



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0250/1
JK/EAW/MED:emw

2021 BILL

1 **AN ACT** *to renumber* 440.035 (2m) (b) and 450.07 (1m); *to renumber and*
2 *amend* 440.035 (2m) (a) and 450.071 (1); *to amend* 15.435 (title), chapter 73
3 (title), 77.52 (13), 77.53 (10), 108.04 (5) (a) (intro.), 111.34 (1) (b), 182.001 (3),
4 961.38 (title), 961.385 (1) (aj), 961.385 (2) (intro.), 961.385 (2) (b), 961.385 (2)
5 (cm) 3. a., 961.385 (2) (cs) 1. and 961.385 (2) (cs) 2. (intro.), b., c. and d.; and *to*
6 *create* 15.435 (2), 15.437, 20.566 (9), 20.923 (4) (e) 13., 20.923 (6) (hp), 25.56,
7 73.17, 73.18, 77.54 (70), 111.32 (9m), 111.32 (12c), 111.34 (3), subchapter IV of
8 chapter 139 [precedes 139.97], 440.035 (2m) (a) 2., 440.035 (2m) (b) 2., 441.07
9 (1g) (d) 3., 441.20, 448.015 (4) (bm) 3., 448.039, 450.03 (1) (em), 450.07 (1m) (b),
10 450.071 (1) (b) 2., 961.01 (12q), 961.01 (14g), 961.01 (19m), 961.01 (20hm),
11 961.01 (20ht), 961.01 (20t), 961.33, 961.38 (1p), 961.385 (2) (am) and (an),

BILL

1 961.385 (2) (bc) and (bd) and 961.55 (8) (c) of the statutes; **relating to:** medical
2 marijuana, granting rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill creates a program that allows for the possession and use of medical marijuana by registered patients and that licenses medical marijuana producers, processors, dispensaries, transporters, and laboratories to operate in this state.

Medical Marijuana Regulatory Commission

The bill creates the Medical Marijuana Regulatory Commission to regulate the medical marijuana program. The commission is attached to the Department of Revenue and consists of one member appointed by the governor, one member appointed by the senate majority leader, one member appointed by the speaker of the assembly, one member appointed by the senate minority leader, and one member appointed by the assembly minority leader. The members serve staggered terms of six years each. The governor selects one of the appointees to serve as the chairperson for a two-year term.

Recommendations; registered patients and caregivers

The bill authorizes physicians, physician assistants, and certified advanced practice nurse prescribers to provide a written recommendation for a patient to use medical marijuana under certain circumstances, including the existence of a bona fide health care provider-patient relationship and that the patient suffers from a qualifying medical condition. Minors are eligible to receive a recommendation for use of medical marijuana if certain requirements are met. Medical marijuana must be in the form of a liquid, oil, pill, or tincture or in a form that is applied topically.

Under the bill, patients and primary caregivers may apply to the commission to receive a registry identification card, allowing the patient or primary caregiver to obtain medical marijuana from a dispensary. Applicants must meet certain criteria, including that the person is a resident of the state and submits a written recommendation that is less than 30 days old from a physician, physician assistant, or certified advanced practice nurse prescriber. A primary caregiver must be over the age of 21 and may not have any drug-related conviction. The commission is required to establish and maintain a list of registered cardholders and must establish rules for implementation of the medical marijuana program as it relates to recommendation and registration.

The bill also requires the commission to establish procedures for physicians, physician assistants, and certified advanced practice nurse prescribers to apply for certification and to be certified to recommend the use of medical marijuana to qualifying patients. All such persons certified by the commission must keep complete and accurate records of the recommendations made and for whom the recommendations are made and provide that information to the commission at the commission's request.

The bill provides civil, criminal, and professional disciplinary immunity for physicians, physician assistants, and certified advanced practice nurse prescribers

BILL

who recommend medical marijuana for patients in accordance with the requirements and limitations specified in the bill. However, the bill allows the Medical Examining Board and the Board of Nursing to issue nonmandatory guidelines regarding best practices in making recommendations for the use of medical marijuana.

Licensed producers, processors, transporters, dispensaries, and laboratories

The bill requires any person operating as a medical marijuana producer, processor, transporter, dispensary, or laboratory to obtain a license from the commission. An applicant may not obtain a license if the applicant, or any principal officer or board member of the applicant, has been convicted of a controlled substance offense. The applicant, and each principal officer or board member must be at least 21 years old and may not have been a principal officer or board member of a producer, processor, transporter, dispensary, or laboratory that has had its license revoked and not reinstated. In addition, the applicant, or at least one principal officer or board member of the applicant, must be a resident of this state. The applicant must also show that it will have sufficient security measures and record-keeping procedures in place. A producer or processor may not have any financial interest in a dispensary or laboratory; a laboratory may not have any financial interest in a producer, processor, or dispensary; and a dispensary may not have any financial interest in a producer, processor, or laboratory. A license issued by the commission expires after one year.

Under the bill, a licensee may not operate within 300 feet of a school or child care center. Every employee of a licensee must be at least 21 years old and may not have been convicted of a controlled substance offense. In addition, dispensary employees must complete certain training, as required by the commission by rule.

The bill requires licensed producers, licensed processors, and licensed laboratories to operate within an enclosed, locked facility. A licensed producer is prohibited from growing medical marijuana for personal, family, or household use and may distribute its medical marijuana only to a licensed processor. A licensed processor must send samples of the medical marijuana that it processes to a licensed laboratory to test and certify the tetrahydrocannabinol (THC) concentration of the processor's products and test for the presence of certain contaminants; must package its products in child-resistant packaging; and must label each package with how many ounces of medical marijuana it contains and the THC concentration of the product. A licensed processor may distribute its products only to a licensed dispensary. A licensed dispensary must label the medical marijuana that it dispenses with certain information, including the name of the dispensary and the name of the patient, and may dispense medical marijuana only to a person who presents a valid registry identification card and only in accordance with the patient's recommendation. All marijuana and medical marijuana that is transported by way of a public road may only be transported by a licensed transporter.

The bill also authorizes the commission to inspect, without prior notice, the premises and records of a licensee or an applicant. The commission may also establish rules for suspending, revoking, or refusing to issue or renew a license. The

BILL

bill authorizes the commission to promulgate any other rules necessary to administer and implement the medical marijuana program as it relates to producers, processors, transporters, dispensaries, and laboratories.

Medical marijuana tax

The bill imposes an excise tax on a licensed processor at the rate of 10 percent of the sales price on each wholesale sale in this state of medical marijuana to a licensed dispensary. All proceeds from the tax, and all fees and penalties collected by the commission, are deposited into a segregated fund, identified in the bill as the medical marijuana fund.

Criminal provisions

The bill decriminalizes the manufacture, possession, distribution, and delivery of medical marijuana if that manufacture, possession, distribution, or delivery is done in compliance with the medical marijuana program established by the commission.

Under current law, with certain exceptions, it is illegal to manufacture, possess, distribute, or deliver THC, including THC in marijuana, which is classified as a schedule I controlled substance. The bill authorizes the possession, distribution, or delivery of medical marijuana by a qualifying patient or his or her primary caregivers if 1) the possession, distribution, or delivery of marijuana is done to facilitate a qualifying patient's medical use of the marijuana in accordance with his or her recommendation; 2) the marijuana is legally obtained from a person who is authorized to distribute or deliver medical marijuana under the laws of this state; 3) the amount of usable marijuana does not exceed a 30-day supply of individual doses of medical marijuana per qualifying patient; and 4) the qualifying patient or primary caregiver has in his or her immediate possession a registry identification card. The bill authorizes the manufacture, possession, distribution, or delivery of medical marijuana by an entity that is licensed by the commission or an employee or agent of such a licensed entity if the manufacture, possession, distribution, or delivery is done in the usual course of business or employment.

Under the bill, if a person manufactures, possesses, distributes, delivers, or uses medical marijuana in a way that is not in compliance with the requirements of the medical marijuana program, he or she can be referred by the commission for criminal prosecution under the Controlled Substances Act or a local law that prohibits the possession, manufacture, distribution, or delivery of marijuana.

Prescription drug monitoring program

Current law requires the Controlled Substances Board to establish a Prescription Drug Monitoring Program (PDMP) that requires pharmacies and health care practitioners to generate records documenting the dispensing of monitored prescription drugs. Records from the PDMP may be disclosed to persons specified under current law or by the board by rule.

The bill requires records to be generated for the PDMP documenting recommendations for medical marijuana and the issuance of registry identification cards for medical marijuana.

BILL***Fair employment law***

Under the current fair employment law, an employer may not refuse to hire or employ, bar or terminate from employment, or discriminate against any individual in promotion or compensation or in terms, conditions, or privileges of employment because the individual has a disability. Such discrimination against an individual with a disability includes refusing to reasonably accommodate an employee's or prospective employee's disability unless the employer can demonstrate that the accommodation would pose a hardship on the employer's program, enterprise, or business. Also under the fair employment law, an employer may not refuse to hire or employ, bar or terminate from employment, or discriminate against any individual in promotion or compensation or in terms, conditions, or privileges of employment because of the individual's use or nonuse of lawful products off the employer's premises during nonworking hours.

The Department of Workforce Development enforces the fair employment law, may receive and investigate complaints charging discrimination or discriminatory practices, and may, if an employer is found to have engaged in discrimination, order such action by the respondent as will effectuate the purpose of the fair employment law, including awarding back pay. Decisions of DWD hearing examiners made under the fair employment law are subject to further review by the Labor and Industry Review Commission and a court.

The bill provides that the fair employment law does not apply to any act of an employer based on an individual's use of medical marijuana.

Unemployment insurance; worker's compensation

Currently, an individual whose work is terminated by an employer for misconduct by the employee connected with the employee's work is ineligible to receive unemployment insurance (UI) benefits until the individual satisfies certain conditions. In addition, the wages paid to the individual by that employer are excluded from the employee's base period wages for purposes of calculating the individual's entitlement to UI benefits. "Misconduct," for purposes of these provisions, is defined specifically as including a violation by an employee of an employer's reasonable written policy concerning the use of a controlled substance if the employee 1) had knowledge of the policy and 2) admitted to the use of a controlled substance, refused to take a test, or tested positive for the use of a controlled substance in a test used by the employer in accordance with a testing methodology approved by DWD.

Also under current law, an employer is not liable for temporary disability benefits under the worker's compensation law during an employee's healing period if the employee is suspended or terminated for misconduct as defined above.

The bill retains these provisions regarding misconduct and further provides that such a reasonable written policy may include a drug-free workplace policy.

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.

BILL

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

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

1 **SECTION 1.** 15.435 (title) of the statutes is amended to read:

2 **15.435** (title) **Same; attached boards and commissions.**

3 **SECTION 2.** 15.435 (2) of the statutes is created to read:

4 15.435 (2) MEDICAL MARIJUANA REGULATORY COMMISSION. (a) *Creation;*
5 *membership.* No later than 30 days after the effective date of this paragraph [LRB
6 inserts date], there is created a medical marijuana regulatory commission attached
7 to the department of revenue under s. 15.03, consisting of the following members:

8 1. One member appointed by the governor.

9 2. One member appointed by the senate majority leader.

10 3. One member appointed by the speaker of the assembly.

11 4. One member appointed by the senate minority leader.

12 5. One member appointed by the assembly minority leader.

13 (b) *Chairperson.* The governor shall designate one of the appointees under par.
14 (a) to serve as chairperson for a 2-year term. The chairperson is responsible for the
15 commission's daily operations and administrative oversight.

16 (c) *Assistance.* The commission may request of any state agency such
17 assistance as may be necessary for the commission to fulfill its duties.

18 (d) *Licenses.* The commission shall begin issuing licenses under s. 73.17 no
19 sooner than 180 days after the creation of the commission.

20 (e) *Report.* 1. Annually, the commission shall submit a report to the legislature
21 under s. 13.172 (2) that provides an overview of the medical marijuana industry in

BILL

1 this state, specifies the administrative and enforcement actions undertaken by the
2 commission, and makes recommendations regarding the operation of the
3 commission and the administration of ss. 73.17 and 73.18 and subch. IV of ch. 139.

4 2. No later than January 15, 2022, and no later than each January 15
5 thereafter, the commission shall submit to the legislature, as provided under s.
6 13.172 (2), its recommendation for using moneys from the medical marijuana fund
7 for law enforcement drug prevention programs, treatment alternative and diversion
8 programs, and alcohol and other drug abuse treatment programs.

9 **SECTION 3.** 15.437 of the statutes is created to read:

10 **15.437 Same; councils. (1) COUNCIL ON MEDICAL MARIJUANA.** (a) There is
11 created in the department of revenue a council on medical marijuana to provide
12 advice to the medical marijuana regulatory commission. The council consists of the
13 following members:

- 14 1. One individual who represents the interests of licensees under s. 73.17.
- 15 2. One individual who represents local government.
- 16 3. One individual who represents law enforcement.
- 17 4. One individual who represents medical providers.
- 18 5. One individual who represents providers of financial services.
- 19 6. The secretary of agriculture, trade and consumer protection or the
20 secretary's designee.
- 21 7. The secretary of health services or the secretary's designee.
- 22 8. The secretary of revenue or the secretary's designee.
- 23 9. One member appointed by the senate majority leader.
- 24 10. One member appointed by the senate minority leader.
- 25 11. One member appointed by the speaker of the assembly.

BILL**SECTION 3**

1 12. One member appointed by the assembly minority leader.

2 (b) The governor shall appoint the members under par. (a) 1. to 5. All members
3 serve for staggered 3-year terms, as determined by the secretary of revenue.

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

			2021-22	2022-23
6	20.566 Revenue, department of			
7	(9) MEDICAL MARIJUANA REGULATORY COMMISSION			
8	(q) General program operations and			
9	enforcement	SEG A	-0-	-0-

10 **SECTION 5.** 20.566 (9) of the statutes is created to read:

11 20.566 (9) MEDICAL MARIJUANA REGULATORY COMMISSION. (q) *General program*
12 *operations and enforcement.* From the medical marijuana fund, the amounts in the
13 schedule for general program operations, administration, and enforcement of ss.
14 73.17 and 73.18 and subch. IV of ch. 139.

15 **SECTION 6.** 20.923 (4) (e) 13. of the statutes is created to read:

16 20.923 (4) (e) 13. Revenue, department of: medical marijuana regulatory
17 commission: members and chairperson.

18 **SECTION 7.** 20.923 (6) (hp) of the statutes is created to read:

19 20.923 (6) (hp) Revenue, department of: medical marijuana regulatory
20 commission: all positions other than the members and chairperson.

21 **SECTION 8.** 25.56 of the statutes is created to read:

22 **25.56 Medical marijuana fund.** There is established a separate nonlapsible
23 trust fund, designated as the medical marijuana fund, consisting of all revenue from

BILL

1 the fees, taxes, interest, and penalties under ss. 73.17 and 73.18 and subch. IV of ch.
2 139.

3 **SECTION 9.** Chapter 73 (title) of the statutes is amended to read:

4 **CHAPTER 73**

5 **TAX APPEALS COMMISSION,**

6 **MEDICAL MARIJUANA REGULATORY**

7 **COMMISSION, AND DEPARTMENT**

8 **OF REVENUE**

9 **SECTION 10.** 73.17 of the statutes is created to read:

10 **73.17 Medical marijuana; licensees. (1) DEFINITIONS.** In this section:

11 (a) "Child care center" has the meaning given in s. 49.136 (1) (ad).

12 (b) "Commission" means the medical marijuana regulatory commission.

13 (c) "Dispensary" means a person who obtains packaged and labeled medical
14 marijuana from a licensed processor and dispenses that marijuana at a permanent
15 location to qualifying patients or primary caregivers holding a valid registry
16 identification card issued under s. 73.18 (3), regardless of whether the dispensing is
17 done in exchange for monetary consideration.

18 (d) "Laboratory" means a person who obtains medical marijuana from a
19 licensed processor and tests that medical marijuana for tetrahydrocannabinol
20 content and the presence of molds, pesticides, heavy metals, and other
21 contaminants.

22 (e) "Licensee" means a producer, processor, dispensary, transporter, or
23 laboratory that holds a valid license under this section.

24 (f) "Marijuana" has the meaning given in s. 961.01 (14).

25 (g) "Medical marijuana" has the meaning given in s. 73.18 (1) (e).

BILL**SECTION 10**

1 (gm) "Primary caregiver" has the meaning given in s. 73.18 (1) (h).

2 (h) "Processor" means a person who obtains marijuana from a licensed
3 producer, processes the marijuana into medical marijuana, packages and labels the
4 medical marijuana, and transfers or sells the packaged and labeled medical
5 marijuana to a licensed dispensary.

6 (i) "Producer" means a person who plants, grows, cultivates, and harvests
7 marijuana and transfers or sells the marijuana to a licensed processor.

8 (im) "Qualifying patient" has the meaning given in s. 961.01 (20hm).

9 (j) "School" has the meaning given in s. 118.257 (1) (d).

10 (k) "Transporter" means a person who transports marijuana or medical
11 marijuana to other licensees.

12 **(2) ANNUAL LICENSE REQUIRED.** No person may operate in this state as a
13 producer, processor, dispensary, transporter, or laboratory without a license issued
14 by the commission under this section. A person who engages in more than one of
15 these activities shall obtain a separate license for each activity. A person who
16 operates more than one dispensary location shall obtain a separate license for each
17 location. A person who is an employee of a licensee is not required to obtain a
18 separate license. A license issued under this section expires after one year. A person
19 is not required to obtain a license under this section if the person handles only
20 industrial hemp and holds a valid license under s. 94.55.

21 **(3) LICENSE CRITERIA.** The commission may issue a license to a producer,
22 processor, dispensary, transporter, or laboratory if the commission determines that
23 all of the following requirements are met:

24 (a) Notwithstanding ss. 111.321, 111.322, and 111.335, the applicant, or each
25 principal officer or board member of the applicant, has never been convicted of a

BILL

1 criminal violation of the federal Controlled Substances Act under 21 USC 801 to 971,
2 the Uniform Controlled Substances Act under ch. 961, or any controlled substances
3 law of another state. The commission shall determine whether this requirement is
4 met on the basis of a criminal history search obtained from the records maintained
5 by the department of justice for each of these persons. The department of justice
6 shall provide information to the commission necessary to determine whether this
7 requirement is met.

8 (b) The applicant, or each principal officer or board member of the applicant,
9 is at least 21 years of age.

10 (c) For the 24 months following the first date on which the commission receives
11 applications under this section, the applicant, or at least one principal officer or
12 board member of the applicant, has resided in this state, in accordance with the
13 qualifications set forth in s. 6.10, for at least one year before submitting an
14 application to the commission under this subsection.

15 (d) 1. If the applicant is a producer or processor, the applicant, or each principal
16 officer or board member of the applicant, does not have any financial interest in a
17 licensed dispensary or laboratory or an applicant for a dispensary or laboratory
18 license.

19 2. If the applicant is a laboratory, the applicant, or each principal officer or
20 board member of the applicant, does not have any financial interest in a licensed
21 producer, processor, or dispensary or an applicant for a producer, processor, or
22 dispensary license.

23 3. If the applicant is a dispensary, the applicant, or each principal officer or
24 board member of the applicant, does not have any financial interest in a licensed

BILL**SECTION 10**

1 producer, processor, or laboratory or an applicant for a producer, processor, or
2 laboratory license.

3 (e) The applicant and each principal officer or board member of the applicant
4 have never had a license revoked and not reinstated under this section or been a
5 principal officer or board member of an entity that has had a license revoked and not
6 reinstated under this section.

7 (f) The applicant's facility or the site of the applicant's facility is not prohibited
8 by a local ordinance of the county or municipality where the facility would be located.

9 (g) The applicant's operation is not or will not be located within 300 feet of the
10 premises of a school or child care center.

11 (h) The applicant has or will have sufficient security measures in place at its
12 operating location.

13 (i) The applicant has or will have sufficient record-keeping procedures in place.

14 (j) If the applicant is a laboratory, the applicant employs and retains at least
15 one employee with an advanced degree in a medical or laboratory science.

16 (k) The applicant provides proof of financial responsibility equal to no less than
17 \$1,000,000 for liability for bodily injury that may result from producing, processing,
18 transporting, or dispensing medical marijuana.

19 (L) The applicant has paid the fee specified under sub. (4).

20 (m) The applicant meets any other conditions for obtaining a license as
21 required by the department of revenue by rule.

22 **(4) APPLICATION AND ANNUAL RENEWAL FEES.** (a) The commission shall set, by
23 rule, the amount of application, registration, and renewal fees for applying for and
24 receiving a license under this section, subject to the limitations under par. (b). The

BILL

1 amount of the fees under this subsection shall be sufficient to cover the commission's
2 costs of administering and enforcing this section.

3 (b) 1. For a license under sub. (7) (d) 1. a., the application fee shall be no less
4 than \$1,000, but no more than \$5,000; the registration fee shall be no less than
5 \$50,000, but no more than \$100,000; and the renewal fee shall be no less than
6 \$50,000, but no more than \$150,000.

7 2. For a license under sub. (7) (d) 1. b., the application fee shall be no less than
8 \$10,000, but no more than \$15,000; the registration fee shall be no less than
9 \$100,000, but no more than \$150,000; and the renewal fee shall be no less than
10 \$100,000, but no more than \$200,000.

11 3. For a license under sub. (7) (d) 1. c., the application fee shall be no less than
12 \$20,000, but no more than \$25,000; the registration fee shall be no less than
13 \$150,000, but no more than \$200,000; and the renewal fee shall be no less than
14 \$150,000, but no more than \$250,000.

15 4. For a license under sub. (8), the application fee shall be no less than \$1,000,
16 but no more than \$25,000; the registration fee shall be no less than \$50,000, but no
17 more than \$200,000; and the renewal fee shall be no less than \$50,000, but no more
18 than \$250,000.

19 5. For a license under sub. (9), the application fee shall be no less than \$2,500,
20 but no more than \$7,500; the registration fee shall be no less than \$6,000, but no more
21 than \$9,000; and the renewal fee shall be no less than \$5,000, but no more than
22 \$45,000.

23 (5) EMPLOYEES. A licensee may not employ a person unless all of the following
24 requirements are met:

25 (a) The person is at least 21 years of age.

BILL**SECTION 10**

1 (b) Notwithstanding ss. 111.321, 111.322, and 111.335, the person has never
2 been convicted of a criminal violation of the federal Controlled Substances Act under
3 21 USC 801 to 971, the Uniform Controlled Substances Act under ch. 961, or any
4 controlled substances law of another state, based on a criminal history search
5 obtained from the records maintained by the department of justice. The department
6 of justice shall provide information to the commission necessary to determine
7 whether this requirement is met.

8 (c) If the person is employed at a dispensary, the person has completed the
9 training required for dispensary employees, which the commission shall establish by
10 rule.

11 **(6) LOCATION.** Except as provided by rules promulgated under this section, no
12 licensee may operate within 300 feet of the premises of a school or child care center.
13 If a licensee's operation relocates to within 300 feet of the premises of a school or child
14 care center, the commission shall immediately revoke the licensee's license. The
15 commission shall establish, by rule, whether a licensee may remain in operation or
16 must relocate if the premises of a school or child care center locates within 300 feet
17 of the licensee's operation.

18 **(7) PRODUCERS.** (a) A licensed producer may plant, grow, cultivate, and harvest
19 marijuana; transfer or sell the marijuana to a licensed processor; and engage in any
20 related activities that are necessary for the operation, such as possessing and storing
21 the marijuana. A licensed producer may transport marijuana from the producer's
22 facility only if the producer has a valid transporter license under sub. (11).

23 (b) A licensed producer may not plant, grow, cultivate, or harvest marijuana
24 for personal, family, or household use.

25 (c) A licensed producer may operate only within an enclosed, locked facility.

BILL

1 (d) 1. The commission may issue the following licenses to producers:

2 a. A Class A license, which allows the producer to annually plant, grow,
3 cultivate, or harvest no more than 200 marijuana plants.

4 b. A Class B license, which allows the producer to annually plant, grow,
5 cultivate, or harvest no more than 500 marijuana plants.

6 c. A Class C license, which allows the producer to annually plant, grow,
7 cultivate, or harvest an unlimited number of marijuana plants.

8 2. The commission may issue no more than 50 Class A licenses, 20 Class B
9 licenses, and 5 Class C licenses.

10 (e) As part of the application process, the commission shall require an applicant
11 to provide the global positioning system coordinates of the single, contiguous
12 property identified on the license application and on which the marijuana will be
13 planted, grown, cultivated, and harvested.

14 **(8) PROCESSORS.** (a) A licensed processor may obtain marijuana in this state
15 from a licensed producer, process the marijuana into medical marijuana, transfer
16 samples of the medical marijuana to a licensed laboratory by using a licensed
17 transporter, package and label the medical marijuana, transfer or sell the medical
18 marijuana to a licensed dispensary, and engage in any related activities that are
19 necessary for the operation, such as possessing and storing the marijuana or medical
20 marijuana.

21 (b) Before transferring medical marijuana to a licensed dispensary, a licensed
22 processor shall do all of the following:

23 1. Provide samples of each type of medical marijuana that it processes to a
24 licensed laboratory and receive certified test results of those samples showing the
25 tetrahydrocannabinol content of the medical marijuana and showing that the

BILL**SECTION 10**

1 medical marijuana does not contain unsafe levels of any molds, pesticides, heavy
2 metals, or any other contaminant for which the commission requires, by rule, the
3 medical marijuana to be tested.

4 2. Package the medical marijuana in child-resistant packaging. The
5 commission may establish, by rule, additional packaging requirements.

6 3. Attach a label to the packaging that identifies the weight, in ounces, of
7 marijuana contained in the package, the tetrahydrocannabinol content of the
8 medical marijuana, and any other information required to be included by the
9 commission by rule. The commission shall promulgate rules specifying marijuana
10 weight equivalencies for different types of medical marijuana.

11 (c) A licensed processor may operate only within an enclosed, locked facility.

12 **(9) DISPENSARIES.** (a) A licensed dispensary may obtain packaged, labeled
13 medical marijuana from a licensed processor, dispense the medical marijuana
14 according to the provisions of this section, and engage in any related activities that
15 are necessary for the operation, such as possessing and storing the medical
16 marijuana.

17 (b) A licensed dispensary may dispense medical marijuana only to a person who
18 presents a valid registry identification card issued under s. 73.18 (3) and a valid
19 written hard copy or electronic recommendation under s. 73.18 (2) and only in
20 accordance with the recommendation presented.

21 (c) Before dispensing medical marijuana, a licensed dispensary shall do all of
22 the following:

23 1. Verify that the registry identification card presented is valid and unexpired.

24 2. Verify that the person receiving the medical marijuana is the person
25 identified on the registry identification card.

BILL

1 3. Attach a label to the packaging that identifies the name and address of the
2 dispensary, the date on which the medical marijuana is dispensed, the name of the
3 practitioner who recommended the use of medical marijuana, the name of the
4 qualifying patient, the name of the primary caregiver if the medical marijuana is
5 dispensed to a primary caregiver, and any other information required to be included
6 by the commission by rule.

7 (d) No more than 10 licensed dispensaries may operate in a county with a
8 population exceeding 500,000; no more than 5 licensed dispensaries may operate in
9 a county with a population that is less than 500,000, but at least 100,000; and no
10 more than 3 licensed dispensaries may operate in a county with a population less than
11 100,000.

12 **(10) LABORATORIES.** (a) A licensed laboratory may obtain samples of medical
13 marijuana from a licensed processor, test and certify the tetrahydrocannabinol
14 content of the medical marijuana and whether the medical marijuana contains any
15 contaminants, and engage in any related activities that are necessary for the
16 operation, such as possessing and storing the medical marijuana.

17 (b) If any part of a sample remains after testing and certifying the
18 tetrahydrocannabinol content of the sample, the licensed laboratory shall destroy
19 the sample or return the sample to the licensed processor.

20 (c) A licensed laboratory may operate only within an enclosed, locked facility.

21 **(11) TRANSPORTERS.** Marijuana or medical marijuana may be transported on
22 public roads only by a licensed transporter and only to other licensees. A transporter
23 shall designate a crew of at least 2 individuals to transport any shipment of
24 marijuana or medical marijuana, and at least one individual shall remain with the
25 transportation vehicle at all times. A transporter shall keep accurate and complete

BILL**SECTION 10**

1 records, as prescribed by the commission, including route plans and manifests, and
2 shall provide such records to the commission at the time and in the manner
3 prescribed by the commission and to law enforcement upon request.

4 **(12) STATEWIDE TRACKING SYSTEM.** (a) The commission shall establish and
5 maintain a statewide tracking system to ensure compliance with this section and s.
6 73.18 and subch. IV of ch. 139, to track marijuana and medical marijuana from
7 cultivation to consumption by qualifying patients, to enable product recalls, and to
8 ensure efficient revenue collection. The commission shall use the tracking system
9 to do all of the following:

10 1. Track inventory throughout the product life of marijuana and medical
11 marijuana, including the monitoring of seed-to-sale transfers.

12 2. Verify that a registry identification card issued under s. 73.18 (3) is current
13 and valid and has not been suspended, revoked, or denied, and record other
14 information concerning such cards.

15 3. Record the date, time, quantity, and price of each sale or transfer of
16 marijuana or medical marijuana to a qualifying patient or primary caregiver.

17 4. Ensure that a specific sale or transaction does not exceed permissible
18 quantity limits.

19 5. Receive and integrate 3rd-party inventory control and tracking systems.

20 6. Record any other information, as determined by the commission, that is
21 applicable to licensees, qualifying patients, and primary caregivers.

22 (b) All persons issued a license under this section shall comply with the
23 commission's requirements, as prescribed by the commission by rule, for
24 maintaining the statewide tracking system under this subsection.

BILL

1 **(13) CONFIDENTIALITY.** (a) The commission shall ensure that any of the
2 following information that is in the commission's possession is confidential and not
3 open to public inspection or copying under s. 19.35 (1), except that it shall be made
4 available to a law enforcement agency or law enforcement officer:

5 1. Information relating to the locations of marijuana production and processing
6 operations.

7 2. Personally identifiable information relating to a person who is lawfully
8 engaging in activities related to marijuana.

9 3. Information obtained about an individual as a result of any criminal history
10 search performed in relation to authorizing the individual to engage in activities
11 related to marijuana.

12 4. Any other information about activities related to marijuana that could create
13 a security risk if disclosed.

14 (b) A licensed dispensary shall ensure that any information that is in the
15 dispensary's possession relating to a qualifying patient or primary caregiver is
16 confidential, except that it shall be made available to a law enforcement agency or
17 law enforcement officer.

18 **(14) INSPECTIONS.** The commission may inspect, without prior notice, the
19 premises of an applicant or licensee and any records required to be retained by a
20 licensee.

21 **(15) FALSE INFORMATION ON AN APPLICATION.** No person may intentionally submit
22 false information in any application submitted under this section.

23 **(16) PENALTIES AND DISCIPLINARY ACTIONS.** (a) A person who violates any
24 provision of this section, or an order issued or rule promulgated under this section,
25 may be required to forfeit not less than \$200 nor more than \$5,000 or, for an offense

BILL**SECTION 10**

1 committed within 5 years of an offense for which a penalty has been assessed under
2 this section, may be required to forfeit not less than \$400 nor more than \$10,000.

3 (b) In addition to or in lieu of any other penalty or disciplinary action allowed
4 under state law or under rules promulgated by the commission, the commission may,
5 for any reason specified by the commission by rule, suspend, with or without prior
6 hearing, revoke, refuse to issue, or refuse to renew a license issued under this section.

7 (17) APPEAL. Any person aggrieved by an order or determination issued by the
8 commission under this section or s. 73.18 may appeal the order or determination as
9 a contested case under ch. 227 by filing with the commission a request for a hearing
10 within 30 days after the date of the order or determination.

11 (18) RULES. No later than 90 days after the creation of the commission, as
12 provided under s. 15.435 (2) (a), the commission shall promulgate rules necessary to
13 administer and enforce this section. When promulgating rules under this
14 subsection, the commission shall consider standards and procedures that have been
15 found to be best practices relating to the use and regulation of marijuana and medical
16 marijuana.

17 (19) MEDICAL MARIJUANA FUND. The commission shall deposit all fees and
18 penalties collected under this section into the medical marijuana fund.

19 **SECTION 11.** 73.18 of the statutes is created to read:

20 **73.18 Medical marijuana; dispensaries. (1) DEFINITIONS.** In this section:

21 (a) "Applicant" means a person who is applying for a registry identification card
22 under sub. (3).

23 (b) "Certified advanced practice nurse prescriber" means a nurse who is
24 certified under s. 441.16 (2).

25 (c) "Commission" means the medical marijuana regulatory commission.

BILL

1 (d) “Marijuana” has the meaning given in s. 961.01 (14).

2 (e) “Medical marijuana” means marijuana that has been processed for human
3 consumption in the form of a liquid, oil, pill, or tincture or in a form that is applied
4 topically and that is used or is intended for use by a qualifying patient to alleviate
5 the symptoms of a qualifying medical condition.

6 (f) “Physician” has the meaning given in s. 448.01 (5).

7 (g) “Physician assistant” has the meaning given in s. 448.01 (6).

8 (h) “Primary caregiver” means a person who is at least 21 years of age and who
9 has agreed to help a qualifying patient in the qualifying patient’s use or acquisition
10 of medical marijuana.

11 (i) “Qualifying medical condition” means any of the following:

12 1. Amyotrophic lateral sclerosis.

13 2. Cancer.

14 3. Crohn’s disease.

15 4. Glaucoma.

16 5. HIV/AIDS.

17 6. Multiple sclerosis.

18 7. Post-traumatic stress disorder.

19 8. Seizure disorders.

20 9. Any other medical condition designated as a qualifying medical condition in
21 rules promulgated by the commission in consultation with the medical examining
22 board and only with the approval of all members of the commission.

23 (j) “Qualifying patient” has the meaning given in s. 961.01 (20hm).

24 (k) “Registrant” means a person to whom a registry identification card is issued
25 under sub. (3).

BILL**SECTION 11**

1 (L) "Registry identification card" means a document issued by the commission
2 under sub. (3) that identifies a person as a qualifying patient or primary caregiver.

3 (2) RECOMMENDATIONS; REQUIREMENTS AND LIMITATIONS. (a) A physician,
4 physician assistant, or certified advanced practice nurse prescriber who is certified
5 under par. (d) may recommend the use of medical marijuana to treat a patient if all
6 of the following apply:

7 1. The patient has been diagnosed with a qualifying medical condition and the
8 physician, physician assistant, or certified advanced practice nurse prescriber
9 advises the use of medical marijuana to treat that condition or the symptoms of that
10 condition.

11 2. A health care provider-patient relationship has been established between
12 the physician, physician assistant, or certified advanced practice nurse prescriber
13 and the patient through all of the following:

14 a. An in-person physical examination of the patient by the physician, physician
15 assistant, or certified advanced practice nurse prescriber.

16 b. A review of the patient's medical history by the physician, physician
17 assistant, or certified advanced practice nurse prescriber.

18 c. An expectation of the physician, physician assistant, or certified advanced
19 practice nurse prescriber providing care to the patient, and the patient receiving care
20 from the physician, physician assistant, or certified advanced practice nurse
21 prescriber, on an ongoing basis.

22 3. If the patient is a minor, the physician, physician assistant, or certified
23 advanced practice nurse prescriber has obtained the consent of the patient's parent,
24 guardian, or legal custodian.

BILL

1 (b) A physician, physician assistant, or certified advanced practice nurse
2 prescriber may not recommend the use of medical marijuana under this subsection
3 for himself or herself or to any member of his or her immediate family or household.
4 A physician, physician assistant, or certified advanced practice nurse prescriber may
5 not have any financial interest in a medical marijuana producer, processor, or
6 dispensary.

7 (c) When recommending the use of medical marijuana, a physician, physician
8 assistant, or certified advanced practice nurse prescriber shall include on the
9 recommendation the patient's name, the name of the recommending physician,
10 physician assistant, or certified advanced practice nurse prescriber, and a
11 recommended usage and shall specify any other information required in rules
12 promulgated by the commission, in consultation with the medical examining board.

13 (d) The commission shall establish procedures for physicians, physician
14 assistants, and certified advanced practice nurse prescribers to apply for
15 certification and to be certified to recommend the use of medical marijuana under
16 this section. An applicant for certification under this paragraph shall provide the
17 applicant's name, office address, contact information, and medical license number.
18 The applicant shall also provide written documentation that the applicant is
19 authorized to dispense controlled substances under 21 USC 821 to 832 and provide
20 on the application the applicant's registration number issued by the U.S. drug
21 enforcement administration. In addition, the applicant shall provide written
22 documentation that the applicant has completed at least 4 hours of continuing
23 education to assist in diagnosing qualifying medical conditions and treating such
24 conditions with medical marijuana. A person certified in accordance with this
25 paragraph shall keep complete and accurate records of the recommendations made

BILL**SECTION 11**

1 and the qualifying patients for whom the recommendations are made under this
2 section and shall report to the commission, at the commission's request, the number
3 of recommendations made and for whom.

4 **(3) APPLICATION; REGISTRY IDENTIFICATION CARD.** (a) An applicant who is a
5 qualifying patient may apply for a registry identification card by submitting to the
6 commission a signed application form containing or accompanied by all of the
7 following:

8 1. His or her name, address, and date of birth.

9 2. A written recommendation provided under sub. (2) that is no more than 30
10 days old as of the date the application is filed.

11 3. The name, address, and telephone number of the physician, physician
12 assistant, or certified advanced practice nurse prescriber who provided the
13 recommendation.

14 4. A registration fee in an amount determined by the commission.

15 (b) 1. A registrant or applicant who is a qualifying patient may jointly apply
16 to the commission with another person for a registry identification card for the other
17 person and designate the other person as a primary caregiver for the registrant or
18 applicant if the other person is at least 21 years of age and, notwithstanding ss.
19 111.321, 111.322, and 111.335, has never been convicted of a criminal violation of the
20 federal Controlled Substances Act under 21 USC 801 to 971, the Uniform Controlled
21 Substances Act under ch. 961, or any controlled substances law of another state. The
22 department of justice shall provide information to the commission necessary to
23 determine whether this requirement is met. Both persons who jointly apply for a
24 registry identification card under this subdivision shall sign the application form,

BILL

1 which shall contain the name, address, and date of birth of the individual applying
2 to be registered as a primary caregiver.

3 2. Except as provided under par. (c), a registrant or an applicant who is a
4 qualifying patient may designate only one primary caregiver under subd. 1., unless
5 the commission grants an exception to allow for an additional designation.

6 3. A primary caregiver designated by a person under subd. 1. may not be
7 designated as a primary caregiver for more than one qualifying patient or applicant
8 unless the patients or applicants live in the same residence or unless the commission
9 otherwise allows.

10 (c) The commission shall promulgate rules specifying how a parent, guardian,
11 or legal custodian of a minor may apply for a registry identification card for himself
12 or herself and for the minor and the circumstances under which the commission may
13 approve or deny the application. The commission shall require a minor who is a
14 qualifying patient or applicant to have the minor's parent, guardian, or legal
15 custodian designated as a primary caregiver under par. (b). Notwithstanding par.
16 (b) 2., a minor may designate both parents as primary caregivers.

17 (d) A registry identification card issued under this subsection expires after one
18 year.

19 (e) A registrant, whether a qualifying patient or primary caregiver, may not
20 plant, grow, cultivate, or harvest marijuana without a valid producer license under
21 s. 73.17.

22 (f) An applicant who is a qualifying patient must have resided in the state, in
23 accordance with the qualifications set forth in s. 6.10, for at least 10 consecutive days
24 before submitting an application to the commission under this subsection.

BILL**SECTION 11**

1 (g) A person may not register as a qualifying patient or primary caregiver or
2 hold a registry identification card while serving a term of imprisonment or while on
3 parole or probation.

4 (h) The commission shall maintain a list of all registrants.

5 (i) Notwithstanding s. 19.35 and except as provided in par. (j), the commission
6 may not disclose information from an application submitted or a registry
7 identification card issued under this subsection.

8 (j) The commission may disclose to state or local law enforcement agencies
9 information from an application submitted by or from a registry identification card
10 issued to a specific person under this subsection for the purpose of verifying that the
11 person possesses a valid registry identification card.

12 (k) A person who holds a registry identification card may only purchase or use
13 medical marijuana that has been produced, processed, distributed, and dispensed as
14 provided under this section and s. 73.17 and for which the taxes have been paid as
15 provided under subch. IV of ch. 139.

16 (L) A person who holds a registry identification card may only possess a 30-day
17 supply of individual doses of medical marijuana, except that during the last 7 days
18 of any such 30-day period, the person may obtain and possess a 30-day supply for
19 the subsequent 30-day period.

20 **(4) RULES.** The commission shall promulgate rules to implement this section,
21 including rules that do all of the following:

22 (a) Establish a timeline for approving or denying applications under sub. (3).

23 (b) Set the amount of fees to be submitted with applications.

24 (c) Establish any other rules necessary for the administration of the registry
25 under sub. (3), including issuance of registry identification cards.

BILL

1 **(5) EFFECT OF THIS SECTION; EMPLOYMENT.** Nothing in this section does any of the
2 following:

3 (a) Requires an employer to permit or accommodate the use, consumption,
4 possession, transfer, display, transportation, sale, or cultivation of medical
5 marijuana at a place of employment by an employee.

6 (b) Interferes with an employer's ability to prohibit the use, possession, or sale
7 of medical marijuana at a place of employment by an employee.

8 (c) Provides a cause of action against an employer.

9 (d) Limits an employer's ability to establish and enforce a drug-free workplace
10 policy.

11 (e) Requires an employer to violate federal law.

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

13 **77.52 (13)** For the purpose of the proper administration of this section and to
14 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
15 the tax until the contrary is established. The burden of proving that a sale of tangible
16 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
17 is not a taxable sale at retail is upon the person who makes the sale unless that
18 person takes from the purchaser an electronic or a paper certificate, in a manner
19 prescribed by the department, to the effect that the property, item, good, or service
20 is purchased for resale or is otherwise exempt, except that no certificate is required
21 for the sale of tangible personal property, or items, property, or goods under sub. (1)
22 (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10),
23 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
24 (51), (52), (66), and (67), and (70).

25 **SECTION 13.** 77.53 (10) of the statutes is amended to read:

BILL**SECTION 13**

1 77.53 (10) For the purpose of the proper administration of this section and to
2 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
3 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
4 (d), or taxable services sold by any person for delivery in this state is sold for storage,
5 use, or other consumption in this state until the contrary is established. The burden
6 of proving the contrary is upon the person who makes the sale unless that person
7 takes from the purchaser an electronic or paper certificate, in a manner prescribed
8 by the department, to the effect that the property, or items, property, or goods under
9 s. 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise
10 exempt from the tax, except that no certificate is required for the sale of tangible
11 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or
12 services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n),
13 (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), (52), ~~and (67), and (70).~~

14 **SECTION 14.** 77.54 (70) of the statutes is created to read:

15 77.54 (70) The sales price from the sales of and the storage, use, or other
16 consumption of medical marijuana distributed by a dispensary licensed and
17 operating under s. 73.17.

18 **SECTION 15.** 108.04 (5) (a) (intro.) of the statutes is amended to read:

19 108.04 (5) (a) (intro.) A violation by an employee of an employer's reasonable
20 written policy concerning the use of alcohol beverages, or use of a controlled
21 substance or a controlled substance analog, including a drug-free workplace policy,
22 if the employee:

23 **SECTION 16.** 111.32 (9m) of the statutes is created to read:

24 111.32 (9m) "Lawful product" does not include medical marijuana.

25 **SECTION 17.** 111.32 (12c) of the statutes is created to read:

BILL

1 111.32 (12c) "Medical marijuana" has the meaning given in s. 73.18 (1) (e).

2 **SECTION 18.** 111.34 (1) (b) of the statutes is amended to read:

3 111.34 (1) (b) ~~Refusing Subject to sub. (3), refusing~~ to reasonably accommodate
4 an employee's or prospective employee's disability unless the employer can
5 demonstrate that the accommodation would pose a hardship on the employer's
6 program, enterprise or business.

7 **SECTION 19.** 111.34 (3) of the statutes is created to read:

8 111.34 (3) Notwithstanding s. 111.322, this subchapter does not apply to any
9 act of an employer based upon an individual's use of medical marijuana.

10 **SECTION 20.** Subchapter IV of chapter 139 [precedes 139.97] of the statutes is
11 created to read:

CHAPTER 139

SUBCHAPTER IV

MEDICAL MARIJUANA TAX

12 **139.97 Definitions.** In this subchapter:

13 (1) "Commission" means the medical marijuana regulatory commission.

14 (2) "Department" means the department of revenue.

15 (3) "Dispensary" has the meaning given in s. 73.17 (1) (c).

16 (4) "Marijuana" has the meaning given in s. 961.01 (14).

17 (5) "Medical marijuana" has the meaning given in s. 73.18 (1) (e).

18 (6) "Processor" has the meaning given in s. 73.17 (1) (h).

19 (7) "Producer" has the meaning given in s. 73.17 (1) (i).

20 **139.971 Medical marijuana tax. (1)** An excise tax is imposed on a processor
21 at the rate of 10 percent of the sales price on each wholesale sale in this state of
22 medical marijuana to a dispensary.
23
24
25

BILL**SECTION 20**

1 **(2)** Each person liable for the taxes imposed under sub. (1) shall pay the taxes
2 to the commission 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 commission. The commission shall deposit all
5 taxes collected under this section into the medical marijuana fund.

6 **(3)** The commission may increase or decrease the rate under sub. (1) by
7 submitting a request to the joint committee on finance. A request made under this
8 subsection may not propose to increase or decrease the rate by more than a 5 percent
9 increment. In addition to the proposed rate, the commission shall include in its
10 request its rationale for the proposed rate, the impact that the proposed rate may
11 have on the regulation of medical marijuana, and the first date on which the
12 proposed rate would apply. If the cochairpersons of the joint committee on finance
13 do not notify the commission that the committee has scheduled a meeting for the
14 purpose of reviewing the request within 30 working days after the date of the
15 submission, the commission may implement the proposal. If within 30 working days
16 after the date of the submission, the cochairpersons of the committee notify the
17 commission that the committee has scheduled a meeting for the purpose of reviewing
18 the request, the commission may implement the proposal only upon approval of the
19 committee.

20 **139.972 Records and reports.** **(1)** Every producer and processor shall keep
21 accurate and complete records of its production and sales of marijuana and medical
22 marijuana in this state. The records shall be kept on the premises described in its
23 license application under s. 73.17 and in such manner as to ensure permanency and
24 accessibility for inspection at reasonable hours by the authorized personnel of the
25 commission or department. The commission shall prescribe reasonable and uniform

BILL

1 methods of keeping records and making reports and shall provide the necessary
2 forms to producers and processors.

3 (2) If the commission determines that any records of a producer or processor
4 are not kept in the prescribed form or are in such condition that the commission
5 requires an unusual amount of time to determine from the records the amount of the
6 tax due, the commission shall give notice to the producer or processor that it is
7 required to revise its records and keep them in the prescribed form. If the producer
8 or processor fails to comply within 30 days, it shall pay the expenses reasonably
9 attributable to a proper examination and tax determination at the rate of \$30 per day
10 for each auditor used to make the examination and determination. The commission
11 shall send a bill for such expenses, and the producer or processor shall pay the
12 amount of such bill within 10 days.

13 (3) If any producer or processor fails to file a report when due, it shall be
14 required to pay a late filing fee of \$10. A report that is mailed is filed on time if it is
15 mailed in a properly addressed envelope with postage prepaid, the envelope is
16 officially postmarked, or marked or recorded electronically as provided under section
17 7502 (f) (2) (C) of the Internal Revenue Code, on the date due, and the report is
18 actually received by the commission or at the destination that the commission
19 prescribes within 5 days of the due date. A report that is not mailed is timely if it
20 is received on or before the due date by the commission or at the destination that the
21 commission prescribes. For purposes of this subsection, "mailed" includes delivery
22 by a delivery service designated under section 7502 (f) of the Internal Revenue Code.

23 (4) Sections 71.78 (1), (1m), and (4) to (9) and 71.83 (2) (a) 3. and 3m., relating
24 to confidentiality of income, franchise, and gift tax returns, apply to any information
25 obtained from any producer or processor under this subchapter on a tax return,

BILL**SECTION 20**

1 report, schedule, exhibit, or other document or from an audit report relating to any
2 of those documents, except that the commission shall publish production and sales
3 statistics.

4 **139.973 Administration and enforcement.** (1) The commission, in
5 consultation with the department, shall administer and enforce this subchapter and
6 promulgate rules necessary to administer and enforce this subchapter.

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

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

16 (4) The commission may suspend or revoke the license of any producer or
17 processor who violates s. 100.30, any provision of this subchapter, or any rules
18 promulgated under sub. (1). The commission shall revoke the permit of any producer
19 or processor who violates s. 100.30 3 or more times within a 5-year period.

20 (5) No suit shall be maintained in any court to restrain or delay the collection
21 or payment of the tax levied in s. 139.971. The aggrieved taxpayer shall pay the tax
22 when due and, if paid under protest, may at any time within 90 days from the date
23 of payment sue the state to recover the tax paid. If it is finally determined that any
24 part of the tax was wrongfully collected, the secretary of administration shall pay the
25 amount wrongfully collected out of the medical marijuana fund. A separate suit need

BILL

1 not be filed for each separate payment made by any taxpayer, but a recovery may be
2 had in one suit for as many payments as may have been made.

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

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

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

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

19 (9) Any building or place of any kind where marijuana or medical marijuana
20 is sold, possessed, stored, or manufactured without a valid license under s. 73.17 or
21 in violation of s. 139.972 is declared a public nuisance and may be closed and abated
22 as such.

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

BILL**SECTION 20**

1 **139.974 Theft of tax moneys.** All medical marijuana tax moneys received by
2 a producer or processor for the sale of marijuana or medical marijuana on which the
3 tax under this subchapter has become due and has not been paid are trust funds in
4 the possession of the producer or processor and are the property of this state. Any
5 producer or processor who fraudulently withholds, appropriates, or otherwise uses
6 medical marijuana tax moneys that are the property of this state is guilty of theft
7 under s. 943.20 (1), whether or not the producer or processor has or claims to have
8 an interest in those moneys.

9 **139.975 Seizure and confiscation.** (1) All marijuana and medical
10 marijuana produced, processed, made, kept, stored, sold, distributed, or transported
11 in violation of this subchapter or s. 73.17 or 73.18 and all tangible personal property
12 used in connection with the marijuana or medical marijuana is unlawful property
13 and subject to seizure by the commission or a law enforcement officer. Except as
14 provided in sub. (2), all marijuana and medical marijuana seized under this
15 subsection shall be destroyed.

16 (2) If marijuana or medical marijuana on which the tax has not been paid is
17 seized as provided under sub. (1), it may be given to law enforcement officers to use
18 in criminal investigations or sold to qualified buyers by the commission without
19 notice. If the marijuana or medical marijuana is sold, after deducting the costs of
20 selling and storing the property, the commission shall pay the sale proceeds into the
21 medical marijuana fund. If the commission finds that the marijuana or medical
22 marijuana may deteriorate or become unfit for use in criminal investigations or for
23 sale, or that those uses would otherwise be impractical, the commission may order
24 them destroyed.

BILL

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

8 **(4)** If tangible personal property other than marijuana or medical marijuana
9 is seized as provided under sub. (1), the commission shall advertise the tangible
10 personal property for sale by publication of a class 2 notice under ch. 985. If no person
11 claiming a lien on, or ownership of, the property has notified the commission of the
12 person's claim within 10 days after last insertion of the notice, the commission shall
13 sell the property. If a sale is not practical, the commission may destroy the property.
14 If a person claiming a lien on, or ownership of, the property notifies the commission
15 within the time prescribed in this subsection, the commission may apply to the
16 circuit court in the county where the property was seized for an order directing
17 disposition of the property or the proceeds from the sale of the property. If the court
18 orders the property to be sold, all liens, if any, may be transferred from the property
19 to the sale proceeds. Neither the property seized nor the proceeds from the sale shall
20 be turned over to any claimant of lien or ownership unless the claimant first
21 establishes that the property was not used in connection with any violation under
22 this subchapter or s. 73.17 or 73.18 or that, if so used, it was done without the
23 claimant's knowledge or consent and without the claimant's knowledge of facts that
24 should have given the claimant reason to believe it would be put to such use. If no
25 claim of lien or ownership is established as provided under this subsection, the

BILL**SECTION 20**

1 property may be ordered destroyed. In case of a sale, the net proceeds after deducting
2 costs, expenses, and established claims shall be paid into the medical marijuana
3 fund.

4 **139.976 Interest and penalties.** (1) Any person who makes or signs any
5 false or fraudulent report under this subchapter, who attempts to evade the tax
6 imposed under this subchapter, or who aids in or abets the evasion or attempted
7 evasion of that tax may be fined not more than \$10,000 or imprisoned not more than
8 9 months or both.

9 (2) Any producer or processor who fails to keep the records required under this
10 subchapter shall be fined not less than \$100 nor more than \$500 or imprisoned not
11 more than 6 months or both.

12 (3) Any person who refuses to permit the examination or inspection authorized
13 under s. 139.973 (3) may be fined not more than \$500 or imprisoned not more than
14 6 months or both. The commission shall immediately suspend or revoke the license
15 of any person who refuses to permit the examination or inspection authorized under
16 s. 139.973 (3).

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

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

23 (6) In addition to the penalties imposed for violating the provisions of this
24 subchapter or any of the commission's rules, the commission shall automatically

BILL

1 revoke the license of any person convicted of such a violation and not issue another
2 license to that person for a period of 2 years following the revocation.

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

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

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

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

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

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

21 **SECTION 21.** 182.001 (3) of the statutes is amended to read:

22 182.001 (3) PROHIBITED ACTIVITIES. Those farming operations prohibited under
23 this section are the production of dairy products not including the processing of such
24 dairy products; the production of cattle, hogs, and sheep; and the production of

BILL**SECTION 21**

1 wheat, field corn, barley, oats, rye, hay, pasture, soybeans, millet, sorghum, and
2 hemp, and marijuana and medical marijuana as provided under ss. 73.17 and 73.18.

3 **SECTION 22.** 440.035 (2m) (a) of the statutes is renumbered 440.035 (2m) (a)
4 (intro.) and amended to read:

5 440.035 **(2m)** (a) (intro.) In this subsection, ~~“controlled;~~

6 1. “Controlled substance” has the meaning given in s. 961.01 (4).

7 **SECTION 23.** 440.035 (2m) (a) 2. of the statutes is created to read:

8 440.035 **(2m)** (a) 2. “Medical marijuana” has the meaning given in s. 73.18 (1)
9 (e).

10 **SECTION 24.** 440.035 (2m) (b) of the statutes is renumbered 440.035 (2m) (b)
11 1.

12 **SECTION 25.** 440.035 (2m) (b) 2. of the statutes is created to read:

13 440.035 **(2m)** (b) 2. The medical examining board and the board of nursing may
14 issue guidelines regarding best practices in making recommendations for the use of
15 medical marijuana under s. 73.18 (2) for persons credentialed by that board who are
16 authorized to recommend the use of medical marijuana.

17 **SECTION 26.** 441.07 (1g) (d) 3. of the statutes is created to read:

18 441.07 **(1g)** (d) 3. Recommending the use of medical marijuana to treat a
19 patient in accordance with s. 73.18 (2).

20 **SECTION 27.** 441.20 of the statutes is created to read:

21 **441.20 Recommendations for use of medical marijuana.** (1) In this
22 section, “medical marijuana” has the meaning given in s. 73.18 (1) (e).

23 **(2)** A certified advanced practice nurse prescriber who, acting in good faith,
24 recommends the use of medical marijuana to treat a patient in accordance with s.
25 73.18 (2) shall be immune from criminal or civil liability and may not be subject to

BILL

1 professional discipline under s. 441.07 for any outcomes resulting from that
2 recommendation.

3 **SECTION 28.** 448.015 (4) (bm) 3. of the statutes is created to read:

4 448.015 (4) (bm) 3. Recommending the use of medical marijuana, as defined
5 in s. 73.18 (1) (e), to treat a patient in accordance with s. 73.18 (2).

6 **SECTION 29.** 448.039 of the statutes is created to read:

7 **448.039 Recommendations for use of medical marijuana. (1)** In this
8 section, “medical marijuana” has the meaning given in s. 73.18 (1) (e).

9 **(2)** A physician or physician assistant who, acting in good faith, recommends
10 the use of medical marijuana to treat a patient in accordance with s. 73.18 (2) shall
11 be immune from criminal or civil liability and may not be subject to professional
12 discipline under s. 448.02 for any outcomes resulting from that recommendation.

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

14 450.03 (1) (em) Any person acting within the scope of a valid medical marijuana
15 producer, processor, or dispensary license under s. 73.17.

16 **SECTION 31.** 450.07 (1m) of the statutes is renumbered 450.07 (1m) (a).

17 **SECTION 32.** 450.07 (1m) (b) of the statutes is created to read:

18 450.07 (1m) (b) No license under this section is required for a person acting
19 within the scope of a valid medical marijuana producer, processor, or dispensary
20 license under s. 73.17.

21 **SECTION 33.** 450.071 (1) of the statutes is renumbered 450.071 (1) (a) and
22 amended to read:

23 450.071 (1) (a) No Except as provided in par. (b), no person may engage in the
24 wholesale distribution of a prescription drug in this state without obtaining a license
25 from the board for each facility from which the person distributes prescription drugs.

BILL**SECTION 33**

1 **(b) 1.** The board shall exempt from the licensure requirement under this section
2 a manufacturer that distributes prescription drugs or devices manufactured by the
3 manufacturer from licensing and other requirements under this section to the extent
4 the license or requirement is not required under federal law or regulation, unless the
5 board determines that it is necessary to apply a requirement to a manufacturer.

6 **SECTION 34.** 450.071 (1) (b) 2. of the statutes is created to read:

7 450.071 **(1) (b) 2.** No license under this section is required for a person acting
8 within the scope of a valid medical marijuana producer, processor, or dispensary
9 license under s. 73.17.

10 **SECTION 35.** 961.01 (12q) of the statutes is created to read:

11 961.01 **(12q)** “Licensed entity” means a producer, processor, dispensary,
12 transporter, or laboratory licensed under s. 73.17.

13 **SECTION 36.** 961.01 (14g) of the statutes is created to read:

14 961.01 **(14g)** “Medical marijuana” has the meaning given in s. 73.18 (1) (e).

15 **SECTION 37.** 961.01 (19m) of the statutes is created to read:

16 961.01 **(19m)** “Primary caregiver” means a person who is registered under s.
17 73.18 to help a qualifying patient in his or her use or acquisition of medical
18 marijuana.

19 **SECTION 38.** 961.01 (20hm) of the statutes is created to read:

20 961.01 **(20hm)** “Qualifying patient” means a person who holds a
21 recommendation and registry identification card for the use of medical marijuana
22 under s. 73.18.

23 **SECTION 39.** 961.01 (20ht) of the statutes is created to read:

24 961.01 **(20ht)** “Registry identification card” has the meaning given in s. 73.18
25 (1) (L).

BILL

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

2 961.01 (20t) “Treatment team” means a qualifying patient and his or her
3 primary caregivers.

4 **SECTION 41.** 961.33 of the statutes is created to read:

5 **961.33 Medical marijuana. (1) POSSESSION, DISTRIBUTION, AND DELIVERY BY**
6 TREATMENT TEAM; AUTHORIZATION. A member of a qualifying patient’s treatment team
7 may possess medical marijuana or distribute, deliver, or possess with intent to
8 distribute medical marijuana to another member of the same qualifying patient’s
9 treatment team if all of the following apply:

10 (a) The possession, distribution, or delivery of medical marijuana is done to
11 facilitate a qualifying patient’s use of medical marijuana in accordance with his or
12 her recommendation under s. 73.18.

13 (b) The medical marijuana is legally obtained from a person who is authorized
14 to distribute or deliver medical marijuana under the laws of this state.

15 (c) The amount of medical marijuana does not exceed the amount specified
16 under s. 73.18 (3) (L) for each qualifying patient.

17 (d) The qualifying patient or primary caregiver has in his or her immediate
18 possession a registry identification card.

19 **(2) LICENSED ENTITIES; AUTHORIZED ACTS.** A licensed entity or an agent or
20 employee of a licensed entity may possess, manufacture, distribute, or deliver
21 marijuana or possess with the intent to manufacture, distribute, or deliver
22 marijuana if the licensed entity or agent or employee is acting in the usual course of
23 his or her business or employment.

24 **(3) PROSECUTION.** (a) A person who is acting in accordance with this section and
25 s. 73.17 or 73.18 may not be prosecuted for a criminal offense under this chapter, or

BILL**SECTION 41**

1 under any municipal ordinance that prohibits conduct that is the same as that
2 prohibited under this chapter, for the possession, manufacture, distribution, or
3 delivery of marijuana or possession with the intent to manufacture, distribute, or
4 deliver marijuana.

5 (b) A licensed entity or an agent or employee of a licensed entity who possesses,
6 manufactures, distributes, or delivers marijuana or possesses with the intent to
7 manufacture, distribute, or deliver marijuana in violation of s. 73.17 or in violation
8 of a rule promulgated under s. 73.17 may not be prosecuted under this chapter unless
9 the person is referred to the district attorney for the county in which the violation
10 occurred by the medical marijuana regulatory commission and may not be
11 prosecuted under a municipal ordinance that prohibits the same conduct as is
12 prohibited under this chapter unless the person is referred to local law enforcement
13 by the medical marijuana regulatory commission.

14 **SECTION 42.** 961.38 (title) of the statutes is amended to read:

15 **961.38 (title) Prescriptions and recommendations for medical use.**

16 **SECTION 43.** 961.38 (1p) of the statutes is created to read:

17 **961.38 (1p)** A dispensary licensed under s. 73.17 may dispense medical
18 marijuana to a person with a valid written hard copy or electronic recommendation
19 and a valid registry identification card in accordance with s. 73.18.

20 **SECTION 44.** 961.385 (1) (aj) of the statutes is amended to read:

21 **961.385 (1) (aj)** “Patient” means an individual or animal for whom a monitored
22 prescription drug is prescribed ~~or~~ to whom a monitored prescription drug is
23 dispensed or administered, or for whom the use of medical marijuana is
24 recommended under s. 73.18 (2).

25 **SECTION 45.** 961.385 (2) (intro.) of the statutes is amended to read:

BILL

1 961.385 (2) (intro.) The board shall establish by rule a program for monitoring
2 the dispensing of monitored prescription drugs and the making of recommendations
3 for the use of, and issuance of registry identification cards for, medical marijuana.

4 The program shall do all of the following:

5 **SECTION 46.** 961.385 (2) (am) and (an) of the statutes are created to read:

6 961.385 (2) (am) Require a practitioner to generate a record documenting each
7 recommendation made by the practitioner for the use of medical marijuana under s.
8 73.18 (2).

9 (an) Require the medical marijuana regulatory commission to generate a
10 record documenting the issuance of a registry identification card under s. 73.18 (3).

11 **SECTION 47.** 961.385 (2) (b) of the statutes is amended to read:

12 961.385 (2) (b) Identify specific data elements to be contained in a record
13 documenting the dispensing of a monitored prescription drug, including the method
14 of payment and, subject to sub. (2m), the name recorded under s. 450.11 (1b) (bm).

15 (bm) In identifying specific data elements, ~~the board shall~~ under pars. (b), (bc),
16 and (bd), consider data elements identified by similar programs in other states and
17 shall ensure, to the extent possible, that records generated by the program are easily
18 shared with other states.

19 **SECTION 48.** 961.385 (2) (bc) and (bd) of the statutes are created to read:

20 961.385 (2) (bc) Identify specific data elements to be contained in a record
21 documenting the making of a recommendation for the use of medical marijuana
22 under s. 73.18 (2).

23 (bd) Identify specific data elements to be contained in a record documenting the
24 issuance of a registry identification card under s. 73.18 (3).

25 **SECTION 49.** 961.385 (2) (cm) 3. a. of the statutes is amended to read:

BILL**SECTION 49**

1 961.385 (2) (cm) 3. a. The state board or agency, agency of another state, law
2 enforcement agency, or prosecutorial unit makes a written request for the record and
3 is engaged in an active and specific investigation or prosecution of a violation of any
4 state or federal law involving a monitored prescription drug or any state or federal
5 law involving marijuana, and the record being requested is reasonably related to
6 that investigation or prosecution.

7 **SECTION 50.** 961.385 (2) (cs) 1. of the statutes is amended to read:

8 961.385 (2) (cs) 1. Require that a patient's records under the program be
9 reviewed before the practitioner issues a prescription order for the patient or before
10 the practitioner makes a recommendation to the patient for the use of medical
11 marijuana under s. 73.18 (2). The review required under this subdivision may be
12 performed by the practitioner or by the practitioner's agent in accordance with
13 applicable standards of practice. This subdivision does not apply after April 1, 2025.

14 **SECTION 51.** 961.385 (2) (cs) 2. (intro.), b., c. and d. of the statutes are amended
15 to read:

16 961.385 (2) (cs) 2. (intro.) The ~~requirement~~ requirements under subd. 1. ~~that~~
17 ~~a patient's records under the program be reviewed before the practitioner issues a~~
18 ~~prescription order for the patient does~~ do not apply if any of the following is true:

19 b. The practitioner is issuing a prescription order is for a monitored
20 prescription drug for a number of doses that is intended to last the patient 3 days or
21 less and is not subject to refill.

22 c. The A monitored prescription drug is lawfully administered to the patient.

23 d. Due to emergency, it is not possible to review the patient's records under the
24 program before the practitioner issues a prescription order for the patient or before

BILL

1 the practitioner makes a recommendation to the patient for the use of medical
2 marijuana under s. 73.18 (2).

3 **SECTION 52.** 961.55 (8) (c) of the statutes is created to read:

4 961.55 (8) (c) A license from the medical marijuana regulatory commission
5 under s. 73.17.

6 (END)