



State of Wisconsin
2015 - 2016 LEGISLATURE

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

2015 ASSEMBLY BILL 224

May 19, 2015 - Introduced by Representatives SARGENT, OHNSTAD, POPE, JOHNSON, BROSTOFF, ZEPNICK, BOWEN, BERCEAU, KESSLER, BARNES, SUBECK and HESSELBEIN, cosponsored by Senators HARRIS DODD, L. TAYLOR and C. LARSON. Referred to Committee on Criminal Justice and Public Safety.

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.

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

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ASSEMBLY BILL 224**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:

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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

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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:

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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,

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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 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.

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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:

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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.

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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:

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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.

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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:

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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.

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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.

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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

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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:

23 **CHAPTER 139**

24 **SUBCHAPTER V**

25 **MARIJUANA TAX AND REGULATION**

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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:

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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.

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- 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.

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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:

8 **CHAPTER 961**

9 SUBCHAPTER VIII

10 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.

5 **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.

12 **SECTION 192. Effective date.**

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

15 (END)