \$500 or imprisoned not more than 6 months or both. The department shall immediately suspend or revoke the permit of any person who refuses to permit the examination or inspection authorized under s. 139.975 (3).

(4) Any person who violates any of the provisions of this subchapter for which no other penalty is prescribed shall be fined not less than \$100 nor more than \$1,000 or imprisoned not less than 10 days nor more than 90 days or both.

(5) Any person who violates any of the rules promulgated in accordance with this subchapter shall be fined not less than \$100 nor more than \$500 or imprisoned not more than 6 months or both.

(6) In addition to the penalties imposed for violating the provisions of this subchapter or any of the department's rules, the department shall revoke the permit of any person convicted of such a violation and not issue another permit to that person for a period of 2 years following the revocation.

(7) Unpaid taxes bear interest at the rate of 12 percent per year from the due date of the return until paid or deposited with the department, and all refunded taxes bear interest at the rate of 3 percent per year from the due date of the return to the date on which the refund is certified on the refund rolls.

(8) All nondelinquent payments of additional amounts owed shall be applied in the following order: penalties, interest, tax principal.

(9) Delinquent marijuana taxes bear interest at the rate of 1.5 percent per month until paid. The taxes imposed by this subchapter shall become delinquent if not paid:

(a) In the case of a timely filed return, no return filed or a late return, on or before the due date of the return.

(b) In the case of a deficiency determination of taxes, within 2 months after the date of demand.

(10) If due to neglect an incorrect return is filed, the entire tax finally determined is subject to a penalty of 25 percent of the tax exclusive of interest or other penalty. A person filing an incorrect return has the burden of proving that the error or errors were due to good cause and not due to neglect.

139.979 Personal use. An individual who possesses no more than 6 marijuana plants that have reached the flowering stage at any one time is not subject to the tax imposed under s. 139.971. An individual who possesses more than 6 marijuana plants that have reached the flowering stage at any one time shall apply for the appropriate permit under s. 139.972 and pay the appropriate tax imposed under s. 139.971.

139.980 Agreement with tribes. The department may enter into an agreement with a federally recognized American Indian Tribe in this state for the administration and enforcement of this subchapter and to provide refunds of the tax imposed under s. 139.971 on marijuana sold on tribal land by or to enrolled members of the tribe residing on the tribal land.

SECTION 34. 157.06 (11) (hm) of the statutes is created to read:

157.06 (11) (hm) Unless otherwise required by federal law, a hospital, physician, procurement organization, or other person may not determine the ultimate recipient of an anatomical gift based solely upon a positive test for the use of marijuana by a potential recipient.

SECTION 35. 157.06 (11) (i) of the statutes is amended to read:

157.06 (11) (i) Except as provided under ~~par. pars.~~ (a) 2. and (hm), nothing in this section affects the allocation of organs for transplantation or therapy.

SECTION 36. 238.139 of the statutes is created to read:

238.139 Financial assistance for underserved communities. The corporation shall expend \$5,000,000 annually to provide grants, loans, and other assistance to underserved communities in this state, including members of minority groups, woman-owned businesses, and individuals and businesses in rural areas.

SECTION 37. 250.22 of the statutes is created to read:

250.22 Health equity grants. (1) From the appropriations under s. 20.435 (1) (cv) and (r), the department shall award grants to community organizations to implement community health worker care models.

(2) From the appropriations under s. 20.435 (1) (cv) and (r), the department shall award grants to community organizations and local or tribal health departments to hire health equity strategists and to implement health equity action plans.

***NOTE: This is reconciled s. 250.22. This SECTION has been affected by drafts with the following LRB numbers: -0562/p2 and -1301/p5.

SECTION 38. 289.33 (3) (d) of the statutes is amended to read:

289.33 (3) (d) "Local approval" includes any requirement for a permit, license, authorization, approval, variance or exception or any restriction, condition of

approval or other restriction, regulation, requirement or prohibition imposed by a charter ordinance, general ordinance, zoning ordinance, resolution or regulation by a town, city, village, county or special purpose district, including without limitation because of enumeration any ordinance, resolution or regulation adopted under s. 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2), (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19), (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10), (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3), (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (7), (8), and (10), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415, 87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III of ch. 91.

SECTION 39. 349.02 (2) (b) 4. of the statutes is amended to read:

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

SECTION 40. 961.01 (14) of the statutes is renumbered 961.70 (3) and amended to read:

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

or preparation of the plant, its seeds or resin, ~~including tetrahydrocannabinols.~~
“Marijuana” does include the mature stalks if mixed with other parts of the plant, but does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. “Marijuana” does not include hemp, as defined in s. 94.55 (1).

SECTION 41. 961.11 (4g) of the statutes is repealed.

SECTION 42. 961.14 (4) (t) of the statutes is repealed.

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

SECTION 44. 961.34 of the statutes is renumbered 961.75, and 961.75 (title), as renumbered, is amended to read:

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

SECTION 45. 961.38 (1n) of the statutes is repealed.

SECTION 46. 961.41 (1) (h) of the statutes is repealed.

SECTION 47. 961.41 (1m) (h) of the statutes is repealed.

SECTION 48. 961.41 (1q) of the statutes is repealed.

SECTION 49. 961.41 (1r) of the statutes is amended to read:

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

substance analog. ~~In addition, in determining amounts under subs. (1) (h) and (1m) (h), the amount of tetrahydrocannabinols means anything included under s. 961.14 (4) (t) and includes the weight of any marijuana.~~

SECTION 50. 961.41 (1x) of the statutes is amended to read:

961.41 **(1x)** CONSPIRACY. Any person who conspires, as specified in s. 939.31, to commit a crime under sub. (1) (cm) to (h) or (1m) (cm) to ~~(h)~~ (g) is subject to the applicable penalties under sub. (1) (cm) to (h) or (1m) (cm) to ~~(h)~~ (g).

SECTION 51. 961.41 (3g) (c) of the statutes is amended to read:

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

SECTION 52. 961.41 (3g) (d) of the statutes is amended to read:

961.41 **(3g)** (d) *Certain hallucinogenic and stimulant drugs.* If a person possesses or attempts to possess lysergic acid diethylamide, phencyclidine, amphetamine, 3,4-methylenedioxymethamphetamine, methcathinone, cathinone, N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm), (u) to (xb), or (7) (L), psilocin, or psilocybin, or a controlled substance analog of lysergic acid diethylamide, phencyclidine, amphetamine,

3,4-methylenedioxyamphetamine, methcathinone, cathinone, N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm), (u) to (xb), or (7) (L), psilocin, or psilocybin, the person may be fined not more than \$5,000 or imprisoned for not more than one year in the county jail or both upon a first conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense is considered a 2nd or subsequent offense if, prior to the offender's conviction of the offense, the offender has at any time been convicted of any felony or misdemeanor under this chapter or under any statute of the United States or of any state relating to controlled substances, controlled substance analogs, narcotic drugs, ~~marijuana~~, or depressant, stimulant, or hallucinogenic drugs.

SECTION 53. 961.41 (3g) (e) of the statutes is repealed.

SECTION 54. 961.41 (3g) (em) of the statutes is amended to read:

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

SECTION 55. 961.47 (1) of the statutes is amended to read:

961.47 (1) Whenever any person who has not previously been convicted of any offense under this chapter, or of any offense under any statute of the United States or of any state or of any county ordinance relating to controlled substances or controlled substance analogs, narcotic drugs, marijuana or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted possession of a controlled substance or controlled substance analog under s. 961.41 (3g) (b), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him or her on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him or her. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for 2nd or subsequent convictions under s. 961.48. There may be only one discharge and dismissal under this section with respect to any person.

SECTION 56. 961.48 (3) of the statutes is amended to read:

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

SECTION 57. 961.48 (5) of the statutes is amended to read:

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

SECTION 58. 961.49 (1m) (intro.) of the statutes is amended to read:

961.49 (1m) (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), (f), or (g) ~~or (h)~~ by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (f), or (g) ~~or (h)~~ by possessing with intent to deliver or distribute, cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine, or methcathinone ~~or any form of tetrahydrocannabinols~~ or a controlled substance analog of any of these substances and the delivery, distribution or possession takes place under any of the following circumstances, the maximum term of imprisonment prescribed by law for that crime may be increased by 5 years:

SECTION 59. 961.571 (1) (a) 7. of the statutes is repealed.

SECTION 60. 961.571 (1) (a) 11. (intro.) of the statutes is amended to read:

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

SECTION 61. 961.571 (1) (a) 11. e. of the statutes is repealed.

SECTION 62. 961.571 (1) (a) 11. k. and L. of the statutes are repealed.

SECTION 63. Subchapter VIII of chapter 961 [precedes 961.70] of the statutes is created to read:

CHAPTER 961

SUBCHAPTER VIII

REGULATION OF MARIJUANA

961.70 Definitions. In this subchapter:

(2) “Legal age” means 21 years of age, except in the case of a qualifying patient, as defined in s. 73.17 (1) (d).

(5) “Permissible amount” means one of the following:

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

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

(6) “Permittee” has the meaning given under s. 139.97 (10).

(8) “Retail outlet” has the meaning given in s. 139.97 (11).

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

(11) “Underage person” means a person who has not attained the legal age.

(12) “Usable marijuana” has the meaning given in s. 139.97 (13).

961.71 Underage persons prohibitions; penalties. (1) (a) 1. No permittee may sell, distribute, or deliver marijuana to any underage person.

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

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

(c) In determining whether a permittee has violated par. (a) 2., all relevant circumstances surrounding the presence of the underage person may be considered.

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

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

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

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

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

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

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

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

(c) Knowingly possesses or consumes marijuana.

(d) Violates sub. (2m).

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

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

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

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

961.72 Restrictions; penalties. (1) No person except a permittee may sell, or possess with the intent to sell, marijuana. No person may distribute or deliver, or possess with the intent to distribute or deliver, marijuana except a permittee. Any person who violates a prohibition under this subsection is guilty of the following:

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

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

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

(b) A person who is not a permittee who possesses an amount of marijuana that exceeds 28 grams of marijuana:

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

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

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

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

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

(c) A person who is not a permittee who possesses more than 6 marijuana plants that have reached the flowering stage at one time is one of the following:

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

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

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

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

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

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

(d) No person except a a permittee may possess marijuana plants that have reached the flowering stage. Any person who violates this prohibition must apply for a permit under s. 139.972; in addition, the person is one of the following:

1. Except as provided in subds. 2., 3., and 4., subject to a civil forfeiture that is not more than twice the permitting fee under s. 139.972.

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

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

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

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

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

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

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

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

SECTION 64. 967.055 (1m) (b) 5. of the statutes is repealed.

SECTION 65. 971.365 (1) (a) of the statutes is amended to read:

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

SECTION 66. 971.365 (1) (b) of the statutes is amended to read:

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

SECTION 67. 971.365 (1) (c) of the statutes is amended to read:

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

SECTION 68. 971.365 (2) of the statutes is amended to read:

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

SECTION 69. 973.016 of the statutes is created to read:

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

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

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

2. One of the following applies:

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

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

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

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

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

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

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

2. One of the following applies:

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

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

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

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

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

SECTION 9128. Nonstatutory provisions; Legislature.

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

(END)