



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBa1353/1
JK:amn

**ASSEMBLY AMENDMENT 3,
TO ASSEMBLY BILL 546**

February 20, 2020 - Offered by Representatives ANDERSON, BOWEN, BROSTOFF, CONSIDINE, CROWLEY, DOYLE, EMERSON, FIELDS, GOYKE, HAYWOOD, HEBL, HESSELBEIN, HINTZ, MCGUIRE, B. MEYERS, MILROY, L. MYERS, NEUBAUER, OHNSTAD, POPE, RIEMER, SARGENT, SHANKLAND, SINICKI, SPREITZER, STUBBS, STUCK, SUBECK, C. TAYLOR and ZAMARRIPA.

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

2 **1.** Page 1, line 4: after “services,” insert “medical cannabis, providing an
3 exemption from emergency rule procedures, granting rule-making authority,
4 making an appropriation,”.

5 **2.** Page 2, line 1: before that line insert:

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

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

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

11 20.435 (1) (gq) *Medical cannabis registry.* All moneys received as fees under
12 s. 146.44 (2) (a) 4. and (ac) 3. and (4m), for the purposes of the Medical Cannabis
13 Registry Program under s. 146.44.

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

2 59.54 **(25)** (a) (intro.) The board may enact and enforce an ordinance to prohibit
3 the possession of marijuana, as defined in s. 961.01 (14), subject to par. (c) and the
4 exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the
5 ordinance; except that if. Any ordinance enacted under this paragraph shall provide
6 a person who is prosecuted under it with the defenses that the person has under s.
7 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint
8 is issued regarding an allegation of possession of more than 25 grams of marijuana,
9 or possession of any amount of marijuana following a conviction in this state for
10 possession of marijuana, the subject of the complaint may not be prosecuted under
11 this subsection for the same action that is the subject of the complaint unless all of
12 the following occur:

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

14 59.54 **(25)** (c) A person may not be prosecuted under an ordinance enacted
15 under par. (a) if, under s. 968.072 (2) or (4) (b), the person would not be subject to
16 prosecution under s. 961.41 (3g) (e).

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

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

1 961.575 (1). The board may enforce an ordinance enacted under this subsection in
2 any municipality within the county.

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

4 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
5 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)
6 (intro.), and provide a forfeiture for a violation of the ordinance; ~~except that if.~~ Any
7 ordinance enacted under this paragraph shall provide a person who is prosecuted
8 under it with the defenses that the person has under s. 961.436 to prosecutions under
9 s. 961.41 (1) (h), (1m) (h), or (3g) (e). If a complaint is issued regarding an allegation
10 of possession of more than 25 grams of marijuana, or possession of any amount of
11 marijuana following a conviction in this state for possession of marijuana, the subject
12 of the complaint may not be prosecuted under this paragraph for the same action that
13 is the subject of the complaint unless the charges are dismissed or the district
14 attorney declines to prosecute the case.

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

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

24 **SECTION 8.** 66.04165 of the statutes is created to read:

1 **66.04165 Medical cannabis.** No village, town, city, or county may enact or
2 enforce an ordinance or a resolution that prohibits producing, processing,
3 dispensing, testing, or possessing medical cannabis if those actions are lawfully done
4 by one of the following:

5 (1) A licensee under s. 94.57.

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

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

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

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

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

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

24 66.1213 **(3)** DISCRIMINATION. Persons otherwise entitled to any right, benefit,
25 facility, or privilege under this section may not be denied the right, benefit, facility,

1 or privilege in any manner for any purpose nor be discriminated against because of
2 sex, race, color, creed, or sexual orientation,; status as a victim of domestic abuse,
3 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
4 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
5 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or
6 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
7 origin.

8 **SECTION 11.** 66.1301 (2m) of the statutes is amended to read:

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

18 **SECTION 12.** 66.1331 (2m) of the statutes is amended to read:

19 66.1331 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
20 facility, or privilege under this section may not be denied the right, benefit, facility,
21 or privilege in any manner for any purpose nor be discriminated against because of
22 sex, race, color, creed, or sexual orientation,; status as a victim of domestic abuse,
23 sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person
24 holds, or has applied for, a registry identification card, as defined in s. 146.44 (1) (g),
25 has been the subject of a written certification, as defined in s. 146.44 (1) (h), or is or

1 has been a member of a treatment team, as defined in s. 961.01 (20t); or national
2 origin.

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

4 66.1333 (3) (e) 2. Persons otherwise entitled to any right, benefit, facility, or
5 privilege under this section may not be denied the right, benefit, facility, or privilege
6 in any manner for any purpose nor be discriminated against because of sex, race,
7 color, creed, or sexual orientation; status as a victim of domestic abuse, sexual
8 assault, or stalking, as defined in s. 106.50 (1m) (u); whether the person holds, or
9 has applied for, a registry identification card, as defined in s. 146.44 (1) (g), has been
10 the subject of a written certification, as defined in s. 146.44 (1) (h), or is or has been
11 a member of a treatment team, as defined in s. 961.01 (20t); or national origin.

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

13 77.52 (13) For the purpose of the proper administration of this section and to
14 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
15 the tax until the contrary is established. The burden of proving that a sale of tangible
16 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
17 is not a taxable sale at retail is upon the person who makes the sale unless that
18 person takes from the purchaser an electronic or a paper certificate, in a manner
19 prescribed by the department, to the effect that the property, item, good, or service
20 is purchased for resale or is otherwise exempt, except that no certificate is required
21 for the sale of tangible personal property, or items, property, or goods under sub. (1)
22 (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10),
23 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
24 (51), (52), (66), and (67), and (69).

25 **SECTION 15.** 77.53 (10) of the statutes is amended to read:

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

14 **SECTION 16.** 77.54 (69) of the statutes is created to read:

15 77.54 (69) The sales price from the sales of and the storage, use, or other
16 consumption of medical cannabis and drug paraphernalia delivered or distributed
17 by a dispensary licensed under s. 94.57.

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

19 **94.57 Medical cannabis. (1) DEFINITIONS.** In this section:

20 (b) “Dispensary” means a person who obtains packaged and labelled medical
21 cannabis from a licensed processor and dispenses that cannabis, and cannabis
22 paraphernalia, at a permanent location to a member of a treatment team holding a
23 valid registry identification card issued under s. 146.44, regardless of whether the
24 dispensing is done in exchange for monetary consideration.

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

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

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

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

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

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

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

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

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

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

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

23 (n) “Written certification” has the meaning given in s. 146.44 (1) (h).

24 **(2) LICENSE REQUIRED.** No person may operate in this state as a producer,
25 processor, or dispensary without a license issued by the department under this

1 section. A person who engages in more than one of these activities shall obtain a
2 separate license for each activity. A licensee may engage in the licensed activity at
3 more than one location without obtaining a separate license. No licensee may
4 operate at more than 2 separate locations, regardless of the number of licenses held.
5 A person who is an employee of a licensee is not required to obtain a separate license.
6 A person is not required to obtain a license under this section if the person handles
7 only industrial hemp and holds a valid license under s. 94.55.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (b) A licensed dispensary may dispense medical cannabis only to a person who
14 presents a valid registry identification card issued under s. 146.44.

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

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

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

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

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

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

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

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

19 2. Security and inventory accountability procedures.

20 3. The most recent research on medical cannabis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 111.34 (1) (c) 1. Except as provided in subd. 2., refusing to hire or employ,
8 barring, suspending, or terminating an individual, or discriminating against an
9 individual in promotion, in compensation or in terms, conditions or privileges of
10 employment, based on the individual’s use of medical cannabis, as defined in s. 94.57
11 (1) (f), if such use is in accordance with a valid written certification, as defined in s.
12 146.44 (1) (h), and the individual holds a valid registry identification card, as defined
13 in s. 146.44 (1) (g).

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

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

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

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

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

23 111.35 (2) (e) Conflicts with any federal or state statute, rule or regulation.

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

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

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

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

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

8 **146.44 Medical Cannabis Registry Program. (1) DEFINITIONS.** In this
9 section:

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

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

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

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

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

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

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

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

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

6 4. Any other medical condition or any other treatment for a medical condition
7 designated as a debilitating medical condition or treatment in rules promulgated by
8 the department of health services under s. 961.436 (5).

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

10 (cm) “Out-of-state registry identification card” means a document that is valid
11 as provided under sub. (7) (f).

12 (cp) “Practitioner” means a person licensed as a physician, as defined in s.
13 448.01 (5), a physician assistant, as defined in s. 448.01 (6), or an advanced practice
14 nurse prescriber certified under s. 441.16 (2).

15 (d) “Primary caregiver” means a person who has agreed to help a qualifying
16 patient use or acquire medical cannabis and who has a registry identification card.

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

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

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

- 1 a. Allow the person to use medical cannabis.
- 2 b. Serve as a primary caregiver for the person.
- 3 c. Manage the person's use of medical cannabis.
- 4 (f) "Registrant" means a person to whom a registry identification card is issued.
- 5 (g) "Registry identification card" means a document issued by the department
6 under sub. (4) that identifies a person as a qualifying patient or primary caregiver.
- 7 (h) "Written certification" means a statement written by a person's practitioner
8 if all of the following apply:
- 9 1. The statement indicates that, in the practitioner's professional opinion, the
10 person has or is undergoing a debilitating medical condition or treatment and the
11 potential benefits of using medical cannabis would likely outweigh the health risks
12 for the person.
- 13 2. The statement indicates that the opinion described in subd. 1. was made in
14 the course of a bona fide practitioner-patient relationship.
- 15 3. The statement is signed by the practitioner or is contained in the person's
16 medical records.
- 17 **(1m) PRACTITIONER RESTRICTIONS.** (a) No practitioner may provide himself or
18 herself or any member of his or her family with a written certification for submission
19 with an application under sub. (2).
- 20 (b) No practitioner who provides a written certification under this section may
21 have a financial interest in any way connected to a person or entity that produces,
22 processes, dispenses, or tests cannabis.
- 23 **(2) APPLICATION.** (a) An adult who is claiming to be a qualifying patient may
24 apply for a registry identification card by submitting to the department all of the
25 following:

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

3 2. A written certification.

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

6 4. A registration fee in an amount determined by the department, but not to
7 exceed \$150, except that for an applicant who is a recipient of medical assistance
8 under subch. IV of ch. 49, is receiving benefits under the federal social security
9 disability insurance program under 42 USC 423 or the federal supplemental security
10 income program under 42 USC 1381, or is a veteran, the fee shall be \$50.

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

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

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

18 3. A registration fee of \$250.

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

23 **(3) PROCESSING THE APPLICATION.** The department shall verify the information
24 the applicant submitted under sub. (2) (a) or (ac) and shall approve or deny the

1 application within 30 days after receiving it. The department may deny an
2 application submitted under sub. (2) (a) or (ac) only if one of the following applies:

3 (a) The applicant did not provide the required information or provided false
4 information.

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

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

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

- 13 1. The registrant.
14 2. Each primary caregiver, if the registrant is a qualifying patient.
15 3. Each qualifying patient, if the registrant is a primary caregiver.

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

17 (c) A photograph of the registrant.

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

19 **(4m) ANNUAL FEE.** Primary caregivers shall pay an annual fee of \$250.

20 **(5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT.** (a) 1. An adult
21 registrant shall notify the department of any change in the registrant's name and
22 address. An adult registrant who is a qualifying patient shall notify the department
23 of any change in his or her practitioner, of any significant improvement in his or her
24 health as it relates to his or her debilitating medical condition or treatment, and if
25 a primary caregiver stops helping the registrant use or acquire medical cannabis.

1 A registrant who is a primary caregiver shall notify the department if the registrant
2 becomes a primary caregiver for an additional qualifying patient and shall include
3 with the notice a copy of a written certification or copy of a registration identification
4 card for each additional qualifying patient.

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

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

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

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

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

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

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

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

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

4 (bm) Specify how photographs under sub. (4) (c) must be taken and the
5 requirements for such photographs.

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

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

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

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

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

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

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

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

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

5 **234.29 Equality of occupancy and employment.** The authority shall
6 require that occupancy of housing projects assisted under this chapter be open to all
7 regardless of sex, race, religion, or sexual orientation; status as a victim of domestic
8 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u); whether the
9 person holds, or has applied for, a registry identification card, as defined in s. 146.44
10 (1) (g), has been the subject of a written certification, as defined in s. 146.44 (1) (h),
11 or is or has been a member of a treatment team, as defined in s. 961.01 (20t); or creed,
12 and that contractors and subcontractors engaged in the construction of economic
13 development or housing projects, shall provide an equal opportunity for
14 employment, without discrimination as to sex, race, religion, sexual orientation, or
15 creed.

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

17 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,
18 authorization, approval, variance or exception or any restriction, condition of
19 approval or other restriction, regulation, requirement or prohibition imposed by a
20 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
21 a town, city, village, county or special purpose district, including without limitation
22 because of enumeration any ordinance, resolution or regulation adopted under s.
23 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),
24 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),
25 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),

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

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

11 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or
12 66.0107 (1) (bm).

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

14 450.03 (1) (em) Any person acting within the scope of a valid medical cannabis
15 producer, processor, or dispensary license under s. 94.57.

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

17 450.03 (1) (ep) An individual who plants, grows, cultivates, or harvests no more
18 than 12 cannabis plants if the individual is one of the following:

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

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

23 **SECTION 32.** 450.07 (1) of the statutes, as affected by 2019 Wisconsin Act 68,
24 is renumbered 450.07 (1) (a) and amended to read:

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

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

7 450.07 (1) (b) 1. No license under this section is required for a person acting
8 within the scope of a valid medical cannabis producer, processor, or dispensary
9 license under s. 94.57.

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

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

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

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

19 450.071 (1) (a) ~~No~~ Except as provided in par. (b), no person may engage in the
20 wholesale distribution of a prescription drug in this state without obtaining a license
21 from the board for each facility from which the person distributes prescription drugs.

22 (b) 1. The board shall exempt from the licensure requirement under this section
23 a manufacturer that distributes prescription drugs or devices manufactured by the
24 manufacturer from licensing and other requirements under this section to the extent

1 the license or requirement is not required under federal law or regulation, unless the
2 board determines that it is necessary to apply a requirement to a manufacturer.

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

4 450.071 (1) (b) 2. No license under this section is required for a person acting
5 within the scope of a valid medical cannabis producer, processor, or dispensary
6 license under s. 94.57.

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

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

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

14 **3.** Page 10, line 3: after that line insert:

15 “**SECTION 36.** 767.41 (5) (am) (intro.) of the statutes is amended to read:

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

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

23 767.41 (5) (d) The court may not consider as a factor in determining the legal
24 custody of a child whether a parent or potential custodian holds, or has applied for,

1 a registry identification card, as defined in s. 146.44 (1) (g), is or has been the subject
2 of a written certification, as defined in s. 146.44 (1) (h), or is or has been a qualifying
3 patient, as defined in s. 146.44 (1) (e), or a primary caregiver, as defined in s. 146.44
4 (1) (d), unless the parent or potential custodian's behavior creates an unreasonable
5 danger to the child that can be clearly articulated and substantiated.

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

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

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

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

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

21 961.01 (5m) "Debilitating medical condition or treatment" has the meaning
22 given in s. 146.44 (1) (b).

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

1 961.01 **(12v)** “Lockable, enclosed facility” means an enclosed indoor or outdoor
2 area that is capable of being locked or that requires a security device and that permits
3 access only by a member of a treatment team.

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

5 961.01 **(14c)** “Maximum authorized amount” means 12 live cannabis plants
6 and 3 ounces of usable cannabis.

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

8 961.01 **(14g)** “Medical cannabis” has the meaning given in s. 94.57 (1) (f).

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

10 961.01 **(17k)** “Out-of-state registry identification card” has the meaning given
11 in s. 146.44 (1) (cm).

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

13 961.01 **(19m)** “Primary caregiver” has the meaning given in s. 146.44 (1) (d).

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

15 961.01 **(20hm)** “Qualifying patient” has the meaning given in s. 146.44 (1) (e).

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

17 961.01 **(20ht)** “Registry identification card” has the meaning given in s. 146.44
18 (1) (g).

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

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

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

23 961.01 **(21f)** “Usable cannabis” means cannabis leaves or flowers but does not
24 include seeds, stalks, or roots or any ingredients combined with the leaves or flowers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 b. The person's place of employment.

25 c. Public or private school premises.

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

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

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

18 **SECTION 52.** 961.55 (8) (c), (d) and (e) of the statutes are created to read:

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

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

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

24 **SECTION 53.** 961.555 (2) (am) 6. of the statutes is amended to read:

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

4 **SECTION 54.** 961.555 (2r) of the statutes is created to read:

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

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

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

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

20 **SECTION 55.** 961.56 (1) of the statutes is amended to read:

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

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

3 **SECTION 56.** 961.5755 of the statutes is created to read:

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

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

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

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

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

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

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

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

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

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

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

1 (c) “Primary caregiver” has the meaning given in s. 146.44 (1) (d).

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

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

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

5 (g) “Written certification” has the meaning given in s. 146.44 (1) (h).

6 **(2) LIMITATIONS ON ARRESTS AND PROSECUTION; MEDICAL CANNABIS.** Unless s.
7 961.436 (3) (b) 1., 2., or 3. applies, a member of a qualifying patient’s treatment team
8 may not be arrested or prosecuted for a violation of s. 961.41 (1) (h), (1m) (h), or (3g)
9 (e) if all of the following apply:

10 (a) The member manufactures, distributes, delivers, or possesses
11 tetrahydrocannabinols for the use of medical cannabis by the treatment team.

12 (b) The member possesses a valid registry identification card, a valid
13 out-of-state registry identification card, or a copy of the qualifying patient’s written
14 certification.

15 (c) The quantity of cannabis does not exceed the maximum authorized amount.

16 (d) Any live cannabis plants are in a lockable, enclosed facility unless the
17 member is accessing the plants or has the plants in his or her possession.

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

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

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

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

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

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

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

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

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

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

20 3. The member does not possess more than the maximum authorized amount
21 of cannabis.

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

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

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

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

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

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

14 **968.12 (6) MEDICAL CANNABIS.** A person's possession, use, or submission of or
15 connection with an application for a registry identification card under s. 146.44 (2),
16 the issuance of such a card under s. 146.44 (4), or a person's possession of such a card,
17 a valid out-of-state registry identification card, as defined in s. 146.44 (1) (cm), or
18 an original or a copy of a written certification, as defined in s. 146.44 (1) (h), may not,
19 by itself, constitute probable cause under sub. (1) or otherwise subject any person or
20 the property of any person to inspection by any governmental agency.

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

23 **968.19 (1) Property** Except as provided in sub. (2), property seized under a
24 search warrant or validly seized without a warrant shall be safely kept by the officer,

1 who may leave it in the custody of the sheriff and take a receipt therefor, so long as
2 necessary for the purpose of being produced as evidence on any trial.

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

4 968.19 (2) A law enforcement agency that has seized a live cannabis plant is
5 not responsible for the plant's care and maintenance.

6 **SECTION 61.** 968.20 (1g) (intro.) of the statutes is amended to read:

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

17 **SECTION 62.** 968.20 (1j) of the statutes is created to read:

18 968.20 (1j) (a) In this subsection:

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

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

21 (b) Except as provided in par. (c), sub. (1g) does not apply to contraband or
22 property covered under sub. (1m) or (1r) or s. 173.12, 173.21 (4), or 968.205.

23 (c) Under sub. (1g), the court may return drug paraphernalia or
24 tetrahydrocannabinols that have been seized to the person from whom they were
25 seized if any of the following applies:

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

4 2. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
5 961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,
6 if the person had been, he or she would have had a valid defense under s. 961.436 (1),
7 (2), or (3) (a) or 961.5755 (1) (a) or (2).

8 **SECTION 63. Nonstatutory provisions.**

9 (1) NOTIFICATION OF RULE-MAKING. If the department of agriculture, trade and
10 consumer protection or the department of health services promulgates rules under
11 s. 94.57 (11) or s. 146.44 (2) (b) or (7) (d) before the first day of the 13th month
12 beginning after publication, the department shall provide notice to the legislative
13 reference bureau of the effective date of those rules, and the legislative reference
14 bureau shall publish a notice of that date in the Wisconsin administrative register
15 under s. 35.93 (2).

16 **SECTION 64. Effective dates.** This act takes effect on the day after publication,
17 except as follows:

18 (1) The treatment of s. 94.57 (2) to (10) takes effect on the first day of the 13th
19 month beginning after publication or on the date specified in the notice under
20 SECTION 63 (1) of this act, whichever is sooner.

21 (2) The treatment of s. 146.44 (1m) to (6) takes effect on the first day of the 13th
22 month beginning after publication or on the date specified in the notice under
23 SECTION 63 (1) of this act, whichever is sooner.”.

24 **4.** Page 10, line 4: delete lines 4 and 5 and substitute:

