



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4470/1
CMH/JK/MCP/JPC:cjs

2023 SENATE BILL 486

October 9, 2023 - Introduced by Senators AGARD, L. JOHNSON, CARPENTER, HESSELBEIN, LARSON, PFAFF, ROYS, SMITH, SPREITZER and TAYLOR, cosponsored by Representatives MADISON, SHELTON, OHNSTAD, J. ANDERSON, C. ANDERSON, BALDEH, BARE, CLANCY, CONLEY, CONSIDINE, DRAKE, EMERSON, GOYKE, HAYWOOD, HONG, JACOBSON, JOERS, MOORE OMOKUNDE, MYERS, NEUBAUER, ORTIZ-VELEZ, PALMERI, RATCLIFF, SINICKI, SNODGRASS and STUBBS. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to repeal** 94.55 (2t), 961.11 (4g), 961.14 (4) (t), 961.32 (2m), 961.38 (1n),
2 961.41 (1) (h), 961.41 (1m) (h), 961.41 (1q), 961.41 (3g) (e), 961.571 (1) (a) 7.,
3 961.571 (1) (a) 11. e., 961.571 (1) (a) 11. k. and L. and 967.055 (1m) (b) 5.; **to**
4 **renumber and amend** 115.35 (1), 961.01 (14) and 961.34; **to amend** 20.115
5 (7) (gc), 49.148 (4) (a), 49.79 (1) (b), 59.54 (25) (title), 59.54 (25) (a) (intro.),
6 66.0107 (1) (bm), 111.35 (2) (e), 114.09 (2) (bm) 1. (intro.), 114.09 (2) (bm) 4.,
7 157.06 (11) (i), 175.35 (2g) (c) 4. a., 289.33 (3) (d), 349.02 (2) (b) 4., 961.41 (1r),
8 961.41 (1x), 961.41 (3g) (c), 961.41 (3g) (d), 961.41 (3g) (em), 961.47 (1), 961.48
9 (3), 961.48 (5), 961.49 (1m) (intro.), 961.571 (1) (a) 11. (intro.), 971.365 (1) (a),
10 971.365 (1) (b), 971.365 (1) (c) and 971.365 (2); and **to create** 16.282, 20.115 (7)
11 (ge), 20.192 (1) (t), 20.255 (2) (r), 20.395 (5) (db), 20.435 (1) (s), 20.437 (3) (r),
12 20.505 (1) (t), 20.566 (1) (bn), 20.835 (2) (eq), 25.316, 48.47 (20), 66.04185, 73.17,
13 77.54 (71), 94.56, 94.57, 100.145, 108.02 (18r), 108.04 (5m), 111.32 (9m), 111.32
14 (11m), subchapter IV of chapter 139 [precedes 139.97], 157.06 (11) (hm), 175.35

SENATE BILL 486

1 (2g) (b) 3., 238.139, 250.22 and subchapter VIII of chapter 961 [precedes 961.70]
2 of the statutes; **relating to:** legalizing the possession of marijuana; medical
3 marijuana; regulating the production, processing, and sale of marijuana;
4 expunging or redesignating past convictions for marijuana-related crimes;
5 equity grants; making an appropriation; and providing a penalty.

*Analysis by the Legislative Reference Bureau***MARIJUANA LEGALIZATION AND REGULATION**

Under this bill, a person who is at least 21 years old may legally possess marijuana for recreational purposes. A person of any age may possess marijuana for medical purposes. Under the bill, a person may produce, process, or sell marijuana if the person has a permit. This bill creates an excise tax for the privilege of producing, processing, distributing, or selling marijuana in this state, and 60 percent of the revenue collected from the tax is deposited into a segregated fund called the “community reinvestment fund.” Under the bill, a person who may possess medical marijuana is not subject to sales or excise taxes on the purchase or use of the marijuana. The bill does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing marijuana and applies to both intrastate and interstate violations.

Legalizing the possession of marijuana

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. The bill changes state law to allow a person who is at least 21 to possess not more than five ounces of marijuana. The bill also allows a qualifying patient to possess marijuana for medical purposes. Under the bill, a qualifying patient is an individual of any age who has been diagnosed by a physician as having or undergoing a debilitating medical condition or treatment. The bill also eliminates the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption.

Under the bill, a person who is at least 21 who possesses more than five ounces of marijuana is subject to a penalty, which varies depending on the amount of overage. Under the bill, if the overage is not more than one ounce, the person is subject to a forfeiture of not more than \$100; if the overage is more than one ounce but not more than 16 ounces, the person is guilty of a misdemeanor and subject to a fine of not more than \$500; and if the overage is more than 16 ounces, the person is guilty of a misdemeanor and subject to a fine of not more than \$1,000 or a sentence of imprisonment for not more than 90 days or both. In the last described case, the person is guilty of a Class I felony if the person also takes action to hide the amount

SENATE BILL 486

of marijuana he or she has and has in place a security system to alert him or her to the presence of law enforcement or a method to intimidate, or a system that could injure or kill, a person approaching the area containing the marijuana.

Under the bill, a person who is under 21 who possesses marijuana is subject to a penalty, which varies depending on the amount possessed. If the violation involves not more than one-quarter of an ounce, the person is subject to a forfeiture of not more than \$50; if the violation involves more than one-quarter of an ounce but not more than five ounces, the person is subject to a forfeiture of not more than \$100; and if the violation involves more than five ounces, the person is subject to a forfeiture of not more than \$200.

Regulating the production, processing, and selling marijuana

Under the bill, with certain exceptions, no person may sell or distribute, or possess with the intent to sell or distribute, marijuana unless the person has a permit from the Department of Revenue. The penalties for violating the prohibition vary depending on the recipient, the age of the violator, and the amount of marijuana involved.

If a person who is at least 21 violates the prohibition on selling, or possessing with the intent to sell, marijuana, the person is guilty of a misdemeanor and subject to a fine of not more than \$500 if the violation involves not more than one ounce of marijuana, the person is guilty of a misdemeanor and subject to a fine of not more than \$1,000 if the violation involves more than one ounce but not more than 10 ounces, the person is guilty of a misdemeanor and subject to a fine of not more than \$5,000 if the violation involves more than 10 ounces but not more than 15 ounces, and the person is guilty of a Class I felony if the violation involves more than 15 ounces. If a person who is at least 21 violates the prohibition on selling, or possessing with the intent to sell, marijuana and the recipient is under 21 and at least three years younger than the person, then the person is guilty of a misdemeanor and subject to fine of not more than \$1,000 or imprisonment for up to 90 days or both if the violation involves not more than five ounces and is guilty of a Class H felony if the violation involves more than five ounces. If a person who is under 21 violates the prohibition on selling, or possessing with the intent to sell, marijuana, the person is subject to a forfeiture of not more than \$100 if the violation involves not more than five ounces, guilty of a misdemeanor and subject to a fine of not more than \$500 if the violation involves more than five ounces but not more than 20 ounces, and guilty of a misdemeanor and subject to a fine of not more than \$1,000 or imprisonment for not more than 90 days or both if the violation involves more than 20 ounces. The prohibition on sales does not apply to a sale of not more than one-quarter of an ounce to a person who is at least 21 if the compensation the seller receives for the sale is less than or equal to the amount the seller paid for the marijuana.

If a person who is at least 21 violates the prohibition on distributing, or possessing with the intent to distribute, marijuana, the person is subject to a forfeiture of not more than \$250 if the violation involves not more than five ounces of marijuana, and the person is guilty of a misdemeanor and subject to a fine of not more than \$500 if the violation involves more than five ounces. If a person who is at least 21 violates the prohibition on distributing, or possessing with the intent to

SENATE BILL 486

distribute, marijuana and the recipient is under 21 and at least three years younger than the person, then the person is guilty of a misdemeanor and subject to a fine of not more than \$1,000 or imprisonment for up to 90 days or both if the violation involves not more than five ounces and is guilty of a Class H felony if the violation involves more than five ounces. If a person who is under 21 violates the prohibition on distributing, or possessing with the intent to distribute, marijuana, the person is subject to a forfeiture of not more than \$100 if the violation involves not more than five ounces, guilty of a misdemeanor and subject to a fine of not more than \$500 if the violation involves more than five ounces but not more than 20 ounces, and guilty of a misdemeanor and subject to a fine of not more than \$1,000 or imprisonment for not more than 90 days or both if the violation involves more than 20 ounces. The prohibition on distribution does not apply if the distribution involves not more than one-quarter of an ounce and is to a person who is at least 21 or if the distribution involves less than five ounces and is made to a person who cohabitates with the distributor.

The bill requires a person to obtain separate permits from DOR to produce, process, distribute, or sell marijuana or to sell marijuana for on-premises consumption (marijuana lounge), and requires marijuana producers and processors to obtain additional permits from the Department of Agriculture, Trade and Consumer Protection. The requirements for obtaining these permits differ based on whether the permit is issued by DOR or DATCP but, in general, a person may not obtain such a permit if he or she is not a state resident, is under the age of 21, or has been convicted of certain crimes or committed certain offenses. In addition, a person may not operate under a DOR or DATCP permit within 500 feet of a school, playground, recreation facility, child care facility, public park, public transit facility, or library, and a person may not operate a marijuana lounge unless the municipality or county in which the marijuana lounge is located has enacted an ordinance authorizing such operation. A person who holds a permit from DOR must also comply with certain operational requirements.

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

The bill also requires DATCP and DOR to use a competitive scoring system to determine which applicants are eligible to receive permits. Each department must issue permits to the highest scoring applicants that it determines will best protect the environment; provide stable, family-supporting jobs to local residents; ensure

SENATE BILL 486

worker and consumer safety; operate secure facilities; and uphold the laws of the jurisdictions in which they operate. Each department may deny a permit to an applicant with a low score.

The bill prohibits a DOR permittee from selling, distributing, or transferring marijuana to a minor and from allowing 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 90 days.

Under the bill, a minor, except a minor who is a qualifying patient, who does any of the following is subject to a forfeiture of not more than \$250: procures or attempts to procure marijuana from a permittee; falsely represents his or her age or falsely represents that he or she is a qualifying patient to receive marijuana from a permittee; 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.

Under the bill, an individual may cultivate as many as six marijuana plants. Only a person who has a permit from DATCP may produce or process more marijuana plants. A person without a permit who possesses more than six but not more than 12 marijuana plants that have reached the flowering stage is subject to a forfeiture not to exceed twice the permitting fee (\$250 under the bill). If the person possesses more than 12 plants that have reached the flowering stage, the person is guilty of a misdemeanor and subject to a fine not to exceed \$1,000 or imprisonment not to exceed 90 days or both. The person is guilty of a Class I felony if the person also takes action to hide the number of plants he or she has and the person also has in place a security system to alert him or her to the presence of law enforcement or a method to intimidate, or a system that could injure or kill, a person approaching the area containing the plants.

The bill requires DOR to create and maintain a medical marijuana registry program whereby a person who is a qualifying patient may obtain a registry identification card and purchase marijuana from a retail establishment without having to pay the sales or excise taxes imposed on that sale. A “qualifying patient” is a person who has been diagnosed by a physician as having a debilitating medical condition such as cancer, glaucoma, AIDS, or another specified condition or is undergoing a debilitating medical treatment.

Previous convictions relating to marijuana

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

SENATE BILL 486

must determine if there is good cause to restore the person's right to possess a firearm. Finally, if the record is for an arrest or a charge for an act that the bill decriminalizes or lessens the penalty for, the director of state courts must expunge such records.

Registration for THC testing labs

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

Discrimination based on marijuana use

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

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

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

Drug screening and testing

The bill exempts THC, including marijuana, from drug testing for certain public assistance programs. Currently, a participant in a community service job or transitional placement under the Wisconsin Works program (W2) or a recipient of the FoodShare program, also known as the food stamp program, who is convicted of possession, use, or distribution of a controlled substance must submit to a test for controlled substances as a condition of continued eligibility. The Department of Health Services is currently required to request a waiver of federal Medicaid law to require drug screening and testing as a condition of eligibility for the childless adult demonstration project in the Medical Assistance program. Current law also requires DHS to promulgate rules to develop and implement a drug screening, testing, and treatment policy for able-bodied adults without dependents in the FoodShare employment and training program. The bill exempts THC from all of those drug-testing requirements and programs. In addition, because THC is not a

SENATE BILL 486

controlled substance under state law under the bill, the requirement under current law that the Department of Children and Families promulgate rules to create a controlled substance abuse screening and testing requirement for applicants for the work experience program for noncustodial parents under W2 and the Transform Milwaukee Jobs and Transitional Jobs programs does not include THC.

Under current law, the Department of Workforce Development must establish a program to test claimants who apply for unemployment insurance benefits for the presence of controlled substances, as defined under federal law. If a claimant tests positive for a controlled substance, the claimant may be denied UI benefits, subject to certain exceptions and limitations. The bill excludes THC for purposes of this testing requirement. As such, under the bill, an individual who tests positive for THC may not be denied UI benefits.

Equity grants and program for law enforcement training

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

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

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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

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

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

SENATE BILL 486

1 **16.282 Equity grants.** The department shall develop and administer a grants
 2 program to provide grants to public, private, and nonprofit entities in this state that
 3 promote diversity and advance equity and inclusion, including promoting the
 4 inclusion of women and racial and ethnic minorities in the production and sale of
 5 marijuana.

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

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

SENATE BILL 486

1 (s) Health equity grants SEG A -0- 20,000,000

2 **20.437 Children and families, department of**

3 (3) GENERAL ADMINISTRATION

4 (r) Diversity, equity, and inclusion

5 grants; community reinvestment

6 fund supplement SEG A -0- 5,000,000

7 **20.505 Administration, department of**

8 (1) SUPERVISION AND MANAGEMENT

9 (t) Equity grants; community rein-

10 vestment fund SEG A -0- 5,000,000

11 **20.566 Revenue, department of**

12 (1) COLLECTION OF TAXES

13 (bn) Administration and enforcement

14 of marijuana tax and regulation GPR A 3,236,600 2,010,100

15 **SECTION 3.** 20.115 (7) (gc) of the statutes is amended to read:

16 20.115 (7) (gc) *Industrial hemp and marijuana*. All moneys received under s.
17 94.55 for regulation of activities relating to industrial hemp under s. 94.55 and to
18 marijuana under s. 94.56.

19 **SECTION 4.** 20.115 (7) (ge) of the statutes is created to read:

20 20.115 (7) (ge) *Marijuana producers and processors; official logotype*. All
21 moneys received under s. 94.56 for regulation of activities relating to marijuana
22 under s. 94.56, for conducting public awareness campaigns under s. 94.56, and for
23 the creation of a logotype under s. 100.145.

SENATE BILL 486

1 **SECTION 5.** 20.192 (1) (t) of the statutes is created to read:

2 20.192 (1) (t) *Underserved community grants.* From the community
3 reinvestment fund, the amounts in the schedule for the purpose of providing
4 underserved community grants under s. 238.139.

5 **SECTION 6.** 20.255 (2) (r) of the statutes is created to read:

6 20.255 (2) (r) *Sparsity aid; community reinvestment fund supplement.* From
7 the community reinvestment fund, the amounts in the schedule for sparsity aid to
8 school districts under s. 115.436.

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

10 20.395 (5) (db) *Drug evaluation and classification program.* From the general
11 fund, the amounts in the schedule for the drug evaluation and classification
12 program.

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

14 20.435 (1) (s) *Health equity grants.* From the community reinvestment fund,
15 the amounts in the schedule for health equity grants under s. 250.22.

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

17 20.437 (3) (r) *Diversity, equity, and inclusion grants; community reinvestment*
18 *fund supplement.* From the community reinvestment fund, the amounts in the
19 schedule for diversity, equity, and inclusion grants under s. 48.47 (20).

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

21 20.505 (1) (t) *Equity grants; community reinvestment fund.* From the
22 community reinvestment fund, the amounts in the schedule for the purpose of
23 providing grants to promote diversity and advance equity and inclusion under s.
24 16.282.

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

SENATE BILL 486

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

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

7 20.835 (2) (eq) *Marijuana tax refunds.* A sum sufficient to pay refunds under
8 subchapter IV of chapter 139.

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

10 **25.316 Community reinvestment fund.** There is established a separate
11 nonlapsible trust fund, designated the community reinvestment fund consisting of
12 60 percent of all moneys received under subch. IV of ch. 139, including interest and
13 penalties.

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

15 48.47 (20) DIVERSITY, EQUITY, AND INCLUSION GRANTS. From the appropriation
16 account under s. 20.437 (3) (r), award grants to public, private, or nonprofit entities
17 that promote diversity and advance equity and inclusion.

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

19 49.148 (4) (a) A Wisconsin ~~works~~ Works agency shall require a participant in
20 a community service job or transitional placement who, after August 22, 1996, was
21 convicted in any state or federal court of a felony that had as an element possession,
22 use or distribution of a controlled substance to submit to a test for use of a controlled
23 substance as a condition of continued eligibility. If the test results are positive, the
24 Wisconsin ~~works~~ Works agency shall decrease the presanction benefit amount for
25 that participant by not more than 15 percent for not fewer than 12 months, or for the

SENATE BILL 486

1 remainder of the participant's period of participation in a community service job or
2 transitional placement, if less than 12 months. If, at the end of 12 months, the
3 individual is still a participant in a community service job or transitional placement
4 and submits to another test for use of a controlled substance and if the results of the
5 test are negative, the Wisconsin works Works agency shall discontinue the reduction
6 under this paragraph. In this subsection, "controlled substance" does not include
7 tetrahydrocannabinols in any form, including tetrahydrocannabinols contained in
8 marijuana, obtained from marijuana, or chemically synthesized.

9 **SECTION 16.** 49.79 (1) (b) of the statutes is amended to read:

10 49.79 (1) (b) "Controlled substance" has the meaning given in 21 USC 802 (6),
11 except that "controlled substance" does not include tetrahydrocannabinols in any
12 form, including tetrahydrocannabinols contained in marijuana, obtained from
13 marijuana, or chemically synthesized.

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

15 59.54 (25) (title) POSSESSION REGULATION OF MARIJUANA.

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

17 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance ~~to prohibit~~
18 ~~the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in~~
19 ~~s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance that~~
20 ~~is consistent with s. 961.71 or 961.72; except that if a complaint is issued regarding~~
21 ~~an allegation of possession of more than 25 grams of marijuana, or possession of any~~
22 ~~amount of marijuana following a conviction in this state for possession of marijuana~~
23 ~~alleging a violation of s. 961.72 (2) (a) 3. b. or (c) 3., the subject of the complaint may~~
24 not be prosecuted under this subsection for the same action that is the subject of the
25 complaint unless all of the following occur:

SENATE BILL 486

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

2 66.0107 (1) (bm) Enact and enforce an ordinance to prohibit the possession of
3 marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)
4 (intro.), and provide a forfeiture for a violation of the ordinance that is consistent
5 with s. 961.71 or 961.72; except that if a complaint is issued regarding an allegation
6 of possession of more than 25 grams of marijuana, or possession of any amount of
7 marijuana following a conviction in this state for possession of marijuana alleging
8 a violation of s. 961.72 (2) (a) 3. b. or (c) 3., the subject of the complaint may not be
9 prosecuted under this paragraph for the same action that is the subject of the
10 complaint unless the charges are dismissed or the district attorney declines to
11 prosecute the case.

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

13 **66.04185 Cultivation of tetrahydrocannabinols.** No city, village, town, or
14 county may prohibit cultivating tetrahydrocannabinols outdoors if the cultivation is
15 by an individual who has no more than 6 marijuana plants at one time for his or her
16 personal use.

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

18 **73.17 Medical marijuana registry program. (1) DEFINITIONS.** In this
19 section:

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

21 1. Cancer; glaucoma; acquired immunodeficiency syndrome; a positive test for
22 the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV;
23 inflammatory bowel disease, including ulcerative colitis or Crohn’s disease; a
24 hepatitis C virus infection; Alzheimer’s disease; amyotrophic lateral sclerosis; nail

SENATE BILL 486**SECTION 21**

1 patella syndrome; Ehlers-Danlos Syndrome; post-traumatic stress disorder; or the
2 treatment of these conditions.

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

7 (b) "Department" means the department of revenue.

8 (c) "Physician" means a person licensed under s. 448.04 (1) (a).

9 (d) "Qualifying patient" means a person who has been diagnosed by a physician
10 as having or undergoing a debilitating medical condition or treatment.

11 (e) "Tax exemption certificate" means a certificate to claim the exemption under
12 s. 77.54 (71).

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

14 (g) "Written certification" means means a statement made by a person's
15 physician if all of the following apply:

16 1. The statement indicates that, in the physician's professional opinion, the
17 person has or is undergoing a debilitating medical condition or treatment and the
18 potential benefits of the person's use of usable marijuana would likely outweigh the
19 health risks for the person.

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

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

SENATE BILL 486

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

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

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

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

9 (b) A written certification.

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

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

14 **(3) PROCESSING THE APPLICATION.** The department shall verify the information
15 contained in or accompanying an application submitted under sub. (2) and shall
16 approve or deny the application within 30 days after receiving it. The department
17 may deny an application submitted under sub. (2) only if the required information
18 has not been provided or if false information has been provided.

19 **(4) ISSUING A REGISTRY IDENTIFICATION CARD AND TAX EXEMPTION CERTIFICATE.** The
20 department shall issue to the applicant a registry identification card and tax
21 exemption certificate within 5 days after approving an application under sub. (3).
22 Unless voided under sub. (5) (b) or revoked under rules issued by the department
23 under sub. (7), a registry identification card and tax exemption certificate shall
24 expire 4 years from the date of issuance. A tax exemption certificate shall contain

SENATE BILL 486**SECTION 21**

1 the information determined by the department. A registry identification card shall
2 contain all of the following:

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

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

5 (c) A photograph of the registrant.

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

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

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

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

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

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

23 (d) No state or local agency may access the list maintained under par. (a) or
24 information gathered from the list maintained under par. (a) or inquire about a
25 person's status as an applicant or registrant under this section for the purpose of

SENATE BILL 486

1 approving or disapproving a person from purchasing, owning, possessing, or
2 carrying a firearm.

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

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

5 77.54 (71) The sales price from the sale of and the storage, use, or other
6 consumption of usable marijuana, as defined in s. 139.97 (13), purchased by an
7 individual who holds a valid certificate issued under s. 73.17 (4).

8 **SECTION 23.** 94.55 (2t) of the statutes is repealed.

9 **SECTION 24.** 94.56 of the statutes is created to read:

10 **94.56 Marijuana producers and processors. (1) DEFINITIONS.** In this
11 section:

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

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

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

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

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

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

SENATE BILL 486**SECTION 24**

1 (d) “Marijuana producer” has the meaning given in s. 139.97 (7).

2 (e) “Usable marijuana” has the meaning given in s. 139.97 (13).

3 (f) “Permittee” means a marijuana producer or marijuana processor who is
4 issued a permit under this section.

5 **(2) PERMIT REQUIRED.** (a) No person may operate in this state as a marijuana
6 producer or marijuana processor without a permit from the department. A person
7 who acts as a marijuana producer and a marijuana processor shall obtain a separate
8 permit for each activity. A permit issued under this section is not transferable from
9 one person to another or from one premises to another. A separate permit is required
10 for each place in this state where the operations of a marijuana producer or
11 marijuana processor occur. A person is not required to obtain a permit under this
12 section if the person produces or processes only industrial hemp and holds a valid
13 license under s. 94.55.

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

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

19 1. The person has been convicted of a violent misdemeanor, as defined in s.
20 941.29 (1g) (b), at least 3 times.

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

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

SENATE BILL 486

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

6 a. The person has been committed for involuntary treatment under s. 51.45
7 (13).

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

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

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

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

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

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

SENATE BILL 486**SECTION 24**

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

3 (cm) Notwithstanding ss. 66.0134 and 947.21, an applicant with 20 or more
4 employees may not receive a permit under this section unless the applicant certifies
5 to the department that the applicant has entered into a labor peace agreement and
6 will abide by the terms of the agreement as a condition of maintaining a valid permit
7 under this section. The applicant shall submit to the department a copy of the page
8 of the labor peace agreement that contains the signatures of the labor organization
9 representative and the applicant.

10 (cn) The department shall use a competitive scoring system to determine which
11 applicants are eligible to receive a permit under this section. The department shall
12 issue permits to the highest scoring applicants that it determines will best protect
13 the environment; provide stable, family-supporting jobs to local residents; ensure
14 worker and consumer safety; operate secure facilities; and uphold the laws of the
15 jurisdictions in which they operate. The department may deny a permit to an
16 applicant with a low score as determined under this paragraph. The department
17 may request that the applicant provide any information or documentation that the
18 department deems necessary for purposes of making a determination under this
19 paragraph.

20 (d) 1. Before the department issues a new or renewed permit under this section,
21 the department shall give notice of the permit application to the governing body of
22 the municipality where the permit applicant intends to operate the premises of a
23 marijuana producer or marijuana processor. No later than 30 days after the
24 department submits the notice, the governing body of the municipality may file with

SENATE BILL 486

1 the department a written objection to granting or renewing the permit. At the
2 municipality's request, the department may extend the period for filing objections.

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

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

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

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

SENATE BILL 486**SECTION 24**

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

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

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

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

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

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

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

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

23 **(4) SCHOOLS.** The department may not issue a permit under this section to
24 operate any premises that are within 500 feet of the perimeter of the grounds of any

SENATE BILL 486

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

3 (5) EDUCATION AND AWARENESS CAMPAIGN. The department shall develop and
4 make available training programs for marijuana producers on how to safely and
5 efficiently plant, grow, cultivate, harvest, and otherwise handle marijuana, and for
6 marijuana processors on how to safely and efficiently produce and handle marijuana
7 products and test marijuana for contaminants. The department shall conduct an
8 awareness campaign to inform potential marijuana producers and marijuana
9 processors of the availability and viability of marijuana as a crop or product in this
10 state.

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

16 (7) PENALTIES. (a) Unless another penalty is prescribed for the violation, any
17 person who violates sub. (2), fails to pay the required fee under sub. (3), or violates
18 any of the requirements established by the rules promulgated under sub. (6) shall
19 be fined not less than \$100 nor more than \$500 or imprisoned not more than 6 months
20 or both.

21 (b) In addition to the penalties imposed under par. (a), the department shall
22 revoke the permit of any person convicted of any violation described under par. (a)
23 and not issue another permit to that person for a period of 2 years following the
24 revocation. The department may suspend or revoke the permit of any permittee who
25 violates s. 100.30, any provision of this section, or any rules promulgated under sub.

SENATE BILL 486

1 (6). The department shall revoke the permit of any permittee who violates s. 100.30
2 3 or more times within a 5-year period.

3 **SECTION 25.** 94.57 of the statutes is created to read:

4 **94.57 Testing laboratories.** The department shall register entities as
5 tetrahydrocannabinols testing laboratories. The laboratories may possess or
6 manufacture tetrahydrocannabinols or drug paraphernalia and shall perform the
7 following services:

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

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

13 (3) Provide training on the following:

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

16 (b) Security and inventory accountability procedures.

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

18 **SECTION 26.** 100.145 of the statutes is created to read:

19 **100.145 Recreational marijuana logotype.** The department shall design
20 an official logotype appropriate for including on a label affixed to recreational
21 marijuana under s. 139.973 (10) (a).

22 **SECTION 27.** 108.02 (18r) of the statutes is created to read:

23 108.02 (18r) MARIJUANA. "Marijuana" has the meaning given in s. 111.32 (11m).

24 **SECTION 28.** 108.04 (5m) of the statutes is created to read:

SENATE BILL 486

1 108.04 **(5m)** DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5),
2 “misconduct,” for purposes of sub. (5), does not include the employee’s use of
3 marijuana off the employer’s premises during nonworking hours or a violation of the
4 employer’s policy concerning such use, unless termination of the employee because
5 of that use is permitted under s. 111.35.

6 (b) Notwithstanding sub. (5g), “substantial fault,” for purposes of sub. (5g), does
7 not include the employee’s use of marijuana off the employer’s premises during
8 nonworking hours or a violation of the employer’s policy concerning such use, unless
9 termination of the employee because of that use is permitted under s. 111.35.

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

11 111.32 **(9m)** “Lawful product” includes marijuana.

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

13 111.32 **(11m)** “Marijuana” means all parts of the plants of the genus Cannabis,
14 whether growing or not; the seeds thereof; the resin extracted from any part of the
15 plant; and every compound, manufacture, salt, derivative, mixture, or preparation
16 of the plant, its seeds or resin, including tetrahydrocannabinols.

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

18 111.35 **(2)** (e) Conflicts with any federal or state statute, rule or regulation.
19 This paragraph does not apply with respect to violations concerning marijuana or
20 tetrahydrocannabinols under 21 USC 841 to 865.

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

22 114.09 **(2)** (bm) 1. (intro.) Except as provided in subd. 1. a. or b., the court shall
23 order the person violating sub. (1) (b) 1. or 1m. to submit to and comply with an
24 assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for
25 examination of the person’s use of alcohol, tetrahydrocannabinols, controlled

SENATE BILL 486**SECTION 32**

1 substances, or controlled substance analogs and development of an airman safety
2 plan for the person. The court shall notify the person, the department, and the proper
3 federal agency of the assessment order. The assessment order shall:

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

5 114.09 (2) (bm) 4. The assessment report shall order compliance with an
6 airman safety plan. The report shall inform the person of the fee provisions under
7 s. 46.03 (18) (f). The safety plan may include a component that makes the person
8 aware of the effect of his or her offense on a victim and a victim's family. The safety
9 plan may include treatment for the person's misuse, abuse, or dependence on alcohol,
10 tetrahydrocannabinols, controlled substances, or controlled substance analogs. If
11 the plan requires inpatient treatment, the treatment shall not exceed 30 days. An
12 airman safety plan under this paragraph shall include a termination date consistent
13 with the plan that shall not extend beyond one year. The county department under
14 s. 51.42 shall assure notification of the department of transportation and the person
15 of the person's compliance or noncompliance with assessment and treatment.

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

18 115.35 (1) (a) (intro.) A critical health problems education program is
19 established in the department. The program shall be a systematic and integrated
20 program designed to provide appropriate learning experiences based on scientific
21 knowledge of the human organism as it functions within its environment and
22 designed to favorably influence the health, understanding, attitudes and practices
23 of the individual child which will enable him or her to adapt to changing health
24 problems of our society. The program shall be designed to educate youth with regard
25 to critical health problems and shall include, but not be limited to, the following

SENATE BILL 486

1 topics as the basis for comprehensive education curricula in all elementary and
2 secondary schools: ~~controlled~~

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

5 2. Mental health; ~~sexually.~~

6 3. Sexually transmitted diseases, including acquired immunodeficiency
7 syndrome; ~~human.~~

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

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

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

13 **SECTION 35.** Subchapter IV of chapter 139 [precedes 139.97] of the statutes is
14 created to read:

CHAPTER 139

SUBCHAPTER IV

MARIJUANA TAX AND REGULATION

18 **139.97 Definitions.** In this subchapter:

19 (1) “Department” means the department of revenue.

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

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

25 (4) “Marijuana” has the meaning given in s. 961.70 (2).

SENATE BILL 486**SECTION 35**

1 **(5)** “Marijuana distributor” means a person in this state who purchases or
2 receives usable marijuana from a marijuana processor and who sells or otherwise
3 transfers the usable marijuana to a marijuana retailer or operator of a marijuana
4 lounge for the purpose of resale to consumers.

5 **(5m)** “Marijuana lounge” means a location for the retail sale of usable
6 marijuana for consumption on the premises.

7 **(6)** “Marijuana processor” means a person in this state who processes
8 marijuana into usable marijuana, packages and labels usable marijuana for sale in
9 retail outlets, and sells at wholesale or otherwise transfers usable marijuana to
10 marijuana distributors.

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

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

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

18 (a) A marijuana processor.

19 (b) A marijuana distributor.

20 (c) A marijuana retailer.

21 **(10)** “Permittee” means a marijuana producer, marijuana processor, marijuana
22 distributor, marijuana retailer, microbusiness, or operator of a marijuana lounge
23 that is issued a permit under s. 139.972.

24 **(11)** “Retail outlet” means a location for the retail sale of usable marijuana.

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

SENATE BILL 486

1 **(13)** “Usable marijuana” means marijuana that has been processed for human
2 consumption and includes dried marijuana flowers, marijuana-infused products,
3 and marijuana edibles.

4 **139.971 Marijuana tax. (1)** (a) An excise tax is imposed on a marijuana
5 producer at the rate of 15 percent of the sales price on each wholesale sale or transfer
6 in this state of marijuana to a marijuana processor. This paragraph applies to a
7 microbusiness that transfers marijuana to a processing operation within the
8 microbusiness.

9 (b) An excise tax is imposed on a marijuana retailer or operator of a marijuana
10 lounge at the rate of 10 percent of the sales price on each retail sale in this state of
11 usable marijuana, except that the tax does not apply to sales of usable marijuana to
12 an individual who holds a valid tax exemption certificate issued under s. 73.17 (4).

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

17 **(3)** For purposes of this section, a marijuana producer may not sell marijuana
18 directly to a marijuana distributor, marijuana retailer, or operator of a marijuana
19 lounge, and a marijuana retailer or operator of a marijuana lounge may purchase
20 usable marijuana for resale only from a marijuana distributor. This subsection does
21 not apply to a microbusiness that transfers marijuana or usable marijuana to
22 another operation with the microbusiness.

23 **139.972 Permits required. (1)** (a) No person may operate in this state as a
24 marijuana producer, marijuana processor, marijuana distributor, marijuana
25 retailer, microbusiness, or operator of a marijuana lounge without first filing an

SENATE BILL 486**SECTION 35**

1 application for and obtaining the proper permit from the department to perform such
2 operations. In addition, no person may operate in this state as a marijuana producer
3 or marijuana processor without first filing an application for and obtaining the
4 proper permit under s. 94.56.

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

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

10 1. The person has been convicted of a violent misdemeanor, as defined in s.
11 941.29 (1g) (b), at least 3 times.

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

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

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

21 a. The person has been committed for involuntary treatment under s. 51.45
22 (13).

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

24 c. In 2 or more cases arising out of separate incidents, a court has found the
25 person to have committed a violation of s. 346.63 or a local ordinance in conformity

SENATE BILL 486

1 with that section; a violation of a law of a federally recognized American Indian tribe
2 or band in this state in conformity with s. 346.63; or a violation of the law of another
3 jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while
4 intoxicated, while under the influence of a controlled substance, a controlled
5 substance analog, or a combination thereof, with an excess or specified range of
6 alcohol concentration, or while under the influence of any drug to a degree that
7 renders the person incapable of safely driving, as those or substantially similar
8 terms are used in that jurisdiction's laws.

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

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

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

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

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

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

SENATE BILL 486

1 (cn) The department shall use a competitive scoring system to determine which
2 applicants are eligible to receive a permit under this section. The department shall
3 issue permits to the highest scoring applicants that it determines will best protect
4 the environment; provide stable, family-supporting jobs to local residents; ensure
5 worker and consumer safety; operate secure facilities; and uphold the laws of the
6 jurisdictions in which they operate. The department shall, using criteria established
7 by rule, score an applicant for a permit to operate as a marijuana retailer or as an
8 operator of a marijuana lounge on the applicant's ability to articulate a social equity
9 plan related to the operation of a marijuana retail establishment. The department
10 may deny a permit to an applicant with a low score as determined under this
11 paragraph. The department may request that the applicant provide any information
12 or documentation that the department deems necessary for purposes of making a
13 determination under this paragraph.

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

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

21 (d) 1. Before the department issues a new or renewed permit under this section,
22 the department shall give notice of the permit application to the governing body of
23 the municipality where the permit applicant intends to operate the premises of a
24 marijuana producer, marijuana processor, marijuana distributor, marijuana
25 retailer, microbusiness, or marijuana lounge. No later than 30 days after the

SENATE BILL 486

1 department submits the notice, the governing body of the municipality may file with
2 the department a written objection to granting or renewing the permit. At the
3 municipality's request, the department may extend the period for filing objections.

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

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

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

SENATE BILL 486**SECTION 35**

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

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

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

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

16 **(4)** Under this section, a separate permit is required for and issued to each class
17 of permittee, and the permit holder may perform only the operations authorized by
18 the permit. A permit issued under this section is not transferable from one person
19 to another or from one premises to another. A separate permit is required for each
20 place in this state where the operations of a marijuana producer, marijuana
21 processor, marijuana distributor, marijuana retailer, operator of a marijuana lounge,
22 or microbusiness occur, including each retail outlet. No person who has been issued
23 a permit to operate as a marijuana retailer or operator of a marijuana lounge, or who
24 has any direct or indirect financial interest in the operation of a marijuana retailer
25 or operator of a marijuana lounge, shall be issued a permit to operate as a marijuana

SENATE BILL 486

1 producer, marijuana processor, or marijuana distributor. A person who has been
2 issued a permit to operate as a microbusiness is not required to hold separate permits
3 to operate as a marijuana processor, marijuana distributor, or marijuana retailer,
4 but shall specify on the person's application for a microbusiness permit the activities
5 that the person will be engaged in as a microbusiness.

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

8 **139.973 Regulation.** (1) (a) No permittee may employ an individual who is
9 under the age of 21 to work in the business to which the permit relates.

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

13 (2) A retail outlet other than a marijuana lounge shall sell no products or
14 services other than usable marijuana or paraphernalia intended for the storage or
15 use of usable marijuana.

16 (3) No marijuana retailer or operator of a marijuana lounge may allow a person
17 who is under the age of 21 to enter or be on the premises of a retail outlet in violation
18 of s. 961.71 (2m), unless that person is a qualifying patient, as defined in s. 73.17 (1)
19 (d).

20 (4) The maximum amount of usable marijuana that a retail outlet may sell to
21 an individual consumer in a single transaction may not exceed a permissible amount,
22 as defined in s. 961.70 (3).

23 (4m) A marijuana retailer or operator of a marijuana lounge may not collect,
24 retain, or distribute personal information regarding the retailer's or operator's
25 customers except that which is necessary to complete a sale of usable marijuana.

SENATE BILL 486**SECTION 35**

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

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

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

10 **(7m)** A marijuana retailer or operator of a marijuana lounge may operate a
11 retail outlet only between the hours of 8 a.m. and 8 p.m.

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

16 **(9)** (a) On a schedule determined by the department, every marijuana
17 producer, marijuana processor, or microbusiness shall submit representative
18 samples of the marijuana and usable marijuana produced or processed by the
19 marijuana producer, marijuana processor, or microbusiness to a testing laboratory
20 registered under s. 94.57 for testing marijuana and usable marijuana in order to
21 certify that the marijuana and usable marijuana comply with standards prescribed
22 by the department by rule, including testing for potency and for mold, fungus,
23 pesticides, and other contaminants. The laboratory testing the sample shall destroy
24 any part of the sample that remains after the testing.

SENATE BILL 486

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

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

9 **(10)** (a) A marijuana processor or a microbusiness that operates as a marijuana
10 processor shall affix a label to all usable marijuana that the marijuana processor or
11 microbusiness sells to marijuana distributors. The label may not be designed to
12 appeal to persons under the age of 18. The label shall include all of the following:

13 1. The ingredients and the tetrahydrocannabinols concentration in the usable
14 marijuana.

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

16 3. The producer's permit number.

17 4. The harvest batch number of the marijuana.

18 5. The harvest date.

19 6. The strain name and product identity.

20 7. The net weight.

21 8. The activation time.

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

24 10. The logotype for recreational marijuana developed by the department of
25 agriculture, trade and consumer protection under s. 100.145.

SENATE BILL 486

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

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

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

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

13 (12) Immediately after beginning employment with a permittee, every
14 employee of a permittee shall receive training, approved by the department, on the
15 safe handling of marijuana and usable marijuana and on security and inventory
16 accountability procedures.

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

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.

SENATE BILL 486

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 shall publish production and sales statistics.

SENATE BILL 486

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

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

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

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

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

SENATE BILL 486

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
12 (2) 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 **139.976 Theft of tax moneys.** All marijuana tax moneys received by a
25 permittee for the sale of marijuana or usable marijuana on which the tax under this

SENATE BILL 486**SECTION 35**

1 subchapter has become due and has not been paid are trust funds in the permittee's
2 possession and are the property of this state. Any permittee who fraudulently
3 withholds, appropriates, or otherwise uses marijuana tax moneys that are the
4 property of this state is guilty of theft under s. 943.20 (1), whether or not the
5 permittee has or claims to have an interest in those moneys.

6 **139.977 Seizure and confiscation. (1)** All marijuana and usable marijuana
7 produced, processed, made, kept, stored, sold, distributed, or transported in violation
8 of this subchapter, and all tangible personal property used in connection with the
9 marijuana or usable marijuana, is unlawful property and subject to seizure by the
10 department or a law enforcement officer. Except as provided in sub. (2), all
11 marijuana and usable marijuana seized under this subsection shall be destroyed.

12 **(2)** If marijuana or usable marijuana on which the tax has not been paid is
13 seized as provided under sub. (1), it may be given to law enforcement officers to use
14 in criminal investigations or sold to qualified buyers by the department, without
15 notice. If the department finds that the marijuana or usable marijuana may
16 deteriorate or become unfit for use in criminal investigations or for sale, or that those
17 uses would otherwise be impractical, the department may order it destroyed.

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

SENATE BILL 486

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

20 **139.978 Interest and penalties.** (1) Any person who makes or signs any
21 false or fraudulent report under this subchapter or who attempts to evade the tax
22 imposed by s. 139.971, or who aids in or abets the evasion or attempted evasion of
23 that tax, may be fined not more than \$10,000 or imprisoned for not more than 9
24 months or both.

SENATE BILL 486

1 **(2)** Any permittee who fails to keep the records required by s. 139.974 (1) and
2 (2) shall be fined not less than \$100 nor more than \$500 or imprisoned not more than
3 6 months or both.

4 **(3)** Any person who refuses to permit the examination or inspection authorized
5 under s. 139.975 (3) may be fined not more than \$500 or imprisoned not more than
6 6 months or both. The department shall immediately suspend or revoke the permit
7 of any person who refuses to permit the examination or inspection authorized under
8 s. 139.975 (3).

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

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

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

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

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

SENATE BILL 486

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

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

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

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

12 **139.979 Personal use.** An individual who possesses no more than 6
13 marijuana plants that have reached the flowering stage at any one time is not subject
14 to the tax imposed under s. 139.971. An individual who possesses more than 6
15 marijuana plants that have reached the flowering stage at any one time shall apply
16 for the appropriate permit under s. 139.972 and pay the appropriate tax imposed
17 under s. 139.971.

18 **139.980 Agreement with tribes.** The department may enter into an
19 agreement with a federally recognized American Indian tribe in this state for the
20 administration and enforcement of this subchapter and to provide refunds of the tax
21 imposed under s. 139.971 on marijuana sold on tribal land by or to enrolled members
22 of the tribe residing on the tribal land.

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

24 157.06 **(11)** (hm) Unless otherwise required by federal law, a hospital,
25 physician, procurement organization, or other person may not determine the

SENATE BILL 486**SECTION 36**

1 ultimate recipient of an anatomical gift based solely upon a positive test for the use
2 of marijuana by a potential recipient.

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

4 157.06 (11) (i) Except as provided under ~~par. pars.~~ (a) 2. and (hm), nothing in
5 this section affects the allocation of organs for transplantation or therapy.

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

7 175.35 (2g) (b) 3. Any form that inquires about the applicant's use of controlled
8 substances shall specifically authorize a qualifying patient, as defined in s. 73.17 (1)
9 (d), to refrain from reporting the use of marijuana under s. 73.17 and shall
10 specifically authorize a person 21 years of age or older to refrain from reporting the
11 use of marijuana.

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

13 175.35 (2g) (c) 4. a. If the search indicates that the transferee is prohibited from
14 possessing a firearm under s. 941.29, the department shall provide the firearms
15 dealer with a unique nonapproval number. The department may not disclose to the
16 firearms dealer the reason the transferee is prohibited from possessing a firearm
17 under s. 941.29. No person may be denied the right to be transferred a firearm under
18 this section solely on the basis that the person is a qualifying patient, as defined in
19 s. 73.17 (1) (d), or, if the person is at least 21 years old, solely on the basis that the
20 person uses marijuana.

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

22 **238.139 Financial assistance for underserved communities.** The
23 corporation shall expend \$5,000,000 annually to provide grants, loans, and other
24 assistance to underserved communities in this state, including members of minority
25 groups, woman-owned businesses, and individuals and businesses in rural areas.

SENATE BILL 486

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

2 **250.22 Health equity grants. (1)** From the appropriation under s. 20.435
3 (1) (s), the department shall award grants to community organizations to implement
4 community health worker care models.

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

8 **SECTION 42.** 289.33 (3) (d) of the statutes is amended to read:

9 289.33 **(3)** (d) “Local approval” includes any requirement for a permit, license,
10 authorization, approval, variance or exception or any restriction, condition of
11 approval or other restriction, regulation, requirement or prohibition imposed by a
12 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
13 a town, city, village, county or special purpose district, including without limitation
14 because of enumeration any ordinance, resolution or regulation adopted under s.
15 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),
16 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),
17 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),
18 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),
19 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3),
20 (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16),
21 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70
22 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (7), (8),
23 and (10), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34,
24 61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415,

SENATE BILL 486

1 87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III
2 of ch. 91.

3 **SECTION 43.** 349.02 (2) (b) 4. of the statutes is amended to read:

4 349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or
5 66.0107 (1) (bm).

6 **SECTION 44.** 961.01 (14) of the statutes is renumbered 961.70 (2) and amended
7 to read:

8 961.70 (2) “Marijuana” means all parts of the plants of the genus Cannabis,
9 whether growing or not; the seeds thereof; the resin extracted from any part of the
10 plant; and every compound, manufacture, salt, derivative, mixture, or preparation
11 of the plant, its seeds or resin, including if the tetrahydrocannabinols concentration
12 of the plant part, seeds, resin, compound, manufacture, salt, derivative, mixture, or
13 preparation is greater than 0.3 percent on a dry weight basis. “Marijuana” does
14 include the mature stalks if mixed with other parts of the plant, but does not include
15 fiber produced from the stalks, oil or cake made from the seeds of the plant, any other
16 compound, manufacture, salt, derivative, mixture, or preparation of the mature
17 stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed
18 of the plant which is incapable of germination. “Marijuana” does not include hemp,
19 as defined in s. 94.55 (1).

20 **SECTION 45.** 961.11 (4g) of the statutes is repealed.

21 **SECTION 46.** 961.14 (4) (t) of the statutes is repealed.

22 **SECTION 47.** 961.32 (2m) of the statutes is repealed.

23 **SECTION 48.** 961.34 of the statutes is renumbered 961.75, and 961.75 (title), as
24 renumbered, is amended to read:

25 **961.75 (title) ~~Controlled substances~~ Marijuana therapeutic research.**

SENATE BILL 486

1 **SECTION 49.** 961.38 (1n) of the statutes is repealed.

2 **SECTION 50.** 961.41 (1) (h) of the statutes is repealed.

3 **SECTION 51.** 961.41 (1m) (h) of the statutes is repealed.

4 **SECTION 52.** 961.41 (1q) of the statutes is repealed.

5 **SECTION 53.** 961.41 (1r) of the statutes is amended to read:

6 **961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE.** In determining amounts under
7 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight
8 of cocaine, cocaine base, fentanyl, a fentanyl analog, heroin, phencyclidine, lysergic
9 acid diethylamide, psilocin, psilocybin, amphetamine, methamphetamine,
10 ~~tetrahydrocannabinols~~, synthetic cannabinoids, or substituted cathinones, or any
11 controlled substance analog of any of these substances together with any compound,
12 mixture, diluent, plant material or other substance mixed or combined with the
13 controlled substance or controlled substance analog. ~~In addition, in determining~~
14 ~~amounts under subs. (1) (h) and (1m) (h), the amount of tetrahydrocannabinols~~
15 ~~means anything included under s. 961.14 (4) (t) and includes the weight of any~~
16 ~~marijuana.~~

17 **SECTION 54.** 961.41 (1x) of the statutes is amended to read:

18 **961.41 (1x) CONSPIRACY.** Any person who conspires, as specified in s. 939.31,
19 to commit a crime under sub. (1) (cm) to ~~(h)~~ (g) or (1m) (cm) to ~~(h)~~ (g) is subject to the
20 applicable penalties under sub. (1) (cm) to ~~(h)~~ (g) or (1m) (cm) to ~~(h)~~ (g).

21 **SECTION 55.** 961.41 (3g) (c) of the statutes is amended to read:

22 **961.41 (3g) (c) Cocaine and cocaine base.** If a person possesses or attempts to
23 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine
24 base, the person shall be fined not more than \$5,000 and may be imprisoned for not
25 more than one year in the county jail upon a first conviction and is guilty of a Class

SENATE BILL 486**SECTION 55**

1 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense
2 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the
3 offense, the offender has at any time been convicted of any felony or misdemeanor
4 under this chapter or under any statute of the United States or of any state relating
5 to controlled substances, controlled substance analogs, narcotic drugs, ~~marijuana~~,
6 or depressant, stimulant, or hallucinogenic drugs.

7 **SECTION 56.** 961.41 (3g) (d) of the statutes is amended to read:

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

25 **SECTION 57.** 961.41 (3g) (e) of the statutes is repealed.

SENATE BILL 486

1 **SECTION 58.** 961.41 (3g) (em) of the statutes is amended to read:

2 961.41 **(3g)** (em) *Synthetic cannabinoids*. If a person possesses or attempts to
3 possess a controlled substance specified in s. 961.14 (4) (tb), or a controlled substance
4 analog of a controlled substance specified in s. 961.14 (4) (tb), the person may be fined
5 not more than \$1,000 or imprisoned for not more than 6 months or both upon a first
6 conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For
7 purposes of this paragraph, an offense is considered a 2nd or subsequent offense if,
8 prior to the offender's conviction of the offense, the offender has at any time been
9 convicted of any felony or misdemeanor under this chapter or under any statute of
10 the United States or of any state relating to controlled substances, controlled
11 substance analogs, narcotic drugs, ~~marijuana~~, or depressant, stimulant, or
12 hallucinogenic drugs.

13 **SECTION 59.** 961.47 (1) of the statutes is amended to read:

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

SENATE BILL 486**SECTION 59**

1 without adjudication of guilt and is not a conviction for purposes of disqualifications
2 or disabilities imposed by law upon conviction of a crime, including the additional
3 penalties imposed for 2nd or subsequent convictions under s. 961.48. There may be
4 only one discharge and dismissal under this section with respect to any person.

5 **SECTION 60.** 961.48 (3) of the statutes is amended to read:

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

12 **SECTION 61.** 961.48 (5) of the statutes is amended to read:

13 961.48 (5) This section does not apply if the person is presently charged with
14 a felony under s. 961.41 (3g) (c), (d), ~~(e)~~, or (g).

15 **SECTION 62.** 961.49 (1m) (intro.) of the statutes is amended to read:

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

25 **SECTION 63.** 961.571 (1) (a) 7. of the statutes is repealed.

SENATE BILL 486**SECTION 67**

1 (3) “Permissible amount” means an amount that does not exceed 5 ounces of
2 usable marijuana.

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

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

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

6 (6) “Tetrahydrocannabinols concentration” means the percent of
7 tetrahydrocannabinol content per dry weight of any part of the plant Cannabis, or
8 per volume or weight of marijuana product, or the combined percent of
9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant
10 Cannabis regardless of moisture content.

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

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

13 **961.71 Underage persons prohibitions involving permittees;**

14 **penalties.** (1) (a) 1. No permittee may sell, distribute, or deliver marijuana to any
15 underage person unless that underage person is a qualifying patient.

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

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

21 (c) In determining whether a permittee has violated par. (a) 2., all relevant
22 circumstances surrounding the presence of the underage person may be considered.

23 In determining whether a permittee has violated par. (a) 1., all relevant
24 circumstances surrounding the selling, distributing, or delivering of marijuana may

SENATE BILL 486

1 be considered. In addition, proof of all of the following facts by the permittee is a
2 defense to any prosecution for a violation under par. (a):

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

5 2. If the underage person was falsely representing that he or she had attained
6 the legal age, that the appearance of the underage person was such that an ordinary
7 and prudent person would believe that the underage person had attained the legal
8 age.

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

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

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

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

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

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

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

SENATE BILL 486**SECTION 67**

1 **(2m)** An underage person not accompanied by his or her parent, guardian, or
2 spouse who has attained the legal age may not enter, knowingly attempt to enter, or
3 be on the premises of a retail outlet. This subsection does not apply to a qualifying
4 patient who has attained the age of 18 years.

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

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

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

10 **961.72 Restrictions; penalties. (1) PROHIBITION ON SALES. (a) General**
11 *prohibition.* No person may sell marijuana or possess marijuana with the intent to
12 sell the marijuana.

13 (b) *Penalty for sales by adult.* An individual who has attained the legal age who
14 violates par. (a) is guilty of the following:

15 1. Except as provided in subd. 2., one of the following:

16 a. If the violation involves not more than one ounce of usable marijuana, a
17 misdemeanor punishable by a fine of not more than \$500.

18 b. If the violation involves more than one ounce of usable marijuana but not
19 more than 10 ounces of usable marijuana, a misdemeanor punishable by a fine of not
20 more than \$1,000.

21 c. If the violation involves more than 10 ounces of usable marijuana but not
22 more than 15 ounces of usable marijuana, a misdemeanor punishable by a fine of not
23 more than \$5,000.

24 d. If the violation involves more than 15 ounces of usable marijuana, a Class
25 I felony.

SENATE BILL 486

1 2. If the individual to whom the marijuana is, or is intended to be, sold, is an
2 underage person and the seller is at least 3 years older than the underage person,
3 one of the following:

4 a. If the violation involves not more than the permissible amount, a
5 misdemeanor punishable by a fine of not more than \$1,000 or imprisonment for up
6 to 90 days or both.

7 b. If the violation involves more than the permissible amount, a Class H felony.

8 (c) *Penalty for sales by underage person.* An underage person who violates par.
9 (a) is one of the following:

10 1. If the violation involves not more than the permissible amount, subject to a
11 forfeiture of not more than \$100.

12 2. If the violation involves more than the permissible amount but not more than
13 20 ounces, guilty of a misdemeanor punishable by a fine of not more than \$500.

14 3. If the violation involves more than 20 ounces, guilty of a misdemeanor
15 punishable by a fine of not more than \$1,000 or imprisonment for not more than 90
16 days or both.

17 (d) *Exceptions.* Paragraph (a) does not apply to any of the following:

18 1. A permittee.

19 2. A sale of a negligible amount that was obtained in compliance with this
20 subchapter to an individual who has attained the legal age if the seller receives
21 compensation for the sale that is less than or equal to the amount that the seller paid
22 for the negligible amount.

23 **(1m) PROHIBITION ON DISTRIBUTION.** (a) *General prohibition.* No person may
24 distribute or deliver, or possess with the intent to distribute or deliver, marijuana.

SENATE BILL 486**SECTION 67**

1 (b) *Penalty for distribution by adult.* An individual who has attained the legal
2 age who violates par. (a) is one of the following:

3 1. Except as provided in subd. 2., one of the following:

4 a. If the violation involves not more than the permissible amount, subject to a
5 forfeiture of not more than \$250.

6 b. If the violation involves more than the permissible amount, guilty of a
7 misdemeanor punishable by a fine of not more than \$500.

8 2. If the individual to whom the marijuana is, or is intended to be, distributed
9 or delivered is an underage person and the distributor or deliverer is at least 3 years
10 older than the underage person, guilty of the following:

11 a. If the violation involves not more than the permissible amount, a
12 misdemeanor punishable by a fine of not more than \$1,000 or imprisonment for not
13 more than 90 days or both.

14 b. If the violation involves more than the permissible amount, a Class H felony.

15 (c) *Penalty for distribution by underage person.* An underage person who
16 violates par. (a) is one of the following:

17 1. If the violation involves not more than the permissible amount, subject to a
18 forfeiture of not more than \$100.

19 2. If the violation involves more than the permissible amount but not more than
20 20 ounces, guilty of a misdemeanor punishable by a fine of not more than \$500.

21 3. If the violation involves more than 20 ounces, guilty of a misdemeanor
22 punishable by a fine of \$1,000 or imprisonment for not more than 90 days or both.

23 (d) *Exceptions.* Paragraph (a) does not apply to any of the following:

24 1. A permittee.

SENATE BILL 486

1 2. A distribution or delivery of a negligible amount that was obtained in
2 compliance with this subchapter to an individual who has attained the legal age.

3 3. A distribution or delivery of a permissible amount that was obtained in
4 compliance with this subchapter to an individual who cohabitates with the
5 distributor or deliverer.

6 **(2) POSSESSION.** (a) A person who has attained the legal age who is not a
7 permittee and who possesses an amount of marijuana that exceeds the permissible
8 amount is one of the following:

9 1. If the overage is not more than one ounce, subject to a forfeiture of not more
10 than \$100.

11 2. If the overage is more than one ounce but not more than 16 ounces, guilty
12 of a misdemeanor punishable by a fine of not more than \$500.

13 3. If the overage is more than 16 ounces, one of the following:

14 a. Except as provided in subd. 3. b., guilty of a misdemeanor punishable by a
15 fine of not more than \$1,000 or imprisonment for not more than 90 days or both.

16 b. Guilty of a Class I felony if the person has taken action to hide how much
17 marijuana the person possesses and has in place an extreme measure to avoid
18 detection.

19 (b) Except if the underage person is a qualifying patient, an underage person
20 who possesses marijuana is subject to the following forfeitures:

21 1. If the amount possessed is a negligible amount, not more than \$50.

22 2. If the amount possessed is more than a negligible amount but not more than
23 a permissible amount, not more than \$100.

24 3. If the amount possessed is more than a permissible amount, not more than
25 \$200.

SENATE BILL 486**SECTION 67**

1 (c) A person who is not a permittee that possesses more than 6 marijuana plants
2 that have reached the flowering stage at one time must apply for a permit under s.
3 139.972 and is one of the following:

4 1. Except as provided in subds. 2. and 3., subject to a forfeiture that is not more
5 than twice the permitting fee under s. 139.972.

6 2. Except as provided in subd. 3., guilty of a misdemeanor punishable by a fine
7 not to exceed \$1,000 or imprisonment not to exceed 90 days or both, if the number
8 of marijuana plants that have reached the flowering stage is more than 12.

9 3. Guilty of a Class I felony if the number of marijuana plants that have reached
10 the flowering stage is more than 12, if the individual has taken action to hide the
11 number of marijuana plants that have reached the flowering stage and if the person
12 has in place an extreme measure to avoid detection.

13 (d) Whoever uses or displays marijuana in a public space other than a
14 marijuana lounge, as defined in s. 139.97 (5m), that is operated by a permittee is
15 subject to a forfeiture in an amount that does not exceed the following:

16 1. If the use or display occurs in a county or a municipality with an ordinance
17 prohibiting using or displaying marijuana in a public space, the forfeiture amount
18 specified in the ordinance. If more than one ordinance applies, the lower amount
19 shall be used.

20 2. If the use or display occurs in a county or municipality without an ordinance
21 prohibiting using or displaying marijuana in a public space, \$100.

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

25 **SECTION 68.** 967.055 (1m) (b) 5. of the statutes is repealed.

SENATE BILL 486

1 **SECTION 69.** 971.365 (1) (a) of the statutes is amended to read:

2 971.365 (1) (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1)
3 (cm), (d), (dm), (e), (f), or (g) ~~or~~ (h) involving more than one violation, all violations
4 may be prosecuted as a single crime if the violations were pursuant to a single intent
5 and design.

6 **SECTION 70.** 971.365 (1) (b) of the statutes is amended to read:

7 971.365 (1) (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41
8 (1m) (cm), (d), (dm), (e), (f), or (g) ~~or~~ (h) involving more than one violation, all
9 violations may be prosecuted as a single crime if the violations were pursuant to a
10 single intent and design.

11 **SECTION 71.** 971.365 (1) (c) of the statutes is amended to read:

12 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41
13 (3g) (dm), 1999 stats., or s. 961.41 (3g) (am), (c), (d), ~~(e)~~, or (g) involving more than
14 one violation, all violations may be prosecuted as a single crime if the violations were
15 pursuant to a single intent and design.

16 **SECTION 72.** 971.365 (2) of the statutes is amended to read:

17 971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent
18 prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m)
19 (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats.,
20 or s. 961.41 (1) (cm), (d), (dm), (e), (f), or (g), ~~or~~ (h), (1m) (cm), (d), (dm), (e), (f), or (g),
21 ~~or~~ (h) or (3g) (am), (c), (d), ~~(e)~~, or (g) on which no evidence was received at the trial
22 on the original charge.

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

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

SENATE BILL 486

1 (a) *Definitions.* In this subsection, “marijuana-related crime” means a crime
2 under s. 961.41 (1) (h), 2021 stats., s. 961.41 (1m) (h), 2021 stats., s. 961.41 (3g) (e),
3 2021 stats., s. 961.573, 2021 stats., s. 961.574, 2021 stats., or s. 961.575, 2021 stats.

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

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

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

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

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

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

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

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

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

SENATE BILL 486

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

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

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

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

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

9 (c) *Expungement or redesignations.*

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

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

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

SENATE BILL 486

1 it is in the public interest to resentence the person or adjust the probation and change
2 the record to reflect the lesser crime. Such actions are presumed to be in the public
3 interest unless there is clear and convincing evidence that the actions would create
4 a risk to public safety. If the sentencing court determines it is in the public interest
5 to take such actions, the sentencing court shall do so.

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

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

