



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBs0307/1
MCP:cjs

**ASSEMBLY SUBSTITUTE AMENDMENT 4,
TO ASSEMBLY BILL 393**

February 15, 2024 - Offered by Representatives MADISON and ORTIZ-VELEZ.

1 **AN ACT** *to repeal* 961.571 (1) (a) 7., 961.571 (1) (a) 11. e. and 961.571 (1) (a) 11.
2 k. and L.; *to renumber and amend* 115.35 (1); *to amend* 20.115 (7) (gc),
3 49.148 (4) (a), 49.79 (5) (a), 59.54 (25) (title), 59.54 (25) (a) (intro.), 66.0107 (1)
4 (bm), 111.35 (2) (e), 114.09 (2) (bm) 1. (intro.), 114.09 (2) (bm) 4., 157.06 (11) (i),
5 175.35 (2g) (c) 4. a., 289.33 (3) (d), 349.02 (2) (b) 4. and 961.571 (1) (a) 11. (intro.);
6 and *to create* 16.282, 20.115 (7) (ge), 20.192 (1) (t), 20.255 (2) (r), 20.395 (5) (db),
7 20.435 (1) (s), 20.437 (3) (r), 20.505 (1) (t), 20.566 (1) (bn), 20.835 (2) (eq), 25.316,
8 48.47 (20), 66.04185, 73.17, 77.54 (71), 94.56, 94.57, 108.02 (18r), 108.02 (21g),
9 108.04 (5m), 108.133 (1) (em), 111.32 (9m), 111.32 (11m), subchapter IV of
10 chapter 139 [precedes 139.97], 157.06 (11) (hm), 175.35 (2g) (b) 3., 238.139,
11 250.22 and subchapter VIII of chapter 961 [precedes 961.70] of the statutes;
12 **relating to:** legalizing the possession of medical marijuana; regulating the
13 production, processing, and sale of marijuana; expunging or redesignating past

1 convictions for marijuana-related crimes; equity grants; making an
2 appropriation; and providing a penalty.

Analysis by the Legislative Reference Bureau

Under this bill, a qualifying patient of any age may possess marijuana for medical purposes, and a person may produce, process, or sell marijuana if the person has a permit. This bill creates an excise tax for the privilege of producing, processing, distributing, or selling marijuana in this state, and 60 percent of the revenue collected from the tax is deposited into a segregated fund called the “community reinvestment fund.” Under the bill, qualifying patient is not subject to sales or excise taxes on the purchase or use of marijuana. The bill does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing marijuana and applies to both intrastate and interstate violations.

Legalizing the possession of medical marijuana

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. The bill changes state law to allow a qualifying patient to possess marijuana for medical purposes. Under the bill, a qualifying patient is an individual of any age who has been diagnosed by a physician as having or undergoing a debilitating medical condition such as cancer, glaucoma, AIDS, or another specified condition, or is undergoing a debilitating medical treatment.

The bill also eliminates, for qualifying patients, the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption. In addition, qualifying patients may cultivate as many as six marijuana plants for personal use.

Medical marijuana registry

The bill requires DOR to create and maintain a medical marijuana registry program whereby an individual who is a qualifying patient may obtain a registry identification card and purchase marijuana from a retail establishment.

Regulating the production, processing, and sale of marijuana

Under the bill, no person may sell or distribute, or possess with the intent to sell or distribute, marijuana unless the person has a permit from the Department of Revenue.

The bill requires a person to obtain separate permits from DOR to produce, process, distribute, or sell marijuana or to sell marijuana for on-premises consumption (marijuana lounge), and requires marijuana producers and processors to obtain additional permits from the Department of Agriculture, Trade and Consumer Protection. The requirements for obtaining these permits differ based on whether the permit is issued by DOR or DATCP but, in general, a person may not obtain such a permit if he or she is not a state resident, is under the age of 21, or has been convicted of certain crimes or committed certain offenses. In addition, a person

may not operate under a DOR or DATCP permit within 500 feet of a school, playground, recreation facility, child care facility, public park, public transit facility, or library, and a person may not operate a marijuana lounge unless the municipality or county in which the marijuana lounge is located has enacted an ordinance authorizing such operation. A person who holds a permit from DOR must also comply with certain operational requirements.

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

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

The bill prohibits a DOR permittee from selling, distributing, or transferring marijuana to a person other than another DOR permittee or a qualifying patient. The bill also prohibits a DOR permittee from selling, distributing, or transferring marijuana to a person under the age of 21 and from allowing such an underage person to be on premises for which a permit is issued. If a permittee violates one of those prohibitions, the permittee may be subject to a civil forfeiture of not more than \$500 and the permit may be suspended for up to 90 days.

Previous convictions relating to marijuana

The bill requires the director of state courts to review records of acts that have been decriminalized under the bill. If a record is for a conviction for an act that the bill decriminalizes or for which the bill lessens the penalty, the sentencing court must be notified. If the act was a misdemeanor, the court must dismiss the conviction and expunge the record or, if applicable, redesignate it to a lesser crime. If the act was a felony, the court must determine if it is in the public interest to dismiss the conviction and expunge the record or, if applicable, redesignate it to a lesser crime. The presumption is that such actions are in the public interest unless there is clear and convincing evidence that the actions would create a risk to public safety. If the felony is expunged or redesignated to a misdemeanor or civil forfeiture, the sentencing court must determine if there is good cause to restore the person's right to possess a firearm. Finally, if the record is for an arrest or a charge for an act that

the bill decriminalizes or for which the bill lessens the penalty, the director of state courts must expunge such records.

Registration for THC testing labs

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

Discrimination based on marijuana use

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

Under current law, an individual may be disqualified from receiving unemployment insurance benefits if he or she is terminated because of misconduct or substantial fault. The bill specifically provides that a qualifying patient's use of marijuana off the employer's premises during nonworking hours does not constitute misconduct or substantial fault unless termination for that use is permitted under one of the exceptions under the fair employment law.

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

Drug screening and testing

The bill exempts qualifying patients from testing requirements for THC for certain public assistance programs. Currently, a participant in a community service job or transitional placement under the Wisconsin Works program (W2) or a recipient of the FoodShare program, also known as the food stamp program, who is convicted of possession, use, or distribution of a controlled substance must submit to a test for controlled substances as a condition of continued eligibility. The Department of Health Services is currently required to request a waiver of federal Medicaid law to require drug screening and testing as a condition of eligibility for the childless adult demonstration project in the Medical Assistance program. Current law also requires DHS to promulgate rules to develop and implement a drug screening, testing, and treatment policy for able-bodied adults without dependents in the FoodShare employment and training program. The bill exempts qualifying patients from THC-testing requirements for all of those programs.

Under current law, the Department of Workforce Development must establish a program to test claimants who apply for unemployment insurance benefits for the

presence of controlled substances, as defined under federal law. If a claimant tests positive for a controlled substance, the claimant may be denied UI benefits, subject to certain exceptions and limitations. The bill excludes qualifying patients from this testing requirement. As such, under the bill, qualifying patient who tests positive for THC may not be denied UI benefits.

Equity grants and program for law enforcement training

The bill provides for a number of grants to be paid from the revenue generated from the excise tax on marijuana that is deposited into the community reinvestment fund. For example, the bill requires the Department of Administration to provide grants to public, private, and nonprofit entities in this state that promote diversity and advance equity and inclusion, including promoting the inclusion of women and racial and ethnic minorities in the production and sale of marijuana. In addition, the bill directs DHS to award grants to community organizations to implement community health worker care models. The bill also directs DHS to award grants to community organizations and local or tribal health departments to hire health equity strategists and to implement health equity action plans in small geographic areas.

The bill appropriates \$125,000 in fiscal year 2023-24 and \$250,000 in fiscal year 2024-25 for the Department of Transportation's Drug Evaluation and Classification Program. The program provides training for law enforcement officers and others in the recognition of drug influence and impairment.

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

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

2 **16.282 Equity grants.** The department shall develop and administer a grants
3 program to provide grants to public, private, and nonprofit entities in this state that
4 promote diversity and advance equity and inclusion, including promoting the
5 inclusion of women and racial and ethnic minorities in the production and sale of
6 marijuana.

7 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
8 the following amounts for the purposes indicated:

					2023-24	2024-25
1	20.192	Wisconsin Economic Development				
2		Corporation				
3	(1)	PROMOTION OF ECONOMIC DEVELOPMENT				
4	(t)	Underserved community grants	SEG	A	-0-	5,000,000
5	20.255	Public instruction, department of				
6	(2)	AIDS FOR LOCAL EDUCATIONAL PROGRAMMING				
7	(r)	Sparsity aid; community				
8		reinvestment fund supplement	SEG	A	-0-	34,852,800
9	20.395	Transportation, department of				
10	(5)	MOTOR VEHICLE SERVICES AND ENFORCEMENT				
11	(db)	Drug evaluation and classifica-				
12		tion program	GPR	A	125,000	250,000
13	20.435	Health services, department of				
14	(1)	PUBLIC HEALTH SERVICES PLANNING, REGULATION,				
15		AND DELIVERY				
16	(s)	Health equity grants	SEG	A	-0-	20,000,000
17	20.437	Children and families, department of				
18	(3)	GENERAL ADMINISTRATION				
19	(r)	Diversity, equity, and inclusion				
20		grants; community reinvestment				
21		fund supplement	SEG	A	-0-	5,000,000

1 20.505 Administration, department of**2 (1) SUPERVISION AND MANAGEMENT****3 (t) Equity grants; community rein-****4 vestment fund SEG A -0- 5,000,000****5 20.566 Revenue, department of****6 (1) COLLECTION OF TAXES****7 (bn) Administration and enforcement****8 of marijuana tax and regulation GPR A 3,236,600 2,010,100****9 SECTION 3. 20.115 (7) (gc) of the statutes is amended to read:****10 20.115 (7) (gc) *Industrial hemp and marijuana*. All moneys received under s.
11 94.55 for regulation of activities relating to industrial hemp under s. 94.55 and to
12 marijuana under s. 94.56.****13 SECTION 4. 20.115 (7) (ge) of the statutes is created to read:****14 20.115 (7) (ge) *Marijuana producers and processors*. All moneys received under
15 s. 94.56 for regulation of activities relating to marijuana under s. 94.56 and for
16 conducting public awareness campaigns under s. 94.56.****17 SECTION 5. 20.192 (1) (t) of the statutes is created to read:****18 20.192 (1) (t) *Underserved community grants*. From the community
19 reinvestment fund, the amounts in the schedule for the purpose of providing
20 underserved community grants under s. 238.139.****21 SECTION 6. 20.255 (2) (r) of the statutes is created to read:****22 20.255 (2) (r) *Sparsity aid; community reinvestment fund supplement*. From
23 the community reinvestment fund, the amounts in the schedule for sparsity aid to
24 school districts under s. 115.436.**

1 **SECTION 7.** 20.395 (5) (db) of the statutes is created to read:

2 20.395 (5) (db) *Drug evaluation and classification program.* From the general
3 fund, the amounts in the schedule for the drug evaluation and classification
4 program.

5 **SECTION 8.** 20.435 (1) (s) of the statutes is created to read:

6 20.435 (1) (s) *Health equity grants.* From the community reinvestment fund,
7 the amounts in the schedule for health equity grants under s. 250.22.

8 **SECTION 9.** 20.437 (3) (r) of the statutes is created to read:

9 20.437 (3) (r) *Diversity, equity, and inclusion grants; community reinvestment*
10 *fund supplement.* From the community reinvestment fund, the amounts in the
11 schedule for diversity, equity, and inclusion grants under s. 48.47 (20).

12 **SECTION 10.** 20.505 (1) (t) of the statutes is created to read:

13 20.505 (1) (t) *Equity grants; community reinvestment fund.* From the
14 community reinvestment fund, the amounts in the schedule for the purpose of
15 providing grants to promote diversity and advance equity and inclusion under s.
16 16.282.

17 **SECTION 11.** 20.566 (1) (bn) of the statutes is created to read:

18 20.566 (1) (bn) *Administration and enforcement of marijuana tax and*
19 *regulation.* The amounts in the schedule for the purposes of administering the
20 marijuana tax imposed under subch. IV of ch. 139 and for the costs incurred in
21 enforcing the taxing and regulation of marijuana producers, marijuana processors,
22 marijuana retailers, and operators of marijuana lounges under subch. IV of ch. 139.

23 **SECTION 12.** 20.835 (2) (eq) of the statutes is created to read:

24 20.835 (2) (eq) *Marijuana tax refunds.* A sum sufficient to pay refunds under
25 subchapter IV of chapter 139.

1 **SECTION 13.** 25.316 of the statutes is created to read:

2 **25.316 Community reinvestment fund.** There is established a separate
3 nonlapsible trust fund, designated the community reinvestment fund consisting of
4 60 percent of all moneys received under subch. IV of ch. 139, including interest and
5 penalties.

6 **SECTION 14.** 48.47 (20) of the statutes is created to read:

7 **48.47 (20) DIVERSITY, EQUITY, AND INCLUSION GRANTS.** From the appropriation
8 account under s. 20.437 (3) (r), award grants to public, private, or nonprofit entities
9 that promote diversity and advance equity and inclusion.

10 **SECTION 15.** 49.148 (4) (a) of the statutes is amended to read:

11 49.148 (4) (a) A Wisconsin ~~works~~ Works agency shall require a participant in
12 a community service job or transitional placement who, after August 22, 1996, was
13 convicted in any state or federal court of a felony that had as an element possession,
14 use or distribution of a controlled substance to submit to a test for use of a controlled
15 substance as a condition of continued eligibility. If the test results are positive, the
16 Wisconsin ~~works~~ Works agency shall decrease the presanction benefit amount for
17 that participant by not more than 15 percent for not fewer than 12 months, or for the
18 remainder of the participant's period of participation in a community service job or
19 transitional placement, if less than 12 months. If, at the end of 12 months, the
20 individual is still a participant in a community service job or transitional placement
21 and submits to another test for use of a controlled substance and if the results of the
22 test are negative, the Wisconsin ~~works~~ Works agency shall discontinue the reduction
23 under this paragraph. A Wisconsin Works agency may not require, under this
24 subsection, a qualifying patient, as defined in s. 73.17 (1) (d), to submit to a test for

1 use of tetrahydrocannabinols in any form, including tetrahydrocannabinols
2 contained in marijuana, obtained from marijuana, or chemically synthesized.

3 **SECTION 16.** 49.79 (5) (a) of the statutes is amended to read:

4 49.79 (5) (a) The department shall require an applicant for, or recipient under,
5 the food stamp program to state in writing whether the applicant or recipient or any
6 member of the applicant's or recipient's household has been convicted, in any state
7 or federal court of a felony that has as an element possession, use or distribution of
8 a controlled substance. The department shall require an applicant or recipient, or
9 member of the applicant's or recipient's household to submit to a test for use of a
10 controlled substance as a condition of continued eligibility if, after August 22, 1996,
11 but not more than 5 years prior to the date the written statement is made, the
12 applicant or recipient or the member of the applicant's or recipient's household was
13 convicted in any state or federal court of a felony that had as an element possession,
14 use or distribution of a controlled substance. If the test results are positive with
15 respect to any individual, the department may not consider the needs of that
16 individual in determining the household's eligibility for the food stamp program for
17 at least 12 months from the date of the test. The department shall, however, consider
18 the income and resources of that individual to be available to the household. The
19 department may not require, under this subsection, a qualifying patient, as defined
20 in s. 73.17 (1) (d), to submit to a test for use of tetrahydrocannabinols in any form,
21 including tetrahydrocannabinols contained in marijuana, obtained from marijuana,
22 or chemically synthesized.

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

24 59.54 (25) (title) POSSESSION REGULATION OF MARIJUANA.

25 **SECTION 18.** 59.54 (25) (a) (intro.) of the statutes is amended to read:

1 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit
2 the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in
3 s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance that
4 is consistent with s. 961.71; except that if a complaint is issued regarding an
5 allegation of possession of more than 25 grams of marijuana, or possession of any
6 amount of marijuana following a conviction in this state for possession of marijuana,
7 the subject of the complaint may not be prosecuted under this subsection for the same
8 action that is the subject of the complaint unless all of the following occur:

9 **SECTION 19.** 66.0107 (1) (bm) of the statutes is amended to read:

10 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
11 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)
12 (intro.), and provide a forfeiture for a violation of the ordinance that is consistent
13 with s. 961.71; except that if a complaint is issued regarding an allegation of
14 possession of more than 25 grams of marijuana, or possession of any amount of
15 marijuana following a conviction in this state for possession of marijuana, the subject
16 of the complaint may not be prosecuted under this paragraph for the same action that
17 is the subject of the complaint unless the charges are dismissed or the district
18 attorney declines to prosecute the case.

19 **SECTION 20.** 66.04185 of the statutes is created to read:

20 **66.04185 Cultivation of tetrahydrocannabinols.** No city, village, town, or
21 county may prohibit cultivating tetrahydrocannabinols outdoors if the cultivation is
22 by a qualifying patient, as defined under s. 73.17 (1) (d), who has no more than 6
23 marijuana plants at one time for his or her personal use.

24 **SECTION 21.** 73.17 of the statutes is created to read:

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

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

4 1. Cancer; glaucoma; acquired immunodeficiency syndrome; a positive test for
5 the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV;
6 inflammatory bowel disease, including ulcerative colitis or Crohn’s disease; a
7 hepatitis C virus infection; Alzheimer’s disease; amyotrophic lateral sclerosis; nail
8 patella syndrome; Ehlers-Danlos Syndrome; post-traumatic stress disorder; or the
9 treatment of these conditions.

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

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

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

16 (d) “Qualifying patient” means a person who has been diagnosed by a physician
17 as having or undergoing a debilitating medical condition or treatment.

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

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

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

23 1. The statement indicates that, in the physician’s professional opinion, the
24 person has or is undergoing a debilitating medical condition or treatment and the

1 potential benefits of the person's use of usable marijuana would likely outweigh the
2 health risks for the person.

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

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

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

11 5. If the person has not attained the age of 18 years, the statement is signed
12 by the person's parent or guardian.

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

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

17 (b) A written certification.

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

20 (d) If the person has not attained the age of 18 years, a signature of a parent
21 or guardian of the person.

22 **(3) PROCESSING THE APPLICATION.** The department shall verify the information
23 contained in or accompanying an application submitted under sub. (2) and shall
24 approve or deny the application within 30 days after receiving it. The department

1 may deny an application submitted under sub. (2) only if the required information
2 has not been provided or if false information has been provided.

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

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

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

13 (c) A photograph of the registrant.

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

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

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

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

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

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

8 (d) No state or local agency may access the list maintained under par. (a) or
9 information gathered from the list maintained under par. (a) or inquire about a
10 person's status as an applicant or registrant under this section for the purpose of
11 approving or disapproving a person from purchasing, owning, possessing, or
12 carrying a firearm.

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

14 **SECTION 22.** 77.54 (71) of the statutes is created to read:

15 77.54 **(71)** The sales price from the sale of and the storage, use, or other
16 consumption of usable marijuana, as defined in s. 139.97 (13), purchased by an
17 individual who holds a valid certificate issued under s. 73.17 (4).

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

19 **94.56 Marijuana producers and processors. (1) DEFINITIONS.** In this
20 section:

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

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

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

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

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

11 (c) "Marijuana processor" has the meaning given in s. 139.97 (6).

12 (d) "Marijuana producer" has the meaning given in s. 139.97 (7).

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

14 (f) "Permittee" means a marijuana producer or marijuana processor who is
15 issued a permit under this section.

16 **(2) PERMIT REQUIRED.** (a) No person may operate in this state as a marijuana
17 producer or marijuana processor without a permit from the department. A person
18 who acts as a marijuana producer and a marijuana processor shall obtain a separate
19 permit for each activity. A permit issued under this section is not transferable from
20 one person to another or from one premises to another. A separate permit is required
21 for each place in this state where the operations of a marijuana producer or
22 marijuana processor occur. A person is not required to obtain a permit under this
23 section if the person produces or processes only industrial hemp and holds a valid
24 license under s. 94.55.

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

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

6 1. The person has been convicted of a violent misdemeanor, as defined in s.
7 941.29 (1g) (b), at least 3 times.

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

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

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

17 a. The person has been committed for involuntary treatment under s. 51.45
18 (13).

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

20 c. In 2 or more cases arising out of separate incidents, a court has found the
21 person to have committed a violation of s. 346.63 or a local ordinance in conformity
22 with that section; a violation of a law of a federally recognized American Indian tribe
23 or band in this state in conformity with s. 346.63; or a violation of the law of another
24 jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while
25 intoxicated, while under the influence of a controlled substance, a controlled

1 substance analog, or a combination thereof, with an excess or specified range of
2 alcohol concentration, or while under the influence of any drug to a degree that
3 renders the person incapable of safely driving, as those or substantially similar
4 terms are used in that jurisdiction's laws.

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

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

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

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

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

13 (cm) Notwithstanding ss. 66.0134 and 947.21, an applicant with 20 or more
14 employees may not receive a permit under this section unless the applicant certifies
15 to the department that the applicant has entered into a labor peace agreement and
16 will abide by the terms of the agreement as a condition of maintaining a valid permit
17 under this section. The applicant shall submit to the department a copy of the page
18 of the labor peace agreement that contains the signatures of the labor organization
19 representative and the applicant.

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

1 applicant with a low score as determined under this paragraph. The department
2 may request that the applicant provide any information or documentation that the
3 department deems necessary for purposes of making a determination under this
4 paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **(7) PENALTIES.** (a) Unless another penalty is prescribed for the violation, any
25 person who violates sub. (2), fails to pay the required fee under sub. (3), or violates

1 any of the requirements established by the rules promulgated under sub. (6) shall
2 be fined not less than \$100 nor more than \$500 or imprisoned not more than 6 months
3 or both.

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

11 **SECTION 24.** 94.57 of the statutes is created to read:

12 **94.57 Testing laboratories.** The department shall register entities as
13 tetrahydrocannabinols testing laboratories. The laboratories may possess or
14 manufacture tetrahydrocannabinols or drug paraphernalia and shall perform the
15 following services:

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

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

21 (3) Provide training on the following:

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

24 (b) Security and inventory accountability procedures.

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

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

2 108.02 **(18r)** MARIJUANA. “Marijuana” has the meaning given in s. 111.32 (11m).

3 **SECTION 26.** 108.02 (21g) of the statutes is created to read:

4 108.02 **(21g)** QUALIFYING PATIENT. “Qualifying patient” has the meaning given
5 in s. 73.17 (1) (d).

6 **SECTION 27.** 108.04 (5m) of the statutes is created to read:

7 108.04 **(5m)** DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5),
8 “misconduct,” for purposes of sub. (5), does not include a qualifying patient’s use of
9 marijuana off the employer’s premises during nonworking hours or a violation of the
10 employer’s policy concerning such use, unless termination of the qualifying patient
11 because of that use is permitted under s. 111.35.

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

17 **SECTION 28.** 108.133 (1) (em) of the statutes is created to read:

18 108.133 **(1)** (em) “Unlawful use of a controlled substance” does not include the
19 use, by a qualifying patient, of tetrahydrocannabinols, commonly known as “THC,”
20 in any form, including tetrahydrocannabinols contained in marijuana, obtained
21 from marijuana, or chemically synthesized.

22 **SECTION 29.** 111.32 (9m) of the statutes is created to read:

23 111.32 **(9m)** “Lawful product” includes marijuana, if used by a qualifying
24 patient, as defined under s. 73.17 (1) (d).

25 **SECTION 30.** 111.32 (11m) of the statutes is created to read:

1 111.32 **(11m)** “Marijuana” means all parts of the plants of the genus Cannabis,
2 whether growing or not; the seeds thereof; the resin extracted from any part of the
3 plant; and every compound, manufacture, salt, derivative, mixture, or preparation
4 of the plant, its seeds or resin, including tetrahydrocannabinols.

5 **SECTION 31.** 111.35 (2) (e) of the statutes is amended to read:

6 111.35 **(2)** (e) Conflicts with any federal or state statute, rule or regulation.
7 This paragraph does not apply with respect to violations by a qualifying patient
8 concerning marijuana or tetrahydrocannabinols under 21 USC 841 to 865.

9 **SECTION 32.** 114.09 (2) (bm) 1. (intro.) of the statutes is amended to read:

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

17 **SECTION 33.** 114.09 (2) (bm) 4. of the statutes is amended to read:

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

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

4 **SECTION 34.** 115.35 (1) of the statutes is renumbered 115.35 (1) (a) (intro.) and
5 amended to read:

6 115.35 (1) (a) (intro.) A critical health problems education program is
7 established in the department. The program shall be a systematic and integrated
8 program designed to provide appropriate learning experiences based on scientific
9 knowledge of the human organism as it functions within its environment and
10 designed to favorably influence the health, understanding, attitudes and practices
11 of the individual child which will enable him or her to adapt to changing health
12 problems of our society. The program shall be designed to educate youth with regard
13 to critical health problems and shall include, but not be limited to, the following
14 topics as the basis for comprehensive education curricula in all elementary and
15 secondary schools: ~~controlled~~

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

18 2. Mental health; ~~sexually.~~

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

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

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

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

1 (7) “Marijuana producer” means a person in this state who produces marijuana
2 and sells it at wholesale or otherwise transfers it to marijuana processors.

3 (8) “Marijuana retailer” means a person in this state that sells usable
4 marijuana at a retail outlet other than a marijuana lounge.

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

8 (a) A marijuana processor.

9 (b) A marijuana distributor.

10 (c) A marijuana retailer.

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

14 (10m) “Qualifying patient” has the meaning given in s. 73.17 (1) (d).

15 (11) “Retail outlet” means a location for the retail sale of usable marijuana to
16 qualifying patients.

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

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

21 **139.971 Marijuana tax.** (1) An excise tax is imposed on a marijuana producer
22 at the rate of 15 percent of the sales price on each wholesale sale or transfer in this
23 state of marijuana to a marijuana processor. This paragraph applies to a
24 microbusiness that transfers marijuana to a processing operation within the
25 microbusiness.

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

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

11 **139.972 Permits required.** **(1)** (a) No person may operate in this state as a
12 marijuana producer, marijuana processor, marijuana distributor, marijuana
13 retailer, microbusiness, or operator of a marijuana lounge without first filing an
14 application for and obtaining the proper permit from the department to perform such
15 operations. In addition, no person may operate in this state as a marijuana producer
16 or marijuana processor without first filing an application for and obtaining the
17 proper permit under s. 94.56.

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

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

23 1. The person has been convicted of a violent misdemeanor, as defined in s.
24 941.29 (1g) (b), at least 3 times.

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

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

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

10 a. The person has been committed for involuntary treatment under s. 51.45
11 (13).

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

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

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

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

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

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

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

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

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

1 or documentation that the department deems necessary for purposes of making a
2 determination under this paragraph.

3 (cs) A permit under this section for an operator of a marijuana lounge may
4 authorize the operation of a marijuana lounge only in a municipality or county that
5 has enacted an ordinance authorizing the establishment of marijuana lounges in the
6 municipality or county.

7 (ct) No marijuana retailer or operator of a marijuana lounge may hold a permit
8 or license to sell alcohol, tobacco products, or cigarettes on the premises of the retail
9 operation or lounge.

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

18 2. A written objection filed under subd. 1. shall provide all the facts on which
19 the objection is based. In determining whether to grant or deny a permit for which
20 an objection has been filed under this paragraph, the department shall give
21 substantial weight to objections from a municipality based on chronic illegal activity
22 associated with the premises for which the applicant seeks a permit or the premises
23 of any other operation in this state for which the applicant holds or has held a valid
24 permit or license, the conduct of the applicant's patrons inside or outside the
25 premises of any other operation in this state for which the applicant holds or has held

1 a valid permit or license, and local zoning ordinances. In this subdivision, “chronic
2 illegal activity” means a pervasive pattern of activity that threatens the public
3 health, safety, and welfare of the municipality, including any crime or ordinance
4 violation, and that is documented in crime statistics, police reports, emergency
5 medical response data, calls for service, field data, or similar law enforcement agency
6 records.

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

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

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

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

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

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

5 **(4)** Under this section, a separate permit is required for and issued to each class
6 of permittee, and the permit holder may perform only the operations authorized by
7 the permit. A permit issued under this section is not transferable from one person
8 to another or from one premises to another. A separate permit is required for each
9 place in this state where the operations of a marijuana producer, marijuana
10 processor, marijuana distributor, marijuana retailer, operator of a marijuana lounge,
11 or microbusiness occur, including each retail outlet. No person who has been issued
12 a permit to operate as a marijuana retailer or operator of a marijuana lounge, or who
13 has any direct or indirect financial interest in the operation of a marijuana retailer
14 or operator of a marijuana lounge, shall be issued a permit to operate as a marijuana
15 producer, marijuana processor, or marijuana distributor. A person who has been
16 issued a permit to operate as a microbusiness is not required to hold separate permits
17 to operate as a marijuana processor, marijuana distributor, or marijuana retailer,
18 but shall specify on the person's application for a microbusiness permit the activities
19 that the person will be engaged in as a microbusiness.

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

22 **139.973 Regulation. (1)** (a) No permittee may employ an individual who is
23 under the age of 21 to work in the business to which the permit relates.

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

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

7 **(3)** No marijuana retailer or operator of a marijuana lounge may allow a person
8 who is under the age of 21 to enter or be on the premises of a retail outlet in violation
9 of s. 961.71 (2m), unless that person is a qualifying patient, as defined in s. 73.17 (1)
10 (d), who is accompanied by his or her parent, guardian, or spouse who has attained
11 the legal age.

12 **(4)** The maximum amount of usable marijuana that a retail outlet may sell to
13 an individual qualifying patient in a single transaction may not exceed 5 ounces.

14 **(4m)** A marijuana retailer or operator of a marijuana lounge may not collect,
15 retain, or distribute personal information regarding the retailer's or operator's
16 customers except that which is necessary to complete a sale of usable marijuana.

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

21 **(6)** No marijuana retailer or operator of a marijuana lounge may display usable
22 marijuana in a manner that is visible to the general public from a public
23 right-of-way.

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

1 **(7m)** A marijuana retailer or operator of a marijuana lounge may operate a
2 retail outlet only between the hours of 8 a.m. and 8 p.m.

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

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

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

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

24 **(10)** (a) A marijuana processor or a microbusiness that operates as a marijuana
25 processor shall affix a label to all usable marijuana that the marijuana processor or

1 microbusiness sells to marijuana distributors. The label may not be designed to
2 appeal to persons under the age of 18. The label shall include all of the following:

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

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

6 3. The producer's permit number.

7 4. The harvest batch number of the marijuana.

8 5. The harvest date.

9 6. The strain name and product identity.

10 7. The net weight.

11 8. The activation time.

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

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

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

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

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

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

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

7 **139.974 Records and reports. (1)** Every permittee shall keep accurate and
8 complete records of the production and sales of marijuana and usable marijuana in
9 this state. The records shall be kept on the premises described in the permit and in
10 such manner as to ensure permanency and accessibility for inspection at reasonable
11 hours by the department's authorized personnel. The department shall prescribe
12 reasonable and uniform methods of keeping records and making reports and shall
13 provide the necessary forms to permittees.

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

24 **(3)** If any permittee fails to file a report when due, the permittee shall be
25 required to pay a late filing fee of \$10. A report that is mailed is filed on time if it is

1 mailed in a properly addressed envelope with postage prepaid, the envelope is
2 officially postmarked, or marked or recorded electronically as provided under section
3 7502 (f) (2) (c) of the Internal Revenue Code, on the date due, and the report is
4 actually received by the department or at the destination that the department
5 prescribes within 5 days of the due date. A report that is not mailed is timely if it
6 is received on or before the due date by the department or at the destination that the
7 department prescribes. For purposes of this subsection, “mailed” includes delivery
8 by a delivery service designated under section 7502 (f) of the Internal Revenue Code.

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

14 **139.975 Administration and enforcement.** (1) The department shall
15 administer and enforce this subchapter and promulgate rules necessary to
16 administer and enforce this subchapter.

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

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

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

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

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

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

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

23 **(8)** Sections 71.74 (1), (2), (10), (11), and (14), 71.77, 71.91 (1) (a) and (c) and
24 (2) to (7), 71.92, and 73.0301 as they apply to the taxes under ch. 71 apply to the taxes
25 under this subchapter. Section 71.74 (13) as it applies to the collection of the taxes

1 under ch. 71 applies to the collection of the taxes under this subchapter, except that
2 the period during which notice of an additional assessment shall be given begins on
3 the due date of the report under this subchapter.

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

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

11 **139.976 Theft of tax moneys.** All marijuana tax moneys received by a
12 permittee for the sale of marijuana or usable marijuana on which the tax under this
13 subchapter has become due and has not been paid are trust funds in the permittee's
14 possession and are the property of this state. Any permittee who fraudulently
15 withholds, appropriates, or otherwise uses marijuana tax moneys that are the
16 property of this state is guilty of theft under s. 943.20 (1), whether or not the
17 permittee has or claims to have an interest in those moneys.

18 **139.977 Seizure and confiscation.** (1) All marijuana and usable marijuana
19 produced, processed, made, kept, stored, sold, distributed, or transported in violation
20 of this subchapter, and all tangible personal property used in connection with the
21 marijuana or usable marijuana, is unlawful property and subject to seizure by the
22 department or a law enforcement officer. Except as provided in sub. (2), all
23 marijuana and usable marijuana seized under this subsection shall be destroyed.

24 (2) If marijuana or usable marijuana on which the tax has not been paid is
25 seized as provided under sub. (1), it may be given to law enforcement officers to use

1 in criminal investigations or sold to qualifying buyers by the department, without
2 notice. If the department finds that the marijuana or usable marijuana may
3 deteriorate or become unfit for use in criminal investigations or for sale, or that those
4 uses would otherwise be impractical, the department may order it destroyed.

5 (3) If marijuana or usable marijuana on which the tax has been paid is seized
6 as provided under sub. (1), it shall be returned to the true owner if ownership can be
7 ascertained and the owner or the owner's agent is not involved in the violation
8 resulting in the seizure. If the ownership cannot be ascertained or if the owner or
9 the owner's agent was guilty of the violation that resulted in the seizure of the
10 marijuana or usable marijuana, it may be sold or otherwise disposed of as provided
11 in sub. (2).

12 (4) If tangible personal property other than marijuana or usable marijuana is
13 seized as provided under sub. (1), the department shall advertise the tangible
14 personal property for sale by publication of a class 2 notice under ch. 985. If no person
15 claiming a lien on, or ownership of, the property has notified the department of the
16 person's claim within 10 days after last insertion of the notice, the department shall
17 sell the property. If a sale is not practical the department may destroy the property.
18 If a person claiming a lien on, or ownership of, the property notifies the department
19 within the time prescribed in this subsection, the department may apply to the
20 circuit court in the county where the property was seized for an order directing
21 disposition of the property or the proceeds from the sale of the property. If the court
22 orders the property to be sold, all liens, if any, may be transferred from the property
23 to the sale proceeds. Neither the property seized nor the proceeds from the sale shall
24 be turned over to any claimant of lien or ownership unless the claimant first
25 establishes that the property was not used in connection with any violation under

1 this subchapter or that, if so used, it was done without the claimant's knowledge or
2 consent and without the claimant's knowledge of facts that should have given the
3 claimant reason to believe it would be put to such use. If no claim of lien or ownership
4 is established as provided under this subsection the property may be ordered
5 destroyed.

6 **139.978 Interest and penalties.** (1) Any person who makes or signs any
7 false or fraudulent report under this subchapter or who attempts to evade the tax
8 imposed by s. 139.971, or who aids in or abets the evasion or attempted evasion of
9 that tax, may be fined not more than \$10,000 or imprisoned for not more than 9
10 months or both.

11 (2) Any permittee who fails to keep the records required by s. 139.974 (1) and
12 (2) shall be fined not less than \$100 nor more than \$500 or imprisoned not more than
13 6 months or both.

14 (3) Any person who refuses to permit the examination or inspection authorized
15 under s. 139.975 (3) may be fined not more than \$500 or imprisoned not more than
16 6 months or both. The department shall immediately suspend or revoke the permit
17 of any person who refuses to permit the examination or inspection authorized under
18 s. 139.975 (3).

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

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

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

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

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

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

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

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

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

22 **139.979 Personal use.** A qualifying patient who possesses no more than 6
23 marijuana plants that have reached the flowering stage at any one time is not subject
24 to the tax imposed under s. 139.971. An individual, including a qualifying patient,
25 who possesses more than 6 marijuana plants that have reached the flowering stage

1 at any one time shall apply for the appropriate permit under s. 139.972 and pay the
2 appropriate tax imposed under s. 139.971.

3 **139.980 Agreement with tribes.** The department may enter into an
4 agreement with a federally recognized American Indian tribe in this state for the
5 administration and enforcement of this subchapter and to provide refunds of the tax
6 imposed under s. 139.971 on marijuana sold on tribal land by or to enrolled members
7 of the tribe residing on the tribal land.

8 **SECTION 36.** 157.06 (11) (hm) of the statutes is created to read:

9 157.06 (11) (hm) Unless otherwise required by federal law, a hospital,
10 physician, procurement organization, or other person may not determine the
11 ultimate recipient of an anatomical gift based solely upon a positive test for the use
12 of marijuana by a potential recipient, if the potential recipient is a qualifying patient,
13 as defined under s. 73.17 (1) (d).

14 **SECTION 37.** 157.06 (11) (i) of the statutes is amended to read:

15 157.06 (11) (i) Except as provided under ~~par. pars.~~ (a) 2. and (hm), nothing in
16 this section affects the allocation of organs for transplantation or therapy.

17 **SECTION 38.** 175.35 (2g) (b) 3. of the statutes is created to read:

18 175.35 (2g) (b) 3. Any form that inquires about the applicant's use of controlled
19 substances shall specifically authorize a qualifying patient, as defined in s. 73.17 (1)
20 (d), to refrain from reporting the use of marijuana under s. 73.17.

21 **SECTION 39.** 175.35 (2g) (c) 4. a. of the statutes is amended to read:

22 175.35 (2g) (c) 4. a. If the search indicates that the transferee is prohibited from
23 possessing a firearm under s. 941.29, the department shall provide the firearms
24 dealer with a unique nonapproval number. The department may not disclose to the
25 firearms dealer the reason the transferee is prohibited from possessing a firearm

1 under s. 941.29. No person may be denied the right to be transferred a firearm under
2 this section solely on the basis that the person is a qualifying patient, as defined in
3 s. 73.17 (1) (d).

4 **SECTION 40.** 238.139 of the statutes is created to read:

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

9 **SECTION 41.** 250.22 of the statutes is created to read:

10 **250.22 Health equity grants. (1)** From the appropriation under s. 20.435
11 (1) (s), the department shall award grants to community organizations to implement
12 community health worker care models.

13 **(2)** From the appropriation under s. 20.435 (1) (s), the department shall award
14 grants to community organizations and local or tribal health departments to hire
15 health equity strategists and to implement health equity action plans.

16 **SECTION 42.** 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 43.** 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 44.** 961.571 (1) (a) 7. of the statutes is repealed.

14 **SECTION 45.** 961.571 (1) (a) 11. (intro.) of the statutes is amended to read:

15 961.571 (1) (a) 11. (intro.) Objects used, designed for use or primarily intended
16 for use in ingesting, inhaling, or otherwise introducing ~~marijuana~~, cocaine, hashish,
17 or hashish oil into the human body, such as:

18 **SECTION 46.** 961.571 (1) (a) 11. e. of the statutes is repealed.

19 **SECTION 47.** 961.571 (1) (a) 11. k. and L. of the statutes are repealed.

20 **SECTION 48.** Subchapter VIII of chapter 961 [precedes 961.70] of the statutes
21 is created to read:

22 **CHAPTER 961**

23 **SUBCHAPTER VIII**

24 **REGULATION OF MEDICAL MARIJUANA**

25 **961.70 Definitions.** In this subchapter:

1 **(1m)** “Legal age” means 21 years of age.

2 **(4)** “Permittee” has the meaning given under s. 139.97 (10).

3 **(4g)** “Qualifying patient” has the meaning given in s. 73.17 (1) (d).

4 **(5)** “Retail outlet” has the meaning given in s. 139.97 (11).

5 **(7)** “Underage person” means an individual who has not attained the legal age.

6 **961.705 Medical marijuana. (1) POSSESSION BY QUALIFYING PATIENTS.**

7 Notwithstanding s. 961.41 (1) (h), (1m) (h), and (3g) (e), a qualifying patient may
8 possess marijuana if all of the following apply:

9 (a) The possession of the marijuana is for the use of the qualifying patient.

10 (c) The amount of marijuana does not exceed the amount allowed under ss.
11 139.973 (4) and 139.979.

12 **(2) PERMITTEES; AUTHORIZED ACTS.** Notwithstanding s. 961.41 (1) (h), (1m) (h),
13 and (3g) (e), a permittee or an agent or employee of a permittee may possess,
14 manufacture, distribute, or deliver medical marijuana or possess with the intent to
15 manufacture, distribute, or deliver medical marijuana if the permittee, agent, or
16 employee is acting in the usual course of his or her business or employment.

17 **(3) PROSECUTION.** (a) A qualifying patient may not be prosecuted for a criminal
18 offense under this chapter for any action taken in accordance with chs. 73 and 139.

19 (b) A permittee or an agent or employee of a permittee may not be prosecuted
20 for a criminal offense under this chapter for any action taken in accordance with chs.
21 73 and 139.

22 **961.71 Prohibitions involving permittees; penalties. (1) (a) 1.**

23 Notwithstanding s. 961.705, no permittee may sell, distribute, or deliver marijuana
24 to any person unless that person is a permittee or a qualifying patient.

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

3 (b) A permittee that violates par. (a) 1. or 2. may be subject to a forfeiture of not
4 more than \$500 and to a suspension of the permittee's permit for an amount of time
5 not to exceed 90 days.

6 (c) In determining whether a permittee has violated par. (a) 2., all relevant
7 circumstances surrounding the presence of the underage person may be considered.
8 In determining whether a permittee has violated par. (a) 1., all relevant
9 circumstances surrounding the selling, distributing, or delivering of marijuana may
10 be considered. In addition, proof of all of the following facts by the permittee is a
11 defense to any prosecution for a violation under par. (a) 2.:

12 1. That the underage person falsely represented that he or she had attained the
13 legal age or that he or she was a qualifying patient.

14 2. If the underage person was falsely representing that he or she had attained
15 the legal age, that the appearance of the underage person was such that an ordinary
16 and prudent person would believe that the underage person had attained the legal
17 age.

18 3. That the permittee acted in good faith and, if the underage person falsely
19 represented his or her age, in reliance on the representation and appearance of the
20 underage person in the belief that the underage person had attained the legal age.

21 4. That the underage person supported the representation under subd. 1. with
22 documentation that he or she had attained the legal age or documentation that he
23 or she was a qualifying patient.

24 **(2)** Any underage person who does any of the following is subject to a forfeiture
25 of not more than \$250:

1 (a) Procures or attempts to procure marijuana from a permittee. This
2 paragraph does not apply to a qualifying patient who has attained the age of 18 years
3 or to a qualifying patient who has not attained the age of 18 years who is accompanied
4 by his or her parent or guardian.

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

7 (c) Falsely represents that he or she is a qualifying patient for the purpose of
8 procuring marijuana from a permittee.

9 (d) Violates sub. (2m).

10 **(2m)** A qualifying patient who is an underage person and who is not
11 accompanied by his or her parent, guardian, or spouse who has attained the legal age
12 may not enter, knowingly attempt to enter, or be on the premises of a retail outlet.
13 An underage person who is not a qualifying patient may not enter, knowingly
14 attempt to enter, or be on the premises of a retail outlet.

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

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

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

20 **(4) REMOTE SALES.** Any person who sells or attempts to sell marijuana via mail,
21 telephone, or Internet is subject to a fine not to exceed \$10,000 or imprisonment not
22 to exceed 9 months, or both.

23 **SECTION 9107. Nonstatutory provisions; Circuit Courts.**

24 (1) SPECIAL DISPOSITION FOR MARIJUANA-RELATED CRIMES.

1 (a) *Definitions.* In this subsection, “marijuana-related crime” means a crime
2 under s. 961.41 (1) (h), (1m) (h), or (3g) (e), 961.573, 961.574, or 961.575.

3 (b) *Identification of records.* As soon as practically possible after the effective
4 date of this paragraph, the director of state courts shall identify records created
5 before the effective date of this paragraph of the following:

6 1. Persons serving a sentence or on probation if the sentence or probation was
7 imposed for the commission of a marijuana-related crime and one of the following
8 applies:

9 a. The person would not have been guilty of a crime had the commission
10 occurred on or after the effective date of this subd. 1. a.

11 b. The person would have been guilty of a lesser crime had the commission
12 occurred on or after the effective date of this subd. 1. b.

13 2. Persons who have completed their sentence or period of probation if the
14 sentence or period of probation was imposed for the commission of a
15 marijuana-related crime and one of the following applies:

16 a. The person would not have been guilty of a crime had the commission
17 occurred on or after the effective date of this subd. 2. a.

18 b. The person would have been guilty of a lesser crime had the commission
19 occurred on or after the effective date of this subd. 2. b.

20 3. Persons who were charged with the commission of a marijuana-related
21 crime if one of the following applies:

22 a. The person would not have been charged with the crime had the commission
23 occurred on or after the effective date of this subd. 3. a.

24 b. The person would have been charged with a lesser crime had the commission
25 occurred on or after the effective date of this subd. 3. b.

1 c. The person was found not guilty of the charge.

2 4. Persons who were arrested for the commission of a marijuana-related crime
3 if one of the following applies:

4 a. The person would not have been arrested had the commission occurred on
5 or after the effective date of this subd. 4. a.

6 b. The person was not charged with the crime.

7 (c) *Expungement or redesignations.*

8 1. a. If the record involves a marijuana-related crime that is a misdemeanor
9 and the person is serving a sentence or on probation, the sentencing court shall be
10 notified. If par. (b) 1. a. applies, the sentencing court shall dismiss the conviction and
11 expunge the record. If par. (b) 1. b. applies, the sentencing court shall resentence the
12 person or adjust the probation and change the record to reflect the lesser crime.

13 b. If the record involves a marijuana-related crime that is a misdemeanor and
14 the person has completed the sentence or period of probation for the
15 marijuana-related crime, the sentencing court shall be notified. If par. (b) 2. a.
16 applies, the sentencing court shall expunge the record. If par. (b) 2. b. applies, the
17 sentencing court shall redesignate the crime to a lesser crime and change the record
18 to reflect the lesser crime.

19 2. a. If the record involves a marijuana-related crime that is a felony and the
20 person is serving a sentence or on probation, the sentencing court shall be notified.
21 The sentencing court shall schedule a hearing. If par. (b) 1. a. applies, the sentencing
22 court shall determine if it is in the public interest to dismiss the conviction and
23 expunge the record. If par. (b) 1. b. applies, the sentencing court shall determine if
24 it is in the public interest to resentence the person or adjust the probation and change
25 the record to reflect the lesser crime. Such actions are presumed to be in the public

1 interest unless there is clear and convincing evidence that the actions would create
2 a risk to public safety. If the sentencing court determines it is in the public interest
3 to take such actions, the sentencing court shall do so.

4 b. If the record involves a marijuana-related crime that is a felony and the
5 person has completed the sentence or period of probation, the sentencing court shall
6 be notified. The sentencing court shall schedule a hearing. If par. (b) 2. a. applies,
7 the sentencing court shall determine if it is in the public interest to expunge the
8 record. If par. (b) 2. b. applies, the sentencing court shall determine if it is in the
9 public interest to redesignate the crime to a lesser crime and change the record to
10 reflect the lesser crime. Such actions are presumed to be in the public interest unless
11 there is clear and convincing evidence that the actions would create a risk to public
12 safety. If the sentencing court determines it is in the public interest to take such
13 actions, the sentencing court shall do so.

14 c. In making determinations under subd. 2. a. and b., the court shall consider
15 the nature and severity of the marijuana-related crime, including whether the
16 commission of the marijuana-related crime involved a weapon or infliction of or
17 intent to inflict bodily harm; the potential that the dismissal, expungement, or
18 redesignation would increase the risk to other individuals or the public; any
19 aggravating or mitigating circumstances, including the person's level or
20 participation and the context and circumstances of the marijuana-related crime;
21 statements from victims and law enforcement; and any other factors the court finds
22 relevant.

23 d. If the record involves a marijuana-related crime that is a felony, the felony
24 is expunged or redesignated to a misdemeanor or civil forfeiture under this
25 subdivision, and the person is not otherwise prohibited from possessing a firearm

1 under s. 941.29 or federal law, the sentencing court shall determine if there is good
2 cause to restore the person's right to possess a firearm. If the sentencing court finds
3 good cause, the sentencing court shall notify the department of justice, and the
4 conviction that is redesignated or expunged is not a conviction for purposes of s.
5 941.29 or 18 USC 921.

6 3. If the record involves an arrest for or charge of a marijuana-related crime
7 and par. (b) 3. or 4. applies, the director of state courts shall expunge such arrests or
8 charges.

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

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

16 (END)