



**SENATE AMENDMENT 10,  
TO SENATE SUBSTITUTE AMENDMENT 2,  
TO SENATE BILL 70**

June 28, 2023 - Offered by Senators AGARD, CARPENTER, HESSELBEIN, L. JOHNSON,  
LARSON, PFAFF, ROYS, SMITH, SPREITZER, TAYLOR and WIRCH.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 374, line 11: after that line insert:

3 “SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place,  
4 insert the following amounts for the purposes indicated:

**2023-24      2024-25**

5 **20.115 Agriculture, trade and consumer**  
6 **protection, department of**

7 (7) AGRICULTURAL RESOURCE MANAGEMENT

8 (ge) Marijuana producers and proces-

9 sors; official logotype                      PR      C                      -0-                      -0-

**2023-24      2024-25**

1      **20.435 Health services, department of**

2      (5)      MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

3      (q)      Payments to counties                      SEG      C                      -0-      44,400,000

4      **20.566 Revenue, department of**

5      (1)      COLLECTION OF TAXES

6      (bn)      Administration and enforcement

7              of marijuana tax and regulation      GPR      A              3,284,300      2,073,600

8      **20.835 Shared revenue and tax relief**

9      (2)      TAX RELIEF

10      (eq)      Marijuana tax refunds                      GPR      S                      -0-      2,200,000

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

12              20.115 (7) (gc) *Industrial hemp and marijuana*. All moneys received under s.  
13      94.55 for regulation of activities relating to industrial hemp under s. 94.55 and to  
14      marijuana under s. 94.56.

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

16              20.115 (7) (ge) *Marijuana producers and processors; official logotype*. All  
17      moneys received under s. 94.56 for regulation of activities relating to marijuana  
18      under s. 94.56, for conducting public awareness campaigns under s. 94.56, and for  
19      the creation of a logotype under s. 100.145.

20              **SECTION 4.** 20.435 (5) (q) of the statutes is created to read:

21              20.435 (5) (q) *Payments to counties*. From the community reinvestment fund,  
22      all moneys received under subch. IV of ch. 139 for grants to counties under s. 250.22.

1           **SECTION 5.** 20.566 (1) (bn) of the statutes is created to read:

2           20.566 (1) (bn) *Administration and enforcement of marijuana tax and*  
3 *regulation.* The amounts in the schedule for the purposes of administering the  
4 marijuana tax imposed under subch. IV of ch. 139 and for the costs incurred in  
5 enforcing the taxing and regulation of marijuana producers, marijuana processors,  
6 and marijuana retailers under subch. IV of ch. 139.

7           **SECTION 6.** 20.835 (2) (eq) of the statutes is created to read:

8           20.835 (2) (eq) *Marijuana tax refunds.* A sum sufficient to pay refunds under  
9 subch. IV of ch. 139.

10          **SECTION 7.** 25.316 of the statutes is created to read:

11          **25.316 Community reinvestment fund.** There is established a separate  
12 nonlapsible trust fund, designated the community reinvestment fund consisting of  
13 all moneys received under subch. IV of ch. 139, including interest and penalties.

14          **SECTION 8.** 49.148 (4) (a) of the statutes is amended to read:

15          49.148 (4) (a) A Wisconsin ~~works~~ Works agency shall require a participant in  
16 a community service job or transitional placement who, after August 22, 1996, was  
17 convicted in any state or federal court of a felony that had as an element possession,  
18 use or distribution of a controlled substance to submit to a test for use of a controlled  
19 substance as a condition of continued eligibility. If the test results are positive, the  
20 Wisconsin ~~works~~ Works agency shall decrease the presanction benefit amount for  
21 that participant by not more than 15 percent for not fewer than 12 months, or for the  
22 remainder of the participant's period of participation in a community service job or  
23 transitional placement, if less than 12 months. If, at the end of 12 months, the  
24 individual is still a participant in a community service job or transitional placement  
25 and submits to another test for use of a controlled substance and if the results of the

1 test are negative, the Wisconsin ~~works~~ Works agency shall discontinue the reduction  
2 under this paragraph. In this subsection, “controlled substance” does not include  
3 tetrahydrocannabinols in any form, including tetrahydrocannabinols contained in  
4 marijuana, obtained from marijuana, or chemically synthesized.

5 **SECTION 9.** 49.79 (1) (b) of the statutes is amended to read:

6 49.79 (1) (b) “Controlled substance” has the meaning given in 21 USC 802 (6),  
7 except that “controlled substance” does not include tetrahydrocannabinols in any  
8 form, including tetrahydrocannabinols contained in marijuana, obtained from  
9 marijuana, or chemically synthesized.

10 **SECTION 10.** 59.54 (25) (title) of the statutes is amended to read:

11 59.54 (25) (title) POSSESSION REGULATION OF MARIJUANA.

12 **SECTION 11.** 59.54 (25) (a) (intro.) of the statutes is amended to read:

13 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance ~~to prohibit~~  
14 ~~the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in~~  
15 ~~s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance that~~  
16 ~~is consistent with s. 961.71 or 961.72; except that if a complaint is issued regarding~~  
17 ~~an allegation of possession of more than 25 grams of marijuana, or possession of any~~  
18 ~~amount of marijuana following a conviction in this state for possession of marijuana~~  
19 ~~alleging a violation of s. 961.72 (2) (b) 2. or (c) 3., the subject of the complaint may~~  
20 ~~not be prosecuted under this subsection for the same action that is the subject of the~~  
21 ~~complaint unless all of the following occur:~~

22 **SECTION 12.** 66.0107 (1) (bm) of the statutes is amended to read:

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

1 ~~with s. 961.71 or 961.72; except that if a complaint is issued regarding an allegation~~  
2 ~~of possession of more than 25 grams of marijuana, or possession of any amount of~~  
3 ~~marijuana following a conviction in this state for possession of marijuana alleging~~  
4 ~~a violation of s. 961.72 (2) (b) 2. or (c) 3., the subject of the complaint may not be~~  
5 prosecuted under this paragraph for the same action that is the subject of the  
6 complaint unless the charges are dismissed or the district attorney declines to  
7 prosecute the case.

8 **SECTION 13.** 66.04185 of the statutes is created to read:

9 **66.04185 Cultivation of tetrahydrocannabinols.** No city, village, town, or  
10 county may prohibit cultivating tetrahydrocannabinols outdoors if the cultivation is  
11 by an individual who has no more than 6 marijuana plants at one time for his or her  
12 personal use.

13 **SECTION 14.** 73.17 of the statutes is created to read:

14 **73.17 Medical marijuana registry program. (1) DEFINITIONS.** In this  
15 section:

16 (a) "Debilitating medical condition or treatment" means any of the following:

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

23 2. A chronic or debilitating disease or medical condition or the treatment of  
24 such a disease or condition that causes cachexia, severe pain, severe nausea,

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

3 (b) “Department” means the department of revenue.

4 (c) “Physician” means a person licensed under s. 448.04 (1) (a).

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

8 (e) “Tax exemption certificate” means a certificate to claim the exemption under  
9 s. 77.54 (71).

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

11 (g) “Written certification” means means a statement made by a person’s  
12 physician if all of the following apply:

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

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

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

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

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

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

5           (b) A written certification.

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

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

13           **(4) ISSUING A REGISTRY IDENTIFICATION CARD AND TAX EXEMPTION CERTIFICATE.** The  
14 department shall issue to the applicant a registry identification card and tax  
15 exemption certificate within 5 days after approving an application under sub. (3).  
16 Unless voided under sub. (5) (b) or revoked under rules issued by the department  
17 under sub. (7), a registry identification card and tax exemption certificate shall  
18 expire 4 years from the date of issuance. A tax exemption certificate shall contain  
19 the information determined by the department. A registry identification card shall  
20 contain all of the following:

21           (a) The name, address, and date of birth of the registrant.

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

23           (c) A photograph of the registrant.

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

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

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

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

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

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

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

18          **SECTION 15.** 77.54 (71) of the statutes is created to read:

19          **77.54 (71)** The sales price from the sale of and the storage, use, or other  
20 consumption of usable marijuana, as defined in s. 139.97 (13), purchased by an  
21 individual who holds a valid certificate issued under s. 73.17 (4).

22          **SECTION 16.** 94.55 (2t) of the statutes is repealed.

23          **SECTION 17.** 94.56 of the statutes is created to read:

24          **94.56 Marijuana producers and processors. (1) DEFINITIONS.** In this  
25 section:



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

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

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

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

13 (b) “Marijuana” has the meaning given in s. 961.70 (2).

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

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

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

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

19 **(2) PERMIT REQUIRED.** (a) No person may operate in this state as a marijuana  
20 producer or marijuana processor without a permit from the department. A person  
21 who acts as a marijuana producer and a marijuana processor shall obtain a separate  
22 permit for each activity. A permit issued under this section is not transferable from  
23 one person to another or from one premises to another. A separate permit is required  
24 for each place in this state where the operations of a marijuana producer or  
25 marijuana processor occur. A person is not required to obtain a permit under this

1 section if the person produces or processes only industrial hemp and holds a valid  
2 license under s. 94.55.

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

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

8 1. The person has been convicted of a violent misdemeanor, as defined in s.  
9 941.29 (1g) (b), at least 3 times.

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

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

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

19 a. The person has been committed for involuntary treatment under s. 51.45  
20 (13).

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

22 c. In 2 or more cases arising out of separate incidents, a court has found the  
23 person to have committed a violation of s. 346.63 or a local ordinance in conformity  
24 with that section; a violation of a law of a federally recognized American Indian tribe  
25 or band in this state in conformity with s. 346.63; or a violation of the law of another

1 jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while  
2 intoxicated, while under the influence of a controlled substance, a controlled  
3 substance analog, or a combination thereof, with an excess or specified range of  
4 alcohol concentration, or while under the influence of any drug to a degree that  
5 renders the person incapable of safely driving, as those or substantially similar  
6 terms are used in that jurisdiction's laws.

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

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

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

12 8. The person is under the age of 21.

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

15 (cm) An applicant with 20 or more employees may not receive a permit under  
16 this section unless the applicant certifies to the department that the applicant has  
17 entered into a labor peace agreement and will abide by the terms of the agreement  
18 as a condition of maintaining a valid permit under this section. The applicant shall  
19 submit to the department a copy of the page of the labor peace agreement that  
20 contains the signatures of the labor organization representative and the applicant.

21 (cn) The department shall use a competitive scoring system to determine which  
22 applicants are eligible to receive a permit under this section. The department shall  
23 issue permits to the highest scoring applicants that it determines will best protect  
24 the environment; provide stable, family-supporting jobs to local residents; ensure  
25 worker and consumer safety; operate secure facilities; and uphold the laws of the

1 jurisdictions in which they operate. The department may deny a permit to an  
2 applicant with a low score as determined under this paragraph. The department  
3 may request that the applicant provide any information or documentation that the  
4 department deems necessary for purposes of making a determination under this  
5 paragraph.

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

13 2. A written objection filed under subd. 1. shall provide all the facts on which  
14 the objection is based. In determining whether to grant or deny a permit for which  
15 an objection has been filed under this paragraph, the department shall give  
16 substantial weight to objections from a municipality based on chronic illegal activity  
17 associated with the premises for which the applicant seeks a permit or the premises  
18 of any other operation in this state for which the applicant holds or has held a valid  
19 permit or license, the conduct of the applicant's patrons inside or outside the  
20 premises of any other operation in this state for which the applicant holds or has held  
21 a valid permit or license, and local zoning ordinances. In this subdivision, "chronic  
22 illegal activity" means a pervasive pattern of activity that threatens the public  
23 health, safety, and welfare of the municipality, including any crime or ordinance  
24 violation, and that is documented in crime statistics, police reports, emergency

1 medical response data, calls for service, field data, or similar law enforcement agency  
2 records.

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

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

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

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

14 **(3) FEES; TERM.** (a) Each person who applies for a permit under this section  
15 shall submit with the application a \$250 fee. A permit issued under this section is  
16 valid for one year and may be renewed, except that the department may revoke or  
17 suspend a permit prior to its expiration. A person is not entitled to a refund of the  
18 fees paid under this subsection if the person's permit is denied, revoked, or  
19 suspended.

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

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

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

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

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

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

9           **(4) SCHOOLS.** The department may not issue a permit under this section to  
10 operate any premises that are within 500 feet of the perimeter of the grounds of any  
11 elementary or secondary school, playground, recreation facility, child care facility,  
12 public park, public transit facility, or library.

13           **(5) EDUCATION AND AWARENESS CAMPAIGN.** The department shall develop and  
14 make available training programs for marijuana producers on how to safely and  
15 efficiently plant, grow, cultivate, harvest, and otherwise handle marijuana, and for  
16 marijuana processors on how to safely and efficiently produce and handle marijuana  
17 products and test marijuana for contaminants. The department shall conduct an  
18 awareness campaign to inform potential marijuana producers and marijuana  
19 processors of the availability and viability of marijuana as a crop or product in this  
20 state.

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

1           **(7) PENALTIES.** (a) Unless another penalty is prescribed for the violation, any  
2 person who violates sub. (2), fails to pay the required fee under sub. (3), or violates  
3 any of the requirements established by the rules promulgated under sub. (6) shall  
4 be fined not less than \$100 nor more than \$500 or imprisoned not more than 6 months  
5 or both.

6           (b) In addition to the penalties imposed under par. (a), the department shall  
7 revoke the permit of any person convicted of any violation described under par. (a)  
8 and not issue another permit to that person for a period of 2 years following the  
9 revocation. The department may suspend or revoke the permit of any permittee who  
10 violates s. 100.30, any provision of this section, or any rules promulgated under sub.  
11 (6). The department shall revoke the permit of any permittee who violates s. 100.30  
12 3 or more times within a 5-year period.

13           **SECTION 18.** 94.57 of the statutes is created to read:

14           **94.57 Testing laboratories.** The department shall register entities as  
15 tetrahydrocannabinols testing laboratories. The laboratories may possess or  
16 manufacture tetrahydrocannabinols or drug paraphernalia and shall perform the  
17 following services:

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

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

23           **(3)** Provide training on the following:

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

1 (b) Security and inventory accountability procedures.

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

3 **SECTION 19.** 100.145 of the statutes is created to read:

4 **100.145 Recreational marijuana logotype.** The department shall design  
5 an official logotype appropriate for including on a label affixed to recreational  
6 marijuana under s. 139.973 (10) (a).

7 **SECTION 20.** 108.02 (18r) of the statutes is created to read:

8 108.02 (18r) MARIJUANA. “Marijuana” has the meaning given in s. 111.32 (11m).

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

10 108.04 (5m) DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5),  
11 “misconduct,” for purposes of sub. (5), does not include the employee’s use of  
12 marijuana off the employer’s premises during nonworking hours or a violation of the  
13 employer’s policy concerning such use, unless termination of the employee because  
14 of that use is permitted under s. 111.35.

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

19 **SECTION 22.** 111.32 (9m) of the statutes is created to read:

20 111.32 (9m) “Lawful product” includes marijuana.

21 **SECTION 23.** 111.32 (11m) of the statutes is created to read:

22 111.32 (11m) “Marijuana” means all parts of the plants of the genus Cannabis,  
23 whether growing or not; the seeds thereof; the resin extracted from any part of the  
24 plant; and every compound, manufacture, salt, derivative, mixture, or preparation  
25 of the plant, its seeds or resin, including tetrahydrocannabinols.



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

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

5           **SECTION 25.** 114.09 (2) (bm) 1. (intro.) of the statutes is amended to read:

6           114.09 (2) (bm) 1. (intro.) Except as provided in subd. 1. a. or b., the court shall  
7           order the person violating sub. (1) (b) 1. or 1m. to submit to and comply with an  
8           assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for  
9           examination of the person's use of alcohol, tetrahydrocannabinols, controlled  
10          substances, or controlled substance analogs and development of an airman safety  
11          plan for the person. The court shall notify the person, the department, and the proper  
12          federal agency of the assessment order. The assessment order shall:

13          **SECTION 26.** 114.09 (2) (bm) 4. of the statutes is amended to read:

14          114.09 (2) (bm) 4. The assessment report shall order compliance with an  
15          airman safety plan. The report shall inform the person of the fee provisions under  
16          s. 46.03 (18) (f). The safety plan may include a component that makes the person  
17          aware of the effect of his or her offense on a victim and a victim's family. The safety  
18          plan may include treatment for the person's misuse, abuse, or dependence on alcohol,  
19          tetrahydrocannabinols, controlled substances, or controlled substance analogs. If  
20          the plan requires inpatient treatment, the treatment shall not exceed 30 days. An  
21          airman safety plan under this paragraph shall include a termination date consistent  
22          with the plan that shall not extend beyond one year. The county department under  
23          s. 51.42 shall assure notification of the department of transportation and the person  
24          of the person's compliance or noncompliance with assessment and treatment.



## 1 SUBCHAPTER IV

## 2 MARIJUANA TAX AND REGULATION

3 **139.97 Definitions.** In this subchapter:

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

5 (2) "Lot" means a definite quantity of marijuana or usable marijuana identified  
6 by a lot number, every portion or package of which is consistent with the factors that  
7 appear in the labeling.8 (3) "Lot number" means a number that specifies the person who holds a valid  
9 permit under this subchapter and the harvesting or processing date for each lot.

10 (4) "Marijuana" has the meaning given in s. 961.70 (2).

11 (5) "Marijuana distributor" means a person in this state who purchases or  
12 receives usable marijuana from a marijuana processor and who sells or otherwise  
13 transfers the usable marijuana to a marijuana retailer for the purpose of resale to  
14 consumers.15 (6) "Marijuana processor" means a person in this state who processes  
16 marijuana into usable marijuana, packages and labels usable marijuana for sale in  
17 retail outlets, and sells at wholesale or otherwise transfers usable marijuana to  
18 marijuana distributors.19 (7) "Marijuana producer" means a person in this state who produces marijuana  
20 and sells it at wholesale or otherwise transfers it to marijuana processors.21 (8) "Marijuana retailer" means a person in this state that sells usable  
22 marijuana at a retail outlet.23 (9) "Microbusiness" means a marijuana producer that produces marijuana in  
24 one area that is less than 10,000 square feet and who also operates as any 2 of the  
25 following:

1 (a) A marijuana processor.

2 (b) A marijuana distributor.

3 (c) A marijuana retailer.

4 (10) "Permittee" means a marijuana producer, marijuana processor, marijuana  
5 distributor, marijuana retailer, or microbusiness that is issued a permit under s.  
6 139.972.

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

8 (12) "Sales price" has the meaning given in s. 77.51 (15b).

9 (13) "Usable marijuana" means marijuana that has been processed for human  
10 consumption and includes dried marijuana flowers, marijuana-infused products,  
11 and marijuana edibles.

12 **139.971 Marijuana tax.** (1) (a) An excise tax is imposed on a marijuana  
13 producer at the rate of 15 percent of the sales price on each wholesale sale or transfer  
14 in this state of marijuana to a marijuana processor. This paragraph applies to a  
15 microbusiness that transfers marijuana to a processing operation within the  
16 microbusiness.

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

21 (2) Each person liable for the taxes imposed under sub. (1) shall pay the taxes  
22 to the department no later than the 15th day of the month following the month in  
23 which the person's tax liability is incurred and shall include with the payment a  
24 return on a form prescribed by the department.

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

6           **139.972 Permits required. (1)** (a) No person may operate in this state as a  
7 marijuana producer, marijuana processor, marijuana distributor, marijuana  
8 retailer, or microbusiness without first filing an application for and obtaining the  
9 proper permit from the department to perform such operations. In addition, no  
10 person may operate in this state as a marijuana producer or marijuana processor  
11 without first filing an application for and obtaining the proper permit under s. 94.56.

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

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

17           1. The person has been convicted of a violent misdemeanor, as defined in s.  
18 941.29 (1g) (b), at least 3 times.

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

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

23           4. The person chronically and habitually uses alcohol beverages or other  
24 substances to the extent that his or her normal faculties are impaired. A person is  
25 presumed to chronically and habitually use alcohol beverages or other substances to

1 the extent that his or her normal faculties are impaired if, within the preceding 3  
2 years, any of the following applies:

3 a. The person has been committed for involuntary treatment under s. 51.45  
4 (13).

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

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

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

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

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

21 8. The person is under the age of 21.

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

24 (cm) An applicant with 20 or more employees may not receive a permit under  
25 this section to operate as a marijuana distributor or marijuana retailer unless the

1 applicant certifies to the department that the applicant has entered into a labor  
2 peace agreement, as defined in s. 94.56 (1) (a), and will abide by the terms of the  
3 agreement as a condition of maintaining a valid permit under this section. The  
4 applicant shall submit to the department a copy of the page of the labor peace  
5 agreement that contains the signatures of the labor organization representative and  
6 the applicant.

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

19 (d) 1. Before the department issues a new or renewed permit under this section,  
20 the department shall give notice of the permit application to the governing body of  
21 the municipality where the permit applicant intends to operate the premises of a  
22 marijuana producer, marijuana processor, marijuana distributor, marijuana  
23 retailer, or microbusiness. No later than 30 days after the department submits the  
24 notice, the governing body of the municipality may file with the department a written

1 objection to granting or renewing the permit. At the municipality's request, the  
2 department may extend the period for filing objections.

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

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

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

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



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

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

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

14 (4) Under this section, a separate permit is required for and issued to each class  
15 of permittee, and the permit holder may perform only the operations authorized by  
16 the permit. A permit issued under this section is not transferable from one person  
17 to another or from one premises to another. A separate permit is required for each  
18 place in this state where the operations of a marijuana producer, marijuana  
19 processor, marijuana distributor, marijuana retailer, or microbusiness occur,  
20 including each retail outlet. No person who has been issued a permit to operate as  
21 a marijuana retailer, or who has any direct or indirect financial interest in the  
22 operation of a marijuana retailer, shall be issued a permit to operate as a marijuana  
23 producer, marijuana processor, or marijuana distributor. A person who has been  
24 issued a permit to operate as a microbusiness is not required to hold separate permits  
25 to operate as a marijuana processor, marijuana distributor, or marijuana retailer,

1 but shall specify on the person's application for a microbusiness permit the activities  
2 that the person will be engaged in as a microbusiness.

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

5 **139.973 Regulation.** (1) (a) No permittee may employ an individual who is  
6 under the age of 21 to work in the business to which the permit relates.

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

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

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

15 (4) The maximum amount of usable marijuana that a retail outlet may sell to  
16 an individual consumer in a single transaction may not exceed a permissible amount,  
17 as defined in s. 961.70 (3).

18 (4m) A marijuana retailer may not collect, retain, or distribute personal  
19 information regarding the retailer's customers except that which is necessary to  
20 complete a sale of usable marijuana.

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

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

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

5           **(7m)** A marijuana retailer may operate a retail outlet only between the hours  
6 of 8 a.m. and 8 p.m.

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

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

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

23           (c) If a representative sample tested under par. (a) does not meet the standards  
24 prescribed by the department, the department shall take the necessary action to  
25 ensure that the entire lot from which the sample was taken is destroyed. The

1 department shall promulgate rules to determine lots and lot numbers for purposes  
2 of this subsection and for the reporting of lots and lot numbers to the department.

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

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

9 2. The producer's business or trade name.

10 3. The producer's permit number.

11 4. The harvest batch number of the marijuana.

12 5. The harvest date.

13 6. The strain name and product identity.

14 7. The net weight.

15 8. The activation time.

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

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

20 11. Warnings about the risks of marijuana use and pregnancy and risks of  
21 marijuana use by persons under the age of 18.

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

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

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

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

11           **(13)** The department shall deposit all moneys received under this subchapter  
12 into the community reinvestment fund.

13           **139.974 Records and reports.** **(1)** Every permittee shall keep accurate and  
14 complete records of the production and sales of marijuana and usable marijuana in  
15 this state. The records shall be kept on the premises described in the permit and in  
16 such manner as to ensure permanency and accessibility for inspection at reasonable  
17 hours by the department's authorized personnel. The department shall prescribe  
18 reasonable and uniform methods of keeping records and making reports and shall  
19 provide the necessary forms to permittees.

20           **(2)** If the department determines that any permittee's records are not kept in  
21 the prescribed form or are in such condition that the department requires an unusual  
22 amount of time to determine from the records the amount of the tax due, the  
23 department shall give notice to the permittee that the permittee is required to revise  
24 the permittee's records and keep them in the prescribed form. If the permittee fails  
25 to comply within 30 days, the permittee shall pay the expenses reasonably

1 attributable to a proper examination and tax determination at the rate of \$30 a day  
2 for each auditor used to make the examination and determination. The department  
3 shall send a bill for such expenses, and the permittee shall pay the amount of such  
4 bill within 10 days.

5 (3) If any permittee fails to file a report when due, the permittee shall be  
6 required to pay a late filing fee of \$10. A report that is mailed is filed on time if it is  
7 mailed in a properly addressed envelope with postage prepaid, the envelope is  
8 officially postmarked, or marked or recorded electronically as provided under section  
9 7502 (f) (2) (c) of the Internal Revenue Code, on the date due, and the report is  
10 actually received by the department or at the destination that the department  
11 prescribes within 5 days of the due date. A report that is not mailed is timely if it  
12 is received on or before the due date by the department or at the destination that the  
13 department prescribes. For purposes of this subsection, "mailed" includes delivery  
14 by a delivery service designated under section 7502 (f) of the Internal Revenue Code.

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

20 **139.975 Administration and enforcement.** (1) The department shall  
21 administer and enforce this subchapter and promulgate rules necessary to  
22 administer and enforce this subchapter.

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

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

8           **(4)** The department may suspend or revoke the permit of any permittee who  
9 violates s. 100.30, any provision of this subchapter, or any rules promulgated under  
10 sub. (1). The department shall revoke the permit of any permittee who violates s.  
11 100.30 3 or more times within a 5-year period.

12           **(5)** No suit shall be maintained in any court to restrain or delay the collection  
13 or payment of the tax levied in s. 139.971. The aggrieved taxpayer shall pay the tax  
14 when due and, if paid under protest, may at any time within 90 days from the date  
15 of payment sue the state to recover the tax paid. If it is finally determined that any  
16 part of the tax was wrongfully collected, the secretary of administration shall pay the  
17 amount wrongfully collected. A separate suit need not be filed for each separate  
18 payment made by any taxpayer, but a recovery may be had in one suit for as many  
19 payments as may have been made.

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

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

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

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

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

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

18 **139.976 Theft of tax moneys.** All marijuana tax moneys received by a  
19 permittee for the sale of marijuana or usable marijuana on which the tax under this  
20 subchapter has become due and has not been paid are trust funds in the permittee's  
21 possession and are the property of this state. Any permittee who fraudulently  
22 withholds, appropriates, or otherwise uses marijuana tax moneys that are the  
23 property of this state is guilty of theft under s. 943.20 (1), whether or not the  
24 permittee has or claims to have an interest in those moneys.



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

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

13           (3) If marijuana or usable marijuana on which the tax has been paid is seized  
14 as provided under sub. (1), it shall be returned to the true owner if ownership can be  
15 ascertained and the owner or the owner's agent is not involved in the violation  
16 resulting in the seizure. If the ownership cannot be ascertained or if the owner or  
17 the owner's agent was guilty of the violation that resulted in the seizure of the  
18 marijuana or usable marijuana, it may be sold or otherwise disposed of as provided  
19 in sub. (2).

20           (4) If tangible personal property other than marijuana or usable marijuana is  
21 seized as provided under sub. (1), the department shall advertise the tangible  
22 personal property for sale by publication of a class 2 notice under ch. 985. If no person  
23 claiming a lien on, or ownership of, the property has notified the department of the  
24 person's claim within 10 days after last insertion of the notice, the department shall  
25 sell the property. If a sale is not practical the department may destroy the property.

1 If a person claiming a lien on, or ownership of, the property notifies the department  
2 within the time prescribed in this subsection, the department may apply to the  
3 circuit court in the county where the property was seized for an order directing  
4 disposition of the property or the proceeds from the sale of the property. If the court  
5 orders the property to be sold, all liens, if any, may be transferred from the property  
6 to the sale proceeds. Neither the property seized nor the proceeds from the sale shall  
7 be turned over to any claimant of lien or ownership unless the claimant first  
8 establishes that the property was not used in connection with any violation under  
9 this subchapter or that, if so used, it was done without the claimant's knowledge or  
10 consent and without the claimant's knowledge of facts that should have given the  
11 claimant reason to believe it would be put to such use. If no claim of lien or ownership  
12 is established as provided under this subsection the property may be ordered  
13 destroyed.

14 **139.978 Interest and penalties.** (1) Any person who makes or signs any  
15 false or fraudulent report under this subchapter or who attempts to evade the tax  
16 imposed by s. 139.971, or who aids in or abets the evasion or attempted evasion of  
17 that tax, may be fined not more than \$10,000 or imprisoned for not more than 9  
18 months or both.

19 (2) Any permittee who fails to keep the records required by s. 139.974 (1) and  
20 (2) shall be fined not less than \$100 nor more than \$500 or imprisoned not more than  
21 6 months or both.

22 (3) Any person who refuses to permit the examination or inspection authorized  
23 under s. 139.975 (3) may be fined not more than \$500 or imprisoned not more than  
24 6 months or both. The department shall immediately suspend or revoke the permit

1 of any person who refuses to permit the examination or inspection authorized under  
2 s. 139.975 (3).

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

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

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

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

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

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

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

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

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

5           **139.979 Personal use.** An individual who possesses no more than 6  
6 marijuana plants that have reached the flowering stage at any one time is not subject  
7 to the tax imposed under s. 139.971. An individual who possesses more than 6  
8 marijuana plants that have reached the flowering stage at any one time shall apply  
9 for the appropriate permit under s. 139.972 and pay the appropriate tax imposed  
10 under s. 139.971.

11           **139.980 Agreement with tribes.** The department may enter into an  
12 agreement with a federally recognized American Indian tribe in this state for the  
13 administration and enforcement of this subchapter and to provide refunds of the tax  
14 imposed under s. 139.971 on marijuana sold on tribal land by or to enrolled members  
15 of the tribe residing on the tribal land.

16           **SECTION 29.** 157.06 (11) (hm) of the statutes is created to read:

17           157.06 **(11)** (hm) Unless otherwise required by federal law, a hospital,  
18 physician, procurement organization, or other person may not determine the  
19 ultimate recipient of an anatomical gift based solely upon a positive test for the use  
20 of marijuana by a potential recipient.

21           **SECTION 30.** 157.06 (11) (i) of the statutes is amended to read:

22           157.06 **(11)** (i) Except as provided under ~~par. pars.~~ (a) 2. and (hm), nothing in  
23 this section affects the allocation of organs for transplantation or therapy.

24           **SECTION 31.** 250.22 of the statutes is created to read:

1           **250.22 Payments to counties.** The department shall promulgate rules to  
2 establish grants to counties to support mental health and substance use disorder  
3 services. The department shall fund all grants established under this section from  
4 the appropriation under s. 20.435 (5) (q).

5           **SECTION 32.** 289.33 (3) (d) of the statutes is amended to read:

6           289.33 (3) (d) “Local approval” includes any requirement for a permit, license,  
7 authorization, approval, variance or exception or any restriction, condition of  
8 approval or other restriction, regulation, requirement or prohibition imposed by a  
9 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by  
10 a town, city, village, county or special purpose district, including without limitation  
11 because of enumeration any ordinance, resolution or regulation adopted under s.  
12 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),  
13 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),  
14 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),  
15 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),  
16 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3),  
17 (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16),  
18 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70  
19 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (7), (8),  
20 and (10), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34,  
21 61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415,  
22 87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III  
23 of ch. 91.

24           **SECTION 33.** 349.02 (2) (b) 4. of the statutes is amended to read:

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

3           **SECTION 34.** 961.01 (14) of the statutes is renumbered 961.70 (2) and amended  
4           to read:

5           961.70 (2) “Marijuana” means all parts of the plants of the genus Cannabis,  
6           whether growing or not; the seeds thereof; the resin extracted from any part of the  
7           plant; and every compound, manufacture, salt, derivative, mixture, or preparation  
8           of the plant, its seeds or resin, including if the tetrahydrocannabinols concentration  
9           of the plant part, seeds, resin, compound, manufacture, salt, derivative, mixture, or  
10          preparation is greater than 0.3 percent on a dry weight basis. “Marijuana” does  
11          include the mature stalks if mixed with other parts of the plant, but does not include  
12          fiber produced from the stalks, oil or cake made from the seeds of the plant, any other  
13          compound, manufacture, salt, derivative, mixture, or preparation of the mature  
14          stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed  
15          of the plant which is incapable of germination. “Marijuana” does not include hemp,  
16          as defined in s. 94.55 (1).

17          **SECTION 35.** 961.11 (4g) of the statutes is repealed.

18          **SECTION 36.** 961.14 (4) (t) of the statutes is repealed.

19          **SECTION 37.** 961.32 (2m) of the statutes is repealed.

20          **SECTION 38.** 961.34 of the statutes is renumbered 961.75, and 961.75 (title), as  
21          renumbered, is amended to read:

22          **961.75 (title) ~~Controlled substances~~ Marijuana therapeutic research.**

23          **SECTION 39.** 961.38 (1n) of the statutes is repealed.

24          **SECTION 40.** 961.41 (1) (h) of the statutes is repealed.

25          **SECTION 41.** 961.41 (1m) (h) of the statutes is repealed.

1           **SECTION 42.** 961.41 (1q) of the statutes is repealed.

2           **SECTION 43.** 961.41 (1r) of the statutes is amended to read:

3           **961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under  
4 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight  
5 of cocaine, cocaine base, fentanyl, a fentanyl analog, heroin, phencyclidine, lysergic  
6 acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,  
7 ~~tetrahydrocannabinols~~, synthetic cannabinoids, or substituted cathinones, or any  
8 controlled substance analog of any of these substances together with any compound,  
9 mixture, diluent, plant material or other substance mixed or combined with the  
10 controlled substance or controlled substance analog. ~~In addition, in determining~~  
11 ~~amounts under subs. (1) (h) and (1m) (h), the amount of tetrahydrocannabinols~~  
12 ~~means anything included under s. 961.14 (4) (t) and includes the weight of any~~  
13 ~~marijuana.~~

14           **SECTION 44.** 961.41 (1x) of the statutes is amended to read:

15           **961.41 (1x) CONSPIRACY.** Any person who conspires, as specified in s. 939.31,  
16 to commit a crime under sub. (1) (cm) to ~~(h)~~ (g) or (1m) (cm) to ~~(h)~~ (g) is subject to the  
17 applicable penalties under sub. (1) (cm) to ~~(h)~~ (g) or (1m) (cm) to ~~(h)~~ (g).

18           **SECTION 45.** 961.41 (3g) (c) of the statutes is amended to read:

19           **961.41 (3g) (c) Cocaine and cocaine base.** If a person possesses or attempts to  
20 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine  
21 base, the person shall be fined not more than \$5,000 and may be imprisoned for not  
22 more than one year in the county jail upon a first conviction and is guilty of a Class  
23 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense  
24 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the  
25 offense, the offender has at any time been convicted of any felony or misdemeanor

1 under this chapter or under any statute of the United States or of any state relating  
2 to controlled substances, controlled substance analogs, narcotic drugs, ~~marijuana~~,  
3 or depressant, stimulant, or hallucinogenic drugs.

4 **SECTION 46.** 961.41 (3g) (d) of the statutes is amended to read:

5 961.41 (3g) (d) *Certain hallucinogenic and stimulant drugs.* If a person  
6 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,  
7 amphetamine, 3,4-methylenedioxymethamphetamine, methcathinone, cathinone,  
8 N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm),  
9 (u) to (xb), or (7) (L), psilocin, or psilocybin, or a controlled substance analog of  
10 lysergic acid diethylamide, phencyclidine, amphetamine,  
11 3,4-methylenedioxymethamphetamine, methcathinone, cathinone,  
12 N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm),  
13 (u) to (xb), or (7) (L), psilocin, or psilocybin, the person may be fined not more than  
14 \$5,000 or imprisoned for not more than one year in the county jail or both upon a first  
15 conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For  
16 purposes of this paragraph, an offense is considered a 2nd or subsequent offense if,  
17 prior to the offender's conviction of the offense, the offender has at any time been  
18 convicted of any felony or misdemeanor under this chapter or under any statute of  
19 the United States or of any state relating to controlled substances, controlled  
20 substance analogs, narcotic drugs, ~~marijuana~~, or depressant, stimulant, or  
21 hallucinogenic drugs.

22 **SECTION 47.** 961.41 (3g) (e) of the statutes is repealed.

23 **SECTION 48.** 961.41 (3g) (em) of the statutes is amended to read:

24 961.41 (3g) (em) *Synthetic cannabinoids.* If a person possesses or attempts to  
25 possess a controlled substance specified in s. 961.14 (4) (tb), or a controlled substance



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

10 **SECTION 49.** 961.47 (1) of the statutes is amended to read:

11 961.47 (1) Whenever any person who has not previously been convicted of any  
12 offense under this chapter, or of any offense under any statute of the United States  
13 or of any state or of any county ordinance relating to controlled substances or  
14 controlled substance analogs, narcotic drugs, ~~marijuana~~ or stimulant, depressant,  
15 or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted  
16 possession of a controlled substance or controlled substance analog under s. 961.41  
17 (3g) (b), the court, without entering a judgment of guilt and with the consent of the  
18 accused, may defer further proceedings and place him or her on probation upon terms  
19 and conditions. Upon violation of a term or condition, the court may enter an  
20 adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the  
21 terms and conditions, the court shall discharge the person and dismiss the  
22 proceedings against him or her. Discharge and dismissal under this section shall be  
23 without adjudication of guilt and is not a conviction for purposes of disqualifications  
24 or disabilities imposed by law upon conviction of a crime, including the additional

1 penalties imposed for 2nd or subsequent convictions under s. 961.48. There may be  
2 only one discharge and dismissal under this section with respect to any person.

3 **SECTION 50.** 961.48 (3) of the statutes is amended to read:

4 961.48 (3) For purposes of this section, a felony offense under this chapter is  
5 considered a 2nd or subsequent offense if, prior to the offender's conviction of the  
6 offense, the offender has at any time been convicted of any felony or misdemeanor  
7 offense under this chapter or under any statute of the United States or of any state  
8 relating to controlled substances or controlled substance analogs, narcotic drugs,  
9 marijuana or depressant, stimulant, or hallucinogenic drugs.

10 **SECTION 51.** 961.48 (5) of the statutes is amended to read:

11 961.48 (5) This section does not apply if the person is presently charged with  
12 a felony under s. 961.41 (3g) (c), (d), ~~(e)~~, or (g).

13 **SECTION 52.** 961.49 (1m) (intro.) of the statutes is amended to read:

14 961.49 (1m) (intro.) If any person violates s. 961.41 (1) (cm), (d), (dm), (e), (f),  
15 or (g) ~~or (h)~~ by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (dm), (e),  
16 (f), or (g) ~~or (h)~~ by possessing with intent to deliver or distribute, cocaine, cocaine  
17 base, fentanyl, a fentanyl analog, heroin, phencyclidine, lysergic acid diethylamide,  
18 psilocin, psilocybin, amphetamine, methamphetamine, or methcathinone ~~or any~~  
19 ~~form of tetrahydrocannabinols~~ or a controlled substance analog of any of these  
20 substances and the delivery, distribution or possession takes place under any of the  
21 following circumstances, the maximum term of imprisonment prescribed by law for  
22 that crime may be increased by 5 years:

23 **SECTION 53.** 961.571 (1) (a) 7. of the statutes is repealed.

24 **SECTION 54.** 961.571 (1) (a) 11. (intro.) of the statutes is amended to read:



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

3 (4) "Permittee" has the meaning given under s. 139.97 (10).

4 (5) "Retail outlet" has the meaning given in s. 139.97 (11).

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

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

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

12 **961.71 Underage persons prohibitions; penalties.** (1) (a) 1. No permittee  
13 may sell, distribute, or deliver marijuana to any underage person.

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

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

19 (c) In determining whether a permittee has violated par. (a) 2., all relevant  
20 circumstances surrounding the presence of the underage person may be considered.  
21 In determining whether a permittee has violated par. (a) 1., all relevant  
22 circumstances surrounding the selling, distributing, or delivering of marijuana may  
23 be considered. In addition, proof of all of the following facts by the permittee is a  
24 defense to any prosecution for a violation under par. (a):

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

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

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

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

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

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

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

15           (c) Knowingly possesses or consumes marijuana.

16           (d) Violates sub. (2m).

17           **(2m)** An underage person not accompanied by his or her parent, guardian, or  
18 spouse who has attained the legal age may not enter, knowingly attempt to enter, or  
19 be on the premises of a retail outlet.

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

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

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

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

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

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

10          **(2)** (a) A person that is not a permittee who possesses an amount of marijuana  
11 that exceeds the permissible amount by not more than one ounce is subject to a civil  
12 forfeiture not to exceed \$1,000.

13          (b) A person who is not a permittee who possesses an amount of marijuana that  
14 exceeds the permissible amount by more than one ounce is one of the following:

15           1. Except as provided in subd. 2., subject to a fine not to exceed \$1,000 or  
16 imprisonment not to exceed 90 days, or both.

17           2. Guilty of a Class I felony if the person has taken action to hide how much  
18 marijuana the person possesses and has in place an extreme measure to avoid  
19 detection.

20          (c) A person who is not a permittee that possesses more than 6 marijuana plants  
21 that have reached the flowering stage at one time must apply for a permit under s.  
22 139.972 and is one of the following:

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

1           2. Except as provided in subd. 3., subject to a fine not to exceed \$1,000 or  
2 imprisonment not to exceed 90 days, or both, if the number of marijuana plants that  
3 have reached the flowering stage is more than 12.

4           3. Guilty of a Class I felony if the number of marijuana plants that have reached  
5 the flowering stage is more than 12, if the individual has taken action to hide the  
6 number of marijuana plants that have reached the flowering stage and if the person  
7 has in place an extreme measure to avoid detection.

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

10          **(3)** Any person who sells or attempts to sell marijuana via mail, telephone, or  
11 Internet is subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9  
12 months, or both.

13          **SECTION 58.** 967.055 (1m) (b) 5. of the statutes is repealed.

14          **SECTION 59.** 971.365 (1) (a) of the statutes is amended to read:

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

19          **SECTION 60.** 971.365 (1) (b) of the statutes is amended to read:

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

24          **SECTION 61.** 971.365 (1) (c) of the statutes is amended to read:

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

5           **SECTION 62.** 971.365 (2) of the statutes is amended to read:

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

12          **SECTION 63.** 973.016 of the statutes is created to read:

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

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

17                1. The sentence or probation period was imposed for a violation of s. 961.41 (1)  
18                (h), 2021 stats., s. 961.41 (1m) (h), 2021 stats., or s. 961.41 (3g) (e), 2021 stats.

19                2. One of the following applies:

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

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

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



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

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

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

15           1. The sentence or probation period was imposed for a violation of s. 961.41 (1)  
16 (h), 2021 stats., s. 961.41 (1m) (h), 2021 stats., or s. 961.41 (3g) (e), 2021 stats.

17           2. One of the following applies:

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

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

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

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

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

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

10 **SECTION 9128. Nonstatutory provisions; Legislature.**

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

17 **(END)**