

Full Legalization Initiative for Wisconsin: Industrial Hemp Medicinal Cannabis and Responsible Adult Use

Medical Cannabis and Dispensary Guidelines

Analysis by the Legislative Reference Bureau

Current prohibitions and penalties

Current law prohibits the manufacture, distribution, and delivery of marijuana (also known as tetrahydrocannabinols) and the possession of marijuana with intent to manufacture, distribute, or deliver it. A violation of these prohibitions is a felony, and the penalties depend on the amount of marijuana involved. If the crime involves 200 grams or less or four or fewer marijuana plants, the person may be fined up to \$10,000, sentenced to a term of imprisonment of up to three years and six months, or both. If the crime involves more than 200 grams but not more than 1,000 grams, or more than four plants but not more than 20 plants, the person may be fined up to \$10,000, sentenced to a term of imprisonment of up to six years, or both. If the crime involves more than 1,000 grams but not more than 2,500 grams, or more than 20 plants but not more than 50 plants, the person may be fined up to \$25,000, sentenced to a term of imprisonment of up to ten years, or both. If the crime involves more than 2,500 grams but not more than 10,000 grams, or more than 50 plants but not more than 200 plants, the person may be fined up to \$25,000, sentenced to a term of imprisonment of up to 12 years and 6 months, or both. If the crime involves more than 10,000 grams or more than 200 plants, the person may be fined up to \$50,000, sentenced to a term of imprisonment of up to 15 years, or both.

Current law also prohibits a person from possessing or attempting to possess marijuana. A person who violates this prohibition and who has no prior drug convictions is guilty of a misdemeanor and may be fined not more than \$1,000, sentenced to the county jail for up to six months, or both. For a second or subsequent offense, a person is guilty of a Class I felony.

Current law also contains certain prohibitions regarding drug paraphernalia, which includes equipment, products, and materials used to produce, distribute, and use controlled substances, including marijuana. Under current law, a person who uses drug paraphernalia or who possesses it with the primary intent to produce, distribute, or use a controlled substance, other than methamphetamine, unlawfully is guilty of a misdemeanor and may be fined not more than \$500, imprisoned for not more than 30 days, or both. A person who delivers drug paraphernalia, possesses it with intent to deliver it, or manufactures it with intent to deliver it, knowing that it will be primarily used to produce, distribute, or use a controlled substance, other than methamphetamine, unlawfully may be fined not more than \$1,000, imprisoned for not more than 90 days, or both.

Responsible Adult Use, Industrial Hemp and regulation of marijuana

(1) Purpose and findings.

(a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL FREEDOM, THE PEOPLE OF THE STATE OF WISCONSIN FIND AND DECLARE THAT THE USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

(b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR CITIZENRY, THE PEOPLE OF THE STATE OF WISCONSIN FURTHER FIND AND DECLARE THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO THAT:

- (I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING MARIJUANA;
- (II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN ILLEGAL;
- (III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN ILLEGAL;
- (IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND
- (V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND PROTECTED.

(c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF WISCONSIN FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

(d) THE PEOPLE OF THE STATE OF WISCONSIN FURTHER FIND AND DECLARE THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE, THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN, MATTERS OF STATEWIDE CONCERN.

(2) Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,

(a) "MEDICAL MARIJUANA CODE" MEANS CURRENT ACCEPTED MEDICAL CANNABIS CODE

(b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER WHO

PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR DEPARTMENT OF HEALTH SERVICES (DHS) OR ITS SUCCESSOR AGENCY.

(d) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-TENTHS PERCENT ON A DRY WEIGHT BASIS.

(e) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

(f) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND, MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT, STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

(g) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

(h) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

(i) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

(j) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL MARIJUANA STORES, BUT NOT TO CONSUMERS.

(k) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

(l) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

(m) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS.

(n) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS TO CONSUMERS.

(o) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH INVESTMENT OF RISK, MONEY, TIME,

OR ANY OTHER RESOURCE OR ASSET THAT THE OPERATION OF A MARIJUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

(3) Personal use of marijuana. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER WISCONSIN LAW OR THE LAW OF ANY LOCALITY WITHIN WISCONSIN OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER WISCONSIN LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

(b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE THAN TWELVE MARIJUANA PLANTS, WITH EIGHT OR FEWER BEING MATURE, FLOWERING PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY, AND IS NOT MADE AVAILABLE FOR SALE.

(c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY OR IN A MANNER THAT ENDANGERS OTHERS.

(e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS SUBSECTION.

(4) Lawful operation of marijuana-related facilities. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE UNDER WISCONSIN LAW OR THE LAW OF ANY LOCALITY WITHIN WISCONSIN OR BE A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER WISCONSIN LAW FOR PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

(b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA STORE.

(c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING, DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO

OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA CULTIVATION FACILITY.

(d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING, DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA PRODUCT MANUFACTURING FACILITY.

(e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING, TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA TESTING FACILITY.

(f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED, OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR ANY OF THE ACTIVITIES CONDUCTED LAWFULLY IN ACCORDANCE WITH PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

(5) Regulation of marijuana.

(a) NOT LATER THAN JULY 1ST, 2014, THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL INCLUDE:

(I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT.

(II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES, PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED UNDER THE WISCONSIN MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

(IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;

(V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;

(VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;

(VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE MANUFACTURE OF

MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;

(VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA AND MARIJUANA PRODUCTS; AND

(IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS MADE PURSUANT TO THIS SECTION.

(b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY CONSIDERATION WHETHER AN APPLICANT:

(I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR MARIJUANA PRODUCTS PURSUANT TO THE WISCONSIN MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

(II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I), COMPLIED CONSISTENTLY WITH THE WISCONSIN MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

(c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED, NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION CONDUCTED AT A RETAIL LIQUOR STORE.

(d) THE GENERAL ASSEMBLY SHALL ENACT AN EXCISE TAX TO BE LEVIED UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL ASSEMBLY THEREAFTER, AND SHALL DIRECT THE DEPARTMENT TO ESTABLISH PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED. PROVIDED, THE FIRST FORTY MILLION DOLLARS IN REVENUE RAISED ANNUALLY FROM ANY SUCH EXCISE TAX SHALL BE CREDITED TO THE PUBLIC SCHOOL ASSISTANCE FUND OR ANY SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE. PROVIDED FURTHER, NO SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT MEDICAL MARIJUANA CENTERS PURSUANT TO THE WISCONSIN MEDICAL MARIJUANA CODE.

(e) NOT LATER THAN OCTOBER 1, 2014, EACH LOCALITY SHALL ENACT AN ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY PARAGRAPH (g).

(f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR

(i), SUCH PROCEDURES TO BE SUBJECT TO ALL REQUIREMENTS OF THE WISCONSIN MARIJUANA CODE OR ANY SUCCESSOR PROVISION; ESTABLISHING A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT DURING AN EVEN NUMBERED YEAR.

(g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE DEPARTMENT SHALL:

(I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2014;

(II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES TO OPERATE THE MARIJUANA ESTABLISHMENT;

(III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES FOR LICENSURE; AND

(IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING OF THE SPECIFIC REASON FOR ITS DENIAL.

(h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY LICENSES BY JANUARY 1, 2015, THE APPLICANT MAY RESUBMIT ITS APPLICATION DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL

HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g).

(i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A LOCALITY AFTER OCTOBER 1, 2014 AND THE LOCALITY MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

(j) NOT LATER THAN JULY 1, 2015, THE GENERAL ASSEMBLY SHALL ENACT LEGISLATION GOVERNING THE CULTIVATION, PROCESSING AND SALE OF INDUSTRIAL HEMP.

(6) Employers, driving, minors and control of property.

(a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER, DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE USE OF MARIJUANA BY EMPLOYEES.

(b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

(c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

(d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER, SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY, TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA ON OR IN THAT PROPERTY.

(7) Medical marijuana provisions unaffected. NOTHING IN THIS SECTION SHALL BE CONSTRUED: (a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN THE WISCONSIN MEDICAL MARIJUANA CODE; (b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT; (c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED UNDER THE WISCONSIN MEDICAL MARIJUANA CODE; (d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO THE WISCONSIN MEDICAL MARIJUANA CODE TO OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE.; OR (e) TO DISCHARGE THE DEPARTMENT, THE WISCONSIN BOARD OF HEALTH, OR THE WISCONSIN DEPARTMENT OF HEALTH SERVICES FROM THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL MARIJUANA PURSUANT TO THE WISCONSIN MEDICAL MARIJUANA CODE.

(8) Self-executing, severability, conflicting provisions. ALL PROVISIONS OF THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE, AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION, AND OTHER STATE AND LOCAL PROVISIONS.

(9) Effective date. UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR.

Medical necessity defense and immunity from arrest and prosecution

This bill establishes a medical necessity defense to marijuana-related prosecutions and forfeiture actions. A person having or undergoing a debilitating medical condition or treatment (qualifying patient) may invoke this defense. A debilitating medical condition or treatment means any of the following: 1) cancer,

glaucoma, AIDS, a positive HIV test, Crohn's disease, a Hepatitis C virus infection, Alzheimer's disease, Amyotrophic Lateral Sclerosis, nail patella syndrome, Ehlers-Danlos Syndrome, post-traumatic stress disorder, or the treatment of these conditions; 2) a chronic or debilitating disease or medical condition, or the treatment of such a disease or condition, that causes wasting away, severe pain, severe nausea, seizures, or severe and persistent muscle spasms; or 3) any other medical condition or treatment for a medical condition designated as a debilitating medical condition or treatment in rules promulgated by the Department of Health Services (DHS). A qualifying patient may invoke this defense if he or she acquires, possesses, cultivates, transports, or uses marijuana to alleviate the symptoms or effects of his or her debilitating medical condition or treatment, but only if no more than the maximum authorized amount of marijuana (24 marijuana plants+ 2 Mothers (Fully rooted plant kept in vegetative stage purely for the use of generating clones/clippings. Mothers

guarantee a specific set of genetic traits which patients need per specific ailment) for continued genetics. (8) seedling/clone (Fresh seedling/clipping not yet fully rooted), (8) vegging (fully rooted yet still maximizing full flowering potential), and (8) flowering (Fully rooted flowering females in final stage of maturation). and three ounces of marijuana leaves or flowers) is involved. A person is presumed to have this defense if he or she has obtained a valid registry identification card from DHS or a valid out-of-state registry identification card or has a written certification from his or her physician documenting that he or she has or is undergoing a debilitating medical condition or treatment and that the potential benefits of using marijuana outweigh the health risks involved.

The bill also prohibits the arrest or prosecution of a qualifying patient who acquires, possesses, cultivates, transports, or uses marijuana to alleviate the symptoms or effects of his or her debilitating medical condition or treatment if the person possesses a valid registry identification card, a valid out-of-state registry identification card, or a written certification and if no more than the maximum authorized amount of marijuana is involved. In addition, the bill prohibits the arrest or prosecution of or the imposition of any penalty on a physician who provides a written certification to a person in good faith.

The defense provided under the bill and the prohibition on arrest and prosecution contained in the bill do not apply if the person possesses or attempts to possess marijuana and if: 1) while under the influence of marijuana, the person drives or operates a motor vehicle; 2) while under the influence of marijuana, the person operates heavy machinery or engages in any other conduct that endangers the health or well-being of another person; or 3) the person smokes marijuana on a bus, at his or her workplace, on school premises, in a correctional facility or jail, at a public park, beach, or recreation center, or at a youth center. In addition, if the putative qualifying patient is under 18 years of age, the defense provided under the bill and the prohibition on arrest and prosecution contained in the bill apply only if the person's parent, guardian, or legal custodian agrees to serve as a primary caregiver for the person. The bill defines a primary caregiver as a person who is at least 18 years old and who has agreed to be responsible for managing a qualifying patient's medical use of marijuana.

The defense provided under the bill and the prohibition on arrest and prosecution contained in the bill apply also to a primary caregiver for any qualifying patient, if the primary caregiver acquires, possesses, cultivates, transfers, or transports marijuana to facilitate the qualifying patient's medical use of it. The defense and the prohibition apply to the primary caregiver only if it is not practicable

for the qualifying patient to acquire, possess, cultivate, or transport marijuana

independently or if the qualifying patient is under 18. The defense and the prohibition apply also to offenses involving drug paraphernalia if the qualifying patient uses the drug paraphernalia for the medical use of marijuana. A Caregiver

Registry and distribution centers for medical users of marijuana

The bill requires DHS to establish a registry for medical users of marijuana.

Under the bill, a person claiming to be a qualifying patient may apply for a registry identification card by submitting to DHS a signed application, accompanied by a written certification and a registration fee of not more than \$150. DHS must verify the information and issue the person a registry identification card. A qualifying patient and one of his or her primary caregivers may jointly apply for a registry identification card for the primary caregiver. DHS may not disclose that it has issued to a person a registry identification card, or information from an application for one, except to a law enforcement agency for the purpose of verifying that a person possesses a valid registry identification card. A registry identification card is generally valid for one year and may be renewed. This bill also requires DHS to promulgate a rule listing other jurisdictions that allow the medical use of marijuana by a visiting qualifying patient or allow a person to assist with a visiting qualifying patient's medical use of marijuana. Under this bill, documents issued by these entities identifying a person as a qualifying patient, primary caregiver, or equivalent are treated the same as registry identification cards issued by DHS.

The bill requires DHS to license and regulate nonprofit corporations, known as compassion centers, that distribute or deliver marijuana or drug paraphernalia or possess or manufacture marijuana or drug paraphernalia with the intent to deliver or distribute to facilitate the medical use of marijuana. This bill prohibits compassion centers from being located within 1000 feet of a school, prohibits a compassion center from distributing to a qualifying patient more than a maximum amount of marijuana, and prohibits an organization from possessing a quantity that exceeds, by an amount determined by DHS, the total maximum amount of marijuana of all of the qualifying patients it serves. An applicant for a license must pay an initial application fee of \$250, and a compassion center must pay an annual fee of \$5,000.

Effect on federal law

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

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to

result if the bill is enacted.

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

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

20.435 (1) (gq) *Medical marijuana registry.* All moneys received from applicants, as defined in s. 146.44 (1) (a), as fees under s. 146.44 (2) (a) 4., for the purposes of the Medical Marijuana Registry Program under s. 146.44.

SECTION 2. 20.435 (1) (jm) of the statutes is created to read:

20.435 (1) (jm) *Licensing and support services for compassion centers.* All moneys received under s. 50.64 to regulate and license compassion centers under subch. IV of ch. 50.

SECTION 3. 20.435 (6) (jm) of the statutes, as affected by [2011 Wisconsin Act 32](#), is amended to read:

20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a), (am), (b), and (bm), and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and 146.40 (4r) (b) and (er), and subch. ~~IV~~ V of ch. 50 and to conduct health facilities plan and rule development activities, for accrediting nursing homes, convalescent homes, and homes for the aged, to conduct capital construction and remodeling plan reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or certifying, and approving facilities, issuing permits, and providing technical assistance, that are not specified under any other paragraph in this subsection. All moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,

50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and 50.981, all moneys received from fees for the costs of inspecting, licensing or certifying, and approving facilities, issuing permits, and providing technical assistance, that are not specified under any other paragraph in this subsection, and all moneys received under s. 50.135 (2) shall be credited to this appropriation account.

SECTION 4. 50.56 (3) of the statutes is amended to read:

50.56 (3) Notwithstanding sub. (2), insofar as a conflict exists between this subchapter, or the rules promulgated under this subchapter, and subch. I, II or ~~IV~~ V, or the rules promulgated under subch. I, II or ~~IV~~ V, the provisions of this subchapter and the rules promulgated under this subchapter control.

SECTION 5. Subchapter IV of chapter 50 [precedes 50.60] of the statutes is created to read:

CHAPTER 50
SUBCHAPTER IV
DISTRIBUTION CENTERS

50.60 Definitions. In this subchapter:

- (1) "Compassion center" means a licensed organization that grows and distributes marijuana for the medical use of tetrahydrocannabinols.
- (2) "Maximum authorized amount" has the meaning given in s. 961.01 (14c). **In Addition 24 marijuana plants+ 2 Mothers (Fully rooted plant kept in vegetative stage purely for the use of generating clones/clippings. Mothers guarantee a specific set of genetic traits which patients need per specific ailment) for continued genetics. (8) seedling/clone (Fresh seedling/clipping not yet fully rooted), (8) vegging (fully rooted yet still maximizing full flowering potential), and (8) flowering (Fully rooted flowering females in final stage of maturation. *Not counting up to 20 fresh cuttings/seedlings due to rate of failure. Once in medium and chosen as "Seedling/Clone" they then count as plant count.
- (3) "Medical use of tetrahydrocannabinols" has the meaning given in s. 961.01 (14g).
- (4) "Qualifying patient" has the meaning given in s. 961.01 (20hm).
- (5) "Registry identification card" has the meaning given in s. 146.44 (1) (g).
- (6) "Treatment team" has the meaning given in s. 961.01 (20t).

(7) "Usable marijuana" has the meaning given in s. 961.01 (21f).

(8) "Written certification" has the meaning given in s. 961.01 (21t).

50.61 Departmental powers and duties. The department shall provide licensing, regulation, record keeping, and security for compassion centers.

50.62 Licensing. The department shall issue licenses to operate as a compassion center and shall decide which and how many applicants for a license receive a license based on all of the following:

8(1) Convenience to treatment teams and the preferences of treatment teams.

9(2) The ability of an applicant to provide to treatment teams a sufficient amount of medical marijuana for the medical use of tetrahydrocannabinols.

(3) The experience the applicant has running a nonprofit organization or a business.

(4) The preferences of the governing bodies with jurisdiction over the area in which the applicants are located.

(5) The ability of the applicant to keep records confidential and maintain a safe and secure facility.

(6) The ability of the applicant to abide by the prohibitions under s. 50.63.

50.63 Prohibitions. The department may not issue a license to, and must revoke a license of, any organization to which any of the following applies:

(1) The organization does not qualify as a nonprofit organization, as defined in s. 108.02 (19).

(2) The organization is located within 1000 feet of a public or private elementary or secondary school, including a charter school.

(3) The compassion center distributes to a treatment team an amount of plants or ounces of usable marijuana that, in the period of distribution, results in the treatment team possessing an amount that exceeds the maximum authorized amount.

(4) The compassion center possesses an amount of plants or ounces of usable marijuana that exceeds the combined maximum authorized amount for all of the treatment teams that use the organization by an amount determined by the department by rule to be unacceptable.

750.64 Licensing procedure. (1) The application for a license shall:

(a) Be in writing on a form provided by the department.

(b) Include the licensing application fee under sub. (2) (a).

(2) (a) A licensing application fee is \$250.

(b) The annual fee for a compassion center is \$5,000.

(3) A compassion center license is valid until revoked. Each license shall be issued only for the applicant named in the application and may not be transferred or assigned.

550.65 Distribution of medical marijuana. (1) A compassion center may deliver or distribute tetrahydrocannabinols or drug paraphernalia to a member of a treatment team if the compassion center receives a copy of the qualifying patient's written certification or registry identification card.

(2) A compassion center may possess or manufacture tetrahydrocannabinols or drug paraphernalia with the intent to deliver or distribute under sub. (1).

(3) A compassion center may have 2 locations, one for cultivation and one for distribution.

SECTION 6. Subchapter IV of chapter 50 [precedes 50.90] of the statutes is renumbered subchapter V of chapter 50.

SECTION 7. 59.54 (25) of the statutes is renumbered 59.54 (25) (a) and amended to read:

59.54 (25) (a) The board may enact and enforce an ordinance to prohibit the possession of 25 grams or less of marijuana, as defined in s. 961.01 (14), subject to

5par. (b) and the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a
6violation of the ordinance; ~~except that any person who is charged with possession of~~
7~~more than 25 grams of marijuana, or who is charged with possession of any amount~~
8~~of marijuana following a conviction for possession of marijuana, in this state shall~~
9~~not be prosecuted under this subsection. Any ordinance enacted under this~~
10~~paragraph shall provide a person who is prosecuted under it with the defenses that~~
11~~the person has under s. 961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or~~
12~~(3g) (e).~~

13(b) 1. Any ordinance enacted under ~~this subsection~~ par. (a) applies in every
14municipality within the county.

15**SECTION 8.** 59.54 (25) (b) 2. of the statutes is created to read:

1659.54 **(25)** (b) 2. A person may not be prosecuted under an ordinance enacted
17under par. (a) if, under s. 968.072 (2) or (4) (b), the person would not be subject to
18prosecution under s. 961.41 (3g) (e).

19**SECTION 9.** 59.54 (25) (b) 3. of the statutes is created to read:

2059.54 **(25)** (b) 3. No person who is charged with possession of more than 25
21grams of marijuana, or who is charged with possession of any amount of marijuana
22following a conviction for possession of marijuana, in this state may be prosecuted
23under an ordinance enacted under par. (a).

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

159.54 **(25m)** **DRUG PARAPHERNALIA.** The board may enact an ordinance to
2prohibit conduct that is the same as that prohibited by s. 961.573 (1) or (2), 961.574
3(1) or (2), or 961.575 (1) or (2) and provide a forfeiture for violation of the ordinance.
4Any ordinance enacted under this subsection shall provide a person prosecuted
5under it with the defenses that the person has under s. 961.5755 to prosecutions
6under s. 961.573 (1), 961.574 (1), or 961.575 (1). A person may not be prosecuted
7under an ordinance enacted under this subsection if, under s. 968.072 (3) or (4) (b),
8the person would not be subject to prosecution under s. 961.573 (1), 961.574 (1), or
9961.575 (1). The board may enforce an ordinance enacted under this subsection in
10any municipality within the county.

11**SECTION 11.** 66.0107 (1) (bm) of the statutes is amended to read:

1266.0107 **(1)** (bm) Enact and enforce an ordinance to prohibit the possession of
1325 grams or less of marijuana, as defined in s. 961.01 (14), subject to this paragraph
14and the exceptions in s. 961.41 (3g) (intro.), and provide a forfeiture for a violation
15of the ordinance; except that any. Any ordinance enacted under this paragraph shall
16provide a person prosecuted under it with the defenses that the person has under s.
17961.436 to prosecutions under s. 961.41 (1) (h), (1m) (h), or (3g) (e). A person may not

18be prosecuted under an ordinance enacted under this paragraph if, under s. 968.072
19(2) or (4) (b), the person would not be subject to prosecution under s. 961.41 (3g) (e).
20No person who is charged with possession of more than 25 grams of marijuana, or
21who is charged with possession of any amount of marijuana following a conviction
22for possession of marijuana, in this state shall not may be prosecuted under this
23paragraph.

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

166.0107 (1) (bp) Enact and enforce an ordinance to prohibit conduct that is the
2same as that prohibited by s. 961.573 (1) or (2), 961.574 (1) or (2), or 961.575 (1) or
3(2) and provide a forfeiture for violation of the ordinance. Any ordinance enacted
4under this paragraph shall provide a person prosecuted under it with the defenses
5that the person has under s. 961.5755 to prosecutions under s. 961.573 (1), 961.574
6(1), or 961.575 (1). A person may not be prosecuted under an ordinance enacted
7under this paragraph if, under s. 968.072 (3) or (4) (b), the person would not be subject
8to prosecution under s. 961.573 (1), 961.574 (1), or 961.575 (1).

9**SECTION 13.** 146.40 (1) (bo) of the statutes is amended to read:

10146.40 (1) (bo) "Hospice" means a hospice that is licensed under subch. ~~IV~~ V
11of ch. 50.

12**SECTION 14.** 146.44 of the statutes is created to read:

13**146.44 Medical Marijuana Registry Program. (1) DEFINITIONS.** In this
14section:

15(a) "Applicant" means a person who is applying for a registry identification card
16under sub. (2) (a).

17(b) "Debilitating medical condition or treatment" has the meaning given in s.
18961.01 (5m).

19(c) "Medical use of tetrahydrocannabinols" has the meaning given in s. 961.01
20(14g).

21(cm) "Out-of-state registry identification card" means a document issued by
22an entity listed in the rule promulgated under sub. (7) (f) that identifies the person
23as a qualifying patient or primary caregiver, or an equivalent designation.

24(d) "Primary caregiver" has the meaning given in s. 961.01 (19m).

25(e) "Qualifying patient" has the meaning given in s. 961.01 (20hm).

1(f) "Registrant" means a person to whom a registry identification card is issued
2under sub. (4).

3(g) "Registry identification card" means a document issued by the department
4under this section that identifies a person as a qualifying patient or primary
5caregiver.

6(h) "Written certification" has the meaning given in s. 961.01 (21t).

7**(2) APPLICATION.** (a) An adult who is claiming to be a qualifying patient may
8apply for a registry identification card by submitting to the department a signed
9application form containing or accompanied by all of the following:

101. His or her name, address, and date of birth.

112. A written certification.

123. The name, address, and telephone number of the person's current physician,
13as listed in the written certification.

144. A registration fee in an amount determined by the department, but not to
15exceed \$150.

16(b) A qualifying patient who is an adult and who has been issued a registry
17identification card under sub. (4) or an applicant may jointly apply with another
18adult to the department for a registry identification card for the other adult,
19designating him or her as a primary caregiver for the qualifying patient or the
20applicant. Both persons who jointly apply for a registry identification card under this
21paragraph shall sign the application form, which shall contain the name, address,
22and date of birth of the individual applying to be registered as a primary caregiver.

23(c) The department shall promulgate rules specifying how a parent, guardian,
24or person having legal custody of a child may apply for a registry identification card

1for himself or herself and for the child and the circumstances under which the
2department may approve or deny the application.

3**(3) PROCESSING THE APPLICATION.** The department shall verify the information
4contained in or accompanying an application submitted under sub. (2) and shall
5approve or deny the application within 30 days after receiving it. Except as provided
6in sub. (2) (c), the department may deny an application submitted under sub. (2) only
7if the required information has not been provided or if false information has been
8provided.

9**(4) ISSUING A REGISTRY IDENTIFICATION CARD.** The department shall issue a
10registry identification card within 5 days after approving an application under sub.
11(3). Unless voided under sub. (5) (b) or (c) or revoked under rules issued by the
12department under sub. (7) (d), a registry identification card shall expire one year
13from the date of issuance. A registry identification card shall contain all of the
14following:

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

161. The registrant.

172. The primary caregivers, if the registrant is a qualifying patient.

183. The qualifying patient, if the registrant is a primary caregiver.

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

20(c) A photograph of the registrant.

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

22**(5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT.** (a) 1. An adult

23registrant shall notify the department of any change in the registrant's name and
24address. An adult registrant who is a qualifying patient shall notify the department
25of any change in his or her physician, of any significant improvement in his or her

1health as it relates to his or her debilitating medical condition or treatment, and if
2a registered primary caregiver no longer assists the registrant with the medical use
3of tetrahydrocannabinols.

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

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

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

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

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

21(c) The department may disclose to state or local law enforcement agencies
22information from an application submitted by, or from a registry identification card
23issued to, a specific person under this section, for the purpose of verifying that the
24person possesses a valid registry identification card.

1**(7) RULES.** The department shall promulgate rules to implement this section,
2including the rules required under sub. (2) (c) and rules doing all of the following:

3(a) Creating forms for applications to be used under sub. (2).

4(b) Specifying how the department will verify the truthfulness of information
5submitted on an application under sub. (2).

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

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

10(e) Specifying under what circumstances a person whose application for a
11registry identification card is denied may reapply.

12(f) Listing each state, district, commonwealth, territory, or insular possession
13thereof that, by issuing an out-of-state registry identification card, allows the
14medical use of marijuana by a visiting qualifying patient or allows a person to assist
15with a visiting qualifying patient's medical use of marijuana.

16**SECTION 15.** 146.81 (1) (L) of the statutes is amended to read:

17146.81 **(1)** (L) A hospice licensed under subch. ~~IV~~ V of ch. 50.

18**SECTION 16.** 146.997 (1) (d) 18. of the statutes is amended to read:

19146.997 **(1)** (d) 18. A hospice licensed under subch. ~~IV~~ V of ch. 50.

20**SECTION 17.** 149.14 (3) (nm) of the statutes is amended to read:

21149.14 **(3)** (nm) Hospice care provided by a hospice licensed under subch. ~~IV~~
22V of ch. 50.

23**SECTION 18.** 173.12 (1m) of the statutes is amended to read:

24173.12 **(1m)** If an animal has been seized because it is alleged that the animal
25has been used in or constitutes evidence of any crime specified in s. 951.08, the

1animal may not be returned to the owner by an officer under s. 968.20 (2). In any
2hearing under s. 968.20 ~~(4)~~ (1f), the court shall determine if the animal is needed as
3evidence or there is reason to believe that the animal has participated in or been
4trained for fighting. If the court makes such a finding, the animal shall be retained
5in custody.

6**SECTION 19.** 289.33 (3) (d) of the statutes is amended to read:

7289.33 **(3)** (d) "Local approval" includes any requirement for a permit, license,
8authorization, approval, variance or exception or any restriction, condition of
9approval or other restriction, regulation, requirement or prohibition imposed by a
10charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
11a town, city, village, county or special purpose district, including without limitation
12because of enumeration any ordinance, resolution or regulation adopted under s.
1391.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),
14(5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),
15(25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),
16(20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),
17(11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a) and (26), 59.55 (3),
18(4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16),
1959.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698,

59.70

20(1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (6), (7), 21(8), (10) and (11), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 2261.34, 61.35, 61.351, 61.354, 62.11, 62.23, 62.231, 62.234, 66.0101, 66.0415, 87.30, 23196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III of ch. 2491.

25**SECTION 20.** 349.02 (2) (b) 4. of the statutes is amended to read:

1349.02 **(2)** (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or 266.0107 (1) (bm).

3**SECTION 21.** 767.41 (5) (am) (intro.) of the statutes is amended to read:

4767.41 **(5)** (am) (intro.) Subject to pars. (bm) ~~and~~ (c), and (d), in determining 5legal custody and periods of physical placement, the court shall consider all facts 6relevant to the best interest of the child. The court may not prefer one parent or 7potential custodian over the other on the basis of the sex or race of the parent or 8potential custodian. Subject to pars. (bm) ~~and~~ (c), and (d), the court shall consider 9the following factors in making its determination:

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

11767.41 **(5)** (d) The court may not consider as a factor in determining the legal 12custody of a child whether a parent or potential custodian holds, or has applied for, 13a registry identification card, as defined in s. 146.44 (1) (g), is or has been the subject 14of a written certification, as defined in s. 961.01 (21t), or is or has been a qualified 15patient, as defined in s. 961.01 (20hm), or a primary caregiver, as defined in s. 961.01 16(19m), unless the parent or potential custodian's behavior creates an unreasonable 17danger to the child that can be clearly articulated and substantiated.

18**SECTION 23.** 767.451 (5m) (a) (intro.) of the statutes is amended to read:

19767.451 **(5m)** (a) (intro.) Subject to pars. (b) ~~and~~ (c), and (d), in all actions to 20modify legal custody or physical placement orders, the court shall consider the 21factors under s. 767.41 (5) (am), subject to s. 767.41 (5) (bm), and shall make its 22determination in a manner consistent with s. 767.41.

23**SECTION 24.** 767.451 (5m) (d) of the statutes is created to read:

24767.451 **(5m)** (d) In an action to modify a legal custody order, the court may not 25consider as a factor in making a determination whether a parent or potential

1custodian holds, or has applied for, a registry identification card, as defined in s. 2146.44 (1) (g), is or has been the subject of a written certification, as defined in s. 3961.01 (21t), or is or has been a qualified patient, as defined in s. 961.01 (20hm), or 4a primary caregiver, as defined in s. 961.01 (19m), unless the parent or potential

5custodian's behavior creates an unreasonable danger to the child that can be clearly
6articulated and substantiated.

7**SECTION 25.** 961.01 (5m) of the statutes is created to read:

8961.01 **(5m)** "Debilitating medical condition or treatment" means any of the
9following:

10(a) Cancer, glaucoma, acquired immunodeficiency syndrome, a positive test for
11the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV,
12Crohn's disease, a Hepatitis C virus infection, Alzheimer's disease, Amyotrophic
13Lateral Sclerosis, nail patella syndrome, Ehlers-Danlos Syndrome, post-traumatic
14stress disorder, or the treatment of these conditions.

15(b) A chronic or debilitating disease or medical condition or the treatment of
16such a disease or condition that causes cachexia, severe pain, severe nausea,
17seizures, including those characteristic of epilepsy, or severe and persistent muscle
18spasms, including those characteristic of multiple sclerosis.

19(c) Any other medical condition or any other treatment for a medical condition
20designated as a debilitating medical condition or treatment in rules promulgated by
21the department of health services under s. 961.436 (5).

22**SECTION 26.** 961.01 (11v) of the statutes is created to read:

23961.01 **(11v)** "HIV" means any strain of human immunodeficiency virus, which
24causes acquired immunodeficiency syndrome.

25**SECTION 27.** 961.01 (12v) of the statutes is created to read:

1961.01 **(12v)** "Lockable, enclosed facility" means an enclosed area that is
2lockable, or may use a security device, to permit access only by a member of a
3qualifying patient's treatment team.

4**SECTION 28.** 961.01 (14c) of the statutes is created to read:

5961.01 **(14c)** "Maximum authorized amount" means 24 marijuana plants+ 2 Mothers
(Fully rooted plant kept in vegetative stage purely for the use of generating
clones/clippings. Mothers guarantee a specific set of genetic traits which patients need per
specific ailment) for continued genetics. (8) seedling/clone (Fresh seedling/clipping not yet
fully rooted), (8) vegging (fully rooted yet still maximizing full flowering potential), and (8)
flowering (Fully rooted flowering females in final stage of maturation. *Not counting up to 20
fresh cuttings/seedlings due to rate of failure. Once in medium and chosen as
"Seedling/Clone" they then count as plant count.

6and 3 ounces of usable marijuana.

7**SECTION 29.** 961.01 (14g) of the statutes is created to read:

8961.01 **(14g)** "Medical use of tetrahydrocannabinols" means any of the
9following:

10(a) The use of tetrahydrocannabinols by a qualifying patient to alleviate the
11symptoms or effects of the qualifying patient's debilitating medical condition or
12treatment.

13(b) The acquisition, possession, cultivation, or transportation of
14tetrahydrocannabinols by a qualifying patient if done to facilitate his or her use of
15the tetrahydrocannabinols under par. (a).

16(c) The acquisition, possession, cultivation, or transportation of
17tetrahydrocannabinols by a primary caregiver of a qualifying patient, the transfer
18of tetrahydrocannabinols between a qualifying patient and his or her primary
19caregivers, or the transfer of tetrahydrocannabinols between persons who are
20primary caregivers for the same qualifying patient if all of the following apply:
211. The acquisition, possession, cultivation, transportation, or transfer of the
22tetrahydrocannabinols is done to facilitate the qualifying patient's use of
23tetrahydrocannabinols under par. (a) or (b).

12. It is not practicable for the qualifying patient to acquire, possess, cultivate,
2or transport the tetrahydrocannabinols independently, or the qualifying patient is
3under 18 years of age.

4**SECTION 30.** 961.01 (17k) of the statutes is created to read:

5961.01 **(17k)** "Out-of-state registry identification card" has the meaning given
6in s. 146.44 (1) (cm).

7**SECTION 31.** 961.01 (19m) of the statutes is created to read:

8961.01 **(19m)** "Primary caregiver" means a person who is at least 18 years of
9age and who has agreed to help a qualifying patient in his or her medical use of
10tetrahydrocannabinols.

11**SECTION 32.** 961.01 (20hm) of the statutes is created to read:

12961.01 **(20hm)** "Qualifying patient" means a person who has been diagnosed
13by a physician as having or undergoing a debilitating medical condition or treatment
14but does not include a person under the age of 18 years unless all of the following
15apply:

16(a) The person's physician has explained the potential risks and benefits of the
17medical use of tetrahydrocannabinols to the person and to a parent, guardian, or
18person having legal custody of the person.

19(b) The parent, guardian, or person having legal custody provides the physician
20a written statement consenting to do all of the following:

211. Allow the person's medical use of tetrahydrocannabinols.

222. Serve as a primary caregiver for the person.

233. Manage the person's medical use of tetrahydrocannabinols.

24**SECTION 33.** 961.01 (20ht) of the statutes is created to read:

1961.01 **(20ht)** "Registry identification card" has the meaning given in s. 146.44
2(1) (g).

3**SECTION 34.** 961.01 (20t) of the statutes is created to read:

4961.01 **(20t)** "Treatment team" means a qualifying patient and his or her
5primary caregivers.

6**SECTION 35.** 961.01 (21f) of the statutes is created to read:

7961.01 **(21f)** "Usable marijuana" means dried marijuana leaves or flowers but
8does not include marijuana seeds, stalks, or roots.

9**SECTION 36.** 961.01 (21t) of the statutes is created to read:

10961.01 **(21t)** "Written certification" means a statement made by a person's
11physician if all of the following apply:

12(a) The statement indicates that, in the physician's professional opinion, the
13person has or is undergoing a debilitating medical condition or treatment and the
14potential benefits of the person's use of tetrahydrocannabinols under sub. (14g) (a)
15would likely outweigh the health risks for the person.

16(b) The statement indicates that the opinion described in par. (a) was formed
17after a full assessment, made in the course of a bona fide physician-patient
18relationship, of the person's medical history and current medical condition.

19(c) The statement is signed by the physician or is contained in the person's
20medical records.

21**SECTION 37.** 961.436 of the statutes is created to read:

22**961.436 Medical use defense in cases involving**

23**tetrahydrocannabinols. (1)** A member of a qualifying patient's treatment team
24has a defense to prosecution under s. 961.41 (1) (h) or (1m) (h) for manufacturing, or

1possessing with intent to manufacture, tetrahydrocannabinols if all of the following
2apply:

3(a) The manufacture or possession is a medical use of tetrahydrocannabinols
4by the treatment team.

5(b) The amount of tetrahydrocannabinols does not exceed the maximum
6authorized amount.

7(c) Any live marijuana plants are in a lockable, enclosed facility unless a
8member of a qualifying patient's treatment team is accessing the plants or has the
9plants in his or her possession.

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

12**(2)** A member of a qualifying patient's treatment team has a defense to
13prosecution under s. 961.41 (1) (h) or (1m) (h) for distributing or delivering, or
14possessing with intent to distribute or deliver, tetrahydrocannabinols to another
15member of the treatment team if all of the following apply:
16(a) The distribution, delivery, or possession is a medical use of
17tetrahydrocannabinols by the treatment team.
18(b) The amount of tetrahydrocannabinols does not exceed the maximum
19authorized amount.
20(c) Any live marijuana plants are in a lockable, enclosed facility unless a
21member of a qualifying patient's treatment team is accessing the plants or has the
22plants in his or her possession.
23(d) If the member is a primary caregiver, he or she is not a primary caregiver
24to more than 5 qualifying patients.

1**(3)** (a) Except as provided in par. (b), a member of a qualifying patient's
2treatment team has a defense to a prosecution under s. 961.41 (3g) (e) if all of the
3following apply:
41. The possession or attempted possession is a medical use of
5tetrahydrocannabinols by the treatment team.
62. The amount of tetrahydrocannabinols does not exceed the maximum
7authorized amount.
83. Any live marijuana plants are in a lockable, enclosed facility unless a
9member of a qualifying patient's treatment team is accessing the plants or has the
10plants in his or her possession.
114. If the member is a primary caregiver, he or she is not a primary caregiver
12to more than 5 qualifying patients.
13(b) A person may not assert the defense described in par. (a) if, while he or she
14possesses or attempts to possess tetrahydrocannabinols, any of the following applies:
151. The person drives or operates a motor vehicle while under the influence of
16tetrahydrocannabinols in violation of s. 346.63 (1) or a local ordinance in conformity
17with s. 346.63 (1).
182. While under the influence of tetrahydrocannabinols, the person operates
19heavy machinery or engages in any other conduct that endangers the health or
20well-being of another person.
213. The person smokes marijuana in, on, or at any of the following places:
22a. A school bus or a public transit vehicle.
23b. The person's place of employment.
24c. Public or private school premises.
25d. A juvenile correctional facility.

1e. A jail or adult correctional facility.

2f. A public park, beach, or recreation center.

3g. A youth center.

4**(4)** For the purposes of a defense raised under sub. (1), (2), or (3) (a), a valid
5registry identification card, a valid out-of-state registry identification card, or a
6written certification is presumptive evidence that the person identified on the card
7as a qualifying patient or the subject of the written certification is a qualifying
8patient and that, if the person uses tetrahydrocannabinols, he or she does so to
9alleviate the symptoms or effects of his or her debilitating medical condition or
10treatment.

11**(5)** Notwithstanding s. 227.12 (1), any person may petition the department of
12health services to promulgate a rule to designate a medical condition or treatment
13as a debilitating medical condition or treatment. The department of health services
14shall promulgate rules providing for public notice of and a public hearing regarding
15any such petition, with the public hearing providing persons an opportunity to
16comment upon the petition. After the hearing, but no later than 180 days after the
17submission of the petition, the department of health services shall approve or deny
18the petition. The department's decision to approve or deny a petition is subject to
19judicial review under s. 227.52.

20**SECTION 38.** 961.55 (8) of the statutes is renumbered 961.55 (8) (intro.) and
21amended to read:

22961.55 **(8)** (intro.) The failure, upon demand by any officer or employee
23designated in s. 961.51 (1) or (2), of the person in occupancy or in control of land or
24premises upon which the species of plants are growing or being stored, to produce an
25any of the following constitutes authority for the seizure and forfeiture of the plants:

1(a) An appropriate federal registration, or proof that the person is the holder
2thereof, ~~constitutes authority for the seizure and forfeiture of the plants.~~

3**SECTION 39.** 961.55 (8) (b) of the statutes is created to read:

4961.55 **(8)** (b) A valid registry identification card or a valid out-of-state
5registry identification card.

6**SECTION 40.** 961.55 (8) (c) of the statutes is created to read:

7961.55 **(8)** (c) The person's written certification, if the person is a qualifying
8patient.

9**SECTION 41.** 961.55 (8) (d) of the statutes is created to read:

10961.55 **(8)** (d) A written certification for a qualifying patient for whom the
11person is a primary caregiver.

12**SECTION 42.** 961.555 (2) (a) of the statutes is amended to read:

13961.555 **(2)** (a) ~~The Except as provided in par. (e), the~~ district attorney of the
14county within which the property was seized shall commence the forfeiture action
15within 30 days after the seizure of the property; ~~except that the defendant may~~
16~~request that the forfeiture proceedings be adjourned until after adjudication of any~~
17~~charge concerning a crime which was the basis for the seizure of the property. The~~
18~~request shall be granted.~~ The forfeiture action shall be commenced by filing a
19summons, complaint and affidavit of the person who seized the property with the
20clerk of circuit court, provided service of authenticated copies of those papers is made
21in accordance with ch. 801 within 90 days after filing upon the person from whom
22the property was seized and upon any person known to have a bona fide perfected
23security interest in the property.

24**SECTION 43.** 961.555 (2) (e) of the statutes is created to read:

1961.555 **(2)** (e) The court shall adjourn forfeiture proceedings until after
2adjudication of any charge concerning a crime that was the basis for the seizure of
3the property if any of the following applies:

41. The defendant requests an adjournment.

52. The defendant invokes a defense to the crime under s. 961.436 or 961.5755.

6**SECTION 44.** 961.555 (2m) of the statutes is created to read:

7961.555 **(2m)** MEDICAL NECESSITY DEFENSE. (a) In an action to forfeit property
8seized under s. 961.55, the person who was in possession of the property when it was
9seized has a defense to the forfeiture of the property if any of the following applies:
101. The person was prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
11961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property but had
12a valid defense under s. 961.436 (1), (2), or (3) (a) or 961.5755 (1) (a) or (2).
132. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
14961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,
15if the person had been, he or she would have had a valid defense under s. 961.436 (1),
16(2), or (3) (a) or 961.5755 (1) (a) or (2).

17(b) The owner of property seized under s. 961.55 who is raising a defense under
18par. (a) shall do so in the answer to the complaint that he or she serves under sub.
19(2) (b). If a property owner raises such a defense in his or her answer, the state must,
20as part of the burden of proof specified in sub. (3), prove that the facts constituting
21the defense do not exist.

22**SECTION 45.** 961.56 (1) of the statutes is amended to read:

23961.56 **(1)** ~~¶ Except as provided in s. 961.555 (2m) (b) and except for any~~
24~~presumption arising under s. 961.436 (4) or 961.5755 (3), it is not necessary for the~~

25state to negate any exemption or exception in this chapter in any complaint,

1information, indictment or other pleading or in any trial, hearing or other proceeding
2under this chapter. ~~The, and the~~ burden of proof of any exemption or exception is
3upon the person claiming it.

4**SECTION 46.** 961.5755 of the statutes is created to read:

5961.5755 Medical use of marijuana defense in drug paraphernalia

6**cases. (1)** (a) Except as provided in par. (b), a member of a treatment team has a
7defense to prosecution under s. 961.573 (1) if he or she uses, or possesses with the
8primary intent to use, drug paraphernalia only for the medical use of
9tetrahydrocannabinols by the treatment team.

10(b) This subsection does not apply if while the person uses, or possesses with
11the primary intent to use, drug paraphernalia s. 961.436 (3) (b) 1., 2., or 3. applies.

12**(2)** A member of a treatment team has a defense to prosecution under s. 961.574
13(1) or 961.575 (1) if he or she delivers, possesses with intent to deliver, or
14manufactures with intent to deliver to another member of his or her treatment team
15drug paraphernalia, knowing that it will be primarily used for the medical use of
16tetrahydrocannabinols by the treatment team.

17**(3)** For the purposes of a defense raised under sub. (1) (a) or (2), a valid registry
18identification card, a valid out-of-state registry identification card, or a written
19certification is presumptive evidence that the person identified on the valid registry
20identification card or valid out-of-state registry identification card as a qualifying
21patient or the subject of the written certification is a qualifying patient and that, if
22the person uses tetrahydrocannabinols, he or she does so to alleviate the symptoms
23or effects of his or her debilitating medical condition or treatment.

24**SECTION 47.** 968.072 of the statutes is created to read:

1968.072 Medical use of marijuana; arrest and prosecution. (1)

2**DEFINITIONS.** In this section:

3(a) "Lockable, enclosed facility" has the meaning given in s. 961.01 (12v).

4(am) "Maximum authorized amount" has the meaning given in s. 961.01 (14c).

5(b) "Medical use of tetrahydrocannabinols" has the meaning given in s. 961.01
6(14g).

7(bm) "Out-of-state registry identification card" has the meaning given in s.
8146.44 (1) (cm).

9(c) "Primary caregiver" has the meaning given in s. 961.01 (19m).

10(d) "Qualifying patient" has the meaning given in s. 961.01 (20hm).

11(e) "Registry identification card" has the meaning given in s. 146.44 (1) (g).

12(f) "Treatment team" has the meaning given in s. 961.01 (20t).

13(g) "Written certification" has the meaning given in s. 961.01 (21t).

14**(2)** LIMITATIONS ON ARRESTS AND PROSECUTION; MEDICAL USE OF MARIJUANA. Unless

15s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a qualifying patient's treatment
16team may not be arrested or prosecuted for a violation of s. 961.41 (1) (h), (1m) (h),
17or (3g) (e) if all of the following apply:

18(a) The person manufactures, distributes, delivers, or possesses
19tetrahydrocannabinols for their medical use by the treatment team.

20(b) The person possesses a valid registry identification card, a valid
21out-of-state registry identification card, or a copy of the qualifying patient's written
22certification.

23(c) The quantity of tetrahydrocannabinols does not exceed the maximum
24authorized amount.

1(d) Any live marijuana plants are in a lockable, enclosed facility unless the
2person is accessing the plants or has the plants in his or her possession.

3(e) If the member is a primary caregiver, he or she is not a primary caregiver
4to more than 5 qualifying patients.

5**(3)** LIMITATIONS ON ARRESTS AND PROSECUTION; DRUG PARAPHERNALIA FOR MEDICAL

6USE OF MARIJUANA. (a) Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a
7treatment team may not be arrested or prosecuted for a violation of s. 961.573 (1) if
8all of the following apply:

91. The person uses, or possesses with the primary intent to use, drug
10paraphernalia only for the medical use of tetrahydrocannabinols by the treatment
11team.

122. The person possesses a valid registry identification card, a valid out-of-state
13registry identification card, or a copy of the qualifying patient's written certification.

143. The person does not possess more than the maximum authorized amount of
15tetrahydrocannabinols.

164. Any live marijuana plants are in a lockable, enclosed facility unless the
17person is accessing the plants or has the plants in his or her possession.

185. If the member is a primary caregiver, he or she is not a primary caregiver
19to more than 5 qualifying patients.

20(b) Unless s. 961.436 (3) (b) 1., 2., or 3. applies, a member of a treatment team
21may not be arrested or prosecuted for a violation of s. 961.574 (1) or 961.575 (1) if all
22of the following apply:

231. The person delivers, possesses with intent to deliver, or manufactures with
24intent to deliver to another member of his or her treatment team drug paraphernalia,

1 knowing that it will be primarily used for the medical use of tetrahydrocannabinols
2 by the treatment team.

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

5 3. The person does not possess more than the maximum authorized amount of
6 tetrahydrocannabinols.

7 4. Any live marijuana plants are in a lockable, enclosed facility unless the
8 person is accessing the plants or has the plants in his or her possession.

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

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

15 (b) An employee of a compassion center licensed under subch. IV of ch. 50 may
16 not be arrested and such employee or compassion center licensed under subch. IV of
17 ch. 50 may not be subject to prosecution, denied any right or privilege, or penalized
18 in any manner for any good faith action under subch. IV of ch. 50.

19 **(5) PENALTY FOR FALSE STATEMENTS.** Whoever intentionally provides false
20 information to a law enforcement officer in an attempt to avoid arrest or prosecution
21 under this section for a violation of s. 961.41 (1) (h), (1m) (h), or (3g) (e), 961.573 (1),
22 961.574 (1), or 961.575 (1) may be fined not more than \$500.

23 **SECTION 48.** 968.12 (5) of the statutes is created to read:

24 968.12 **(5) MEDICAL USE OF MARIJUANA.** A person's possession, use, or submission
25 of or connection with an application for a registry identification card under s. 146.44

1 (2), the issuance of such a card under s. 146.44 (4), or a person's possession of such
2 a card, a valid out-of-state registry identification card, as defined in s. 146.44 (1)
3 (cm), or an original or a copy of a written certification, as defined in s. 961.01 (21t),
4 may not, by itself, constitute probable cause under sub. (1) or otherwise subject any
5 person or the property of any person to inspection by any governmental agency.

6 **SECTION 49.** 968.19 of the statutes is renumbered 968.19 (1) and amended to
7 read:

8 968.19 **(1) Property** Except as provided in sub. (2), property seized under a
9 search warrant or validly seized without a warrant shall be safely kept by the officer,
10 who may leave it in the custody of the sheriff and take a receipt therefor, so long as
11 necessary for the purpose of being produced as evidence on any trial.

12 **SECTION 50.** 968.19 (2) of the statutes is created to read:

13968.19 **(2)** A law enforcement agency that has seized a live marijuana plant is
14not responsible for the plant's care and maintenance.

15**SECTION 51.** 968.20 (1) of the statutes is renumbered 968.20 (1f), and 968.20
16(1f) (intro.), as renumbered, is amended to read:

17968.20 **(1f)** (intro.) Any person claiming the right to possession of property
18seized pursuant to a search warrant or seized without a search warrant may apply
19for its return to the circuit court for the county in which the property was seized or
20where the search warrant was returned. The court shall order such notice as it
21deems adequate to be given the district attorney and all persons who have or may
22have an interest in the property and shall hold a hearing to hear all claims to its true
23ownership. If Except as provided in sub. (1j), if the right to possession is proved to
24the court's satisfaction, it shall order the property, ~~other than contraband or property~~
25~~covered under sub. (1m) or (1r) or s. 173.12, 173.21 (4), or 968.205~~, returned if:

1**SECTION 52.** 968.20 (1d) of the statutes is created to read:

2968.20 **(1d)** In this section:

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

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

5**SECTION 53.** 968.20 (1j) of the statutes is created to read:

6968.20 **(1j)** (a) Except as provided in par. (b), sub. (1f) does not apply to
7contraband or property covered under sub. (1m) or (1r) or s. 173.12, 173.21 (4), or
8968.205.

9(b) Under sub. (1f), the court may return drug paraphernalia or
10tetrahydrocannabinols that have been seized to the person from whom they were
11seized if any of the following applies:

121. The person was prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
13961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property but had
14a valid defense under s. 961.436 (1), (2), or (3) (a) or 961.5755 (1) (a) or (2).

152. The person was not prosecuted under s. 961.41 (1) (h), (1m) (h), or (3g) (e),
16961.573 (1), 961.574 (1), or 961.575 (1) in connection with the seized property, but,
17if the person had been, he or she would have had a valid defense under s. 961.436 (1),
18(2), or (3) (a) or 961.5755 (1) (a) or (2).

19**SECTION 54.** 968.20 (3) (a) and (b) of the statutes are amended to read:

20968.20 **(3)** (a) First class cities shall dispose of dangerous weapons or
21ammunition seized 12 months after taking possession of them if the owner,
22authorized under sub. (1m), has not requested their return and if the dangerous
23weapon or ammunition is not required for evidence or use in further investigation
24and has not been disposed of pursuant to a court order at the completion of a criminal

25action or proceeding. Disposition procedures shall be established by ordinance or

1resolution and may include provisions authorizing an attempt to return to the
2rightful owner any dangerous weapons or ammunition which appear to be stolen or
3are reported stolen. If enacted, any such provision shall include a presumption that
4if the dangerous weapons or ammunition appear to be or are reported stolen an
5attempt will be made to return the dangerous weapons or ammunition to the
6authorized rightful owner. If the return of a seized dangerous weapon other than a
7firearm is not requested by its rightful owner under sub. ~~(4)~~ (1f) and is not returned
8by the officer under sub. (2), the city shall safely dispose of the dangerous weapon or,
9if the dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor
10vehicle following the procedure under s. 973.075 (4) or authorize a law enforcement
11agency to retain and use the motor vehicle. If the return of a seized firearm or
12ammunition is not requested by its authorized rightful owner under sub. ~~(4)~~ (1f) and
13is not returned by the officer under sub. (2), the seized firearm or ammunition shall
14be shipped to and become property of the state crime laboratories. A person
15designated by the department of justice may destroy any material for which the
16laboratory has no use or arrange for the exchange of material with other public
17agencies. In lieu of destruction, shoulder weapons for which the laboratories have
18no use shall be turned over to the department of natural resources for sale and
19distribution of proceeds under s. 29.934 or for use under s. 29.938.

20(b) Except as provided in par. (a) or sub. (1m) or (4), a city, village, town or
21county or other custodian of a seized dangerous weapon or ammunition, if the
22dangerous weapon or ammunition is not required for evidence or use in further
23investigation and has not been disposed of pursuant to a court order at the
24completion of a criminal action or proceeding, shall make reasonable efforts to notify
25all persons who have or may have an authorized rightful interest in the dangerous

1weapon or ammunition of the application requirements under sub. ~~(4)~~ (1f). If, within
230 days after the notice, an application under sub. ~~(4)~~ (1f) is not made and the seized
3dangerous weapon or ammunition is not returned by the officer under sub. (2), the
4city, village, town or county or other custodian may retain the dangerous weapon or
5ammunition and authorize its use by a law enforcement agency, except that a
6dangerous weapon used in the commission of a homicide or a handgun, as defined
7in s. 175.35 (1) (b), may not be retained. If a dangerous weapon other than a firearm
8is not so retained, the city, village, town or county or other custodian shall safely
9dispose of the dangerous weapon or, if the dangerous weapon is a motor vehicle, as
10defined in s. 340.01 (35), sell the motor vehicle following the procedure under s.
11973.075 (4). If a firearm or ammunition is not so retained, the city, village, town or

12county or other custodian shall ship it to the state crime laboratories and it is then
13the property of the laboratories. A person designated by the department of justice
14may destroy any material for which the laboratories have no use or arrange for the
15exchange of material with other public agencies. In lieu of destruction, shoulder
16weapons for which the laboratory has no use shall be turned over to the department
17of natural resources for sale and distribution of proceeds under s. 29.934 or for use
18under s. 29.938.

19**SECTION 55. Effective dates.** This act takes effect on the day after publication,
20except as follows:

21(1) The treatment of section 146.44 and subchapter IV of chapter 50 of the
22statutes takes effect on the first day of the 6th month beginning after publication.

23(END)