



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-0188/2  
CMH/JK/EVM:sac&kjf:kf

**2015 BILL**

1       **AN ACT** *to repeal* 23.33 (1) (jo) 5., 30.50 (10m) (e), 340.01 (50m) (e), 350.01 (10v)  
2           (e), 885.235 (1) (d) 5., 939.22 (33) (e), 961.14 (4) (t), 961.41 (1) (h), 961.41 (1m)  
3           (h), 961.41 (1q), 961.41 (3g) (e), 961.571 (1) (a) 7., 961.571 (1) (a) 11. e., 961.571  
4           (1) (a) 11. k. and L. and 967.055 (1m) (b) 5.; **to renumber** 30.681 (1) (bn) and  
5           subchapter IV (title) of chapter 50 [precedes 50.90]; **to renumber and amend**  
6           23.33 (4c) (a) 5., 30.681 (1) (d), 346.63 (1) (d), 350.101 (1) (e), 961.01 (14) and  
7           961.34; **to amend** 20.435 (6) (jm), 23.33 (1) (jo) 1., 23.33 (4c) (a) 4., 23.33 (4c)  
8           (b) 3., 23.33 (4c) (b) 4. a., 23.33 (4c) (b) 4. b., 23.33 (4p) (d), 23.33 (13) (b) 1., 23.33  
9           (13) (b) 2., 23.33 (13) (b) 3., 23.33 (13) (e), 30.50 (10m) (a), 30.681 (1) (b) (title),  
10           30.681 (1) (bn) (title), 30.681 (1) (c), 30.681 (2) (b) (title), 30.681 (2) (c), 30.681  
11           (2) (d) 1. a., 30.681 (2) (d) 1. b., 30.684 (4), 30.80 (6) (d), 50.56 (3), 59.54 (25)  
12           (title), 59.54 (25) (a) (intro.), 66.0107 (1) (bm), 85.53 (1) (d), 139.87 (7), 146.40  
13           (1) (bo), 146.81 (1) (L), 146.997 (1) (d) 18., 149.14 (3) (nm), 289.33 (3) (d), 340.01  
14           (50m) (a), 343.10 (5) (a) 1., 343.10 (5) (a) 2., 343.12 (7) (a) 11., 343.16 (2) (b),

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1 343.16 (5) (a), 343.30 (1p), 343.30 (1q) (h), 343.305 (2), 343.305 (3) (a), 343.305  
2 (3) (am), 343.305 (3) (ar) 1., 343.305 (3) (b), 343.305 (5) (b), 343.305 (5) (d),  
3 343.305 (7) (a), 343.305 (8) (b) 2. bm., 343.305 (8) (b) 2. d., 343.305 (8) (b) 4m.  
4 a., 343.305 (8) (b) 5. b., 343.305 (8) (b) 6. b., 343.305 (9) (a) 5. a., 343.305 (9) (am)  
5 5. a., 343.305 (9) (am) 5. c., 343.305 (9) (d), 343.305 (10) (em), 343.307 (1) (d),  
6 343.307 (2) (e), 343.31 (1) (am), 343.31 (2), 343.315 (2) (a) 2., 343.315 (2) (a) 5.,  
7 343.315 (2) (a) 6., 343.315 (2) (bm) 2., 343.32 (2) (bj), 344.576 (2) (b), 346.63 (1)  
8 (b), 346.63 (2) (a) 2., 346.63 (2) (b) 1., 346.63 (2) (b) 2., 346.65 (2m) (a), 346.65  
9 (2q), 349.02 (2) (b) 4., 349.03 (2m), 349.06 (1m), 350.01 (10v) (a), 350.101 (1) (d),  
10 350.101 (2) (c), 350.101 (2) (d) 1., 350.101 (2) (d) 2., 350.104 (4), 350.11 (3) (d),  
11 767.41 (5) (am) (intro.), 767.451 (5m) (a) (intro.), 885.235 (1) (d) 1., 885.235 (1g)  
12 (intro.), 885.235 (1m), 885.235 (4), 895.047 (3) (a), 905.04 (4) (f), 939.22 (33) (a),  
13 940.09 (1m) (a), 940.09 (1m) (b), 940.09 (2) (a), 940.09 (2) (b), 940.25 (1m),  
14 940.25 (2), 941.20 (1) (bm), 961.38 (1n), 961.41 (1r), 961.41 (3g) (c), 961.41 (3g)  
15 (d), 961.41 (3g) (em), 961.47 (1), 961.48 (3), 961.48 (5), 961.49 (1m) (intro.),  
16 961.571 (1) (a) 11. (intro.), 967.055 (1) (a), 967.055 (1) (b), 967.055 (1m) (b) 1.,  
17 967.055 (2) (a), 971.365 (1) (a), 971.365 (1) (b), 971.365 (1) (c) and 971.365 (2);  
18 and **to create** 20.435 (1) (gq) and (jm), 20.566 (1) (v), 23.33 (1) (k), 23.33 (4c) (a)  
19 2g., 23.33 (4c) (a) 3g., 23.33 (4c) (b) 2n., 25.56, 30.50 (13p), 30.681 (1) (b) 1g.,  
20 30.681 (1) (bn) 2., 30.681 (2) (b) 1g., subchapter V of chapter 50 [precedes 50.60],  
21 66.0408, subchapter V (title) of chapter 139 [precedes 139.97], 139.97, 139.971,  
22 139.972, 139.973, 139.974, 139.975, 139.976, 139.977, 139.978, 139.979,  
23 139.980, 146.44, 340.01 (66m), 343.305 (5) (dm), 346.63 (2p), 350.01 (21g),  
24 350.101 (1) (bg), 350.101 (1) (cg), 350.101 (2) (bg), 767.41 (5) (d), 767.451 (5m)  
25 (d), 885.235 (1) (e), 885.235 (1g) (ag), 885.235 (1g) (cg), 885.235 (1L), 939.22

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1 (39g), 940.09 (1) (bg), 940.09 (1) (dg), 940.09 (1g) (bg), 940.09 (1g) (dg), 940.25  
2 (1) (bg), 940.25 (1) (dg), 941.20 (1) (bg) and subchapter VIII of chapter 961  
3 [precedes 961.70] of the statutes; **relating to:** marijuana possession,  
4 regulation of marijuana distribution and cultivation, medical marijuana,  
5 operating a motor vehicle while under the influence of marijuana, making  
6 appropriations, requiring the exercise of rule-making authority, and providing  
7 criminal penalties.

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***Analysis by the Legislative Reference Bureau***

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. This bill changes state law so that state law permits both recreational use of marijuana and medical use of marijuana.

First, with respect to recreational use of marijuana, this bill changes state law to permit a Wisconsin resident who is over the age of 21 to possess no more than one-half an ounce of marijuana and to permit a nonresident of Wisconsin who is over the age of 21 to possess no more than a quarter ounce of marijuana. Generally, a person who possesses more than the maximum amount he or she is allowed to possess, but not more than 28 grams of marijuana is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. A person who possesses more than 28 grams of marijuana is guilty of a Class B misdemeanor, except that, if the person takes action to hide the amount of marijuana he or she has and the person has in place a security system to alert him or her to the presence of law enforcement, a method of intimidation, or a trap that could injure or kill a person approaching the area containing the marijuana, the person is guilty of a Class I felony.

This bill prohibits the sale for recreational use of product intended for human consumption that contains marijuana or marijuana extracts and that is edible. This bill prohibits the sale of marijuana for recreational use via mail, telephone, or Internet. A person who violates either of these prohibitions is guilty of a Class A misdemeanor. This bill prohibits the use of marijuana in public. A person who violates this prohibition is subject to a civil forfeiture of not more than \$100. This bill also eliminates the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption.

This bill also creates a process by which a person may obtain a permit to sell marijuana for recreational use and pay a tax equal to 25 percent of the sales price. Under this bill, a person who does not have a permit to sell marijuana may not sell,

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distribute, or transfer marijuana, or possess marijuana with the intent to sell or distribute it. A person who violates the prohibition is guilty of a Class I felony except that the felony classification increases to a Class H felony if the person sells, distributes, or transfers the marijuana to a person who is under the age of 21 (minor) and the person is at least three years older than the minor. This bill prohibits a permittee from selling, distributing, or transferring marijuana to a minor and from permitting a minor to be on premises for which a permit is issued. If a permittee violates one of those prohibitions, the permittee may be subject to a civil forfeiture of not more than \$500 and the permit may be suspended for up to 30 days. Under this bill, a minor who does any of the following is subject to a forfeiture of not less than \$250 nor more than \$500: procures or attempts to procure marijuana from a permittee; falsely represents his or her age to receive marijuana from a permittee; knowingly possesses marijuana for recreational use; or knowingly enters any premises for which a permit has been issued without being accompanied by his or her parent, guardian, or spouse who is at least 21 years of age.

In addition, under this bill, a person may obtain a permit for a \$250 fee to cultivate no more than 12 marijuana plants at one time. A permit is valid for one year and may be renewed. A person without a permit who cultivates plants, and the number of plants is not more than 12, is subject to a civil forfeiture that is no more than twice the fee to obtain a permit. If any person cultivates more than 12 plants at one time but not more than 24, the person is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. If any person cultivates more than 24 plants at one time, the person is guilty of a Class B misdemeanor, except that, if the person takes action to hide the number of plants he or she has and the person has in place a security system to alert him or her to the presence of law enforcement, a method of intimidation, or a trap that could injure or kill a person approaching the area containing the plants, the person is guilty of a Class I felony.

With respect to the medical use of marijuana, this bill changes state law to permit a person registered with the Department of Health Services (DHS) to use marijuana for medical use to alleviate the symptoms or effects of a debilitating medical condition or treatment. A person's primary caregiver also may acquire, possess, cultivate, or transport marijuana for a person registered with DHS if it is not practicable for the person to acquire, possess, cultivate, or transport marijuana independently or the person is under the age of 18.

The bill requires DHS to establish a registry for persons who use marijuana for medical use. Under the bill, a person may apply for a registry identification card by submitting to DHS a signed application, a written certification by the person's physician that the person has or is undergoing a debilitating medical condition or treatment and that the potential benefits of the person's use of tetrahydrocannabinols would likely outweigh the health risks for the person, and a registration fee of not more than \$150. DHS must verify the information and issue the person a registry identification card. A registry identification card is generally valid for two years and may be renewed. 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

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possesses a valid registry identification card. This bill also requires DHS to promulgate a rule listing other jurisdictions that allow the medical use of marijuana by a visiting person or allow a person to assist with a person's medical use of marijuana. This bill treats documents issued by these entities 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 500 feet of a school, prohibits a compassion center from distributing to a person more than 12 live marijuana plants and three ounces of usable marijuana (maximum medicinal amount), and prohibits an organization from possessing a quantity that exceeds, by an amount determined by DHS, the total maximum medicinal amount of marijuana of all of the persons 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. This bill also requires DHS to register entities as tetrahydrocannabinols-testing laboratories. The laboratories must test marijuana for contaminants; research findings on the use of medical marijuana; and provide training on safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana, security and inventory accountability, and research on medical marijuana.

Finally, under current law, a person may not operate a vehicle with a detectable amount of a restricted controlled substance, which includes delta-9-tetrahydrocannabinol (THC), in his or her blood, regardless of impairment. Penalties for violating this provision increase with the number of violations. Under this bill, a person may not operate a vehicle with a THC concentration of 5.0 ng/mL or more, instead of a detectable amount, in his or her blood. This bill does not change the penalty structure.

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.

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

3

**2015-16           2016-17**

**BILL**1 **20.566 Department of revenue**

2 (1) COLLECTION OF TAXES

3 (v) Administration and enforcement

4 of marijuana tax and regulation SEG A -0- 1,100,800

5 **SECTION 2.** 20.435 (1) (gq) and (jm) of the statutes are created to read:6 20.435 (1) (gq) *Medical marijuana registry.* All moneys received from  
7 applicants, as defined in s. 146.44 (1) (a), as fees under s. 146.44 (2) (a) 4., for the  
8 purposes of the Medical Marijuana Registry Program under s. 146.44.9 (jm) *Licensing and support services for compassion centers.* All moneys  
10 received under s. 50.64 to regulate and license compassion centers under subch. V  
11 of ch. 50.12 **SECTION 3.** 20.435 (6) (jm) of the statutes is amended to read:13 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule  
14 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a), (am), (b), and (bm),  
15 and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and  
16 (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and  
17 146.40 (4r) (b) and (er), and subch. IV VI of ch. 50 and to conduct health facilities plan  
18 and rule development activities, for accrediting nursing homes, convalescent homes,  
19 and homes for the aged, to conduct capital construction and remodeling plan reviews  
20 under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or  
21 certifying, and approving facilities, issuing permits, and providing technical  
22 assistance, that are not specified under any other paragraph in this subsection. All  
23 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,  
24 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

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1 50.981, all moneys received from fees for the costs of inspecting, licensing or  
2 certifying, and approving facilities, issuing permits, and providing technical  
3 assistance, that are not specified under any other paragraph in this subsection, and  
4 all moneys received under s. 50.135 (2) shall be credited to this appropriation  
5 account.

6 **SECTION 4.** 20.566 (1) (v) of the statutes is created to read:

7 20.566 (1) (v) *Administration and enforcement of marijuana tax and*  
8 *regulation.* From the marijuana fund, the amounts in the schedule for the purposes  
9 of administering the marijuana tax imposed under subch. V of ch. 139 and for the  
10 costs incurred in enforcing the taxing and regulation of marijuana producers,  
11 marijuana processors, and marijuana retailers under subch. V of ch. 139.

12 **SECTION 5.** 23.33 (1) (jo) 1. of the statutes is amended to read:

13 23.33 (1) (jo) 1. A controlled substance included in schedule I under ch. 961  
14 ~~other than a tetrahydrocannabinol.~~

15 **SECTION 6.** 23.33 (1) (jo) 5. of the statutes is repealed.

16 **SECTION 7.** 23.33 (1) (k) of the statutes is created to read:

17 23.33 (1) (k) “Tetrahydrocannabinols concentration” means the number of  
18 nanograms of tetrahydrocannabinols per milliliter of blood.

19 **SECTION 8.** 23.33 (4c) (a) 2g. of the statutes is created to read:

20 23.33 (4c) (a) 2g. ‘Operating with a tetrahydrocannabinols concentration at or  
21 above specified levels.’ No person may engage in the operation of an all-terrain  
22 vehicle or utility terrain vehicle while the person has a tetrahydrocannabinols  
23 concentration of 5.0 or more.

24 **SECTION 9.** 23.33 (4c) (a) 3g. of the statutes is created to read:

**BILL****SECTION 9**

1           23.33 (4c) (a) 3g. ‘Operating with a tetrahydrocannabinols concentration at  
2 specified levels; below age 21.’ If a person has not attained the age of 21, the person  
3 may not engage in the operation of an all-terrain vehicle or utility terrain vehicle  
4 while he or she has a tetrahydrocannabinols concentration of more than 0.0 but less  
5 than 5.0.

6           **SECTION 10.** 23.33 (4c) (a) 4. of the statutes is amended to read:

7           23.33 (4c) (a) 4. ‘Related charges.’ A person may be charged with and a  
8 prosecutor may proceed upon a complaint based upon a violation of any combination  
9 of subd. 1., 2., 2g., or 2m. for acts arising out of the same incident or occurrence. If  
10 the person is charged with violating any combination of subd. 1., 2., 2g., or 2m., the  
11 offenses shall be joined. If the person is found guilty of any combination of subd. 1.,  
12 2., 2g., or 2m. for acts arising out of the same incident or occurrence, there shall be  
13 a single conviction for purposes of sentencing and for purposes of counting  
14 convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., 2g., and 2m. each require  
15 proof of a fact for conviction which the others do not require.

16           **SECTION 11.** 23.33 (4c) (a) 5. of the statutes is renumbered 23.33 (4c) (a) 5. a.  
17 and amended to read:

18           23.33 (4c) (a) 5. a. In an action under subd. 2m. that is based on the defendant  
19 allegedly having a detectable amount of methamphetamine, or  
20 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
21 the defendant has a defense if he or she proves by a preponderance of the evidence  
22 that at the time of the incident or occurrence he or she had a valid prescription for  
23 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
24 acid, ~~or~~



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1           b. In an action under subd. 2g. or 3g. that is based on the defendant allegedly  
2           having a prohibited tetrahydrocannabinols concentration, the defendant has a  
3           defense if he or she proves by a preponderance of the evidence that at the time of the  
4           incident or occurrence he or she had a valid prescription for  
5           delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.  
6           50.60 (6).

7           **SECTION 12.** 23.33 (4c) (b) 2n. of the statutes is created to read:

8           23.33 (4c) (b) 2n. ‘Causing injury while operating with tetrahydrocannabinols  
9           concentration at or above specified levels.’ No person who has a  
10           tetrahydrocannabinols concentration of 5.0 or more may cause injury to another  
11           person by the operation of an all-terrain vehicle or utility terrain vehicle.

12           **SECTION 13.** 23.33 (4c) (b) 3. of the statutes is amended to read:

13           23.33 (4c) (b) 3. ‘Related charges.’ A person may be charged with and a  
14           prosecutor may proceed upon a complaint based upon a violation of any combination  
15           of subd. 1., 2., ~~or 2m.~~, or 2n. for acts arising out of the same incident or occurrence.  
16           If the person is charged with violating any combination of subd. 1., 2., ~~or 2m.~~, or 2n.  
17           in the complaint, the crimes shall be joined under s. 971.12. If the person is found  
18           guilty of any combination of subd. 1., 2., ~~or 2m.~~, or 2n. for acts arising out of the same  
19           incident or occurrence, there shall be a single conviction for purposes of sentencing  
20           and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions  
21           1., 2., ~~and 2m.~~, and 2n. each require proof of a fact for conviction which the others do  
22           not require.

23           **SECTION 14.** 23.33 (4c) (b) 4. a. of the statutes is amended to read:

24           23.33 (4c) (b) 4. a. In an action under this paragraph, the defendant has a  
25           defense if he or she proves by a preponderance of the evidence that the injury would

**BILL****SECTION 14**

1 have occurred even if he or she had been exercising due care and he or she had not  
2 been under the influence of an intoxicant, did not have an alcohol concentration of  
3 0.08 or more, ~~or~~ did not have a detectable amount of a restricted controlled substance  
4 in his or her blood, or did not have a tetrahydrocannabinols concentration of 5.0 or  
5 more.

6 **SECTION 15.** 23.33 (4c) (b) 4. b. of the statutes is amended to read:

7 23.33 (4c) (b) 4. b. In an action under subd. 2m. that is based on the defendant  
8 allegedly having a detectable amount of methamphetamine, or  
9 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
10 the defendant has a defense if he or she proves by a preponderance of the evidence  
11 that at the time of the incident or occurrence he or she had a valid prescription for  
12 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
13 acid, ~~or~~

14 c. In an action under subd. 2n. that is based on the defendant allegedly having  
15 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
16 or she proves by a preponderance of the evidence that at the time of the incident or  
17 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
18 he or she was a qualifying patient, as defined in s. 50.60 (6).

19 **SECTION 16.** 23.33 (4p) (d) of the statutes is amended to read:

20 23.33 (4p) (d) *Admissibility; effect of test results; other evidence.* The results  
21 of a chemical test required or administered under par. (a), (b) or (c) are admissible  
22 in any civil or criminal action or proceeding arising out of the acts committed by a  
23 person alleged to have violated the intoxicated operation of an all-terrain vehicle or  
24 utility terrain vehicle law on the issue of whether the person was under the influence  
25 of an intoxicant or the issue of whether the person had alcohol concentrations or

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1 tetrahydrocannabinols concentrations at or above specified levels or a detectable  
2 amount of a restricted controlled substance in his or her blood. Results of these  
3 chemical tests shall be given the effect required under s. 885.235. This subsection  
4 does not limit the right of a law enforcement officer to obtain evidence by any other  
5 lawful means.

6 **SECTION 17.** 23.33 (13) (b) 1. of the statutes is amended to read:

7 23.33 (13) (b) 1. Except as provided under subds. 2. and 3., a person who  
8 violates sub. (4c) (a) 1., 2., 2g., or 2m. or (4p) (e) shall forfeit not less than \$150 nor  
9 more than \$300.

10 **SECTION 18.** 23.33 (13) (b) 2. of the statutes is amended to read:

11 23.33 (13) (b) 2. Except as provided under subd. 3., a person who violates sub.  
12 (4c) (a) 1., 2., 2g., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the  
13 current violation, was convicted previously under the intoxicated operation of an  
14 all-terrain vehicle or utility terrain vehicle law or the refusal law shall be fined not  
15 less than \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days  
16 nor more than 6 months.

17 **SECTION 19.** 23.33 (13) (b) 3. of the statutes is amended to read:

18 23.33 (13) (b) 3. A person who violates sub. (4c) (a) 1., 2., 2g., or 2m. or (4p) (e)  
19 and who, within 5 years prior to the arrest for the current violation, was convicted  
20 2 or more times previously under the intoxicated operation of an all-terrain vehicle  
21 or utility terrain vehicle law or refusal law shall be fined not less than \$600 nor more  
22 than \$2,000 and shall be imprisoned not less than 30 days nor more than one year  
23 in the county jail.

24 **SECTION 20.** 23.33 (13) (e) of the statutes is amended to read:

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1           23.33 (13) (e) *Alcohol, controlled substances or controlled substance analogs,*  
2 *tetrahydrocannabinols; assessment.* In addition to any other penalty or order, a  
3 person who violates sub. (4c) (a) or (b) or (4p) (e) or who violates s. 940.09 or 940.25  
4 if the violation involves the operation of an all-terrain vehicle or utility terrain  
5 vehicle, shall be ordered by the court to submit to and comply with an assessment  
6 by an approved public treatment facility for an examination of the person's use of  
7 alcohol, controlled substances or controlled substance analogs, or  
8 tetrahydrocannabinols. The assessment order shall comply with s. 343.30 (1q) (c) 1.  
9 a. to c. Intentional failure to comply with an assessment ordered under this  
10 paragraph constitutes contempt of court, punishable under ch. 785.

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

12           **25.56 Marijuana fund.** There is established a separate nonlapsible trust  
13 fund, designated as the marijuana fund, consisting of all revenue from the fees,  
14 taxes, interest, and penalties under subch. V of ch. 139.

15           **SECTION 22.** 30.50 (10m) (a) of the statutes is amended to read:

16           30.50 (10m) (a) A controlled substance included in schedule I under ch. 961  
17 ~~other than a tetrahydrocannabinol.~~

18           **SECTION 23.** 30.50 (10m) (e) of the statutes is repealed.

19           **SECTION 24.** 30.50 (13p) of the statutes is created to read:

20           30.50 (13p) "Tetrahydrocannabinols concentration" means the number of  
21 nanograms of tetrahydrocannabinols per milliliter of blood.

22           **SECTION 25.** 30.681 (1) (b) (title) of the statutes is amended to read:

23           30.681 (1) (b) (title) *Operating after using a controlled substance or, alcohol, or*  
24 *marijuana.*

25           **SECTION 26.** 30.681 (1) (b) 1g. of the statutes is created to read:

**BILL**

1           30.681 (1) (b) 1g. No person may engage in the operation of a motorboat while  
2 the person has a tetrahydrocannabinols concentration of 5.0 or more.

3           **SECTION 27.** 30.681 (1) (bn) (title) of the statutes is amended to read:

4           30.681 (1) (bn) (title) *Operating with alcohol or tetrahydrocannabinols*  
5 *concentrations at specified levels; below legal drinking age.*

6           **SECTION 28.** 30.681 (1) (bn) of the statutes is renumbered 30.681 (1) (bn) 1.

7           **SECTION 29.** 30.681 (1) (bn) 2. of the statutes is created to read:

8           30.681 (1) (bn) 2. A person who has not attained the legal age, as defined in s.  
9 961.70 (2), may not engage in the operation of a motorboat while he or she has a  
10 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0.

11          **SECTION 30.** 30.681 (1) (c) of the statutes is amended to read:

12          30.681 (1) (c) *Related charges.* A person may be charged with and a prosecutor  
13 may proceed upon a complaint based upon a violation of any combination of par. (a)  
14 or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence. If the  
15 person is charged with violating any combination of par. (a) or (b) 1., 1g., 1m., or 2.,  
16 the offenses shall be joined. If the person is found guilty of any combination of par.  
17 (a) or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence, there  
18 shall be a single conviction for purposes of sentencing and for purposes of counting  
19 convictions under s. 30.80 (6) (a) 2. and 3. Paragraphs (a) and (b) 1., 1g., 1m., and  
20 2. each require proof of a fact for conviction which the others do not require.

21          **SECTION 31.** 30.681 (1) (d) of the statutes is renumbered 30.681 (1) (d) 1. and  
22 amended to read:

23          30.681 (1) (d) 1. In an action under par. (b) 1m. that is based on the defendant  
24 allegedly having a detectable amount of methamphetamine, or  
25 gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood,

**BILL****SECTION 31**

1 the defendant has a defense if he or she proves by a preponderance of the evidence  
2 that at the time of the incident or occurrence he or she had a valid prescription for  
3 methamphetamine or one of its metabolic precursors, or gamma–hydroxybutyric  
4 acid, ~~or~~,

5 2. In action under par. (b) 1g. or (bn) 2. that is based on the defendant allegedly  
6 having a prohibited tetrahydrocannabinols concentration, the defendant has a  
7 defense if he or she proves by a preponderance of the evidence that at the time of the  
8 incident or occurrence he or she had a valid prescription for  
9 delta–9–tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.  
10 50.60 (6).

11 **SECTION 32.** 30.681 (2) (b) (title) of the statutes is amended to read:

12 30.681 (2) (b) (title) *Causing injury after using a controlled substance or,*  
13 *alcohol, or marijuana.*

14 **SECTION 33.** 30.681 (2) (b) 1g. of the statutes is created to read:

15 30.681 (2) (b) 1g. No person who has a tetrahydrocannabinols concentration  
16 of 5.0 or more may cause injury to another person by the operation of a motorboat.

17 **SECTION 34.** 30.681 (2) (c) of the statutes is amended to read:

18 30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor  
19 may proceed upon a complaint based upon a violation of any combination of par. (a)  
20 or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence. If the  
21 person is charged with violating any combination of par. (a) or (b) 1., 1g., 1m., or 2.  
22 in the complaint, the crimes shall be joined under s. 971.12. If the person is found  
23 guilty of any combination of par. (a) or (b) 1., 1g., 1m., or 2. for acts arising out of the  
24 same incident or occurrence, there shall be a single conviction for purposes of  
25 sentencing and for purposes of counting convictions under s. 30.80 (6) (a) 2. and 3.

**BILL**

1 Paragraphs (a) and (b) 1., 1g., 1m., and 2. each require proof of a fact for conviction  
2 which the others do not require.

3 **SECTION 35.** 30.681 (2) (d) 1. a. of the statutes is amended to read:

4 30.681 (2) (d) 1. a. In an action under this subsection for a violation of the  
5 intoxicated boating law where the defendant was operating a motorboat that is not  
6 a commercial motorboat, the defendant has a defense if he or she proves by a  
7 preponderance of the evidence that the injury would have occurred even if he or she  
8 had been exercising due care and he or she had not been under the influence of an  
9 intoxicant or did not have an alcohol concentration of 0.08 or more or a  
10 tetrahydrocannabinols concentration of 5.0 or more or a detectable amount of a  
11 restricted controlled substance in his or her blood.

12 **SECTION 36.** 30.681 (2) (d) 1. b. of the statutes is amended to read:

13 30.681 (2) (d) 1. b. In an action under par. (b) 1m. that is based on the defendant  
14 allegedly having a detectable amount of methamphetamine, or  
15 gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood,  
16 the defendant has a defense if he or she proves by a preponderance of the evidence  
17 that at the time of the incident or occurrence he or she had a valid prescription for  
18 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
19 acid, or,

20 c. In action under par. (b) 1g. that is based on the defendant allegedly having  
21 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
22 or she proves by a preponderance of the evidence that at the time of the incident or  
23 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
24 he or she was a qualifying patient, as defined in s. 50.60 (6).

25 **SECTION 37.** 30.684 (4) of the statutes is amended to read:

**BILL**

1           30.684 (4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE. The results  
2 of a chemical test required or administered under sub. (1), (2) or (3) are admissible  
3 in any civil or criminal action or proceeding arising out of the acts committed by a  
4 person alleged to have violated the intoxicated boating law on the issue of whether  
5 the person was under the influence of an intoxicant or the issue of whether the person  
6 had alcohol concentrations or tetrahydrocannabinols concentrations at or above  
7 specified levels or a detectable amount of a restricted controlled substance in his or  
8 her blood. Results of these chemical tests shall be given the effect required under s.  
9 885.235. This section does not limit the right of a law enforcement officer to obtain  
10 evidence by any other lawful means.

11           **SECTION 38.** 30.80 (6) (d) of the statutes is amended to read:

12           30.80 (6) (d) *Alcohol, controlled substances or controlled substance analogs,*  
13 *tetrahydrocannabinols; examination.* In addition to any other penalty or order, a  
14 person who violates s. 30.681 (1) or (2) or 30.684 (5) or who violates s. 940.09 or 940.25  
15 if the violation involves the operation of a motorboat, shall be ordered by the court  
16 to submit to and comply with an assessment by an approved public treatment facility  
17 for an examination of the person's use of alcohol, controlled substances or controlled  
18 substance analogs, or tetrahydrocannabinols. Intentional failure to comply with an  
19 assessment ordered under this paragraph constitutes contempt of court, punishable  
20 under ch. 785.

21           **SECTION 39.** 50.56 (3) of the statutes is amended to read:

22           50.56 (3) Notwithstanding sub. (2), insofar as a conflict exists between this  
23 subchapter, or the rules promulgated under this subchapter, and subch. I, II or IV  
24 VI, or the rules promulgated under subch. I, II or IV VI, the provisions of this  
25 subchapter and the rules promulgated under this subchapter control.



**BILL**

1           **SECTION 40.** Subchapter V of chapter 50 [precedes 50.60] of the statutes is  
2 created to read:

**CHAPTER 50****SUBCHAPTER V****DISTRIBUTION AND****TESTING CENTERS**

7           **50.60 Definitions.** In this subchapter:

8           (1) “Compassion center” means a licensed organization that grows, sells,  
9 distributes, or delivers marijuana for the medical use of tetrahydrocannabinols.

10          (2) “Debilitating medical condition or treatment” means any of the following:

11          (a) Cancer; glaucoma; acquired immunodeficiency syndrome; a positive test for  
12 the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV;  
13 Crohn’s disease; a hepatitis C virus infection; Alzheimer’s disease; amyotrophic  
14 lateral sclerosis; nail patella syndrome; Ehlers–Danlos Syndrome; post–traumatic  
15 stress disorder; or the treatment of these conditions.

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

20          (c) Any other medical condition or any other treatment for a medical condition  
21 designated as a debilitating medical condition or treatment in rules promulgated by  
22 the department of health services under s. 50.61 (2).

23          **(2m)** “Department” means the department of health services.

24          (3) “Maximum medicinal amount” means 12 live marijuana plants and 3  
25 ounces of usable marijuana.

**BILL**

1           (4) “Medical use of tetrahydrocannabinols” means any of the following:

2           (a) The use of tetrahydrocannabinols in any form by a qualifying patient to  
3 alleviate the symptoms or effects of the qualifying patient’s debilitating medical  
4 condition or treatment.

5           (b) The acquisition, possession, cultivation, or transportation of  
6 tetrahydrocannabinols in any form by a qualifying patient if done to facilitate his or  
7 her use of the tetrahydrocannabinols under par. (a).

8           (c) The acquisition, possession, cultivation, or transportation of  
9 tetrahydrocannabinols in any form by a primary caregiver of a qualifying patient,  
10 the transfer of tetrahydrocannabinols in any form between a qualifying patient and  
11 his or her primary caregiver, or the transfer of tetrahydrocannabinols in any form  
12 between persons who are primary caregivers for the same qualifying patient if all of  
13 the following apply:

14           1. The acquisition, possession, cultivation, or transportation of  
15 tetrahydrocannabinols is done to facilitate the qualifying patient’s use of  
16 tetrahydrocannabinols under par. (a) or (b).

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

20           (5) “Primary caregiver” means a person who is at least 18 years of age and who  
21 has agreed to help a qualifying patient in his or her medical use of  
22 tetrahydrocannabinols.

23           (6) “Qualifying patient” means a person who has been diagnosed by a physician  
24 as having or undergoing a debilitating medical condition or treatment but does not  
25 include a person under the age of 18 years unless all of the following apply:

**BILL**

1 (a) The person’s physician has explained the potential risks and benefits of the  
2 medical use of tetrahydrocannabinols to the person and to a parent, guardian, or  
3 individual having legal custody of the person.

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

6 1. Allow the person’s medical use of tetrahydrocannabinols.

7 2. Serve as a primary caregiver for the person.

8 3. Manage the person’s medical use of tetrahydrocannabinols.

9 (7) “Registry identification card” has the meaning given in s. 146.44 (1) (h).

10 (8) “Treatment team” means a qualifying patient and his or her primary  
11 caregivers.

12 (9) “Usable marijuana” has the meaning given in s. 139.97 (12).

13 (10) “Written certification” means a statement made by a person’s physician  
14 if all of the following apply:

15 (a) The statement indicates that, in the physician’s professional opinion, the  
16 person has or is undergoing a debilitating medical condition or treatment and the  
17 potential benefits of the person’s use of tetrahydrocannabinols under sub. (4) (a)  
18 would likely outweigh the health risks for the person.

19 (b) The statement indicates that the opinion described in par. (a) was formed  
20 after a full assessment, made in the course of a bona fide physician–patient  
21 relationship, of the person’s medical history and current medical condition.

22 (c) The statement is signed by the physician or is contained in the person’s  
23 medical records.

24 **50.61 Departmental powers and duties.** (1) The department shall provide  
25 licensing, regulation, record keeping, and security for compassion centers.

**BILL****SECTION 40**

1           (2) Notwithstanding s. 227.12 (1), any person may petition the department to  
2 promulgate a rule to designate a medical condition or treatment as a debilitating  
3 medical condition or treatment. The department shall promulgate rules providing  
4 for public notice of and a public hearing regarding any such petition, with the public  
5 hearing providing persons an opportunity to comment upon the petition. After the  
6 hearing, but no later than 180 days after the submission of the petition, the  
7 department shall approve or deny the petition. The department's decision to approve  
8 or deny a petition is subject to judicial review under s. 227.52.

9           **50.62 Licensing.** The department shall issue licenses to operate as a  
10 compassion center and shall decide which and how many applicants for a license  
11 receive a license based on all of the following:

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

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

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

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

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

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

22           **50.63 Prohibitions.** The department may not issue a license to operate as a  
23 compassion center to, and must revoke a license of, any organization to which any  
24 of the following applies:

**BILL**

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

3           (2) The organization is located within 500 feet of a public or private elementary  
4 or secondary school, including a charter school.

5           (3) The compassion center distributes to a treatment team a number of plants  
6 or an amount in ounces of usable marijuana that, in the period of distribution, results  
7 in the treatment team possessing more than the maximum medicinal amount.

8           (4) The compassion center possesses a number of plants or an amount in ounces  
9 of usable marijuana that exceeds the combined maximum medicinal amount for all  
10 of the treatment teams that use the organization by a number or an amount  
11 determined by the department by rule to be unacceptable.

12           **50.64 Licensing procedure.** (1) The application for a license must be in  
13 writing on a form provided by the department and include the licensing application  
14 fee under sub. (2) (a).

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

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

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

20           **50.65 Distribution of medical marijuana.** (1) A compassion center may  
21 sell, distribute, or deliver tetrahydrocannabinols or drug paraphernalia intended for  
22 the storage or use of usable marijuana to a member of a treatment team if the  
23 compassion center receives a copy of the qualifying patient's written certification or  
24 registry identification card.

**BILL**

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

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

5           (4) A compassion center shall have all tetrahydrocannabinols tested for mold,  
6 fungus, pesticides, and other contaminants and may not sell, distribute, or deliver  
7 tetrahydrocannabinols that test positive for mold, fungus, pesticides, or other  
8 contaminants if the contaminants, or level of contaminants, are identified by the  
9 testing laboratories under s. 50.66 (2) to be potentially unsafe to a qualifying  
10 patient's health.

11           (5) A compassion center may cultivate marijuana outdoors.

12           **50.66 Testing laboratories.** The department shall register entities as  
13 tetrahydrocannabinols testing laboratories. The laboratories may possess or  
14 manufacture tetrahydrocannabinols or drug paraphernalia and shall perform the  
15 following services:

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

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

21           (3) Provide training to persons who hold registry identification cards,  
22 treatment teams, and persons employed by compassion centers on the following:

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

25           (b) Security and inventory accountability procedures.

**BILL**

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

2 **SECTION 41.** Subchapter IV (title) of chapter 50 [precedes 50.90] of the statutes  
3 is renumbered subchapter VI (title) of chapter 50 [precedes 50.90].

4 **SECTION 42.** 59.54 (25) (title) of the statutes is amended to read:

5 59.54 (25) (title) POSSESSION REGULATION OF MARIJUANA.

6 **SECTION 43.** 59.54 (25) (a) (intro.) of the statutes is amended to read:

7 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance to prohibit  
8 the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in  
9 s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance that  
10 is consistent with s. 961.71 or 961.72; except that if a complaint is issued regarding  
11 an allegation of possession of more than 25 grams of marijuana, or possession of any  
12 amount of marijuana following a conviction in this state for possession of marijuana  
13 alleging a violation of s. 961.72 (2) (b) 2., (c) 3., or (d) 4., the subject of the complaint  
14 may not be prosecuted under this subsection for the same action that is the subject  
15 of the complaint unless all of the following occur:

16 **SECTION 44.** 66.0107 (1) (bm) of the statutes is amended to read:

17 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of  
18 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)  
19 (intro.), and provide a forfeiture for a violation of the ordinance that is consistent  
20 with s. 961.71 or 961.72; except that if a complaint is issued regarding an allegation  
21 of possession of more than 25 grams of marijuana, or possession of any amount of  
22 marijuana following a conviction in this state for possession of marijuana alleging  
23 a violation of s. 961.72 (2) (b) 2., (c) 3., or (d) 4., the subject of the complaint may not  
24 be prosecuted under this paragraph for the same action that is the subject of the

**BILL**

1 complaint unless the charges are dismissed or the district attorney declines to  
2 prosecute the case.

3 **SECTION 45.** 66.0408 of the statutes is created to read:

4 **66.0408 Cultivation of tetrahydrocannabinols.** (1) No village, town, city,  
5 or county may enact or enforce an ordinance or a resolution that prohibits cultivating  
6 tetrahydrocannabinols outdoors if the cultivation is by one of the following:

7 (a) A compassion center, as defined in s. 50.60 (1).

8 (b) A person who is cultivating tetrahydrocannabinols for the medical use of  
9 tetrahydrocannabinols, as defined in s. 50.60 (4), if the amount does not exceed the  
10 maximum medicinal amount, as defined in s. 50.60 (3).

11 (c) A person who is a personal-use permit holder, as defined in s. 961.70 (7), who  
12 has no more than 12 marijuana plants at one time.

13 **SECTION 46.** 85.53 (1) (d) of the statutes is amended to read:

14 85.53 (1) (d) “Operating while intoxicated” means a violation of s. 346.63 (1) or,  
15 (2m), or (2p) or a local ordinance in conformity therewith or of s. 346.63 (2) or (6),  
16 940.09 (1) or 940.25.

17 **SECTION 47.** 139.87 (7) of the statutes is amended to read:

18 139.87 (7) “Tetrahydrocannabinols” means a substance included in s. 961.14  
19 ~~(4) (t)~~ in any form including tetrahydrocannabinols contained in marijuana,  
20 obtained from marijuana or chemically synthesized.

21 **SECTION 48.** Subchapter V (title) of chapter 139 [precedes 139.97] of the  
22 statutes is created to read:

**CHAPTER 139**

## SUBCHAPTER V

## MARIJUANA TAX AND REGULATION



**BILL**

1           **SECTION 49.** 139.97 of the statutes is created to read:

2           **139.97 Definitions.** In this subchapter:

3           (1) “Department”, if used without further qualification, means the department  
4 of revenue.

5           (2) “Lot” means a definite quantity of marijuana or usable marijuana identified  
6 by a lot number, every portion or package of which is consistent with the factors that  
7 appear in the labeling.

8           (3) “Lot number” means a number that specifies the person who holds a valid  
9 license under this subchapter and the harvesting or processing date for each lot.

10          (4) “Marijuana” has the meaning given in s. 961.70 (3).

11          (5) “Marijuana processor” means a person who processes marijuana into usable  
12 marijuana, packages and labels usable marijuana for sale in retail outlets, or sells  
13 usable marijuana at wholesale to marijuana retailers.

14          (6) “Marijuana producer” means a person who produces marijuana and sells  
15 it at wholesale to marijuana processors or other marijuana producers.

16          (8) “Marijuana retailer” means a person who sells usable marijuana at a retail  
17 outlet.

18          (9) “Permittee” means a marijuana producer, marijuana processor, or  
19 marijuana retailer who is issued a permit under s. 139.972.

20          (10) “Retail outlet” means a location for the retail sale of usable marijuana or  
21 marijuana-infused products.

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

23          (12) “Usable marijuana” means dried marijuana flowers.

24          **SECTION 50.** 139.971 of the statutes is created to read:

**BILL****SECTION 50**

1           **139.971 Marijuana tax.** (1) (a) An excise tax is imposed on a marijuana  
2 producer at the rate of 25 percent of the sales price on each wholesale sale in this state  
3 of marijuana to a marijuana processor or to another marijuana producer.

4           (b) An excise tax is imposed on a marijuana processor at the rate of 25 percent  
5 of the sales price on each wholesale sale in this state of usable marijuana to a  
6 marijuana retailer.

7           (c) An excise tax is imposed on a marijuana retailer at the rate of 25 percent  
8 of the sales price on each retail sale in this state of usable marijuana.

9           (2) Each person liable for the taxes imposed under sub. (1) shall pay the taxes  
10 to the department no later than the 15th day of the month following the month in  
11 which the person's tax liability is incurred and shall include with the payment a  
12 return on a form prescribed by the department. The department shall deposit all  
13 taxes collected under this section into the marijuana fund.

14           **SECTION 51.** 139.972 of the statutes is created to read:

15           **139.972 Permits required.** (1) (a) No person may operate in this state as a  
16 marijuana producer, marijuana processor, or marijuana retailer without first filing  
17 an application for and obtaining the proper permit from the department to perform  
18 such operations.

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

22           (c) Subject to ss. 111.321, 111.322, and 111.335, no permit under this section  
23 may be granted to any person to whom any of the following applies:

24           1. The person has been convicted of a misdemeanor, not involving chs. 340 to  
25 349, at least 3 times.

**BILL**

- 1           2. The person has been convicted of a felony, unless pardoned.
- 2           3. During the preceding 3 years, the person has been committed under s. 51.20  
3 for being drug dependent.
- 4           4. The person chronically and habitually uses alcohol beverages or other  
5 substances to the extent that his or her normal faculties are impaired. A person is  
6 presumed chronically and habitually to use alcohol beverages or other substances to  
7 the extent that his or her normal faculties are impaired if, within the preceding 3  
8 years, any of the following applies:
- 9           a. The person has been committed for involuntary treatment under s. 51.45  
10 (13).
- 11           b. The person has been convicted of a violation of s. 941.20 (1) (b).
- 12           c. In 2 or more cases arising out of separate incidents, a court has found the  
13 person to have committed a violation of s. 346.63 or a local ordinance in conformity  
14 with that section; a violation of a law of a federally recognized American Indian tribe  
15 or band in this state in conformity with s. 346.63; or a violation of the law of another  
16 jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while  
17 intoxicated, while under the influence of a controlled substance, a controlled  
18 substance analog, or a combination thereof, with an excess or specified range of  
19 alcohol concentration, or while under the influence of any drug to a degree that  
20 renders the person incapable of safely driving, as those or substantially similar  
21 terms are used in that jurisdiction's laws.
- 22           5. The person has income which comes principally from gambling or has been  
23 convicted of 2 or more gambling offenses.
- 24           6. The person has been guilty of crimes relating to prostitution.

**BILL****SECTION 51**

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

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

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

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

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

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1 violation, and is documented in crime statistics, police reports, emergency medical  
2 response data, calls for service, field data, or similar law enforcement agency records.

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

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

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

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

14 (2) Each person who applies for a permit under this section shall submit with  
15 the application a \$250 fee. Each person who is granted a permit under this section  
16 shall annually pay to the department a \$1,000 fee for as long as the person holds a  
17 valid permit under this section. A permit issued under this section is valid for one  
18 year and may be renewed, except that the department may revoke or suspend a  
19 permit prior to its expiration. A person is not entitled to a refund of the fees paid  
20 under this subsection if the person's permit is denied, revoked, or suspended. The  
21 department shall deposit the fees collected under this subsection into the marijuana  
22 fund.

23 (3) The department may not issue a permit under this section to operate any  
24 premises which are within 1,000 feet of the perimeter of the grounds of any

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1 elementary or secondary school, playground, recreation facility, child care facility,  
2 public park, public transit facility, or library.

3 (4) Under this section, a separate permit is required for and issued to each class  
4 of permittee and the permit holder shall perform only the operations authorized by  
5 the permit. A permit issued under this section is not transferrable from one person  
6 to another or from one premises to another. A separate permit is required for each  
7 place in this state where the operations of a marijuana producer, marijuana  
8 processor, or marijuana retailer occur, including each retail outlet. No person who  
9 has been issued a permit to operate as a marijuana retailer, or who has any direct  
10 or indirect financial interest in the operation of a marijuana retailer, shall be issued  
11 a permit to operate as a marijuana producer or marijuana processor.

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

14 **SECTION 52.** 139.973 of the statutes is created to read:

15 **139.973 Regulation.** (1) No permittee may employ a person who is under the  
16 age of 21 to work in the business to which the permit relates.

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

19 (3) No marijuana retailer may allow a person who is under the age of 21 to enter  
20 or be on the premises of a retail outlet in violation of s. 961.71 (2m).

21 (4) The maximum amount of usable marijuana that a retail outlet may sell to  
22 an individual consumer in a single transaction may not exceed the permissible  
23 amount under s. 961.70 (5).

24 (5) No marijuana retailer may display any signage in a window, on a door, or  
25 on the outside of the premises of a retail outlet that is visible to the general public

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1 from a public right-of-way, other than a single sign that is no larger than 1,600  
2 square inches identifying the retail outlet by the permittee's business or trade name.

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

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

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

11 (9) (a) On a schedule determined by the department, every marijuana producer  
12 and marijuana processor shall submit representative samples of the marijuana and  
13 usable marijuana produced or processed by the marijuana producer or marijuana  
14 processor to a testing laboratory registered under s. 50.66 for testing marijuana and  
15 usable marijuana in order to certify that the marijuana and usable marijuana  
16 comply with standards prescribed by the department by rule, including testing for  
17 potency and for mold, fungus, pesticides, and other contaminants. The laboratory  
18 testing the sample shall destroy any part of the sample that remains after the  
19 testing.

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

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

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

4 (10) A marijuana processor shall affix a label to all usable marijuana that the  
5 marijuana processor sells to marijuana retailers. The label shall specify the  
6 ingredients and the concentration of tetrahydrocannabinols in the usable  
7 marijuana.

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

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

14 (12) Immediately after beginning employment with a marijuana retailer, every  
15 employee of a marijuana retailer shall receive training, approved by the department,  
16 on the safe handling of usable marijuana offered for sale and on security and  
17 inventory accountability procedures related to such sales.

18 **SECTION 53.** 139.974 of the statutes is created to read:

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



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

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

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

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1           **SECTION 54.** 139.975 of the statutes is created to read:

2           **139.975 Administration and enforcement.** (1) The department shall  
3 administer and enforce this subchapter and promulgate rules necessary to  
4 administer and enforce this subchapter.

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

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

14           (4) The department may suspend or revoke the permit of any permittee who  
15 violates s. 100.30, any provision of this subchapter, or any rules promulgated under  
16 sub. (1). The department shall revoke the permit of any permittee who violates s.  
17 100.30 3 or more times within a 5-year period.

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

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

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

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

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

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

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

24           **SECTION 55.** 139.976 of the statutes is created to read:

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

8           **SECTION 56.** 139.977 of the statutes is created to read:

9           **139.977 Seizure and confiscation.** (1) All marijuana and usable marijuana  
10           produced, processed, made, kept, stored, sold, distributed, or transported in violation  
11           of this subchapter, and all tangible personal property used in connection with the  
12           marijuana or usable marijuana is unlawful property and subject to seizure by the  
13           department or a law enforcement officer. Except as provided in sub. (2), all  
14           marijuana and usable marijuana seized under this subsection shall be destroyed.

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

24           (3) If marijuana or usable marijuana on which the tax has been paid is seized  
25           as provided under sub. (1), it shall be returned to the true owner if ownership can be

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1       ascertained and the owner or the owner’s agent is not involved in the violation  
2       resulting in the seizure. If the ownership cannot be ascertained or if the owner or  
3       the owner’s agent was guilty of the violation that resulted in the seizure of the  
4       marijuana or usable marijuana, it may be sold or otherwise disposed of as provided  
5       in sub. (2).

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

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1           **SECTION 57.** 139.978 of the statutes is created to read:

2           **139.978 Interest and penalties.** (1) Any person who makes or signs any  
3 false or fraudulent report under this subchapter or who attempts to evade the tax  
4 imposed by s. 139.971, or who aids in or abets the evasion or attempted evasion of  
5 that tax, may be fined not more than \$10,000 or imprisoned for not more than 9  
6 months or both.

7           (2) Any permittee who fails to keep the records required by s. 139.974 (1) and  
8 (2) shall be fined not less than \$100 nor more than \$500 or imprisoned not more than  
9 6 months or both.

10           (3) Any person who refuses to permit the examination or inspection authorized  
11 under s. 139.975 (3) may be fined not more than \$500 or imprisoned not more than  
12 6 months or both. The department shall immediately suspend or revoke the permit  
13 of any person who refuses to permit the examination or inspection authorized under  
14 s. 139.975 (3).

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

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

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

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

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

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

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

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

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

18          **SECTION 58.** 139.979 of the statutes is created to read:

19          **139.979 Personal-use permits.** (1) No individual may grow marijuana in  
20          this state for his or her personal use without first filing an application for and  
21          obtaining a permit from the department. An individual who holds a valid permit  
22          under this section and possesses no more than 12 marijuana plants at any one time  
23          is not subject to the tax imposed under s. 139.971. An individual who possesses more  
24          than 12 marijuana plants at any one time shall apply for the appropriate permit  
25          under s. 139.972 and pay the appropriate tax imposed under s. 139.971.

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1           (2) Each individual who applies for a permit under this section shall submit  
2 with the application a \$250 fee. A permit issued under this section is valid for one  
3 year and may be renewed, except that the department may revoke or suspend a  
4 permit prior to its expiration for any violation of this subchapter.

5           **SECTION 59.** 139.980 of the statutes is created to read:

6           **139.980 Survey.** At least once every 2 years, the department of health services  
7 shall conduct a survey of all residents of this state to determine the effects of this  
8 subchapter on marijuana use in this state. The survey shall include questions  
9 regarding the procurement and use of marijuana in this state and attitudes towards  
10 substance use laws. The department of health services shall conduct the first survey  
11 under this section no later than 6 months after the effective date of this section ....  
12 [LRB inserts date]. The department of health services shall submit the results of any  
13 survey conducted under this section to the legislature, as provided under s. 13.172  
14 (2), and to the department of revenue.

15           **SECTION 60.** 146.40 (1) (bo) of the statutes is amended to read:

16           146.40 (1) (bo) “Hospice” means a hospice that is licensed under subch. IV VI  
17 of ch. 50.

18           **SECTION 61.** 146.44 of the statutes is created to read:

19           **146.44 Medical Marijuana Registry Program. (1) DEFINITIONS.** In this  
20 section:

21           (a) “Applicant” means a person who is applying for a registry identification card  
22 under sub. (2) (a).

23           (b) “Debilitating medical condition or treatment” has the meaning given in s.  
24 50.60 (2).



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1 (c) “Medical use of tetrahydrocannabinols” has the meaning given in s. 50.60  
2 (4).

3 (d) “Out-of-state registry identification card” means a document issued by an  
4 entity listed in the rule promulgated under sub. (7) (f) that identifies the person as  
5 a qualifying patient or primary caregiver, or an equivalent designation.

6 (e) “Primary caregiver” has the meaning given in s. 50.60 (5).

7 (f) “Qualifying patient” has the meaning given in s. 50.60 (6).

8 (g) “Registrant” means a person to whom a registry identification card is issued  
9 under sub. (4).

10 (h) “Registry identification card” means a document issued by the department  
11 under this section that identifies a person as a qualifying patient or primary  
12 caregiver.

13 (i) “Written certification” has the meaning given in s. 50.60 (10).

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

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

18 2. A written certification.

19 3. The name, address, and telephone number of the person’s current physician,  
20 as listed in the written certification.

21 4. A registration fee in an amount determined by the department, but not to  
22 exceed \$150.

23 (b) An adult registrant who is a qualifying patient or an applicant may jointly  
24 apply with another adult to the department for a registry identification card for the  
25 other adult, designating the other adult as a primary caregiver for the registrant or

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1 applicant. Both persons who jointly apply for a registry identification card under this  
2 paragraph shall sign the application form, which shall contain the name, address,  
3 and date of birth of the individual applying to be registered as a primary caregiver.

4 (c) The department shall promulgate rules specifying how a parent, guardian,  
5 or person having legal custody of a child may apply for a registry identification card  
6 for himself or herself and for the child and the circumstances under which the  
7 department may approve or deny the application.

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

14 (4) ISSUING A REGISTRY IDENTIFICATION CARD. The department shall issue to the  
15 applicant a registry identification card within 5 days after approving an application  
16 under sub. (3). Unless voided under sub. (5) (b) or (c) or revoked under rules issued  
17 by the department under sub. (7) (d), a registry identification card shall expire 2  
18 years from the date of issuance. A registry identification card shall contain all of the  
19 following:

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

21 1. The registrant.

22 2. Each primary caregiver, if the registrant is a qualifying patient.

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

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

25 (c) A photograph of the registrant.

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

2 (5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT. (a) 1. An adult  
3 registrant shall notify the department of any change in the registrant's name and  
4 address. An adult registrant who is a qualifying patient shall notify the department  
5 of any change in his or her physician, of any significant improvement in his or her  
6 health as it relates to his or her debilitating medical condition or treatment, and if  
7 a registered primary caregiver no longer assists the registrant with the medical use  
8 of tetrahydrocannabinols.

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

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

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

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

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

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

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

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

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

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

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

14 (e) Specifying under what circumstances an applicant whose application is  
15 denied may reapply.

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

20 (g) Creating guidelines for issuing registry identification cards, and for  
21 obtaining and distributing marijuana for the medical use of tetrahydrocannabinols,  
22 to persons under the care of the department who have a debilitating medical  
23 condition or treatment.

24 **SECTION 62.** 146.81 (1) (L) of the statutes is amended to read:

25 146.81 (1) (L) A hospice licensed under subch. ~~IV~~ VI of ch. 50.

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1           **SECTION 63.** 146.997 (1) (d) 18. of the statutes is amended to read:

2           146.997 (1) (d) 18. A hospice licensed under subch. IV VI of ch. 50.

3           **SECTION 64.** 149.14 (3) (nm) of the statutes is amended to read:

4           149.14 (3) (nm) Hospice care provided by a hospice licensed under subch. IV  
5           VI of ch. 50.

6           **SECTION 65.** 289.33 (3) (d) of the statutes is amended to read:

7           289.33 (3) (d) “Local approval” includes any requirement for a permit, license,  
8           authorization, approval, variance or exception or any restriction, condition of  
9           approval or other restriction, regulation, requirement or prohibition imposed by a  
10          charter ordinance, general ordinance, zoning ordinance, resolution or regulation by  
11          a town, city, village, county or special purpose district, including without limitation  
12          because of enumeration any ordinance, resolution or regulation adopted under s.  
13          91.73, 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),  
19          59.57 (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), (7), (8),  
21          and (10), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34,  
22          61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415,  
23          87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III  
24          of ch. 91.

25          **SECTION 66.** 340.01 (50m) (a) of the statutes is amended to read:

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1           340.01 (**50m**) (a) A controlled substance included in schedule I under ch. 961  
2 other than a tetrahydrocannabinol.

3           **SECTION 67.** 340.01 (50m) (e) of the statutes is repealed.

4           **SECTION 68.** 340.01 (66m) of the statutes is created to read:

5           340.01 (**66m**) “Tetrahydrocannabinols concentration” has the meaning given  
6 in s. 23.33 (1) (k).

7           **SECTION 69.** 343.10 (5) (a) 1. of the statutes is amended to read:

8           343.10 (**5**) (a) 1. In addition to any restrictions appearing on the former  
9 operator’s license of the applicant, the occupational license shall contain definite  
10 restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60,  
11 type of occupation and areas or routes of travel which are permitted under the  
12 license. The occupational license may permit travel to and from church during  
13 specified hours if the travel does not exceed the restrictions as to hours of the day and  
14 hours per week in this subdivision. The occupational license may permit travel  
15 necessary to comply with a driver safety plan ordered under s. 343.30 (1q) or 343.305  
16 if the travel does not exceed the restrictions as to hours of the day and hours per week  
17 in this subdivision. The occupational license may contain restrictions on the use of  
18 alcohol, of tetracannabinols, and of controlled substances and controlled substance  
19 analogs in violation of s. 961.41.

20           **SECTION 70.** 343.10 (5) (a) 2. of the statutes is amended to read:

21           343.10 (**5**) (a) 2. If the applicant has 2 or more convictions, suspensions or  
22 revocations, as counted under s. 343.307 (1), the occupational license shall prohibit  
23 the applicant from driving or operating a motor vehicle while he or she has an alcohol  
24 concentration of more than 0.0 or a tetrahydrocannabinols concentration of more  
25 than 0.0.

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1           **SECTION 71.** 343.12 (7) (a) 11. of the statutes is amended to read:

2           343.12 (7) (a) 11. Operating a motor vehicle while under the legal drinking age  
3 with a prohibited alcohol concentration under s. 346.63 (2m) or while under the legal  
4 age with a prohibited tetrahydrocannabinols concentration under s. 346.63 (2p).

5           **SECTION 72.** 343.16 (2) (b) of the statutes is amended to read:

6           343.16 (2) (b) *Specific requirements.* The standards developed by the  
7 department under par. (c) shall provide that the examination for persons making  
8 their first application for an operator’s license shall include a test of the applicant’s  
9 eyesight, ability to read and understand highway signs regulating, warning and  
10 directing traffic, knowledge of the traffic laws, including ss. 346.072 and 346.26,  
11 understanding of fuel-efficient driving habits and the relative costs and availability  
12 of other modes of transportation, knowledge of the need for anatomical gifts and the  
13 ability to make an anatomical gift through the use of a donor card issued under s.  
14 343.175 (2), and an actual demonstration of ability to exercise ordinary and  
15 reasonable control in the operation of a motor vehicle. The test of knowledge of the  
16 traffic laws shall include questions on the provisions of ss. 343.30 (1q), 343.303 to  
17 343.31 and 346.63 to 346.655, relating to the operation of a motor vehicle and the  
18 consumption of alcohol beverages and tetrahydrocannabinols. The test of knowledge  
19 may also include questions on the social, medical and economic effects of alcohol and  
20 other drug abuse. The examination of applicants for authorization to operate ‘Class  
21 M’ vehicles shall test an applicant’s knowledge of Type 1 motorcycle safety, including  
22 proper eye protection to be worn during hours of darkness. The department may  
23 require persons changing their residence to this state from another jurisdiction and  
24 persons applying for a reinstated license after termination of a revocation period to  
25 take all or parts of the examination required of persons making their first application

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1 for an operator's license. Any applicant who is required to give an actual  
2 demonstration of ability to exercise ordinary and reasonable control in the operation  
3 of a motor vehicle shall furnish a representative vehicle in safe operating condition  
4 for use in testing ability.

5 **SECTION 73.** 343.16 (5) (a) of the statutes is amended to read:

6 343.16 (5) (a) The secretary may require any applicant for a license or any  
7 licensed operator to submit to a special examination by such persons or agencies as  
8 the secretary may direct to determine incompetency, physical or mental disability,  
9 disease, or any other condition that might prevent such applicant or licensed person  
10 from exercising reasonable and ordinary control over a motor vehicle. If the  
11 department requires the applicant to submit to an examination, the applicant shall  
12 pay for the examination. If the department receives an application for a renewal or  
13 duplicate license after voluntary surrender under s. 343.265 or receives a report from  
14 a physician, physician assistant, as defined in s. 448.01 (6), advanced practice nurse  
15 prescriber certified under s. 441.16 (2), or optometrist under s. 146.82 (3), or if the  
16 department has a report of 2 or more arrests within a one-year period for any  
17 combination of violations of s. 346.63 (1) or (5) or a local ordinance in conformity with  
18 s. 346.63 (1) or (5) or a law of a federally recognized American Indian tribe or band  
19 in this state in conformity with s. 346.63 (1) or (5), or s. 346.63 (1m), 1985 stats., or  
20 s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a  
21 vehicle, the department shall determine, by interview or otherwise, whether the  
22 operator should submit to an examination under this section. The examination may  
23 consist of an assessment. If the examination indicates that education or treatment  
24 for a disability, disease, or condition concerning the use of alcohol, a controlled  
25 substance or a controlled substance analog, or tetrahydrocannabinols is appropriate,



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1 the department may order a driver safety plan in accordance with s. 343.30 (1q). If  
2 there is noncompliance with assessment or the driver safety plan, the department  
3 shall revoke the person's operating privilege in the manner specified in s. 343.30 (1q)  
4 (d).

5 **SECTION 74.** 343.30 (1p) of the statutes is amended to read:

6 343.30 (1p) Notwithstanding sub. (1), a court shall suspend the operating  
7 privilege of a person for 3 months upon the person's conviction by the court for  
8 violation of s. 346.63 (2m) or (2p) or a local ordinance in conformity with s. 346.63  
9 (2m) or (2p). If there was a minor passenger under 16 years of age in the motor  
10 vehicle at the time of the violation that gave rise to the conviction under s. 346.63  
11 (2m) or (2p) or a local ordinance in conformity with s. 346.63 (2m) or (2p), the court  
12 shall suspend the operating privilege of the person for 6 months.

13 **SECTION 75.** 343.30 (1q) (h) of the statutes is amended to read:

14 343.30 (1q) (h) The court or department shall provide that the period of  
15 suspension or revocation imposed under this subsection shall be reduced by any  
16 period of suspension or revocation previously served under s. 343.305 if the  
17 suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63  
18 (1) ~~or~~, (2m), or (2p) or a local ordinance in conformity therewith arise out of the same  
19 incident or occurrence. The court or department shall order that the period of  
20 suspension or revocation imposed under this subsection run concurrently with any  
21 period of time remaining on a suspension or revocation imposed under s. 343.305  
22 arising out of the same incident or occurrence. The court may modify an occupational  
23 license authorized under s. 343.305 (8) (d) in accordance with this subsection.

24 **SECTION 76.** 343.305 (2) of the statutes is amended to read:

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1           343.305 (2) IMPLIED CONSENT. Any person who is on duty time with respect to  
2 a commercial motor vehicle or drives or operates a motor vehicle upon the public  
3 highways of this state, or in those areas enumerated in s. 346.61, is deemed to have  
4 given consent to one or more tests of his or her breath, blood or urine, for the purpose  
5 of determining the presence or quantity in his or her blood or breath, of alcohol,  
6 tetrahydrocannabinols, controlled substances, controlled substance analogs or other  
7 drugs, or any combination of alcohol, tetrahydrocannabinols, controlled substances,  
8 controlled substance analogs and other drugs, when requested to do so by a law  
9 enforcement officer under sub. (3) (a) or (am) or when required to do so under sub.  
10 (3) (ar) or (b). Any such tests shall be administered upon the request of a law  
11 enforcement officer. The law enforcement agency by which the officer is employed  
12 shall be prepared to administer, either at its agency or any other agency or facility,  
13 2 of the 3 tests under sub. (3) (a), (am), or (ar), and may designate which of the tests  
14 shall be administered first.

15           **SECTION 77.** 343.305 (3) (a) of the statutes is amended to read:

16           343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1), (2m), ~~(2p)~~,  
17 or (5) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2)  
18 or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or upon  
19 arrest subsequent to a refusal under par. (ar), a law enforcement officer may request  
20 the person to provide one or more samples of his or her breath, blood or urine for the  
21 purpose specified under sub. (2). Compliance with a request for one type of sample  
22 does not bar a subsequent request for a different type of sample.

23           **SECTION 78.** 343.305 (3) (am) of the statutes is amended to read:

24           343.305 (3) (am) Prior to arrest, a law enforcement officer may request the  
25 person to provide one or more samples of his or her breath, blood or urine for the

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1 purpose specified under sub. (2) whenever a law enforcement officer detects any  
2 presence of alcohol, tetrahydrocannabinols, a controlled substance, a controlled  
3 substance analog or other drug, or a combination thereof, on a person driving or  
4 operating or on duty time with respect to a commercial motor vehicle or has reason  
5 to believe the person is violating or has violated s. 346.63 (7). Compliance with a  
6 request for one type of sample does not bar a subsequent request for a different type  
7 of sample. For the purposes of this paragraph, “law enforcement officer” includes  
8 inspectors in the performance of duties under s. 110.07 (3).

9 **SECTION 79.** 343.305 (3) (ar) 1. of the statutes is amended to read:

10 343.305 (3) (ar) 1. If a person is the operator of a vehicle that is involved in an  
11 accident that causes substantial bodily harm, as defined in s. 939.22 (38), to any  
12 person, and a law enforcement officer detects any presence of alcohol,  
13 tetrahydrocannabinols, a controlled substance, a controlled substance analog or  
14 other drug, or a combination thereof, the law enforcement officer may request the  
15 operator to provide one or more samples of his or her breath, blood, or urine for the  
16 purpose specified under sub. (2). Compliance with a request for one type of sample  
17 does not bar a subsequent request for a different type of sample. A person who is  
18 unconscious or otherwise not capable of withdrawing consent is presumed not to  
19 have withdrawn consent under this subdivision and one or more samples specified  
20 in par. (a) or (am) may be administered to the person. If a person refuses to take a  
21 test under this subdivision, he or she may be arrested under par. (a).

22 **SECTION 80.** 343.305 (3) (b) of the statutes is amended to read:

23 343.305 (3) (b) A person who is unconscious or otherwise not capable of  
24 withdrawing consent is presumed not to have withdrawn consent under this  
25 subsection, and if a law enforcement officer has probable cause to believe that the

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1 person has violated s. 346.63 (1), (2m), (2p), or (5) or a local ordinance in conformity  
2 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the  
3 use of a vehicle, or detects any presence of alcohol, tetrahydrocannabinols, controlled  
4 substance, controlled substance analog or other drug, or a combination thereof, on  
5 a person driving or operating or on duty time with respect to a commercial motor  
6 vehicle or has reason to believe the person has violated s. 346.63 (7), one or more  
7 samples specified in par. (a) or (am) may be administered to the person.

8 **SECTION 81.** 343.305 (5) (b) of the statutes is amended to read:

9 343.305 (5) (b) Blood may be withdrawn from the person arrested for violation  
10 of s. 346.63 (1), (2), (2m), (2p), (5), or (6) or 940.25, or s. 940.09 where the offense  
11 involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1),  
12 (2m), (2p), or (5), or as provided in sub. (3) (am) or (b) to determine the presence or  
13 quantity of alcohol, tetrahydrocannabinols, a controlled substance, a controlled  
14 substance analog, or any other drug, or any combination of alcohol, controlled  
15 substance, controlled substance analog, and any other drug in the blood only by a  
16 physician, registered nurse, medical technologist, physician assistant, phlebotomist,  
17 or other medical professional who is authorized to draw blood, or person acting under  
18 the direction of a physician.

19 **SECTION 82.** 343.305 (5) (d) of the statutes is amended to read:

20 343.305 (5) (d) At the trial of any civil or criminal action or proceeding arising  
21 out of the acts committed by a person alleged to have been driving or operating a  
22 motor vehicle while under the influence of an intoxicant, a controlled substance, a  
23 controlled substance analog or any other drug, or under the influence of any  
24 combination of alcohol, tetrahydrocannabinols, a controlled substance, a controlled  
25 substance analog and any other drug, to a degree which renders him or her incapable

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1 of safely driving, or under the combined influence of an intoxicant and any other drug  
2 to a degree which renders him or her incapable of safely driving, or having a  
3 prohibited alcohol or tetrahydrocannabinols concentration, or alleged to have been  
4 driving or operating or on duty time with respect to a commercial motor vehicle while  
5 having an alcohol concentration above 0.0 or possessing an intoxicating beverage,  
6 regardless of its alcohol content, or within 4 hours of having consumed or having been  
7 under the influence of an intoxicating beverage, regardless of its alcohol content, or  
8 of having an alcohol concentration of 0.04 or more, the results of a test administered  
9 in accordance with this section are admissible on the issue of whether the person was  
10 under the influence of an intoxicant, a controlled substance, a controlled substance  
11 analog or any other drug, or under the influence of any combination of alcohol,  
12 tetrahydrocannabinols, a controlled substance, a controlled substance analog and  
13 any other drug, to a degree which renders him or her incapable of safely driving or  
14 under the combined influence of an intoxicant and any other drug to a degree which  
15 renders him or her incapable of safely driving or any issue relating to the person's  
16 alcohol concentration. Test results shall be given the effect required under s.  
17 885.235.

18 **SECTION 83.** 343.305 (5) (dm) of the statutes is created to read:

19 343.305 (5) (dm) At the trial of any civil or criminal action or proceeding arising  
20 out of the acts committed by a person alleged to have been driving or operating a  
21 motor vehicle while having a tetrahydrocannabinols concentration at or above  
22 specified levels, the results of a blood test administered in accordance with this  
23 section are admissible on any issue relating to the tetrahydrocannabinols  
24 concentration. Test results shall be given the effect required under s. 885.235.

25 **SECTION 84.** 343.305 (7) (a) of the statutes is amended to read:

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1           343.305 (7) (a) If a person submits to chemical testing administered in  
2 accordance with this section and any test results indicate the presence of a detectable  
3 amount of a restricted controlled substance in the person’s blood or a prohibited  
4 alcohol or tetrahydrocannabinols concentration, the law enforcement officer shall  
5 report the results to the department. The person’s operating privilege is  
6 administratively suspended for 6 months.

7           **SECTION 85.** 343.305 (8) (b) 2. bm. of the statutes is amended to read:

8           343.305 (8) (b) 2. bm. Whether the person had a prohibited alcohol or  
9 tetrahydrocannabinols concentration or a detectable amount of a restricted  
10 controlled substance in his or her blood at the time the offense allegedly occurred.

11           **SECTION 86.** 343.305 (8) (b) 2. d. of the statutes is amended to read:

12           343.305 (8) (b) 2. d. If one or more tests were administered in accordance with  
13 this section, whether each of the test results for those tests indicate the person had  
14 a prohibited alcohol or tetrahydrocannabinols concentration or a detectable amount  
15 of a restricted controlled substance in his or her blood.

16           **SECTION 87.** 343.305 (8) (b) 4m. a. of the statutes is amended to read:

17           343.305 (8) (b) 4m. a. A blood test administered in accordance with this section  
18 indicated that the person had a detectable amount of methamphetamine, or  
19 gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol or a prohibited  
20 tetrahydrocannabinols concentration but did not have a detectable amount of any  
21 other restricted controlled substance in his or her blood.

22           **SECTION 88.** 343.305 (8) (b) 5. b. of the statutes is amended to read:

23           343.305 (8) (b) 5. b. The person did not have a prohibited alcohol or  
24 tetrahydrocannabinols concentration or a detectable amount of a restricted  
25 controlled substance in his or her blood at the time the offense allegedly occurred.

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1           **SECTION 89.** 343.305 (8) (b) 6. b. of the statutes is amended to read:

2           343.305 (8) (b) 6. b. The person had a prohibited alcohol or  
3           tetrahydrocannabinols concentration or a detectable amount of a restricted  
4           controlled substance in his or her blood at the time the offense allegedly occurred.

5           **SECTION 90.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

6           343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the  
7           person was driving or operating a motor vehicle while under the influence of alcohol,  
8           tetrahydrocannabinols, a controlled substance or a controlled substance analog or  
9           any combination of alcohol, tetrahydrocannabinols, a controlled substance and a  
10          controlled substance analog, under the influence of any other drug to a degree which  
11          renders the person incapable of safely driving, or under the combined influence of  
12          alcohol and any other drug to a degree which renders the person incapable of safely  
13          driving, having a restricted controlled substance in his or her blood, or having a  
14          prohibited alcohol or tetrahydrocannabinols concentration or, if the person was  
15          driving or operating a commercial motor vehicle, an alcohol concentration of 0.04 or  
16          more and whether the person was lawfully placed under arrest for violation of s.  
17          346.63 (1), (2m) or (5) or a local ordinance in conformity therewith or s. 346.63 (2) or  
18          (6), 940.09 (1) or 940.25.

19          **SECTION 91.** 343.305 (9) (am) 5. a. of the statutes is amended to read:

20          343.305 (9) (am) 5. a. Whether the officer detected any presence of alcohol,  
21          tetrahydrocannabinols, controlled substance, controlled substance analog or other  
22          drug, or a combination thereof, on the person or had reason to believe that the person  
23          was violating or had violated s. 346.63 (7).

24          **SECTION 92.** 343.305 (9) (am) 5. c. of the statutes is amended to read:

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1           343.305 (9) (am) 5. c. Whether the person refused to permit the test. The person  
2 shall not be considered to have refused the test if it is shown by a preponderance of  
3 evidence that the refusal was due to a physical inability to submit to the test due to  
4 a physical disability or disease unrelated to the use of alcohol,  
5 tetrahydrocannabinols, controlled substances, controlled substance analogs or other  
6 drugs.

7           **SECTION 93.** 343.305 (9) (d) of the statutes is amended to read:

8           343.305 (9) (d) At the close of the hearing, or within 5 days thereafter, the court  
9 shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined  
10 adversely to the person, the court shall proceed under sub. (10). If one or more of the  
11 issues is determined favorably to the person, the court shall order that no action be  
12 taken on the operating privilege on account of the person's refusal to take the test in  
13 question. This section does not preclude the prosecution of the person for violation  
14 of s. 346.63 (1), (2m), (2p), (5) or (7) or a local ordinance in conformity therewith, or  
15 s. 346.63 (2) or (6), 940.09 (1) or 940.25.

16           **SECTION 94.** 343.305 (10) (em) of the statutes is amended to read:

17           343.305 (10) (em) One penalty for improperly refusing to submit to a test for  
18 intoxication regarding a person arrested for a violation of s. 346.63 (2m), (2p), or (7)  
19 or a local ordinance in conformity therewith is revocation of the person's operating  
20 privilege for 6 months. If there was a minor passenger under 16 years of age in the  
21 motor vehicle at the time of the incident that gave rise to the improper refusal, the  
22 revocation period is 12 months. After the first 15 days of the revocation period, the  
23 person is eligible for an occupational license under s. 343.10. Any such improper  
24 refusal or revocation for the refusal does not count as a prior refusal or a prior  
25 revocation under this section or ss. 343.30 (1q), 343.307 and 346.65 (2). The person



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1 shall not be required to submit to and comply with any assessment or driver safety  
2 plan under pars. (c) and (d).

3 **SECTION 95.** 343.307 (1) (d) of the statutes is amended to read:

4 343.307 (1) (d) Convictions under the law of another jurisdiction that prohibits  
5 a person from refusing chemical testing or using a motor vehicle while intoxicated  
6 or under the influence of a controlled substance or controlled substance analog, or  
7 a combination thereof; with an excess or specified range of alcohol or  
8 tetrahydrocannabinols concentration; while under the influence of any drug to a  
9 degree that renders the person incapable of safely driving; or while having a  
10 detectable amount of a restricted controlled substance in his or her blood, as those  
11 or substantially similar terms are used in that jurisdiction's laws.

12 **SECTION 96.** 343.307 (2) (e) of the statutes is amended to read:

13 343.307 (2) (e) Convictions under the law of another jurisdiction that prohibits  
14 a person from refusing chemical testing or using a motor vehicle while intoxicated  
15 or under the influence of a controlled substance or controlled substance analog, or  
16 a combination thereof; with an excess or specified range of alcohol or  
17 tetrahydrocannabinols concentration; while under the influence of any drug to a  
18 degree that renders the person incapable of safely driving; or while having a  
19 detectable amount of a restricted controlled substance in his or her blood, as those  
20 or substantially similar terms are used in that jurisdiction's laws.

21 **SECTION 97.** 343.31 (1) (am) of the statutes is amended to read:

22 343.31 (1) (am) Injury by the operation of a vehicle while under the influence  
23 of an intoxicant, tetrahydrocannabinols, a controlled substance or a controlled  
24 substance analog, or any combination of an intoxicant, tetrahydrocannabinols, a  
25 controlled substance and a controlled substance analog, under the influence of any

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1 other drug to a degree which renders him or her incapable of safely driving, or under  
2 the combined influence of an intoxicant and any other drug to a degree which renders  
3 him or her incapable of safely driving or while the person has a detectable amount  
4 of a restricted controlled substance in his or her blood or has a prohibited alcohol or  
5 tetrahydrocannabinols concentration and which is criminal under s. 346.63 (2).

6 **SECTION 98.** 343.31 (2) of the statutes is amended to read:

7 343.31 (2) The department shall revoke the operating privilege of any resident  
8 upon receiving notice of the conviction of such person in another jurisdiction for an  
9 offense therein which, if committed in this state, would have been cause for  
10 revocation under this section or for revocation under s. 343.30 (1q). Such offenses  
11 shall include violation of any law of another jurisdiction that prohibits a person from  
12 using a motor vehicle while intoxicated or under the influence of a controlled  
13 substance or controlled substance analog, or a combination thereof; with an excess  
14 or specified range of alcohol or tetrahydrocannabinols concentration; while under  
15 the influence of any drug to a degree that renders the person incapable of safely  
16 driving; or while having a detectable amount of a restricted controlled substance in  
17 his or her blood, as those or substantially similar terms are used in that jurisdiction's  
18 laws. Upon receiving similar notice with respect to a nonresident, the department  
19 shall revoke the privilege of the nonresident to operate a motor vehicle in this state.  
20 Such revocation shall not apply to the operation of a commercial motor vehicle by a  
21 nonresident who holds a valid commercial driver license issued by another state.

22 **SECTION 99.** 343.315 (2) (a) 2. of the statutes is amended to read:

23 343.315 (2) (a) 2. Section 346.63 (1) (b) or (5) (a) or a local ordinance in  
24 conformity therewith or a law of a federally recognized American Indian tribe or  
25 band in this state in conformity with s. 346.63 (1) (b) or (5) (a) or the law of another

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1 jurisdiction prohibiting driving or operating a commercial motor vehicle while the  
2 person's alcohol concentration is 0.04 or more or with an excess or specified range of  
3 alcohol or tetrahydrocannabinols concentration, as those or substantially similar  
4 terms are used in that jurisdiction's laws.

5 **SECTION 100.** 343.315 (2) (a) 5. of the statutes is amended to read:

6 343.315 (2) (a) 5. Section 343.305 (7) or (9) or a local ordinance in conformity  
7 therewith or a law of a federally recognized American Indian tribe or band in this  
8 state in conformity with s. 343.305 (7) or (9) or the law of another jurisdiction  
9 prohibiting refusal of a person driving or operating a motor vehicle to submit to  
10 chemical testing to determine the person's alcohol or tetrahydrocannabinols  
11 concentration or intoxication or the amount of a restricted controlled substance in  
12 the person's blood, or prohibiting positive results from such chemical testing, as  
13 those or substantially similar terms are used in that jurisdiction's laws.

14 **SECTION 101.** 343.315 (2) (a) 6. of the statutes is amended to read:

15 343.315 (2) (a) 6. Section 346.63 (2) or (6), 940.09 (1) or 940.25 or a law of a  
16 federally recognized American Indian tribe or band in this state in conformity with  
17 s. 346.63 (2) or (6), 940.09 (1) or 940.25, or the law of another jurisdiction prohibiting  
18 causing or inflicting injury, great bodily harm or death through use of a motor vehicle  
19 while intoxicated or under the influence of alcohol, tetrahydrocannabinols, a  
20 controlled substance, a controlled substance analog or a combination thereof, or with  
21 an alcohol concentration of 0.04 or more or with an excess or specified range of alcohol  
22 or tetrahydrocannabinols concentration, while under the influence of any drug to a  
23 degree that renders the person incapable of safely driving, or while having a  
24 detectable amount of a restricted controlled substance in the person's blood, as those  
25 or substantially similar terms are used in that jurisdiction's laws.

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1           **SECTION 102.** 343.315 (2) (bm) 2. of the statutes is amended to read:

2           343.315 (2) (bm) 2. The offense relates to a vehicle operator’s alcohol or  
3           tetrahydrocannabinols concentration or intoxication or the amount of a restricted  
4           controlled substance in the operator’s blood.

5           **SECTION 103.** 343.32 (2) (bj) of the statutes is amended to read:

6           343.32 (2) (bj) The scale adopted by the secretary shall assess, for each  
7           conviction, 6 demerit points for a violation of s. 346.63 (6), 4 demerit points for a  
8           violation of s. 346.63 (2m) or (2p), and 3 demerit points for a violation of s. 346.63 (7)  
9           (a) 3. The scale adopted by the secretary shall not assess any demerit points for  
10          conviction of a violation of s. 346.63 (5) or (7) (a) 1. or 2.

11          **SECTION 104.** 344.576 (2) (b) of the statutes is amended to read:

12          344.576 (2) (b) The damage occurs while the renter or authorized driver  
13          operates the private passenger vehicle in this state while under the influence of an  
14          intoxicant or other drug, as described under s. 346.63 (1) (a), (am), or (b) ~~or~~, (2m), or  
15          (2p).

16          **SECTION 105.** 346.63 (1) (b) of the statutes is amended to read:

17          346.63 (1) (b) The person has a prohibited alcohol or tetrahydrocannabinols  
18          concentration.

19          **SECTION 106.** 346.63 (1) (d) of the statutes is renumbered 346.63 (1) (d) 1. and  
20          amended to read:

21          346.63 (1) (d) 1. In an action under par. (am) that is based on the defendant  
22          allegedly having a detectable amount of methamphetamine, or  
23          gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
24          the defendant has a defense if he or she proves by a preponderance of the evidence  
25          that at the time of the incident or occurrence he or she had a valid prescription for

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1 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
2 acid, ~~or~~.

3 2. In an action under par. (b) that is based on the defendant allegedly having  
4 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
5 or she proves by a preponderance of the evidence that at the time of the incident or  
6 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
7 he or she was a qualifying patient, as defined in s. 50.60 (6).

8 **SECTION 107.** 346.63 (2) (a) 2. of the statutes is amended to read:

9 346.63 (2) (a) 2. The person has a prohibited alcohol or tetrahydrocannabinols  
10 concentration.

11 **SECTION 108.** 346.63 (2) (b) 1. of the statutes is amended to read:

12 346.63 (2) (b) 1. In an action under this subsection, the defendant has a defense  
13 if he or she proves by a preponderance of the evidence that the injury would have  
14 occurred even if he or she had been exercising due care and he or she had not been  
15 under the influence of an intoxicant, tetrahydrocannabinols, a controlled substance,  
16 a controlled substance analog or a combination thereof, under the influence of any  
17 other drug to a degree which renders him or her incapable of safely driving, or under  
18 the combined influence of an intoxicant and any other drug to a degree which renders  
19 him or her incapable of safely driving, did not have a prohibited alcohol or  
20 tetrahydrocannabinols concentration described under par. (a) 2., or did not have a  
21 detectable amount of a restricted controlled substance in his or her blood.

22 **SECTION 109.** 346.63 (2) (b) 2. of the statutes is amended to read:

23 346.63 (2) (b) 2. In an action under par. (a) 3. that is based on the defendant  
24 allegedly having a detectable amount of methamphetamine, or  
25 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,

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1 the defendant has a defense if he or she proves by a preponderance of the evidence  
2 that at the time of the incident or occurrence he or she had a valid prescription for  
3 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
4 acid, ~~or~~.

5 3. In an action under par. (a) 2. that is based on the defendant allegedly having  
6 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
7 or she proves by a preponderance of the evidence that at the time of the incident or  
8 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
9 he or she was a qualifying patient, as defined in s. 50.60 (6).

10 **SECTION 110.** 346.63 (2p) of the statutes is created to read:

11 346.63 (2p) If a person has not attained the legal age, as defined in s. 961.70  
12 (2), the person may not drive or operate a motor vehicle while he or she has an  
13 tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0. One  
14 penalty for violation of this subsection is suspension of a person's operating privilege  
15 under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10  
16 at any time. If a person arrested for a violation of this subsection refuses to take a  
17 test under s. 343.305, the refusal is a separate violation and the person is subject to  
18 revocation of the person's operating privilege under s. 343.305 (10) (em).

19 **SECTION 111.** 346.65 (2m) (a) of the statutes is amended to read:

20 346.65 (2m) (a) In imposing a sentence under sub. (2) for a violation of s. 346.63  
21 (1) (am) or (b) or (5) or a local ordinance in conformity therewith, the court shall  
22 review the record and consider the aggravating and mitigating factors in the matter.  
23 If the amount of alcohol in the person's blood or urine or the amount of a restricted  
24 controlled substance or tetrahydrocannabinols in the person's blood is known, the  
25 court shall consider that amount as a factor in sentencing. The chief judge of each

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1 judicial administrative district shall adopt guidelines, under the chief judge’s  
2 authority to adopt local rules under SCR 70.34, for the consideration of aggravating  
3 and mitigating factors.

4 **SECTION 112.** 346.65 (2q) of the statutes is amended to read:

5 346.65 **(2q)** Any person violating s. 346.63 (2m) or (2p) shall forfeit \$200. If  
6 there was a minor passenger under 16 years of age in the motor vehicle at the time  
7 of the violation that gave rise to the conviction under 346.63 (2m) or (2p), the person  
8 shall be fined \$400.

9 **SECTION 113.** 349.02 (2) (b) 4. of the statutes is amended to read:

10 349.02 **(2)** (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or  
11 66.0107 (1) (bm).

12 **SECTION 114.** 349.03 (2m) of the statutes is amended to read:

13 349.03 **(2m)** Notwithstanding sub. (2), a municipal court may suspend a license  
14 for a violation of a local ordinance in conformity with s. 346.63 (1) ~~or~~, (2m), or (2p).

15 **SECTION 115.** 349.06 (1m) of the statutes is amended to read:

16 349.06 **(1m)** Notwithstanding sub. (1), a municipal court may suspend a license  
17 for a violation of a local ordinance in conformity with s. 346.63 (1) ~~or~~, (2m), or (2p).

18 **SECTION 116.** 350.01 (10v) (a) of the statutes is amended to read:

19 350.01 **(10v)** (a) A controlled substance included in schedule I under ch. 961  
20 ~~other than a tetrahydrocannabinol.~~

21 **SECTION 117.** 350.01 (10v) (e) of the statutes is repealed.

22 **SECTION 118.** 350.01 (21g) of the statutes is created to read:

23 350.01 **(21g)** “Tetrahydrocannabinols concentration” has the meaning given in  
24 s. 23.33 (1) (k).

25 **SECTION 119.** 350.101 (1) (bg) of the statutes is created to read:

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1           350.101 (1) (bg) *Operating with tetrahydrocannabinols concentration at or*  
2 *above specified levels.* No person may engage in the operation of a snowmobile while  
3 the person has a tetrahydrocannabinols concentration of 5.0 or more.

4           **SECTION 120.** 350.101 (1) (cg) of the statutes is created to read:

5           350.101 (1) (cg) *Operating with tetrahydrocannabinols concentration at or*  
6 *above specified levels.* If a person has not attained the age of 21, the person may not  
7 engage in the operation of a snowmobile while he or she has a tetrahydrocannabinols  
8 concentration of more than 0.0 but not more than 5.0.

9           **SECTION 121.** 350.101 (1) (d) of the statutes is amended to read:

10           350.101 (1) (d) *Related charges.* A person may be charged with and a prosecutor  
11 may proceed upon a complaint based upon a violation of any combination of par. (a),  
12 (b), (bg), or (bm) for acts arising out of the same incident or occurrence. If the person  
13 is charged with violating any combination of par. (a), (b), (bg), or (bm), the offenses  
14 shall be joined. If the person is found guilty of any combination of par. (a), (b), (bg),  
15 or (bm) for acts arising out of the same incident or occurrence, there shall be a single  
16 conviction for purposes of sentencing and for purposes of counting convictions under  
17 s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b), (bg), and (bm) each require proof of a  
18 fact for conviction which the others do not require.

19           **SECTION 122.** 350.101 (1) (e) of the statutes is renumbered 350.101 (1) (e) 1. and  
20 amended to read:

21           350.101 (1) (e) 1. In an action under par. (bm) that is based on the defendant  
22 allegedly having a detectable amount of methamphetamine, or  
23 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
24 the defendant has a defense if he or she proves by a preponderance of the evidence  
25 that at the time of the incident or occurrence he or she had a valid prescription for



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1 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
2 acid,~~or,~~

3 2. In an action under par. (bg) or (cg) that is based on the defendant allegedly  
4 having a prohibited tetrahydrocannabinols concentration, the defendant has a  
5 defense if he or she proves by a preponderance of the evidence that at the time of the  
6 incident or occurrence he or she had a valid prescription for  
7 delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.  
8 50.60 (6).

9 **SECTION 123.** 350.101 (2) (bg) of the statutes is created to read:

10 350.101 (2) (bg) *Causing injury with tetrahydrocannabinols concentrations at*  
11 *or above specified levels.* No person who has a tetrahydrocannabinols concentration  
12 of 5.0 or more may cause injury to another person by the operation of a snowmobile.

13 **SECTION 124.** 350.101 (2) (c) of the statutes is amended to read:

14 350.101 (2) (c) *Related charges.* A person may be charged with and a prosecutor  
15 may proceed upon a complaint based upon a violation of any combination of par. (a),  
16 (b), (bg), or (bm) for acts arising out of the same incident or occurrence. If the person  
17 is charged with violating any combination of par. (a), (b), (bg), or (bm) in the  
18 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty  
19 of any combination of par. (a), (b), (bg), or (bm) for acts arising out of the same incident  
20 or occurrence, there shall be a single conviction for purposes of sentencing and for  
21 purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b),  
22 (bg), and (bm) each require proof of a fact for conviction which the others do not  
23 require.

24 **SECTION 125.** 350.101 (2) (d) 1. of the statutes is amended to read:

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1           350.101 (2) (d) 1. In an action under this subsection, the defendant has a  
2 defense if he or she proves by a preponderance of the evidence that the injury would  
3 have occurred even if he or she had been exercising due care and he or she had not  
4 been under the influence of an intoxicant or did not have an alcohol concentration  
5 of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or more or a  
6 detectable amount of a restricted controlled substance in his or her blood.

7           **SECTION 126.** 350.101 (2) (d) 2. of the statutes is amended to read:

8           350.101 (2) (d) 2. In an action under par. (bm) that is based on the defendant  
9 allegedly having a detectable amount of methamphetamine, or  
10 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
11 the defendant has a defense if he or she proves by a preponderance of the evidence  
12 that at the time of the incident or occurrence he or she had a valid prescription for  
13 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
14 acid, ~~or~~.

15           3. In an action under par. (bg) that is based on the defendant allegedly having  
16 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
17 or she proves by a preponderance of the evidence that at the time of the incident or  
18 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
19 he or she was a qualifying patient, as defined in s. 50.60 (6).

20           **SECTION 127.** 350.104 (4) of the statutes is amended to read:

21           350.104 (4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE. The results  
22 of a chemical test required or administered under sub. (1), (2) or (3) are admissible  
23 in any civil or criminal action or proceeding arising out of the acts committed by a  
24 person alleged to have violated the intoxicated snowmobiling law on the issue of  
25 whether the person was under the influence of an intoxicant or the issue of whether

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1 the person had alcohol or tetrahydrocannabinols concentrations at or above specified  
2 levels or a detectable amount of a restricted controlled substance in his or her blood.  
3 Results of these chemical tests shall be given the effect required under s. 885.235.  
4 This section does not limit the right of a law enforcement officer to obtain evidence  
5 by any other lawful means.

6 **SECTION 128.** 350.11 (3) (d) of the statutes is amended to read:

7 350.11 (3) (d) *Alcohol, controlled substances or controlled substance analogs,*  
8 *or tetrahydrocannabinols; assessment.* In addition to any other penalty or order, a  
9 person who violates s. 350.101 (1) or (2) or 350.104 (5) or who violates s. 940.09 or  
10 940.25 if the violation involves the operation of a snowmobile, shall be ordered by the  
11 court to submit to and comply with an assessment by an approved public treatment  
12 facility for an examination of the person's use of alcohol, controlled substances or  
13 controlled substance analogs, or tetrahydrocannabinols. The assessment order shall  
14 comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an  
15 assessment ordered under this paragraph constitutes contempt of court, punishable  
16 under ch. 785.

17 **SECTION 129.** 767.41 (5) (am) (intro.) of the statutes is amended to read:

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

24 **SECTION 130.** 767.41 (5) (d) of the statutes is created to read:

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1           767.41 (5) (d) The court may not consider as a factor in determining the legal  
2 custody of a child whether a parent or potential custodian holds or has applied for  
3 a registry identification card, as defined in s. 146.44 (1) (h), is or has been the subject  
4 of a written certification, as defined in s. 50.60 (10), or is or has been a qualifying  
5 patient, as defined in s. 50.60 (6), or a primary caregiver, as defined in s. 50.60 (5),  
6 unless the parent or potential custodian’s behavior creates an unreasonable danger  
7 to the child that can be clearly articulated and substantiated.

8           **SECTION 131.** 767.451 (5m) (a) (intro.) of the statutes is amended to read:

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

13           **SECTION 132.** 767.451 (5m) (d) of the statutes is created to read:

14           767.451 (5m) (d) In an action to modify a legal custody order, the court may not  
15 consider as a factor in making a determination whether a parent or potential  
16 custodian holds, or has applied for, a registry identification card, as defined in s.  
17 146.44 (1) (h), is or has been the subject of a written certification, as defined in s.  
18 50.60 (10), or is or has been a qualifying patient, as defined in s. 50.60 (6), or a  
19 primary caregiver, as defined in s. 50.60 (5), unless the parent or potential  
20 custodian’s behavior creates an unreasonable danger to the child that can be clearly  
21 articulated and substantiated.

22           **SECTION 133.** 885.235 (1) (d) 1. of the statutes is amended to read:

23           885.235 (1) (d) 1. A controlled substance included in schedule I under ch. 961  
24 other than a tetrahydrocannabinol.

25           **SECTION 134.** 885.235 (1) (d) 5. of the statutes is repealed.

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1           **SECTION 135.** 885.235 (1) (e) of the statutes is created to read:

2           885.235 (1) (e) “Tetrahydrocannabinols concentration” has the meaning given  
3 in s. 23.33 (1) (k).

4           **SECTION 136.** 885.235 (1g) (intro.) of the statutes is amended to read:

5           885.235 (1g) (intro.) In any action or proceeding in which it is material to prove  
6 that a person was under the influence of an intoxicant or had a prohibited alcohol or  
7 tetrahydrocannabinols concentration or a specified alcohol concentration while  
8 operating or driving a motor vehicle or, if the vehicle is a commercial motor vehicle,  
9 on duty time, while operating a motorboat, except a sailboat operating under sail  
10 alone, while operating a snowmobile, while operating an all-terrain vehicle or utility  
11 terrain vehicle or while handling a firearm, evidence of the amount of alcohol or  
12 tetrahydrocannabinols in the person’s blood at the time in question, as shown by  
13 chemical analysis of a sample of the person’s blood or urine or evidence of the amount  
14 of alcohol in the person’s breath, is admissible on the issue of whether he or she was  
15 under the influence of an intoxicant or had a prohibited alcohol or  
16 tetrahydrocannabinols concentration or a specified alcohol concentration if the  
17 sample was taken within 3 hours after the event to be proved. The chemical analysis  
18 shall be given effect as follows without requiring any expert testimony as to its effect:

19           **SECTION 137.** 885.235 (1g) (ag) of the statutes is created to read:

20           885.235 (1g) (ag) The fact that the analysis shows that the person had an  
21 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0 is relevant  
22 evidence on the issue of being under the combined influence of  
23 tetrahydrocannabinols and alcohol, a controlled substance, a controlled substance  
24 analog, or any other drug, but, except as provided in sub. (1L), is not to be given any  
25 prima facie effect.

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1           **SECTION 138.** 885.235 (1g) (cg) of the statutes is created to read:

2           885.235 (1g) (cg) The fact that the analysis shows that the person had an  
3 tetrahydrocannabinols concentration of 5.0 or more is prima facie evidence that he  
4 or she had an tetrahydrocannabinols concentration of 5.0 or more.

5           **SECTION 139.** 885.235 (1L) of the statutes is created to read:

6           885.235 (1L) In any action under s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63  
7 (2p), or 350.101 (1) (cg), evidence of the amount of tetrahydrocannabinols in the  
8 person's blood at the time in question, as shown by chemical analysis of a sample of  
9 the person's blood or urine, is admissible on the issue of whether he or she had a  
10 tetrahydrocannabinols concentration in the range specified in s. 23.33 (4c) (a) 3g.,  
11 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1) (cg) if the sample was taken within 3  
12 hours after the event to be proved. The fact that the analysis shows that the person  
13 had a tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0  
14 is prima facie evidence that the person had a tetrahydrocannabinols concentration  
15 in the range specified in s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63 (2p), or 350.101  
16 (1) (cg).

17           **SECTION 140.** 885.235 (1m) of the statutes is amended to read:

18           885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63  
19 (2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the person's blood  
20 at the time in question, as shown by chemical analysis of a sample of the person's  
21 blood or urine or evidence of the amount of alcohol in the person's breath, is  
22 admissible on the issue of whether he or she had an alcohol concentration in the  
23 range specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m), or 350.101 (1)  
24 (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the sample was taken  
25 within 3 hours after the event to be proved. The fact that the analysis shows that

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1 the person had an alcohol concentration of more than 0.0 but not more than 0.08 is  
2 prima facie evidence that the person had an alcohol concentration in the range  
3 specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m), or 350.101 (1) (c) or an  
4 alcohol concentration above 0.0 under s. 346.63 (7).

5 **SECTION 141.** 885.235 (4) of the statutes is amended to read:

6 885.235 (4) The provisions of this section relating to the admissibility of  
7 chemical tests for alcohol or tetrahydrocannabinols concentration or intoxication or  
8 for determining whether a person had a detectable amount of a restricted controlled  
9 substance in his or her blood shall not be construed as limiting the introduction of  
10 any other competent evidence bearing on the question of whether or not a person was  
11 under the influence of an intoxicant, had a detectable amount of a restricted  
12 controlled substance in his or her blood, had a specified alcohol or  
13 tetrahydrocannabinols concentration, ~~or~~ had an alcohol concentration in the range  
14 specified in s. 23.33 (4c) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m) or 350.101 (1) (c), or had  
15 a tetrahydrocannabinols concentration in the range specified in s. 23.33 (4c) (a) 3g.,  
16 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1) (cg).

17 **SECTION 142.** 895.047 (3) (a) of the statutes is amended to read:

18 895.047 (3) (a) If the defendant proves by clear and convincing evidence that  
19 at the time of the injury the claimant was under the influence of any controlled  
20 substance or controlled substance analog to the extent prohibited under s. 346.63 (1)  
21 (a), or had an alcohol concentration, as defined in s. 340.01 (1v), of 0.08 or more or  
22 a tetrahydrocannabinols concentration, as defined in s. 233.33 (1) (k), of 5.0 or more,  
23 there shall be a rebuttable presumption that the claimant's intoxication or drug use  
24 was the cause of his or her injury.

25 **SECTION 143.** 905.04 (4) (f) of the statutes is amended to read:

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1           905.04 (4) (f) *Tests for intoxication.* There is no privilege concerning the results  
2 of or circumstances surrounding any chemical tests for intoxication or for alcohol  
3 concentration, as defined in s. 340.01 (1v), or tetrahydrocannabinols concentration,  
4 as defined in s. 23.33 (1) (k).

5           **SECTION 144.** 939.22 (33) (a) of the statutes is amended to read:

6           939.22 (33) (a) A controlled substance included in schedule I under ch. 961  
7 ~~other than a tetrahydrocannabinol.~~

8           **SECTION 145.** 939.22 (33) (e) of the statutes is repealed.

9           **SECTION 146.** 939.22 (39g) of the statutes is created to read:

10           939.22 (39g) “Tetrahydrocannabinols concentration” has the meaning given in  
11 s. 23.33 (1) (k).

12           **SECTION 147.** 940.09 (1) (bg) of the statutes is created to read:

13           940.09 (1) (bg) Causes the death of another by the operation or handling of a  
14 vehicle while the person has a tetrahydrocannabinols concentration of 5.0 or more.

15           **SECTION 148.** 940.09 (1) (dg) of the statutes is created to read:

16           940.09 (1) (dg) Causes the death of an unborn child by the operation or  
17 handling of a vehicle while the person has a tetrahydrocannabinols concentration of  
18 5.0 or more.

19           **SECTION 149.** 940.09 (1g) (bg) of the statutes is created to read:

20           940.09 (1g) (bg) Causes the death of another by the operation or handling of  
21 a firearm or airgun while the person has a tetrahydrocannabinols concentration of  
22 5.0 or more.

23           **SECTION 150.** 940.09 (1g) (dg) of the statutes is created to read:



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1           940.09 (1g) (dg) Causes the death of an unborn child by the operation or  
2 handling of a firearm or airgun while the person has a tetrahydrocannabinols  
3 concentration of 5.0 or more.

4           **SECTION 151.** 940.09 (1m) (a) of the statutes is amended to read:

5           940.09 (1m) (a) A person may be charged with and a prosecutor may proceed  
6 upon an information based upon a violation of any combination of sub. (1) (a), (am),  
7 ~~or (b), or (bg)~~; any combination of sub. (1) (a), (am), (bg), or (bm); any combination of  
8 sub. (1) (c), (cm), ~~or (d), or (dg)~~; any combination of sub. (1) (c), (cm), (dg), or (e); any  
9 combination of sub. (1g) (a), (am), ~~or (b), or (bg)~~ or; any combination of sub. (1g) (c),  
10 (cm), ~~or (d), or (dg)~~ for acts arising out of the same incident or occurrence.

11           **SECTION 152.** 940.09 (1m) (b) of the statutes is amended to read:

12           940.09 (1m) (b) If a person is charged in an information with any of the  
13 combinations of crimes referred to in par. (a), the crimes shall be joined under s.  
14 971.12. If the person is found guilty of more than one of the crimes so charged for  
15 acts arising out of the same incident or occurrence, there shall be a single conviction  
16 for purposes of sentencing and for purposes of counting convictions under s. 23.33  
17 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under s. 343.307 (1) or under s. 350.11  
18 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bg), (bm), (c), (cm), (d), (dg), and (e) each  
19 require proof of a fact for conviction which the others do not require, and sub. (1g)  
20 (a), (am), (b), (bg), (c), (cm), ~~and (d), and (dg)~~ each require proof of a fact for conviction  
21 which the others do not require.

22           **SECTION 153.** 940.09 (2) (a) of the statutes is amended to read:

23           940.09 (2) (a) In any action under this section, the defendant has a defense if  
24 he or she proves by a preponderance of the evidence that the death would have  
25 occurred even if he or she had been exercising due care and he or she had not been

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1 under the influence of an intoxicant, did not have a detectable amount of a restricted  
2 controlled substance in his or her blood, did not have a tetrahydrocannabinols  
3 concentration of 5.0 or greater, or did not have an alcohol concentration described  
4 under sub. (1) (b), (bm), (d) or (e) or (1g) (b) or (d).

5 **SECTION 154.** 940.09 (2) (b) of the statutes is amended to read:

6 940.09 (2) (b) In any action under sub. (1) (am) or (cm) or (1g) (am) or (cm) that  
7 is based on the defendant allegedly having a detectable amount of  
8 methamphetamine or gamma-hydroxybutyric acid or  
9 delta-9-tetrahydrocannabinol in his or her blood, the defendant has a defense if he  
10 or she proves by a preponderance of the evidence that at the time of the incident or  
11 occurrence he or she had a valid prescription for methamphetamine or one of its  
12 metabolic precursors or gamma-hydroxybutyric acid or

13 (c) In an action under sub. (1) (bg) or (dg) or (1g) (bg) or (dg) that is based on  
14 the defendant allegedly having a tetrahydrocannabinols concentration that is 5.0 or  
15 greater, the defendant has a defense if he or she proves by a preponderance of the  
16 evidence that at the time of the incident or occurrence he or she had a valid  
17 prescription for delta-9-tetrahydrocannabinol or he or she was a qualifying patient,  
18 as defined in s. 50.60 (6).

19 **SECTION 155.** 940.25 (1) (bg) of the statutes is created to read:

20 940.25 (1) (bg) Causes great bodily harm to another human being by the  
21 operation of a vehicle while the person has a tetrahydrocannabinols concentration  
22 of 5.0 or more.

23 **SECTION 156.** 940.25 (1) (dg) of the statutes is created to read:

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1           940.25 (1) (dg) Causes great bodily harm to an unborn child by the operation  
2 of a vehicle while the person has a tetrahydrocannabinols concentration of 5.0 or  
3 more.

4           **SECTION 157.** 940.25 (1m) of the statutes is amended to read:

5           940.25 (1m) (a) A person may be charged with and a prosecutor may proceed  
6 upon an information based upon a violation of any combination of sub. (1) (a), (am),  
7 ~~or (b), or (bg)~~; any combination of sub. (1) (a), (am), ~~(bg)~~, or (bm); any combination of  
8 sub. (1) (c), (cm), ~~or (d), or (dg)~~; or any combination of sub. (1) (c), (cm), ~~(dg)~~, or (e) for  
9 acts arising out of the same incident or occurrence.

10           (b) If a person is charged in an information with any of the combinations of  
11 crimes referred to in par. (a), the crimes shall be joined under s. 971.12. If the person  
12 is found guilty of more than one of the crimes so charged for acts arising out of the  
13 same incident or occurrence, there shall be a single conviction for purposes of  
14 sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3.,  
15 under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and 343.305 or under s. 350.11 (3)  
16 (a) 2. and 3. Subsection (1) (a), (am), (b), ~~(bg)~~, (bm), (c), (cm), (d), ~~(dg)~~, and (e) each  
17 require proof of a fact for conviction which the others do not require.

18           **SECTION 158.** 940.25 (2) of the statutes is amended to read:

19           940.25 (2) (a) The defendant has a defense if he or she proves by a  
20 preponderance of the evidence that the great bodily harm would have occurred even  
21 if he or she had been exercising due care and he or she had not been under the  
22 influence of an intoxicant, did not have a detectable amount of a restricted controlled  
23 substance in his or her blood, did not have a tetrahydrocannabinols concentration of  
24 5.0 or greater, or did not have an alcohol concentration described under sub. (1) (b),  
25 (bm), (d) or (e).

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1 (b) In any action under this section that is based on the defendant allegedly  
2 having a detectable amount of methamphetamine, or gamma-hydroxybutyric acid,  
3 ~~or delta-9-tetrahydrocannabinol~~ in his or her blood, the defendant has a defense if  
4 he or she proves by a preponderance of the evidence that at the time of the incident  
5 or occurrence he or she had a valid prescription for methamphetamine or one of its  
6 metabolic precursors, or gamma-hydroxybutyric acid, ~~or~~.

7 (c) In any action under this section that is based on the defendant allegedly  
8 having a tetrahydrocannabinols concentration that is 5.0 or greater, the defendant  
9 has a defense if he or she proves by a preponderance of the evidence that at the time  
10 of the incident or occurrence he or she had a valid prescription for  
11 delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.  
12 50.60 (6).

13 **SECTION 159.** 941.20 (1) (bg) of the statutes is created to read:

14 941.20 (1) (bg) Operates or goes armed with a firearm while he or she has a  
15 tetrahydrocannabinols concentration that is 5.0 or greater. A defendant has a  
16 defense to any action under this paragraph if he or she proves by a preponderance  
17 of the evidence that at the time of the incident or occurrence he or she had a valid  
18 prescription for delta-9-tetrahydrocannabinol or he or she was a qualifying patient,  
19 as defined in s. 50.60 (6).

20 **SECTION 160.** 941.20 (1) (bm) of the statutes is amended to read:

21 941.20 (1) (bm) Operates or goes armed with a firearm while he or she has a  
22 detectable amount of a restricted controlled substance in his or her blood. A  
23 defendant has a defense to any action under this paragraph that is based on the  
24 defendant allegedly having a detectable amount of methamphetamine, or  
25 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,

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1 if he or she proves by a preponderance of the evidence that at the time of the incident  
2 or occurrence he or she had a valid prescription for methamphetamine or one of its  
3 metabolic precursors, or gamma-hydroxybutyric acid, ~~or~~  
4 ~~delta-9-tetrahydrocannabinol.~~

5 **SECTION 161.** 961.01 (14) of the statutes is renumbered 961.70 (3) and amended  
6 to read:

7 961.70 (3) “Marijuana” means all parts of the plants of the genus Cannabis,  
8 whether growing or not, with a concentration of tetrahydrocannabinols that is  
9 greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted  
10 from any part of the plant; and every compound, manufacture, salt, derivative,  
11 mixture, or preparation of the plant, its seeds or resin, ~~including~~  
12 tetrahydrocannabinols. “Marijuana” does include the mature stalks if mixed with  
13 other parts of the plant, but does not include fiber produced from the stalks, oil or  
14 cake made from the seeds of the plant, any other compound, manufacture, salt,  
15 derivative, mixture, or preparation of the mature stalks (except the resin extracted  
16 therefrom), fiber, oil, or cake or the sterilized seed of the plant which is incapable of  
17 germination.

18 **SECTION 162.** 961.14 (4) (t) of the statutes is repealed.

19 **SECTION 163.** 961.34 of the statutes is renumbered 961.75, and 961.75 (title),  
20 as renumbered, is amended to read:

21 **961.75** (title) **Controlled substances Marijuana therapeutic research.**

22 **SECTION 164.** 961.38 (1n) of the statutes is amended to read:

23 961.38 (1n) A pharmacy or physician approved under s. ~~961.34~~ 961.75 (2) (a)  
24 or (b) may dispense cannabidiol in a form without a psychoactive effect as a  
25 treatment for a seizure disorder or any physician may provide an individual with a

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1 hard copy of a letter or other official documentation stating that the individual  
2 possesses cannabidiol to treat a seizure disorder if the cannabidiol is in a form  
3 without a psychoactive effect.

4 **SECTION 165.** 961.41 (1) (h) of the statutes is repealed.

5 **SECTION 166.** 961.41 (1m) (h) of the statutes is repealed.

6 **SECTION 167.** 961.41 (1q) of the statutes is repealed.

7 **SECTION 168.** 961.41 (1r) of the statutes is amended to read:

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

18 **SECTION 169.** 961.41 (3g) (c) of the statutes is amended to read:

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

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

4 **SECTION 170.** 961.41 (3g) (d) of the statutes is amended to read:

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

22 **SECTION 171.** 961.41 (3g) (e) of the statutes is repealed.

23 **SECTION 172.** 961.41 (3g) (em) of the statutes is amended to read:

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

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

10 **SECTION 173.** 961.47 (1) of the statutes is amended to read:

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



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

3 **SECTION 174.** 961.48 (3) of the statutes is amended to read:

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

10 **SECTION 175.** 961.48 (5) of the statutes is amended to read:

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

13 **SECTION 176.** 961.49 (1m) (intro.) of the statutes is amended to read:

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

22 **SECTION 177.** 961.571 (1) (a) 7. of the statutes is repealed.

23 **SECTION 178.** 961.571 (1) (a) 11. (intro.) of the statutes is amended to read:

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

4           **SECTION 179.** 961.571 (1) (a) 11. e. of the statutes is repealed.

5           **SECTION 180.** 961.571 (1) (a) 11. k. and L. of the statutes are repealed.

6           **SECTION 181.** Subchapter VIII of chapter 961 [precedes 961.70] of the statutes  
7 is created to read:

**CHAPTER 961****SUBCHAPTER VIII****REGULATION OF MARIJUANA**

11           **961.70 Definitions.** In this subchapter:

12           (1) “Compassion center” has the meaning given in s. 50.60 (1).

13           (2) “Legal age” means 21 years of age.

14           (5) “Permissible amount” means one of the following:

15           (a) For a person who is a resident of Wisconsin, an amount that does not exceed  
16 one-half an ounce of usable marijuana.

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

19           (6) “Permittee” has the meaning given under s. 139.97 (9).

20           (7) “Personal-use permit holder” means a person who holds a permit issued  
21 under s. 139.979.

22           (8) “Qualifying patient” has the meaning given in s. 50.60 (6).

23           (9) “Retail outlet” has the meaning given in s. 139.97 (10).

24           (10) “Tetrahydrocannabinols concentration” means percent of  
25 delta-9-tetrahydrocannabinol content per dry weight of any part of the plant

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1 Cannabis, or per volume or weight of marijuana product, or the combined percent of  
2 delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the  
3 plant Cannabis regardless of moisture content.

4 (11) “Treatment team” has the meaning given in s. 50.60 (8).

5 (12) “Underage person” means a person who has not attained the legal age.

6 (13) “Usable marijuana” has the meaning given in s. 139.97 (12).

7 **961.71 Underage persons prohibitions; penalties.** (1) (a) 1. No permittee  
8 may sell, distribute, or deliver marijuana to any underage person, except that a  
9 permittee that is also a compassion center may sell, distribute, or deliver to an  
10 underage person who is a qualifying patient or to a treatment team.

11 2. No permittee or compassion center may directly or indirectly permit an  
12 underage person to violate sub. (2m).

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

16 2. A compassion center that violates par. (a) 2. may be subject to a forfeiture  
17 of not more than \$500.

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

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

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

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

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

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

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

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

15           (c) Knowingly possesses or consumes marijuana, except that this paragraph  
16 does not apply to an underage person who is a qualifying patient.

17           (d) Violates sub. (2m).

18          **(2m)** An underage person not accompanied by his or her parent, guardian, or  
19 spouse who has attained the legal age may not enter, knowingly attempt to enter, or  
20 be on the premises of a retail outlet that is not a compassion center. An underage  
21 person not accompanied by his or her parent, guardian, or spouse who has attained  
22 the legal age or by his or her treatment team may not enter, knowingly attempt to  
23 enter, or be on the premises of a compassion center.

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

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

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

4 **961.72 Restrictions; penalties. (1)** No person except a permittee or a  
5 compassion center may sell, or possess with the intent to sell, marijuana. No person  
6 may distribute or deliver, or possess with the intent to distribute or deliver,  
7 marijuana except a permittee or except a compassion center or a member of a  
8 treatment team who distributes or delivers, or possesses with the intent to distribute  
9 or deliver, to a qualifying patient. Any person who violates a prohibition under this  
10 subsection is guilty of the following:

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

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

16 (2) (a) A person that is not a permittee or a compassion center who possesses  
17 an amount of marijuana that exceeds the permissible amount but does not exceed 28  
18 grams of marijuana is subject to a civil forfeiture not to exceed \$1,000 or  
19 imprisonment not to exceed 90 days or both.

20 (b) A person who is not a permittee, a compassion center, a qualifying patient,  
21 or a treatment team member who possesses an amount of marijuana that exceeds 28  
22 grams of marijuana:

23 1. Except as provided in subd. 2., a Class B misdemeanor.

24 2. A Class I felony if the person has taken action to hide how much marijuana  
25 the person possesses and any of the following applies:

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1           a. The person has in place a system that could alert the person if law  
2 enforcement approaches an area that contains marijuana if the system exceeds a  
3 security system that would be used by a reasonable person in the person's region.

4           b. The person has in place a method of intimidating individuals who approach  
5 an area that contains marijuana if the method exceeds a method that would be used  
6 by a reasonable person in the person's region.

7           c. The person has rigged a system so that any individual approaching the area  
8 may be injured or killed by the system.

9           (c) A personal-use permit holder who is not a permittee, a compassion center,  
10 a qualifying patient, or a treatment team member who cultivates more than 12  
11 marijuana plants at one time is one of the following:

12           1. Except as provided in subds. 2. and 3., subject to a civil forfeiture not to  
13 exceed \$1,000 or imprisonment not to exceed 90 days or both.

14           2. Except as provided in subd. 3., guilty of a Class B misdemeanor if the number  
15 of marijuana plants is more than 24.

16           3. Guilty of a Class I felony if the number of marijuana plants is more than 24,  
17 if the individual has taken action to hide how many plants are being cultivated, and  
18 if any of the following applies:

19           a. The person has in place a system that could alert the person if law  
20 enforcement approaches an area that contains plants if the system exceeds a security  
21 system that would be used by a reasonable person in the person's region.

22           b. The person has in place a method of intimidating individuals who approach  
23 an area that contains plants if the method exceeds a method that would be used by  
24 a reasonable person in the person's region.

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1           c. The person has rigged a system so that any individual approaching the area  
2 that contains plants may be injured or killed by the system.

3           (d) No person except a personal-use permit holder, a qualifying patient, a  
4 member of a treatment team, a permittee, or a compassion center may cultivate  
5 marijuana plants. Any person who violates this prohibition must apply for a permit  
6 under s. 139.979; in addition, the person is one of the following:

7           1. Except as provided in subds. 2., 3., and 4., subject to a civil forfeiture that  
8 is not more than twice the permitting fee under s. 139.979.

9           2. Except as provided in subds. 3. and 4., subject to a civil forfeiture not to  
10 exceed \$1,000 or imprisonment not to exceed 90 days or both if the number of  
11 marijuana plants is more than 12.

12           3. Except as provided in subd. 4., guilty of a Class B misdemeanor if the number  
13 of marijuana plants is more than 24.

14           4. Guilty of a Class I felony if the number of marijuana plants is more than 24,  
15 if the person has taken action to hide how many plants are being cultivated, and if  
16 any of the following applies:

17           a. The person has in place a system that could alert the person if law  
18 enforcement approaches an area that contains plants if the system exceeds a security  
19 system that would be used by a reasonable person in the person's region.

20           b. The person has in place a method of intimidating individuals who approach  
21 an area that contains plants if the method exceeds a method that would be used by  
22 a reasonable person in the person's region.

23           c. The person has rigged a system so that any individual approaching the area  
24 that contains plants may be injured or killed by the system.

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

3 (3) Any person except a compassion center or a treatment team that sells,  
4 distributes, or delivers a product that is intended for human consumption that  
5 contains marijuana or marijuana extracts, not including usable marijuana, and that  
6 is a product that is edible is guilty of a Class A misdemeanor.

7 (4) Any person except a compassion center who sells or attempts to sell  
8 marijuana via mail, telephone, or Internet is guilty of a Class A misdemeanor.

9 **SECTION 182.** 967.055 (1) (a) of the statutes is amended to read:

10 967.055 (1) (a) The legislature intends to encourage the vigorous prosecution  
11 of offenses concerning the operation of motor vehicles by persons under the influence  
12 of an intoxicant, a controlled substance, a controlled substance analog or any  
13 combination of an intoxicant, controlled substance and controlled substance analog,  
14 under the influence of any other drug to a degree which renders him or her incapable  
15 of safely driving, or under the combined influence of an intoxicant and any other drug  
16 to a degree which renders him or her incapable of safely driving or having a  
17 prohibited alcohol concentration, as defined in s. 340.01 (46m), or having a  
18 tetrahydrocannabinols concentration of 5.0 or greater, offenses concerning the  
19 operation of motor vehicles by persons with a detectable amount of a restricted  
20 controlled substance in his or her blood, and offenses concerning the operation of  
21 commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

22 **SECTION 183.** 967.055 (1) (b) of the statutes is amended to read:

23 967.055 (1) (b) The legislature intends to encourage the vigorous prosecution  
24 of offenses concerning the operation of motorboats by persons under the influence of  
25 an intoxicant, a controlled substance, a controlled substance analog or any



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1 combination of an intoxicant, controlled substance and controlled substance analog  
2 to a degree which renders him or her incapable of operating a motorboat safely, or  
3 under the combined influence of an intoxicant and any other drug to a degree which  
4 renders him or her incapable of operating a motorboat safely or having an alcohol  
5 concentration of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or  
6 greater.

7 **SECTION 184.** 967.055 (1m) (b) 1. of the statutes is amended to read:

8 967.055 (1m) (b) 1. A controlled substance included in schedule I under ch. 961  
9 ~~other than a tetrahydrocannabinol.~~

10 **SECTION 185.** 967.055 (1m) (b) 5. of the statutes is repealed.

11 **SECTION 186.** 967.055 (2) (a) of the statutes is amended to read:

12 967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss  
13 or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity  
14 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the  
15 use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply  
16 to the court. The application shall state the reasons for the proposed amendment or  
17 dismissal. The court may approve the application only if the court finds that the  
18 proposed amendment or dismissal is consistent with the public's interest in deterring  
19 the operation of motor vehicles by persons who are under the influence of an  
20 intoxicant, a controlled substance, a controlled substance analog or any combination  
21 of an intoxicant, controlled substance and controlled substance analog, under the  
22 influence of any other drug to a degree which renders him or her incapable of safely  
23 driving, or under the combined influence of an intoxicant and any other drug to a  
24 degree which renders him or her incapable of safely driving, in deterring the  
25 operation of motor vehicles by persons with a detectable amount of a restricted

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1 controlled substance in his or her blood, in deterring the operation of motor vehicles  
2 by persons with a tetrahydrocannabinols concentration that is 5.0 or greater, or in  
3 deterring the operation of commercial motor vehicles by persons with an alcohol  
4 concentration of 0.04 or more. The court may not approve an application to amend  
5 the vehicle classification from a commercial motor vehicle to a noncommercial motor  
6 vehicle unless there is evidence in the record that the motor vehicle being operated  
7 by the defendant at the time of his or her arrest was not a commercial motor vehicle.

8 **SECTION 187.** 971.365 (1) (a) of the statutes is amended to read:

9 971.365 (1) (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1)  
10 (cm), (d), (e), (f), or (g) ~~or~~ (h) involving more than one violation, all violations may be  
11 prosecuted as a single crime if the violations were pursuant to a single intent and  
12 design.

13 **SECTION 188.** 971.365 (1) (b) of the statutes is amended to read:

14 971.365 (1) (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41  
15 (1m) (cm), (d), (e), (f), or (g) ~~or~~ (h) involving more than one violation, all violations may  
16 be prosecuted as a single crime if the violations were pursuant to a single intent and  
17 design.

18 **SECTION 189.** 971.365 (1) (c) of the statutes is amended to read:

19 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41  
20 (3g) (dm), 1999 stats., or s. 961.41 (3g) (am), (c), (d), ~~(e)~~, or (g) involving more than  
21 one violation, all violations may be prosecuted as a single crime if the violations were  
22 pursuant to a single intent and design.

23 **SECTION 190.** 971.365 (2) of the statutes is amended to read:

24 971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent  
25 prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m)

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1 (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats.,  
2 or s. 961.41 (1) (cm), (d), (e), (f), or (g), ~~or~~ (h), (1m) (cm), (d), (e), (f), or (g), ~~or~~ (h) or (3g)  
3 (am), (c), (d), ~~(e)~~, or (g) on which no evidence was received at the trial on the original  
4 charge.

**SECTION 191. Nonstatutory provisions.**

6 (1) JOINT LEGISLATIVE COUNCIL STUDY. The joint legislative council shall study  
7 the implementation of the marijuana tax and regulation provided under subchapter  
8 V of chapter 139 of the statutes and identify uses for the revenues deposited into the  
9 marijuana fund under section 25.56 of the statutes. The joint legislative council shall  
10 report its findings, conclusions, and recommendations to the joint committee on  
11 finance by December 31, 2016.

**SECTION 192. Effective date.**

13 (1) This act takes effect on the first day of the 6th month beginning after  
14 publication.

15 (END)