

SENATE BILL No. 560

By Committee on Federal and State Affairs

3-11

1 AN ACT concerning health and healthcare; relating to medical marijuana;
2 enacting the medical marijuana regulation act; providing for licensure
3 and regulation of the cultivation, processing, distribution, sale and use
4 of medical marijuana; delegating administrative duties and functions to
5 the secretary of health and environment, secretary of revenue, board of
6 healing arts, board of pharmacy and the director of alcohol and
7 cannabis control; imposing fines and penalties for violations of the act;
8 establishing the medical marijuana registration fund and the medical
9 marijuana business regulation fund; creating the crimes of unlawful
10 storage and unlawful transport of medical marijuana; making
11 exceptions to the crimes of unlawful manufacture and possession of
12 controlled substances; amending K.S.A. 38-2269, 44-501, 44-706, 44-
13 1009, 44-1015, 65-28b08, 79-5201 and 79-5210 and K.S.A. 2021 Supp.
14 19-101a, 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 23-
15 3201 and 65-1120 and repealing the existing sections.
16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. The provisions of sections 1 through 48, and
19 amendments thereto, shall be known and may be cited as the medical
20 marijuana regulation act.

21 New Sec. 2. As used in the medical marijuana regulation act, section
22 1 et seq., and amendments thereto:

23 (a) "Academic medical center" means a medical school and its
24 affiliated teaching hospitals and clinics.

25 (b) "Board of healing arts" means the state board of healing arts.

26 (c) "Caregiver" means an individual registered pursuant to section 8,
27 and amendments thereto, who may purchase and possess medical
28 marijuana in accordance with section 11, and amendments thereto.

29 (d) "Cultivator" means a person issued a license pursuant to section
30 20, and amendments thereto, who may grow and sell medical marijuana in
31 accordance with section 22, and amendments thereto.

32 (e) "Director" means the director of alcohol and cannabis control.

33 (f) "Distributor" means a person issued a license pursuant to section
34 20, and amendments thereto, who may purchase and sell medical
35 marijuana in accordance with section 27, and amendments thereto.

36 (g) "Electronic cigarette" means the same as defined in K.S.A. 79-

1 3301, and amendments thereto.

2 (h) "Marijuana" means the same as defined in K.S.A. 65-4101, and
3 amendments thereto.

4 (i) "Medical marijuana" means marijuana that is cultivated,
5 processed, tested, dispensed, possessed or used for a medical purpose.

6 (j) "Medical marijuana product" means a product that contains
7 cannabinoids that have been extracted from plant material or the resin
8 therefrom by physical or chemical means and is intended for
9 administration to a registered patient.

10 (k) "Patient" means an individual registered pursuant to section 8, and
11 amendments thereto, who may purchase and possess medical marijuana in
12 accordance with section 10, and amendments thereto.

13 (l) "Postsecondary educational institution" means the same as defined
14 in K.S.A. 74-3201b, and amendments thereto.

15 (m) "Processor" means a person issued a license pursuant to section
16 20, and amendments thereto, who may purchase, process and sell medical
17 marijuana in accordance with section 26, and amendments thereto.

18 (n) "Physician" means an individual licensed to practice medicine and
19 surgery in this state and who is certified by the board of healing arts to
20 recommend treatment with medical marijuana pursuant to section 18, and
21 amendments thereto.

22 (o) "Physician's designee" means:

23 (1) A registered nurse, licensed practical nurse, respiratory therapist,
24 emergency medical responder, paramedic, dental hygienist, pharmacy
25 technician or pharmacy intern who has registered for access to the program
26 database as an agent of a practitioner or pharmacist to request program
27 data on behalf of the practitioner or pharmacist;

28 (2) a death investigator who has registered for limited access to the
29 program database as an agent of a medical examiner, coroner or another
30 person authorized under law to investigate or determine causes of death; or

31 (3) an individual authorized by rules and regulations adopted by the
32 board of healing arts to access the prescription monitoring program
33 database.

34 (p) "Qualifying medical condition" means any of the following:

35 (1) Acquired immune deficiency syndrome;

36 (2) Alzheimer's disease;

37 (3) amyotrophic lateral sclerosis;

38 (4) cancer;

39 (5) chronic traumatic encephalopathy;

40 (6) epilepsy or another seizure disorder;

41 (7) fibromyalgia;

42 (8) glaucoma;

43 (9) hepatitis C;

- 1 (10) multiple sclerosis;
2 (11) Parkinson's disease;
3 (12) positive status for human immunodeficiency virus;
4 (13) post-traumatic stress disorder;
5 (14) sickle cell anemia;
6 (15) spinal cord disease or injury;
7 (16) Tourette's syndrome;
8 (17) traumatic brain injury;
9 (18) ulcerative colitis;
10 (19) any autoimmune disorder;
11 (20) pain that is either chronic and severe or intractable;
12 (21) a debilitating psychiatric disorder that is diagnosed by a
13 physician licensed in this state who is board-certified in the practice of
14 psychiatry, as determined by the board of healing arts;
15 (22) any other chronic, debilitating or terminal condition that, in the
16 professional judgment of a physician, would be a detriment to the patient's
17 mental or physical health if left untreated; or
18 (23) any other disease or condition approved by the secretary of
19 health and environment pursuant to section 15, and amendments thereto.
20 (q) "Retail dispensary" means a person issued a license pursuant to
21 section 22, and amendments thereto, who may purchase and sell medical
22 marijuana in accordance with section 28, and amendments thereto.
23 (r) "Smoking" means the use of a lighted cigarette, cigar or pipe or
24 otherwise burning marijuana in any other form for the purpose of
25 consuming such marijuana.
26 (s) "Tetrahydrocannabinol" means the primary psychoactive
27 cannabinoid in marijuana formed by decarboxylation of naturally
28 occurring tetrahydrocannabinolic acid that generally takes place by
29 heating.
30 (t) "Tetrahydrocannabinolic acid" means the dominant cannabinoid
31 that occurs naturally in most varieties of marijuana.
32 (u) "Tetrahydrocannabinol content" means the sum of the amount of
33 tetrahydrocannabinol and 87.7% of the amount of tetrahydrocannabinolic
34 acid present in the product.
35 (v) "Vaporization" means the use of an electronic cigarette for the
36 purpose of consuming medical marijuana in which such medical marijuana
37 comes into direct contact with a heating element.
38 (w) "Veteran" means a person who has:
39 (1) Served in the army, navy, marine corps, air force, coast guard,
40 space force, any state air or army national guard or any branch of the
41 military reserves of the United States; and
42 (2) been separated from the branch of service in which the person
43 was honorably discharged or received a general discharge under honorable

1 conditions.

2 New Sec. 3. (a) No person shall grow, harvest, process, sell, barter,
3 transport, deliver, furnish or otherwise possess any form of marijuana,
4 except as specifically provided in the medical marijuana regulation act or
5 the commercial industrial hemp act, K.S.A. 2021 Supp. 2-3901 et seq., and
6 amendments thereto.

7 (b) Nothing in the medical marijuana regulation act shall be construed
8 to:

9 (1) Require a physician to recommend that a patient use medical
10 marijuana to treat a qualifying medical condition;

11 (2) permit the use, possession or administration of medical marijuana
12 other than as authorized by this act;

13 (3) permit the use, possession or administration of medical marijuana
14 on federal land located in this state;

15 (4) require any public place to accommodate a registered patient's use
16 of medical marijuana;

17 (5) prohibit any public place from accommodating a registered
18 patient's use of medical marijuana;

19 (6) authorize any limitation on the number of any licenses awarded
20 under this act to otherwise qualified applicants or authorize any state
21 agency through rules and regulations to effectively limit the number of
22 licenses available to otherwise qualified applicants for any type of license
23 awarded under this act; or

24 (7) restrict research related to marijuana conducted at a postsecondary
25 educational institution, academic medical center or private research and
26 development organization as part of a research protocol approved by an
27 institutional review board or equivalent entity.

28 New Sec. 4. (a) There is hereby established the medical marijuana
29 regulation program.

30 (b) The secretary of health and environment shall administer the
31 program in accordance with the provisions of this act and provide for the
32 registration of patients and caregivers, including the issuance of
33 identification cards to registered patients and caregivers.

34 (c) The board of healing arts shall administer the program in
35 accordance with the provisions of this act and provide for the certification
36 of physicians authorizing such physicians to recommend medical
37 marijuana as a treatment for patients.

38 (d) The board of pharmacy shall administer the program in
39 accordance with the provisions of this act and provide for the registration
40 of pharmacist consultants and the requirements for reporting to the
41 prescription monitoring program.

42 (e) The director of alcohol and cannabis control shall administer the
43 program in accordance with the provisions of this act and provide for the

1 licensure of cultivators, laboratories, processors, distributors, retail
2 dispensaries and employees thereof.

3 New Sec. 5. (a) The medical marijuana advisory committee is hereby
4 created in the department of health and environment. The committee shall
5 consist of the following:

6 (1) Eight members appointed by the governor as follows:

7 (A) Two members who are practicing pharmacists, at least one of
8 whom supports the use of medical marijuana and at least one of whom is a
9 member of the state board of pharmacy;

10 (B) two members who are practicing physicians, at least one of whom
11 supports the use of medical marijuana and at least one of whom is a
12 member of the board of healing arts;

13 (C) one member who represents employers;

14 (D) one member who represents agriculture;

15 (E) one member who represents persons involved in the treatment of
16 alcohol and drug addiction; and

17 (F) one member who engages in academic research on the use or
18 regulation of medical marijuana;

19 (2) two members appointed by the president of the senate as follows:

20 (A) One member who represents law enforcement; and

21 (B) one member who represents caregivers;

22 (3) one member who is a nurse, appointed by the minority leader of
23 the senate;

24 (4) two members appointed by the speaker of the house of
25 representatives as follows:

26 (A) One member who represents persons involved in mental health
27 treatment; and

28 (B) one member who represents patients;

29 (5) one member who represents employees, appointed by the
30 minority leader of the house of representatives; and

31 (6) the secretary of health and environment, who shall serve as
32 chairperson.

33 (b) The initial appointments to the committee shall be made on or
34 before July 31, 2023.

35 (c) Except for the secretary of health and environment, each member
36 of the committee shall serve for a period of two years from the date of
37 appointment. A vacancy shall be filled within 21 days of such vacancy in
38 the same manner as the original appointment.

39 (d) Each member of the committee shall be paid compensation,
40 subsistence allowances, mileage and other expenses as provided in K.S.A.
41 75-3223(e), and amendments thereto.

42 (e) The committee shall hold its initial meeting not later than 30 days
43 after the last member of the committee is appointed. The committee may

1 develop and submit to the secretary of health and environment and the
2 director of alcohol and cannabis control any recommendations related to
3 the medical marijuana regulation program and the implementation and
4 enforcement of this act.

5 (f) Prior to January 31 of each year, the medical marijuana advisory
6 committee shall provide a report to the legislature detailing any concerns
7 or recommended changes that the committee has for the medical marijuana
8 regulation act.

9 (g) The provisions of this section shall expire on July 1, 2028.

10 New Sec. 6. (a) Except as permitted under subsection (c), the
11 following individuals shall not solicit or accept, directly or indirectly, any
12 gift, gratuity, emolument or employment from any person who is an
13 applicant for any license or is a licensee under the provisions of the
14 medical marijuana regulation act or any officer, agent or employee thereof,
15 or solicit requests from or recommend, directly or indirectly, to any such
16 person, the appointment of any individual to any place or position:

17 (1) The secretary of health and environment or any officer, employee
18 or agent of the department of health and environment;

19 (2) the secretary of revenue, the director of alcohol and cannabis
20 control or any officer, employee or agent of the division of alcohol and
21 cannabis control;

22 (3) any member of the state board of pharmacy; or

23 (4) any member of the board of healing arts.

24 (b) Except as permitted under subsection (c), an applicant for a
25 license or a licensee under the provisions of the medical marijuana
26 regulation act shall not offer any gift, gratuity, emolument or employment
27 to any of the following:

28 (1) The secretary of health and environment or any officer, employee
29 or agent of the department of health and environment;

30 (2) the secretary of revenue, the director of alcohol and cannabis
31 control or any officer, employee or agent of the division of alcohol and
32 cannabis control;

33 (3) any member of the state board of pharmacy; or

34 (4) any member of the board of healing arts.

35 (c) The board of healing arts, the state board of pharmacy, the
36 secretary of health and environment and the secretary of revenue may
37 adopt rules and regulations for their respective agencies allowing the
38 acceptance of official hospitality by members of the board of healing arts,
39 the state board of pharmacy or the respective secretary and employees of
40 each such respective agency, subject to any limits as prescribed by such
41 rules and regulations.

42 (d) If any member of the board of healing arts, the state board of
43 pharmacy, the secretary of health and environment, the secretary of

1 revenue or any employee of each such respective agency violates any
2 provision of this section, such person shall be removed from such person's
3 office or employment.

4 (e) Violation of any provision of this section is a severity level 7,
5 nonperson felony.

6 (f) Nothing in this section shall be construed to prohibit the
7 prosecution and punishment of any person for any other crime in the
8 Kansas criminal code.

9 New Sec. 7. All actions taken by the board of healing arts, the state
10 board of pharmacy, the secretary of health and environment or the director
11 of alcohol and cannabis control under the medical marijuana regulation act
12 shall be in accordance with the Kansas administrative procedure act and
13 reviewable in accordance with the Kansas judicial review act.

14 New Sec. 8. (a) A patient seeking to use medical marijuana or a
15 caregiver seeking to assist a patient in the use or administration of medical
16 marijuana shall apply to the department of health and environment for
17 registration. The physician who is treating the patient, or such physician's
18 designee, shall submit the application on the patient's or caregiver's behalf
19 in such form and manner as prescribed by the secretary of health and
20 environment.

21 (b) The application for registration shall include the following:

22 (1) A statement from the physician certifying that:

23 (A) A bona fide physician-patient relationship exists between the
24 physician and patient;

25 (B) the patient has been diagnosed with a qualifying medical
26 condition;

27 (C) the physician, or such physician's designee, has requested from
28 the prescription monitoring program database a report of information
29 related to the patient that covers at least the 12 months immediately
30 preceding the date of the report;

31 (D) the physician has informed the patient of the risks and benefits of
32 medical marijuana as it pertains to the patient's qualifying medical
33 condition and medical history; and

34 (E) the physician has informed the patient that it is the physician's
35 opinion that the benefits of medical marijuana outweigh its risks;

36 (2) in the case of an application submitted on behalf of a patient, the
37 name or names of one or more caregivers, if any, who will assist the
38 patient in the use or administration of medical marijuana;

39 (3) in the case of an application submitted on behalf of a caregiver,
40 the name of the patient or patients whom the caregiver seeks to assist in
41 the use or administration of medical marijuana; and

42 (4) in the case of a patient who is a minor, the name of the patient's
43 parent or legal guardian who has consented to treatment with medical

1 marijuana and who shall be designated as the patient's caregiver.

2 (c) If the application is complete and meets the requirements of this
3 act and rules and regulations adopted thereunder and the patient or
4 caregiver has paid the required fee, the secretary of health and
5 environment shall register the patient or caregiver and issue to the patient
6 or caregiver an identification card.

7 (d) (1) A registered caregiver shall be at least 21 years of age, except
8 that if the caregiver is the parent or legal guardian of a patient who is a
9 minor, then the registered caregiver shall be at least 18 years of age.

10 (2) A registered patient may designate up to two registered
11 caregivers. If the patient is a minor, a parent or legal guardian of such
12 patient shall be designated as a registered caregiver for such patient.

13 (3) A registered caregiver may provide assistance to not more than
14 two registered patients, unless the secretary approves a greater number of
15 registered patients.

16 (4) A physician who submits an application on behalf of a patient
17 may not also serve as such patient's registered caregiver.

18 (e) Any information collected by the department of health and
19 environment pursuant to this section is confidential and not a public
20 record. The department may share information identifying a specific
21 patient with a licensed retail dispensary or any law enforcement agency for
22 the purpose of confirming that such patient has a valid registration.
23 Information that does not identify a person may be released in summary,
24 statistical or aggregate form. The provisions of this subsection shall expire
25 on July 1, 2028, unless the legislature reviews and reenacts such
26 provisions in accordance with K.S.A. 45-229, and amendments thereto,
27 prior to July 1, 2028.

28 (f) The fees for a patient or caregiver registration, or the renewal
29 thereof, shall be set by rules and regulations adopted by the secretary of
30 health and environment in an amount not to exceed:

31 (1) Except as specified in paragraph (2), \$50 for a patient registration;

32 (2) \$25 for a patient registration if the patient is indigent or is a
33 veteran; and

34 (3) \$25 for a caregiver registration.

35 (g) A registration shall be valid for a period of one year from the date
36 the identification card is issued and may be renewed by submitting a
37 registration renewal application and paying the required fee.

38 New Sec. 9. The department of health and environment shall assign a
39 unique 24-character identification number to each registered patient and
40 caregiver when issuing an identification card. Licensed retail dispensaries
41 shall obtain verification by the department that a patient or caregiver has a
42 valid registration.

43 New Sec. 10. (a) A patient registered pursuant to section 8, and

1 amendments thereto, who obtains medical marijuana from a licensed retail
2 dispensary may:

3 (1) Use medical marijuana;

4 (2) subject to subsection (b), purchase and possess medical
5 marijuana; and

6 (3) purchase and possess any paraphernalia or accessories used to
7 administer medical marijuana.

8 (b) A registered patient may purchase medical marijuana in an
9 amount not to exceed a recommended 30-day supply.

10 (c) Nothing in this section shall be construed to authorize a registered
11 patient to operate a motor vehicle, watercraft or aircraft while under the
12 influence of medical marijuana.

13 New Sec. 11. (a) A caregiver registered pursuant to section 8, and
14 amendments thereto, who obtains medical marijuana from a licensed retail
15 dispensary may:

16 (1) Subject to subsection (b), purchase and possess medical marijuana
17 on behalf of a registered patient under the caregiver's care;

18 (2) assist a registered patient under the caregiver's care in the use or
19 administration of medical marijuana; and

20 (3) purchase and possess any paraphernalia or accessories used to
21 administer medical marijuana.

22 (b) A registered caregiver may purchase medical marijuana on behalf
23 of a registered patient in an amount not to exceed a recommended 30-day
24 supply. If a caregiver provides care to more than one registered patient, the
25 caregiver shall maintain separate inventories of medical marijuana for each
26 patient.

27 (c) Nothing in this section shall be construed to permit a registered
28 caregiver to personally use medical marijuana unless the caregiver is also a
29 registered patient.

30 New Sec. 12. (a) In addition to or in lieu of any other civil or criminal
31 penalty as provided by law, the secretary of health and environment may
32 impose a civil penalty or suspend or revoke a registration upon a finding
33 that the patient or caregiver committed a violation as provided in this
34 section.

35 (b) Nothing in this act shall be construed to require the secretary to
36 enforce minor violations if the secretary determines that the public interest
37 is adequately served by a notice or warning to the alleged offender.

38 (c) Upon a finding that a registrant has submitted fraudulent
39 information or otherwise falsified or misrepresented information required
40 to be submitted by such registrant, the secretary may impose a civil fine in
41 an amount not to exceed \$500 for a first offense and may suspend or
42 revoke the individual's registration for a second or subsequent offense.

43 (d) If the secretary suspends, revokes or refuses to renew any

1 registration issued pursuant to this act and determines that there is clear
2 and convincing evidence of a danger of immediate and serious harm to any
3 person, the secretary may place under seal all medical marijuana owned by
4 or in the possession, custody or control of the affected registrant. Except as
5 provided in this section, the secretary shall not dispose of the sealed
6 medical marijuana until a final order is issued authorizing such disposition.
7 During the pendency of an appeal from any order issued by the secretary, a
8 court may order the secretary to sell medical marijuana that is perishable,
9 and the proceeds of any such sale shall be deposited with the court.

10 New Sec. 13. (a) There is hereby established the medical marijuana
11 registration fund in the state treasury. The secretary of health and
12 environment shall administer the medical marijuana registration fund and
13 shall remit all moneys collected from the payment of all fees and fines
14 imposed by the secretary pursuant to the medical marijuana regulation act
15 and any other moneys received by or on behalf of the secretary pursuant to
16 such act to the state treasurer in accordance with the provisions of K.S.A.
17 75-4215, and amendments thereto. Upon receipt of each such remittance,
18 the state treasurer shall deposit the entire amount in the state treasury to
19 the credit of the medical marijuana registration fund. Moneys credited to
20 the medical marijuana registration fund shall only be expended or
21 transferred as provided in this section. Expenditures from such fund shall
22 be made in accordance with appropriation acts upon warrants of the
23 director of accounts and reports issued pursuant to vouchers approved by
24 the secretary or the secretary's designee.

25 (b) Moneys in the medical marijuana registration fund shall be used
26 for the payment or reimbursement of costs related to the regulation and
27 enforcement of the possession and use of medical marijuana by the
28 secretary.

29 New Sec. 14. (a) On or before January 1, 2024, the secretary of health
30 and environment shall, after consulting with the medical marijuana
31 advisory committee, adopt rules and regulations to administer the medical
32 marijuana regulation program and implement and enforce the provisions of
33 the medical marijuana regulation act. Such rules and regulations shall:

34 (1) Establish procedures for registration of patients and caregivers
35 and eligibility requirements for registration, including registration fees;

36 (2) establish procedures for the issuance of patient or caregiver
37 identification cards;

38 (3) establish renewal schedules, procedures and fees for registrations;

39 (4) subject to the provisions of subsection (b), specify, by form and
40 tetrahydrocannabinol content, a 30-day maximum supply of medical
41 marijuana that may be purchased;

42 (5) specify the forms or methods of using medical marijuana that are
43 attractive to children; and

1 (6) establish a program to assist patients who are indigent or who are
2 veterans in obtaining medical marijuana.

3 (b) Any maximum supply of medical marijuana that may be
4 purchased by a patient or caregiver shall allow at least three ounces of
5 dried, unprocessed medical marijuana or its equivalent as a 30-day supply
6 and allow for exceptions from any such limitation upon submission of a
7 written certification from two independent physicians that there are
8 compelling reasons for the patient or caregiver to purchase greater
9 quantities of medical marijuana.

10 (c) When adopting rules and regulations under this section, the
11 secretary shall consider standards and procedures that have been found to
12 be best practices relative to the use and regulation of medical marijuana.

13 New Sec. 15. (a) Any person may submit a petition to the medical
14 marijuana advisory committee requesting that a disease or condition be
15 added as a qualifying medical condition for the purposes of this act. The
16 petition shall be submitted in such form and manner as prescribed by the
17 secretary of health and environment. A petition shall not seek to add a
18 broad category of diseases or conditions but shall be limited to one disease
19 or condition and shall include a description of such disease or condition.

20 (b) Upon receipt of a petition, the committee shall review such
21 petition to determine whether to recommend the approval or denial of such
22 disease or condition as an addition to the list of qualifying medical
23 conditions. The committee may consolidate the review of petitions for the
24 same or similar diseases or conditions. In making its determination, the
25 committee shall:

26 (1) Consult with one or more experts who specialize in the study of
27 the disease or condition;

28 (2) review any relevant medical or scientific evidence pertaining to
29 the disease or condition;

30 (3) consider whether conventional medical therapies are insufficient
31 to treat or alleviate the disease or condition;

32 (4) review evidence supporting the use of medical marijuana to treat
33 or alleviate the disease or condition; and

34 (5) review any letters of support provided by physicians with
35 knowledge of the disease or condition, including any letter provided by a
36 physician treating the petitioner.

37 (c) Upon completion of its review, the committee shall make a
38 recommendation to the secretary of health and environment whether to
39 approve or deny the addition of the disease or condition to the list of
40 qualifying medical conditions. The secretary shall adopt rules and
41 regulations in accordance with the recommendation of the committee.

42 (d) Prior to July 1, 2026, and every three years thereafter, the
43 committee shall review all diseases or conditions that have been

1 previously recommended for approval by the committee and adopted by
2 the secretary of health and environment through rules and regulations to
3 determine if the inclusion of any such diseases or conditions are no longer
4 supported by scientific evidence. The inclusion of any such disease or
5 condition that the committee determines is no longer supported by
6 scientific evidence shall be recommended by the committee to the
7 secretary of health and environment for removal from the list of qualifying
8 medical conditions.

9 New Sec. 16. On or before January 1, 2024, the department of health
10 and environment shall make a website available for the public to access
11 information regarding patient and caregiver registration under the medical
12 marijuana regulation act.

13 New Sec. 17. A medical marijuana registry identification card, or its
14 equivalent, that is issued under the laws of another state, district, territory,
15 commonwealth or insular possession of the United States that is verifiable
16 by the jurisdiction of issuance and allows a nonresident patient to purchase
17 and possess medical marijuana for medical purposes shall have the same
18 force and effect as an identification card issued by the secretary pursuant
19 to this act if the nonresident patient has not been residing in this state for
20 more than 180 days.

21 New Sec. 18. (a) Except as provided in subsection (j), a physician
22 seeking to recommend treatment with medical marijuana shall apply to the
23 board of healing arts for a certificate authorizing such physician to
24 recommend treatment with medical marijuana. The application shall be
25 submitted in such form and manner as prescribed by the board. The board
26 shall grant a certificate to recommend such treatment if the following
27 conditions are satisfied:

28 (1) The application is complete and meets the requirements
29 established in rules and regulations adopted by the board of healing arts;
30 and

31 (2) the applicant demonstrates that the applicant does not have an
32 ownership or investment interest in or compensation arrangement with an
33 entity licensed by the director of alcohol and cannabis control under this
34 act or an applicant for such licensure.

35 (b) (1) Pursuant to rules and regulations adopted by the board of
36 healing arts, a certificate to recommend treatment with medical marijuana
37 shall:

38 (A) Expire one year from the date of issuance unless renewed in the
39 manner prescribed by the board; and

40 (B) require an annual fee in an amount not to exceed \$175.

41 (2) Renewal of a certificate to recommend treatment with medical
42 marijuana shall be conditioned upon the holder's certification of having
43 met the requirements in subsection (a), paying the required renewal fee

1 and having completed at least two hours of continuing medical education
2 in medical marijuana in accordance with subsection (g).

3 (c) A physician licensed in this state who holds a certificate to
4 recommend treatment with medical marijuana may recommend that a
5 patient be treated with medical marijuana if:

6 (1) The patient has been diagnosed with a qualifying medical
7 condition;

8 (2) an ongoing physician-patient relationship has been established by
9 an initial office visit;

10 (3) an in-person physical examination of the patient was performed
11 by the physician together with a review of all of the patient's medical
12 records, particularly relating to the medical indication for a
13 tetrahydrocannabinol recommendation; and

14 (4) the recommending physician or physician's designee reports all
15 medical marijuana recommendations for any patient to the prescription
16 monitoring program in accordance with K.S.A. 65-1683, and amendments
17 thereto.

18 (d) In the case of a patient who is a minor, the physician may
19 recommend treatment with medical marijuana only after obtaining the
20 consent of the patient's parent or other person authorized to provide
21 consent to such treatment.

22 (e) When issuing a written recommendation to a patient, a physician
23 shall specify any information required by rules and regulations adopted by
24 the board of healing arts. A written recommendation issued to a patient
25 under this section shall be valid for a period of not more than 90 days. A
26 physician may renew the recommendation for not more than three
27 additional periods of not more than 90 days each. Thereafter, a physician
28 may issue another recommendation to the patient only upon a physical
29 examination of the patient.

30 (f) Each year, a physician holding a certificate to recommend
31 treatment with medical marijuana shall submit to the board of healing arts
32 a report that describes the physician's observations regarding the
33 effectiveness of medical marijuana in treating the physician's patients
34 during the year covered by the report. When submitting reports, a
35 physician shall not include any information that identifies or would tend to
36 identify any specific patient.

37 (g) Each year, a physician holding a certificate to recommend
38 treatment with medical marijuana shall complete at least two hours of
39 continuing medical education in the treatment with and use of medical
40 marijuana as approved by the board of healing arts.

41 (h) A physician shall not issue a recommendation for treatment with
42 medical marijuana for a member of such physician's family or the
43 physician's self, or personally furnish or otherwise administer medical

1 marijuana.

2 (i) A physician holding a certificate to recommend treatment with
3 medical marijuana shall be immune from civil liability, shall not be subject
4 to professional disciplinary action by the board of healing arts and shall
5 not be subject to criminal prosecution for any of the following actions:

6 (1) Advising a patient, patient representative or caregiver about the
7 benefits and risks of medical marijuana to treat a qualifying medical
8 condition;

9 (2) recommending that a patient use medical marijuana to treat or
10 alleviate a qualifying medical condition; or

11 (3) monitoring a patient's treatment with medical marijuana.

12 (j) This section shall not apply to a physician who recommends
13 treatment with marijuana or a drug derived from marijuana under any of
14 the following that is approved by an institutional review board or
15 equivalent entity, the United States food and drug administration or the
16 national institutes of health or one of its cooperative groups or centers
17 under the United States department of health and human services:

18 (1) A research protocol;

19 (2) a clinical trial;

20 (3) an investigational new drug application; or

21 (4) an expanded access submission.

22 New Sec. 19. (a) On or before September 1, 2023, the board of
23 healing arts shall adopt rules and regulations to implement and enforce the
24 provisions of section 18, and amendments thereto. Such rules and
25 regulations shall include the:

26 (1) Procedures and fees for applying for a certificate to recommend
27 treatment with medical marijuana;

28 (2) conditions for eligibility for a certificate to recommend treatment
29 with medical marijuana;

30 (3) schedule, fees and procedures for renewing such certificate;

31 (4) reasons for which a certificate may be suspended or revoked;

32 (5) standards under which a certificate suspension may be lifted; and

33 (6) minimum standards of care when recommending treatment with
34 medical marijuana.

35 (b) The board of healing arts shall approve one or more continuing
36 medical education courses of study that assist physicians holding
37 certificates to recommend treatment with medical marijuana in diagnosing
38 and treating qualifying medical conditions with medical marijuana.

39 New Sec. 20. (a) Any person who seeks to cultivate, conduct
40 laboratory testing of, process, distribute or sell at retail medical marijuana,
41 medical marijuana concentrate or medical marijuana products shall submit
42 an application for the appropriate license to the director in such form and
43 manner as prescribed by the director. A separate license application shall

1 be submitted for each location to be operated by the licensee.

2 (b) The director shall issue a license to an applicant if the:

3 (1) Criminal history record check conducted pursuant to section 43,
4 and amendments thereto, demonstrates that the applicant is not
5 disqualified from holding a license pursuant to section 21, and
6 amendments thereto;

7 (2) applicant is not applying for a laboratory license and demonstrates
8 that such applicant does not:

9 (A) Have an ownership or investment interest in or compensation
10 arrangement with a licensed laboratory or an applicant for such license; or

11 (B) share any corporate officers or employees with a licensed
12 laboratory or an applicant for such license;

13 (3) applicant demonstrates that such applicant will not violate the
14 provisions of section 41, and amendments thereto;

15 (4) applicant demonstrates that such applicant will comply with the
16 provisions of section 42, and amendments thereto;

17 (5) applicant has submitted a tax clearance certificate issued by the
18 department of revenue; and

19 (6) applicant meets all other licensure eligibility conditions
20 established in rules and regulations adopted by the secretary of revenue
21 and has paid all required fees.

22 (c) The director may issue the following licenses:

23 (1) Cultivator license;

24 (2) laboratory license;

25 (3) processor license;

26 (4) distributor license; and

27 (5) retail dispensary license.

28 (d) All licenses issued under this section shall be valid for a period of
29 two years from the date such license is issued.

30 (e) A license may be renewed by submitting a license renewal
31 application and paying the required fee.

32 New Sec. 21. (a) All cultivator, laboratory, processor, distributor and
33 retail dispensary licenses issued pursuant to section 20, and amendments
34 thereto, shall only be issued to a person:

35 (1) Who is a citizen of the United States;

36 (2) who has not been convicted of a felony under the laws of this
37 state, any other state or the United States, except for any felony that has
38 been expunged from such person's record and such expungement occurred
39 at least 10 years prior to the date that the application for licensure is
40 submitted;

41 (3) who has not had a license revoked for cause under the provisions
42 of this act or has not had any license issued under the medical marijuana
43 laws of any state revoked for cause, except that a license may be issued to

1 a person whose license was revoked for the conviction of a misdemeanor
2 at any time after the lapse of 10 years following the date of the revocation;

3 (4) who has not been convicted of being the keeper of or is keeping
4 any property, whether real or personal, where sexual relations are being
5 sold or offered for sale by a person who is 18 years of age or older or has
6 not forfeited bond to appear in court to answer charges of being a keeper
7 of any such property;

8 (5) who has not been convicted of being a proprietor of a gambling
9 house, pandering or any other crime opposed to decency and morality or
10 has not forfeited bond to appear in court to answer charges for any of those
11 crimes;

12 (6) who is at least 18 years of age;

13 (7) who, other than as a member of the governing body of a city or
14 county, does not appoint or supervise any law enforcement officer, is not a
15 law enforcement officer or is not an employee of the director;

16 (8) who does not intend to carry on the business authorized by the
17 license as an agent of another;

18 (9) who, at the time of application for renewal of any license issued
19 under this act, would be eligible for the license upon a first application,
20 except as provided in paragraph (11);

21 (10) who owns the premises for which a license is sought or, at the
22 time of application, has a written lease thereon;

23 (11) whose spouse would be eligible to receive a license under this
24 act, except that:

25 (A) A spouse's ineligibility due to citizenship or age shall not
26 disqualify a person from licensure;

27 (B) a spouse's ineligibility due to conviction of a felony or other
28 crime shall only disqualify a person from licensure if such felony or other
29 crime was committed while the person's spouse held a license issued under
30 this act; and

31 (C) a spouse's ineligibility shall not apply in determining eligibility
32 for renewal of a license;

33 (12) who has been a resident of this state for at least two years
34 immediately preceding the date of the application for licensure. If an
35 individual licensee ceases to be a resident of this state at any time after the
36 license is issued, then the license shall be forfeited; and

37 (13) who has not been found to have held an undisclosed beneficial
38 interest in any license issued pursuant to this act that was obtained by
39 means of fraud or any false statement made on the application for such
40 license.

41 (b) If the applicant is not an individual, then the license shall only be
42 issued to a business entity formed in this state and registered with the
43 secretary of state. No license shall be issued to a publicly traded

1 corporation. Such entity shall submit the following to the director along
2 with the application for licensure:

3 (1) A certificate of good standing;

4 (2) a copy of such entity's bylaws, operating agreement or other
5 document providing for the governance of such entity; and

6 (3) a certified document indicating:

7 (A) Each individual who holds an ownership interest in such entity
8 and each individual who holds an ownership interest in any business entity
9 that holds an ownership interest in the applicant;

10 (B) the percentage of ownership interest of each such individual or
11 business entity; and

12 (C) the residential address of each such individual.

13 (c) All individuals holding an ownership interest in a business entity
14 applying for a license shall satisfy the requirements for licensure under
15 subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(7), (a)(8), (a)(9) and (a)
16 (13).

17 (d) No license shall be issued to a business entity if less than 75% of
18 the total equity or similar ownership interest in such entity is owned by
19 individuals who have been residents of this state for at least two years
20 immediately preceding the date of the application. A license shall be
21 forfeited if, for more than 90 consecutive days, less than 75% of the total
22 equity or similar ownership interest in such entity is owned by individuals
23 who are residents of this state at any time after the license is issued.

24 (f) All business entities holding a license shall notify the director of
25 any change in such entity's registration status with the secretary of state,
26 any amendment of such entity's governing documents and any change in
27 ownership, including the names and addresses of the individuals whose
28 ownership interest changed within 30 days after such change occurs.

29 (g) Any transfer of a license shall be reported to and approved by the
30 director. The director shall not approve any transfer of a license to any
31 individual or business entity that does not satisfy the requirements of this
32 section at the time of the transfer.

33 (h) Any compensation, fee, expense or similarly characterized
34 nonequity payment that is contingent on or otherwise determined in a
35 manner that factors in profits, sales, revenue or cash flow of any kind
36 relating to a licensee's operation, including, but not limited to, profit-based
37 consulting fees and percentage rent payments is prohibited. Any licensee
38 that enters into an agreement for any prohibited compensation, fee,
39 expense or payment shall forfeit such entity's license to the director. Such
40 prohibited compensation, fee, expense or payment:

41 (1) Includes any distribution that is made by a licensee to one or more
42 individuals or other entities residing or domiciled outside this state that
43 hold an equity or similar ownership interest in the licensee if such

1 distribution is greater than 25% of the total distributed amount; and

2 (2) does not include payments of fixed amounts that are determined
3 prior to the commencement of applicable services.

4 (i) For purposes of this section, the term "business entity" includes
5 for-profit corporations, limited liability companies, partnerships, limited
6 partnerships, limited liability partnerships and trusts. If the applicant is a
7 trust, references to individual ownership interests in the trust mean any
8 grantor, beneficiary or trustee of such trust.

9 New Sec. 22. (a) A cultivator licensee may cultivate medical
10 marijuana in a building designated by the licensee that complies with the
11 provisions of section 42, and amendments thereto. A cultivator may deliver
12 or sell medical marijuana to one or more licensed cultivators, processors,
13 distributors or retail dispensaries. A cultivator shall maintain at least the
14 amount of square feet of marijuana cultivation established by the secretary
15 of revenue but shall not maintain in the aggregate more than 50,000 square
16 feet of marijuana cultivation.

17 (b) Subject to subsection (a), at the time the licensee applies for
18 renewal of a cultivator license, a licensee may submit an application to the
19 director for approval of an expansion of such licensee's cultivation area.
20 Expansion approval applications shall be submitted in such form and
21 manner as prescribed by the director and include an expansion plan with
22 the following:

23 (1) Specifications for the expansion or alteration that demonstrate
24 compliance with section 42, and amendments thereto, and all applicable
25 zoning ordinances, building codes and any other state and local laws and
26 rules and regulations adopted thereunder;

27 (2) a proposed timeline for completion of the expansion that, if
28 approved, will become a mandatory condition; and

29 (3) a history of compliance with the medical marijuana regulation act
30 and all rules and regulations adopted thereunder, including a history of
31 enforcement actions and sanctions issued by the director or any law
32 enforcement agency against the licensee.

33 (c) (1) Unless authorized by this act, a cultivator shall not transfer or
34 sell medical marijuana and a processor shall not transfer, sell or process
35 into a concentrate or medical marijuana product any medical marijuana,
36 medical marijuana concentrate or medical marijuana product unless
37 samples from each harvest batch or production batch from which such
38 medical marijuana, medical marijuana concentrate or medical marijuana
39 product was derived has been tested by a licensed laboratory for
40 contaminants and has passed all contaminant tests required by this act.

41 (2) A licensed cultivator may transfer medical marijuana that has
42 failed testing for quality control to a licensed processor only for the
43 purposes of decontamination or remediation and only in accordance with

1 the provisions of this act.

2 (d) A cultivator shall employ only those individuals who hold an
3 employee license issued pursuant to section 29, and amendments thereto,
4 and have completed the training requirements established by rules and
5 regulations adopted by the secretary of revenue.

6 (e) A cultivator shall not cultivate medical marijuana for personal,
7 family or household use or on any public land.

8 New Sec. 23. (a) Prior to January 1, 2024, the director shall contract
9 with an operational private laboratory for the purpose of conducting
10 compliance and quality assurance testing of licensed cultivators,
11 laboratories and processors to provide public safety and ensure that quality
12 medical marijuana, medical marijuana concentrate and medical marijuana
13 products are available to registered patients.

14 (b) A laboratory under contract with the director for compliance and
15 quality assurance testing shall not:

16 (1) Conduct any other commercial medical marijuana testing in this
17 state; or

18 (2) employ or be owned by any individual:

19 (A) Who has a direct or indirect financial interest in any entity
20 holding a license issued pursuant to section 20, and amendments thereto;

21 (B) whose spouse, parent, child, sibling or spouse of a child or sibling
22 has a pending application for a license issued pursuant to section 20, and
23 amendments thereto; or

24 (C) who is a member of the board of directors of any entity holding a
25 license issued pursuant to section 20, and amendments thereto.

26 (c) A laboratory under contract with the director for compliance and
27 quality assurance shall be accessible and utilized for any medical
28 marijuana testing needs by any regulatory agency within the state,
29 including, but not limited to, the department of health and environment,
30 the Kansas bureau of investigation and the state fire marshal.

31 New Sec. 24. (a) The director shall propose rules and regulations as
32 necessary to develop acceptable testing and research practices in
33 consultation with the compliance and quality assurance testing laboratory
34 contracted with pursuant to section 23, and amendments thereto, including,
35 but not limited to, testing, standards, quality control analysis, equipment
36 certification and calibration and chemical identification and substances
37 used in bona fide research methods. After the hearing on proposed rules
38 and regulations has been held as required by law, the director shall submit
39 any such proposed rules and regulations to the secretary of revenue who,
40 upon approval by the secretary, shall adopt such rules and regulations.

41 (b) The director shall recommend rules and regulations for laboratory
42 testing performed under this act concerning:

43 (1) The cleanliness and orderliness of the premises of a licensed

- 1 laboratory and the establishing of licensed laboratories in secured
2 locations;
- 3 (2) the inspection, cleaning and maintenance of any equipment or
4 utensils used for the analysis of test samples;
- 5 (3) testing procedures and standards for cannabinoid and terpenoid
6 potency and safe levels of contaminants and appropriate remediation and
7 validation procedures;
- 8 (4) controlled access areas for storage of medical marijuana, medical
9 marijuana concentrate and medical marijuana product test samples, waste
10 and reference standards;
- 11 (5) the establishment by the laboratory of a system, including
12 computer systems to be utilized by the laboratory, to retain and maintain
13 all required records, including business records, and processes to ensure
14 results are reported in a timely and accurate manner;
- 15 (6) the possession, storage and use by the laboratory of reagents,
16 solutions and reference standards;
- 17 (7) a certificate of analysis for each lot of reference standard;
- 18 (8) the transport and disposal of unused medical marijuana, medical
19 marijuana concentrate and medical marijuana product and waste;
- 20 (9) the mandatory use by a laboratory of an inventory tracking system
21 to ensure all test harvest and production batches or samples containing
22 medical marijuana, medical marijuana concentrate or medical marijuana
23 products are identified and tracked from the point such substances are
24 transferred from an entity holding a license issued pursuant to section 20,
25 and amendments thereto, or a registered patient or caregiver through the
26 point of transfer, destruction or disposal. The inventory tracking system
27 reporting shall include the results of any tests that are conducted;
- 28 (10) the employment of laboratory personnel;
- 29 (11) a written standard operating procedure manual to be maintained
30 and updated by the laboratory;
- 31 (12) the successful participation in a proficiency testing program
32 approved by the director for conducting testing required by section 25, and
33 amendments thereto, in order to obtain and maintain certification;
- 34 (13) the establishment of and adherence to a quality assurance and
35 quality control program to ensure sufficient monitoring of laboratory
36 processes and the quality of results reported;
- 37 (14) the immediate recall of medical marijuana, medical marijuana
38 concentrate or medical marijuana products that test above allowable
39 thresholds or are otherwise determined to be unsafe;
- 40 (15) the establishment by the laboratory of a system to document the
41 complete chain of custody for samples from receipt through disposal; and
- 42 (16) any other aspect of laboratory testing of medical marijuana,
43 medical marijuana concentrate or medical marijuana product deemed

1 necessary by the director.

2 New Sec. 25. (a) (1) The issuance of a laboratory license shall be
3 contingent upon a successful on-site inspection, participation in
4 proficiency testing and ongoing compliance with the requirements of this
5 act. The laboratory premises specified in the license application shall be
6 inspected prior to initial licensure and not more than six times annually by
7 an inspector approved by the director.

8 (2) On and after January 1, 2024, accreditation by the national
9 environmental laboratory accreditation program, ANSI national
10 accreditation board or another accrediting body approved by the director
11 shall be required for licensure and renewal of licensure of a laboratory
12 license.

13 (b) No ownership interest in a licensed laboratory shall be held by a
14 person who has a direct or indirect beneficial ownership interest in any
15 licensed cultivator, processor, distributor or retail dispensary. A licensed
16 laboratory shall establish policies to prevent the existence of or the
17 appearance of undue commercial, financial or other influences that
18 diminish or have the effect of diminishing the public confidence in the
19 competency, impartiality and integrity of the testing processes or results of
20 such laboratory. Such policies shall prohibit employees, owners or agents
21 of a laboratory who participate in any aspect of the analysis and results of
22 a sample from improperly influencing the testing process, manipulating
23 data or benefiting from any ongoing financial, employment, personal or
24 business relationship with the licensed entity that submitted the sample for
25 testing.

26 (c) A licensed laboratory shall retain all results of laboratory tests
27 conducted on medical marijuana, medical marijuana concentrate or
28 medical marijuana products for a period of at least two years and shall
29 promptly provide the director access to such results and the underlying
30 data. The director shall also have access to the laboratory premises and any
31 material or information requested by the director to determine compliance
32 with the requirements of this act.

33 (d) A licensed laboratory shall establish standards, policies and
34 procedures for laboratory testing procedures in accordance with rules and
35 regulations adopted by the secretary of revenue. Samples from each
36 harvest batch or product batch, as appropriate, of medical marijuana,
37 medical marijuana concentrate and medical marijuana product shall be
38 tested for each of the following categories:

- 39 (1) Microbials;
- 40 (2) mycotoxins;
- 41 (3) residual solvents;
- 42 (4) pesticides;
- 43 (5) tetrahydrocannabinol and other cannabinoid potency;

- 1 (6) terpenoid potency type and concentration;
- 2 (7) moisture content;
- 3 (8) homogeneity; and
- 4 (9) heavy metals.

5 (e) (1) For testing and research purposes only, including the provision
6 of testing services for samples submitted for product development, a
7 licensee may accept test samples of medical marijuana, medical marijuana
8 concentrate or medical marijuana product from any entity:

9 (A) Holding a license issued pursuant to section 20, and amendments
10 thereto; or

11 (B) designated in section 45, and amendments thereto.

12 (2) A licensee may accept test samples of medical marijuana, medical
13 marijuana concentrate and medical marijuana products from an individual
14 person for testing if such person is a:

15 (A) Registered patient or caregiver and such person provides the
16 laboratory with the individual's registration identification and a valid photo
17 identification; or

18 (B) participant in an approved clinical or observational study
19 conducted by a any entity designated in section 45, and amendments
20 thereto.

21 (3) A licensee may transfer samples to another licensed laboratory for
22 testing. All laboratory reports provided to or by an entity holding a license
23 issued pursuant to section 20, and amendments thereto, or to a patient or
24 caregiver shall identify the licensed laboratory that performed the testing
25 of the sample. A licensee may utilize a licensed distributor to transport
26 samples for testing from the licensed premises requesting testing services
27 and the licensed laboratory performing testing services.

28 (f) A licensee shall employ only those individuals who hold an
29 employee license issued pursuant to section 29, and amendments thereto,
30 and have completed the training requirements established by rules and
31 regulations adopted by the secretary of revenue.

32 New Sec. 26. (a) A processor licensee may:

33 (1) Obtain medical marijuana from one or more licensed cultivators
34 or processors;

35 (2) subject to subsection (b), process medical marijuana obtained
36 from one or more licensed cultivators into a form described in section 30,
37 and amendments thereto; and

38 (3) deliver or sell processed medical marijuana, medical marijuana
39 concentrate and medical marijuana products to one or more licensed
40 processors, distributors or retail dispensaries.

41 (b) When packaging medical marijuana, medical marijuana
42 concentrate and medical marijuana products, a licensed processor shall
43 comply with any packaging and labeling requirements established by rules

1 and regulations adopted by the secretary of revenue.

2 (c) A processor shall employ only those individuals who hold an
3 employee license issued pursuant to section 29, and amendments thereto,
4 and have completed the training requirements established by rules and
5 regulations adopted by the secretary of revenue.

6 New Sec. 27. (a) A distributor licensee may:

7 (1) Purchase at wholesale medical marijuana, medical marijuana
8 concentrate and medical marijuana products from one or more licensed
9 cultivators or processors;

10 (2) store medical marijuana, medical marijuana concentrate and
11 medical marijuana products obtained from one or more licensed processors
12 in a form described in section 30, and amendments thereto; and

13 (3) deliver, package or sell medical marijuana and medical marijuana
14 products in a form described in section 30, and amendments thereto, to one
15 or more licensed retail dispensaries.

16 (b) When storing or selling medical marijuana, a licensed distributor
17 shall comply with any packaging and labeling requirements established by
18 rules and regulations adopted by the secretary of revenue.

19 (c) A distributor shall employ only those individuals who hold an
20 employee license issued pursuant to section 29, and amendments thereto,
21 and have completed the training requirements established by rules and
22 regulations adopted by the secretary of revenue.

23 New Sec. 28. (a) A retail dispensary licensee may obtain medical
24 marijuana and medical marijuana products from one or more licensed
25 cultivators, processors or distributors and may dispense or sell medical
26 marijuana and medical marijuana products in accordance with subsection
27 (b).

28 (b) When dispensing or selling medical marijuana and medical
29 marijuana products, a retail dispensary shall:

30 (1) Dispense or sell medical marijuana and medical marijuana
31 products only to a person who provides the licensee with a current, valid
32 patient or caregiver identification card and only in accordance with a
33 written recommendation issued by a physician;

34 (2) report to the prescription monitoring program the information
35 required by K.S.A. 65-1683, and amendments thereto, and rules and
36 regulations adopted by the state board of pharmacy pursuant to section 37,
37 and amendments thereto; and

38 (3) comply with any packaging and labeling requirements established
39 by rules and regulations adopted by the secretary of revenue, including,
40 but not limited to, labeling medical marijuana and medical marijuana
41 products with the following information:

42 (A) The name and address of the licensed cultivator or processor that
43 produced the medical marijuana or medical marijuana product and the

1 retail dispensary;

2 (B) the name of the patient and caregiver, if any;

3 (C) the name of the physician who recommended treatment with
4 medical marijuana;

5 (D) the directions for use, if any, as recommended by the physician;

6 (E) the health warning as specified in rules and regulations adopted
7 by the secretary of health and environment;

8 (F) the date on which the medical marijuana or medical marijuana
9 product was dispensed; and

10 (G) the quantity, strength, kind or form of medical marijuana
11 contained in the package.

12 (c) A retail dispensary shall employ only those individuals who hold
13 an employee license issued pursuant to section 29, and amendments
14 thereto, and have completed the training requirements established by rules
15 and regulations adopted by the secretary of revenue.

16 (d) A retail dispensary shall designate a pharmacist consultant who is
17 a pharmacist licensed in this state and registered as a pharmacist consultant
18 pursuant to section 38, and amendments thereto.

19 (e) A retail dispensary shall not make public any information received
20 or collected by such licensee that identifies or would tend to identify any
21 specific patient.

22 New Sec. 29. (a) Each individual who seeks to be employed by a
23 person holding a license issued pursuant to section 20, and amendments
24 thereto, shall submit an application for an employee license to the director
25 in such form and manner as prescribed by the director. The director shall
26 issue a license to an applicant if all of the following conditions are met:

27 (1) The criminal history record check conducted pursuant to section
28 43, and amendments thereto, demonstrates that the applicant is not
29 disqualified from holding a license pursuant to section 20, and
30 amendments thereto; and

31 (2) the applicant meets all other licensure eligibility conditions
32 established in rules and regulations adopted by the secretary of revenue
33 and has paid all required fees.

34 (b) An employee license shall be valid for a period of two years from
35 the date such license is issued and may be renewed by submitting a license
36 renewal application and paying the required fee.

37 (c) A license issued pursuant to this section shall not be associated
38 with a specific licensed cultivator, laboratory, processor, distributor or
39 retail dispensary. The holder of an employee license may be employed by
40 any such licensee.

41 New Sec. 30. (a) Only the following forms of medical marijuana may
42 be dispensed under the medical marijuana regulation act:

43 (1) Oils;

- 1 (2) tinctures;
- 2 (3) plant material;
- 3 (4) edibles;
- 4 (5) patches; or
- 5 (6) any other form approved by the secretary of revenue under section
- 6 31, and amendments thereto.

7 (b) The smoking, combustion or vaporization of medical marijuana is

8 prohibited.

9 (c) Any form or method of using medical marijuana that is considered

10 attractive to children is prohibited.

11 (d) Plant material shall have a tetrahydrocannabinol content of not

12 more than 35% in its final, dispensed form.

13 (e) No form of medical marijuana shall be dispensed from a vending

14 machine or through electronic commerce.

15 New Sec. 31. (a) Any person may submit a petition to the director

16 requesting that a form or method of using medical marijuana be approved

17 for the purposes of section 30, and amendments thereto. The petition shall

18 be submitted in such form and manner as prescribed by the director.

19 (b) Upon receipt of a petition, the director shall review such petition

20 to determine whether to recommend approval of the form or method of

21 using medical marijuana described in the petition. The director may

22 consolidate the review of petitions for the same or similar forms or

23 methods. The director shall consult with the medical marijuana advisory

24 committee and review any relevant scientific evidence when reviewing a

25 petition. The director shall recommend to the secretary of revenue whether

26 to approve or deny the proposed form or method of using medical

27 marijuana. The secretary shall approve or deny such proposed form or

28 method. The secretary's decision shall be final.

29 (c) Any petition for a proposed form or method of using medical

30 marijuana that is substantially the same as a petition that was denied by the

31 secretary during the immediately preceding 12 months shall be rejected

32 without recommendation to the secretary.

33 New Sec. 32. (a) The fees for licenses issued by the director pursuant

34 to this act shall be set by rules and regulations adopted by the secretary of

35 revenue in accordance with this section.

36 (b) The fees for a cultivator license shall be in an amount not to

37 exceed:

38 (1) \$20,000 for a cultivator license application or application for the

39 renewal thereof; and

40 (2) \$4,000 per 100 square feet of area where medical marijuana is

41 cultivated on the licensed premises for a cultivator license or the renewal

42 thereof.

43 (c) The fees for a laboratory license shall be in an amount not to

1 exceed:

2 (1) \$4,000 for a laboratory license application or application for the
3 renewal thereof; and

4 (2) \$36,000 for a laboratory license or the renewal thereof.

5 (d) The fees for a processor license shall be in an amount not to
6 exceed:

7 (1) \$20,000 for a processor license application or application for the
8 renewal thereof; and

9 (2) \$180,000 for a processor license or the renewal thereof.

10 (e) The fees for a distributor license shall be in an amount not to
11 exceed:

12 (1) \$20,000 for a distributor license application or application for the
13 renewal thereof; and

14 (2) \$80,000 for a distributor license or the renewal thereof.

15 (f) The fees for a retail dispensary license shall be in an amount not to
16 exceed:

17 (1) \$20,000 for a retail dispensary license application or application
18 for the renewal thereof; and

19 (2) \$80,000 for a retail dispensary license or the renewal thereof.

20 (g) The fee for an employee license shall be in an amount not to
21 exceed \$100.

22 (h) All fees imposed pursuant to subsections (b), (c), (d), (e) and (f)
23 shall not be refundable, except that if a licensee pays the full amount of the
24 license fee upon application and is prevented from operating under such
25 license in accordance with the provisions of this act for the entire second
26 year of the license term, a refund shall be made of $\frac{1}{2}$ of the license fee
27 paid by such licensee. The secretary of revenue shall adopt rules and
28 regulations that provide for the authorization of refunds of $\frac{1}{2}$ of the license
29 fee paid when the licensee does not use such license for the entire second
30 year of the license term as a result of the cancellation of the license upon
31 the request of the licensee for voluntary reasons.

32 New Sec. 33. The director may refuse to issue or renew a license, or
33 may revoke or suspend a license if the applicant has:

34 (a) Failed to comply with any provision of the medical marijuana
35 regulation act or any rules and regulations adopted thereunder;

36 (b) falsified or misrepresented any information submitted to the
37 director in order to obtain a license;

38 (c) failed to adhere to any acknowledgment, verification or other
39 representation made to the director when applying for a license; or

40 (d) failed to submit or disclose information requested by the director.

41 New Sec. 34. (a) In addition to or in lieu of any other civil or criminal
42 penalty as provided by law, the director may impose a civil penalty or
43 suspend or revoke a license upon a finding that the licensee committed a

1 violation as provided in this section.

2 (b) (1) Upon a finding that a licensee has submitted fraudulent
3 information or otherwise falsified or misrepresented information required
4 to be submitted by such licensee, the director may impose a civil fine in an
5 amount not to exceed \$5,000 for a first offense and may suspend or revoke
6 such licensee's license for a second or subsequent offense.

7 (2) (A) Except as provided in paragraph (B), upon a finding that a
8 licensee has cultivated, tested, processed, sold, transferred or otherwise
9 distributed medical marijuana in violation of this act, the director may
10 impose a civil fine in an amount not to exceed \$5,000 for a first offense
11 and may suspend or revoke such licensee's license for a second or
12 subsequent offense.

13 (B) Upon a finding that a retail dispensary licensee has knowingly
14 disclosed patient information to any individual, the director shall impose a
15 civil fine in an amount not to exceed \$5,000 and revoke such licensee's
16 license.

17 (c) The director may require any licensee to submit a sample of
18 medical marijuana, medical marijuana concentrate or medical marijuana
19 product to a laboratory upon demand.

20 (d) If the director suspends, revokes or refuses to renew any license
21 issued pursuant to this act and determines that there is clear and
22 convincing evidence of a danger of immediate and serious harm to any
23 person, the director may place under seal all medical marijuana owned by
24 or in the possession, custody or control of the affected license holder.
25 Except as provided in this section, the director shall not dispose of the
26 sealed medical marijuana until a final order is issued authorizing such
27 disposition. During the pendency of an appeal from any order by the
28 director, a court may order the director to sell medical marijuana that is
29 perishable, and the proceeds of any such sale shall be deposited with the
30 court.

31 New Sec. 35. (a) There is hereby established the medical marijuana
32 business regulation fund in the state treasury. The director of alcohol and
33 cannabis control shall administer the medical marijuana business
34 regulation fund and shall remit all moneys collected from the payment by
35 licensees of all fees and fines imposed by the director pursuant to the
36 medical marijuana regulation act and any other moneys received by or on
37 behalf of the director pursuant to such act to the state treasurer in
38 accordance with the provisions of K.S.A. 75-4215, and amendments
39 thereto. Upon receipt of each such remittance, the state treasurer shall
40 deposit the entire amount in the state treasury to the credit of the medical
41 marijuana business regulation fund. Moneys credited to the medical
42 marijuana business regulation fund shall only be expended or transferred
43 as provided in this section. Expenditures from such fund shall be made in

1 accordance with appropriation acts upon warrants of the director of
2 accounts and reports issued pursuant to vouchers approved by the director
3 or the director's designee.

4 (b) Moneys in the medical marijuana business regulation fund shall
5 be used for the payment or reimbursement of costs related to the regulation
6 and enforcement of the cultivation, testing, distributing, possession,
7 processing and sale of medical marijuana by the division of alcohol and
8 cannabis control.

9 New Sec. 36. (a) On or before January 1, 2024, the director shall
10 propose rules and regulations to administer the medical marijuana
11 regulation program and implement and enforce the provisions of the
12 medical marijuana regulation act. The secretary of revenue shall, after
13 consulting with the medical marijuana advisory committee, adopt rules
14 and regulations to administer the medical marijuana regulation program
15 and implement and enforce the provisions of this act. Such rules and
16 regulations shall:

17 (1) Establish application procedures and fees for licenses issued
18 under section 20 and 29, and amendments thereto;

19 (2) specify the conditions for eligibility for licensure;

20 (3) establish a license renewal schedule, renewal procedures and
21 renewal fees;

22 (4) establish standards and procedures for the testing of medical
23 marijuana by a licensed laboratory;

24 (5) establish official packaging and labeling requirements that
25 designate the package as Kansas medical marijuana, include the
26 information required under section 28, and amendments thereto, and
27 ensure the packaging is tamper-proof;

28 (6) specify licensed premises security requirements in accordance
29 with section 42, and amendments thereto; and

30 (7) establish training requirements for employees of licensed
31 cultivators, laboratories, processors, distributors and retail dispensaries.

32 (b) When adopting rules and regulations, the secretary shall consider
33 standards and procedures that have been found to be best practices relative
34 to the use and regulation of medical marijuana.

35 New Sec. 37. (a) On or before January 1, 2024, the state board of
36 pharmacy shall adopt rules and regulations establishing the requirements
37 for:

38 (1) Retail dispensary reports to the prescription monitoring program
39 database, including, but not limited to, the:

40 (A) Methods of transmission;

41 (B) nationally recognized telecommunications format to be used;

42 (C) frequency of such reports; and

43 (D) procedures for the maintenance of information submitted to or

1 received from the prescription monitoring program to ensure such
2 information is treated as confidential and is subject to the requirements of
3 K.S.A. 65-1685 and 65-1687, and amendments thereto; and

4 (2) pharmacists to register as pharmacist consultants.

5 (b) Every September 15, December 15, March 15 and June 15, the
6 state board of pharmacy shall certify to the director of accounts and reports
7 the amount of moneys expended for operation and maintenance of the
8 Kansas prescription drug monitoring program that is attributable to this
9 act. Upon receipt of each such certification, or as soon thereafter as
10 moneys are available, the director of accounts and reports shall transfer the
11 amount certified from the medical marijuana business regulation fund to
12 the state board of pharmacy fee fund.

13 New Sec. 38. (a) Any pharmacist who seeks to operate as a
14 pharmacist consultant for a retail dispensary shall register with the state
15 board of pharmacy in accordance with rules and regulations adopted by the
16 board.

17 (b) In operating as a pharmacist consultant for a retail dispensary,
18 such pharmacist shall:

19 (1) Not charge a fee for such pharmacist's services that exceeds 1% of
20 the gross annual receipts of such retail dispensary;

21 (2) audit each recommendation for use of medical marijuana, verify
22 that any medical marijuana dispensed to a patient or caregiver is in
23 accordance with such recommendation and ensure that each such
24 recommendation is reported to the prescription monitoring program in
25 accordance with K.S.A. 65-1683, and amendments thereto, and rules and
26 regulations adopted by the state board of pharmacy;

27 (3) develop and provide training to retail dispensary employees at
28 least once every 12 months that:

29 (A) Establishes guidelines for providing information to registered
30 patients related to risks, benefits and side effects associated with medical
31 marijuana;

32 (B) explains how to identify the signs and symptoms of substance
33 abuse;

34 (C) establishes guidelines for refusing to provide medical marijuana
35 to an individual who appears to be impaired or abusing medical marijuana;
36 and

37 (D) assists in the development and implementation of review and
38 improvement processes for patient education and support provided by the
39 retail dispensary;

40 (4) provide oversight for the development and dissemination of:

41 (A) Education materials for qualifying patients and designated
42 caregivers that include:

43 (i) Information about possible side effects and contraindications of

1 medical marijuana;

2 (ii) guidelines for notifying the physician who provided the written
3 recommendation for medical marijuana if side effects or contraindications
4 occur;

5 (iii) a description of the potential effects of differing strengths of
6 medical marijuana strains and products;

7 (iv) information about potential drug-to-drug interactions, including
8 interactions with alcohol, prescription drugs, nonprescription drugs and
9 supplements;

10 (v) techniques for the use of medical marijuana, medical marijuana
11 products and paraphernalia for the use of medical marijuana; and

12 (vi) information about different methods, forms and routes of medical
13 marijuana administration;

14 (B) systems for documentation by a registered patient or designated
15 caregiver of the symptoms of a registered patient that includes a logbook,
16 rating scale for pain and symptoms and guidelines for a patient's self-
17 assessment; and

18 (C) policies and procedures for refusing to provide medical marijuana
19 to an individual who appears to be impaired or abusing medical marijuana;
20 and

21 (5) be accessible by telephone or video conference to the retail
22 dispensary and for a patient consultation during operating hours.

23 New Sec. 39. (a) The director shall establish and maintain an
24 electronic database to monitor medical marijuana from its seed source
25 through its cultivation, testing, processing, distribution and dispensing,
26 giving preference to systems that include tracking each plant beginning
27 with the plant's in vitro genetic origination data. The director may contract
28 with a separate entity to establish and maintain all or any portion of the
29 electronic database on behalf of the division of alcohol and cannabis
30 control.

31 (b) The electronic database shall allow for information regarding
32 medical marijuana to be updated instantaneously. Any licensed cultivator,
33 laboratory, processor, distributor or retail dispensary shall submit such
34 information to the director as the director determines is necessary for
35 maintaining the electronic database.

36 (c) The director, any employee of the division, any entity under
37 contract with the director and any employee or agent thereof shall not
38 make public any information reported to or collected by the director under
39 this section that identifies or would tend to identify any specific patient.
40 Such information shall be kept confidential to protect the privacy of the
41 patient. The provisions of this subsection shall expire on July 1, 2028,
42 unless the legislature reviews and reenacts such provisions in accordance
43 with K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.

1 New Sec. 40. (a) There shall be no direct or indirect cooperative
2 advertising between or among two or more licensed cultivators, retail
3 dispensaries or physicians, or any combination thereof, where such
4 advertising has the purpose or effect of steering or influencing patient or
5 caregiver choice with regard to the selection of a physician, retail
6 dispensary or source of medical marijuana.

7 (b) All advertisements for medical marijuana or medical marijuana
8 products that make a statement relating to side effects, contraindications
9 and effectiveness shall present a true statement of such information. When
10 applicable, advertisements broadcast through media, including, but not
11 limited to, radio, television or any other electronic media, shall include
12 such information in the audio or audio and visual parts of the broadcast.
13 False or misleading information in any part of the advertisement shall not
14 be corrected by the inclusion of a true statement in another, distinct part of
15 the advertisement.

16 (c) An advertisement is false or otherwise misleading if such
17 advertisement:

18 (1) Contains a representation or suggestion that a medical marijuana
19 brand or product is better, more effective, useful in a broader range of
20 conditions or patients or safer than other drugs or treatments, including
21 other medical marijuana brands or products, unless such a claim has been
22 demonstrated by substantial evidence or substantial clinical experience;

23 (2) contains favorable information or opinions about a medical
24 marijuana brand or product previously regarded as valid but that have been
25 rendered invalid by contrary and more recent credible information;

26 (3) uses a quote or paraphrase out of context or without citing
27 conflicting information from the same source to convey a false or
28 misleading idea;

29 (4) cites or refers to a study on individuals without a qualifying
30 medical condition without disclosing that the subjects were not suffering
31 from a qualifying medical condition;

32 (5) uses data favorable to a medical marijuana product derived from
33 patients treated with a product or dosages different from those approved in
34 this state;

35 (6) contains favorable information or conclusions from a study that is
36 inadequate in design, scope or conduct to furnish significant support for
37 such information or conclusions; or

38 (7) fails to provide adequate emphasis for the fact that two or more
39 facing pages are part of the same advertisement when only one page
40 contains information relating to side effects, consequences and
41 contraindications.

42 (d) An advertisement for medical marijuana or medical marijuana
43 products shall not contain any:

- 1 (1) Statement that is false or misleading in any material particular or
2 is otherwise in violation of the Kansas consumer protection act;
- 3 (2) statement that falsely disparages a competitor's products;
- 4 (3) statement, design or representation, picture or illustration that:
- 5 (A) Is obscene or indecent;
- 6 (B) encourages or represents the recreational use of marijuana or the
7 use of medical marijuana for a condition other than a qualifying medical
8 condition;
- 9 (C) relates to the safety or efficacy of medical marijuana unless
10 supported by substantial evidence or substantial clinical data; or
- 11 (D) portrays anyone under 18 years of age or contains the use of a
12 figure, symbol or language that is customarily associated with anyone
13 under 18 years of age;
- 14 (4) offer of a prize or award to a registered patient, caregiver or
15 physician related to the purchase of medical marijuana; or
- 16 (5) statement that indicates or implies that the product or entity in the
17 advertisement has been approved or endorsed by the secretary of health
18 and environment, the director, the state of Kansas or any person or entity
19 associated with the state.
- 20 (e) No advertisement shall be broadcast or otherwise disseminated if
21 the submitter of the advertisement has received information that has not
22 been widely publicized in medical literature that the use of the medical
23 marijuana product may cause fatalities or serious harm.
- 24 (f) The director may:
- 25 (1) Require that a specific disclosure be made in an advertisement in
26 a clear and conspicuous manner, if the secretary determines that such
27 advertisement would be false or misleading without such a disclosure; or
- 28 (2) make recommendations with respect to changes to such
29 advertisement that are:
- 30 (A) Necessary to protect the public health, safety and welfare; or
- 31 (B) consistent with dispensing information for the medical marijuana
32 or medical marijuana product that is the subject of such advertisement.
- 33 (g) A retail dispensary shall not:
- 34 (1) Advertise medical marijuana brand names or utilize graphics
35 related to marijuana or paraphernalia on the exterior of the building or
36 grounds of the licensed premises of such retail dispensary; or
- 37 (2) display any medical marijuana or paraphernalia that is clearly
38 visible from the exterior of such retail dispensary.
- 39 (h) Medical marijuana shall not be advertised for sale by any
40 cultivator, processor or distributor, except that such licensees may make a
41 price list available to a retail dispensary.
- 42 New Sec. 41. (a) Except as otherwise provided, no cultivator,
43 laboratory, processor, distributor or retail dispensary shall be located

1 within 1,000 feet of the boundaries of a parcel of real estate having
2 situated on it a school, religious organization, public library or public park.
3 If the relocation of a cultivator, laboratory, processor, distributor or retail
4 dispensary results in such licensee being located within 1,000 feet of the
5 boundaries of a parcel of real estate having situated on it a school,
6 religious organization, public library or public park, the director shall
7 revoke the license of such cultivator, laboratory, processor, distributor or
8 retail dispensary.

9 (b) (1) The director shall not revoke the license of a cultivator,
10 laboratory, processor, distributor or retail dispensary if such licensee
11 existed at a location prior to the establishment of a school, religious
12 organization, public library or public park that is located on real estate that
13 is within 1,000 feet of such licensee.

14 (2) Any applicant for a license may petition for and receive an
15 exemption from the provisions of this section upon approval by the
16 director if the proposed licensed premises:

17 (A) Has an industrial zoning classification; and

18 (B) is located not less than 500 feet of the boundaries of a parcel of
19 real estate having situated on it a school, religious organization, public
20 library or public park.

21 (c) This section shall not apply to research related to marijuana
22 conducted at a postsecondary educational institution, academic medical
23 center or private research and development organization as part of a
24 research protocol approved by an institutional review board or equivalent
25 entity.

26 (d) A county may prohibit the operation of retail dispensaries in such
27 county by adoption of a resolution. Any retail dispensary that is lawfully
28 operating at the time such resolution is adopted shall be permitted to
29 continue operating in such county and shall not be denied renewal of any
30 license based upon the adoption of such resolution.

31 (e) As used in this section:

32 (1) "Public library" means any library established pursuant to article
33 12 of chapter 12 of the Kansas Statutes Annotated, and amendments
34 thereto, and any other library that serves the general public and is funded
35 in whole, or in part, from moneys derived from tax levies;

36 (2) "public park" means any park or other outdoor recreational area or
37 facility, including, but not limited to, parks, open spaces, trails, swimming
38 pools, playgrounds and playing courts and fields established by the state or
39 any political subdivision thereof;

40 (3) "religious organization" means any organization, church, body of
41 communicants or group gathered in common membership for mutual
42 support and edification in piety, worship and religious observances or a
43 society of individuals united for religious purposes at a definite place

1 owned by such entity that:

2 (A) Maintains an established place of worship within this state;

3 (B) has a regular schedule of services or meetings at least on a
4 weekly basis; and

5 (C) has been determined to be organized and created as a bona fide
6 religious organization; and

7 (4) "school" means any public or private preschool, elementary,
8 middle or high school or other attendance center for kindergarten or any of
9 the grades one through 12.

10 New Sec. 42. (a) The licensed premises for any license issued
11 pursuant to section 20, and amendments thereto, shall be equipped with
12 security equipment and measures to prevent unauthorized access to
13 restricted areas of the premises and the theft, diversion or inversion of
14 medical marijuana, medical marijuana concentrate or medical marijuana
15 products.

16 (b) The licensee of a licensed premises shall install and maintain the
17 following security equipment for the licensed premises:

18 (1) Exterior lighting sufficient to illuminate the exterior and perimeter
19 of the licensed premises to facilitate surveillance of the premises;

20 (2) electronic video monitoring in accordance with subsection (c);

21 (3) controlled access to restricted access areas of the premises by
22 means of electronic card access systems, biometric identification systems
23 or similar systems that:

24 (A) Provide for the automatic locking of all external access doors in
25 the event of power loss; and

26 (B) records access information by date, time and identity of the
27 individual accessing restricted access area and maintains such information
28 for at least one year;

29 (4) if windows are visible in any restricted access area, windows that
30 are secured at all times to prevent opening or other access to the restricted
31 access area via such windows; and

32 (5) alarm systems that provide:

33 (A) Immediate, automatic notification of local law enforcement
34 agencies of any unauthorized breach of the security of the premises; and

35 (B) manual, silent alarms at each point-of-sale, reception area, vault
36 and electronic monitoring station that provides for the immediate,
37 automatic notification of local law enforcement agencies of any
38 unauthorized breach of the security of the premises.

39 (c) Any electronic video monitoring system installed and maintained
40 by a licensee shall:

41 (1) Include coverage of:

42 (A) All entrances to the premises, including all windows and
43 entrances to restricted access areas;

- 1 (B) the exterior and perimeter of the premises;
- 2 (C) each point-of-sale location;
- 3 (D) all vaults or safes; and
- 4 (E) all areas where medical marijuana, medical marijuana concentrate
5 and medical marijuana products are cultivated, processed or disposed of as
6 waste;
- 7 (2) store all video recordings for at least 60 days in a secure location
8 on or off the premises or through a secure service or network that provides
9 on-demand access to such recordings. All such recordings shall be made
10 available to the director upon request and at the expense of the licensee;
- 11 (3) accurately display the date and time of all recorded events in a
12 manner that does not obstruct the recorded view; and
- 13 (4) be installed in a manner that will prevent the video monitoring
14 equipment from being obstructed, tampered with or disabled.
- 15 (d) (1) Each licensee shall notify the director of any malfunction in
16 security equipment within 24 hours after such malfunction is discovered,
17 and shall make reasonable efforts to repair such malfunctioning security
18 equipment within 72 hours after such discovery.
- 19 (2) If the malfunctioning equipment is the electronic video
20 monitoring system, a licensee shall provide for alternative video
21 monitoring or other security measures until the malfunction can be
22 repaired. If other security measures are used, the licensee shall notify the
23 director of the use of such measures and when the electronic video
24 monitoring system has been repaired.
- 25 (3) Each licensee shall maintain a record of all security equipment
26 malfunctions and repairs for each licensed premises. Each record of a
27 malfunction shall be maintained for one year from the date of the last entry
28 for such malfunction. Such record shall include the following:
- 29 (A) Date, time and nature of each malfunction;
- 30 (B) date and method of repair;
- 31 (C) reason for the delay, if any, in making a repair;
- 32 (D) use of alternative security measures, if any; and
- 33 (E) date and time of communications with the director.
- 34 (e) Each licensee shall establish policies and procedures for the
35 security of the licensed premises. Such policies and procedures shall
36 include:
- 37 (1) Controlling access to all restricted access areas;
- 38 (2) verifying the identity of individuals authorized to be in restricted
39 access areas and individuals authorized to conduct inventory control
40 activities;
- 41 (3) Limiting the amount of money available in the premises and
42 notifying any person entering the premises that there is a minimum amount
43 of money available, including by posting signage;

1 (4) use of electronic video monitoring systems;

2 (5) use of alarm systems, including the use of manual, silent alarms;
3 and

4 (6) communications with local law enforcement agencies regarding
5 unauthorized security breaches and the employment and identity of any
6 armed security personnel by the licensee.

7 (f) Each licensee shall employ a security manager. A security
8 manager shall be responsible for:

9 (1) Conducting semiannual audits of the security equipment and
10 measures utilized on the licensed premises to ensure compliance with
11 policies and procedures and to identify any security issues;

12 (2) training employees, upon employment and at least annually
13 thereafter, on security measures, emergency response and theft prevention;
14 and

15 (3) evaluating the credentials of any contractor, including any
16 contractor providing any security equipment or measures, who intends to
17 provide services at the licensed premises prior to such contractor accessing
18 the premises.

19 (g) Each licensee shall ensure that the security manager for a licensed
20 premises and any contractor providing security services for such licensed
21 premises and any employees of such contractor providing such services
22 have completed training in security equipment and measures. Such
23 training shall include:

24 (1) Prevention of theft, diversion and inversion of medical marijuana;

25 (2) emergency response procedures;

26 (3) appropriate use of force;

27 (4) preservation of a crime scene;

28 (5) controlling access to restricted access areas of the premises;

29 (6) at least eight hours of training in providing security services on
30 the premises; and

31 (7) at least eight hours of attendance in a course on providing security
32 services.

33 (h) As used in this section, the term "restricted access entrance"
34 means an entrance that is restricted to the public and requires a key,
35 keycard, code, biometric identification system or similar device to allow
36 entry to authorized personnel.

37 New Sec. 43. Each applicant for a cultivator, laboratory, processor,
38 distributor or retail dispensary license shall require each owner, director,
39 officer and agent of such applicant to be fingerprinted and to submit to a
40 state and national criminal history record check. Each applicant for an
41 employee licensee shall be fingerprinted and submit to a state and national
42 criminal history record check. The director is authorized to submit the
43 fingerprints to the Kansas bureau of investigation and the federal bureau of

1 investigation for a state and national criminal history record check. The
2 director shall use the information obtained from fingerprinting and the
3 state and national criminal history record check for purposes of verifying
4 the identification of the applicant and any owner, director, officer and
5 agent thereof, if any, and for making a determination of the qualifications
6 of the applicant for licensure. The Kansas bureau of investigation may
7 charge a reasonable fee to the applicant for fingerprinting and conducting a
8 criminal history record check.

9 New Sec. 44. (a) A financial institution that provides financial
10 services to any cultivator, laboratory, processor, distributor or retail
11 dispensary shall be exempt from any criminal law of this state, an element
12 of which may be proven beyond a reasonable doubt that a person provides
13 financial services to a person who possesses, delivers or manufactures
14 medical marijuana or medical marijuana products, including any of the
15 offenses specified in article 57 of chapter 21 of the Kansas Statutes
16 Annotated, and amendments thereto, or any attempt, conspiracy or
17 solicitation specified in article 53 of chapter 21 of the Kansas Statutes
18 Annotated, and amendments thereto, if the cultivator, laboratory,
19 processor, distributor or retail dispensary is in compliance with the
20 provisions of this act and all applicable tax laws of this state.

21 (b) (1) Upon the request of a financial institution, the director shall
22 provide to the financial institution the following information:

23 (A) Whether a person with whom the financial institution is seeking
24 to do business is a licensed cultivator, laboratory, processor, distributor or
25 retail dispensary;

26 (B) the name of any other business or individual affiliated with such
27 person;

28 (C) an unredacted copy of such person's application for a license, and
29 any supporting documentation, that was submitted by such person;

30 (D) information relating to sales and volume of product sold by such
31 person, if applicable;

32 (E) whether such person is in compliance with the provisions of this
33 act; and

34 (F) any past or pending violations of the medical marijuana regulation
35 act or any rules and regulations adopted thereunder committed by such
36 person and any penalty imposed on such person for such violation.

37 (2) The director may charge a financial institution a reasonable fee to
38 cover the administrative cost of providing information requested under this
39 section.

40 (c) Information received by a financial institution under subsection
41 (b) is confidential. Except as otherwise permitted by any other state or
42 federal law, a financial institution shall not make the information available
43 to any person other than the customer to whom the information applies and

1 any trustee, conservator, guardian, personal representative or agent of such
2 customer.

3 (d) As used in this section:

4 (1) "Financial institution" means any bank, trust company, savings
5 bank, credit union or savings and loan association or any other financial
6 institution regulated by the state of Kansas, any agency of the United
7 States or other state with an office in Kansas; and

8 (2) "financial services" means services that a financial institution is
9 authorized to provide under chapter 9 or article 22 of chapter 17 of the
10 Kansas Statutes Annotated, and amendments thereto, as applicable.

11 New Sec. 45. Nothing in this act authorizes the director to oversee or
12 limit research conducted at a postsecondary educational institution,
13 academic medical center or private research and development organization
14 that is related to marijuana and is approved by an agency, board, center,
15 department or institute of the United States government, including any of
16 the following:

17 (a) The agency for health care research and quality;

18 (b) the national institutes of health;

19 (c) the national academy of sciences;

20 (d) the centers for medicare and medicaid services;

21 (e) the United States department of defense;

22 (f) the centers for disease control and prevention;

23 (g) the United States department of veterans affairs;

24 (h) the drug enforcement administration;

25 (i) the food and drug administration; and

26 (j) any board recognized by the national institutes of health for the
27 purpose of evaluating the medical value of healthcare services.

28 New Sec. 46. No provisions of the medical marijuana regulation act
29 shall be construed to:

30 (a) Require an employer to permit or accommodate the use,
31 consumption, possession, transfer, display, distribution, transportation, sale
32 or growing of marijuana or any conduct otherwise allowed by this act in
33 any workplace or on the employer's property;

34 (b) prohibit a person, employer, corporation or any other entity that
35 occupies, owns or controls a property from prohibiting or otherwise
36 regulating the use, consumption, possession, transfer, display, distribution,
37 transportation, sale or growing of marijuana on such property;

38 (c) require any government medical assistance program, a private
39 health insurer or a workers compensation carrier or self-insured employer
40 providing workers compensation benefits to reimburse a person for costs
41 associated with the use of medical marijuana;

42 (d) affect the ability of an employer to implement policies to promote
43 workplace health and safety by restricting the use of marijuana by

1 employees;

2 (e) prohibit an employer from:

3 (1) Establishing and enforcing a drug testing policy, drug-free
4 workplace policy or zero-tolerance drug policy;

5 (2) disciplining an employee for a violation of a workplace drug
6 policy or for working while under the influence of marijuana; or

7 (3) including a provision in any contract that prohibits the use of
8 marijuana; or

9 (f) prevent an employer from, because of a person's violation of a
10 workplace drug policy or because that person was working while under the
11 influence of marijuana:

12 (1) Refusing to hire a person;

13 (2) discharging a person;

14 (3) disciplining a person; or

15 (4) otherwise taking an adverse employment action against a person
16 with respect to hiring decisions, tenure, terms, conditions or privileges of
17 employment.

18 New Sec. 47. The secretary of revenue, in consultation with the
19 secretary of health and environment, may enter into one or more
20 intergovernmental agreements with any of the Prairie Band Potawatomi
21 Nation, the Iowa Tribe of Kansas and Nebraska, the Sac and Fox Nation of
22 Missouri in Kansas and Nebraska and the Kickapoo Tribe in Kansas to
23 provide for a free market exchange between entities engaged in the
24 business of medical marijuana licensed by any such tribal government and
25 licensed cultivators, laboratories, processors, distributors and retail
26 dispensaries. Such agreement shall provide that the applicable tribal
27 regulatory authority agrees to meet or exceed the substantive standards of
28 the medical marijuana regulation act and any rules and regulations adopted
29 pursuant thereto concerning the regulation of licensing and testing with
30 respect to medical marijuana activity.

31 New Sec. 48. The provisions of the medical marijuana regulation act,
32 sections 1 through 48, and amendments thereto, are hereby declared to be
33 severable. If any part or provision of the medical marijuana regulation act
34 is held to be void, invalid or unconstitutional, such part or provision shall
35 not affect or impair any of the remaining parts or provisions of the medical
36 marijuana regulation act, and any such remaining provisions shall continue
37 in full force and effect.

38 New Sec. 49. (a) It shall be unlawful to store or otherwise leave
39 medical marijuana or a medical marijuana product where it is readily
40 accessible to a child under 18 years of age. Such conduct shall be unlawful
41 with no requirement of a culpable mental state.

42 (b) Violation of this section is a class A person misdemeanor.

43 (c) This section shall not apply to any person who stores or otherwise

1 leaves medical marijuana or a medical marijuana product where it is
2 readily accessible to a child under 18 years of age if:

3 (1) Such child is a patient registered pursuant to section 8, and
4 amendments thereto; and

5 (2) such medical marijuana or medical marijuana product is not
6 readily accessible to any child under 18 years of age other than the child
7 described in paragraph (1).

8 (d) As used in this section:

9 (1) "Medical marijuana" and "medical marijuana product" mean the
10 same as such terms are defined in section 2, and amendments thereto; and

11 (2) "readily accessible" means the medical marijuana or medical
12 marijuana product is not stored in a locked container that restricts entry to
13 such container solely to individuals who are over 18 years of age or who
14 are registered patients pursuant to section 8, and amendments thereto.

15 (e) This section shall be a part of and supplemental to the Kansas
16 criminal code.

17 New Sec. 50. (a) No person shall transport medical marijuana or
18 medical marijuana products in any vehicle upon a highway or street unless
19 such medical marijuana or medical marijuana product is in:

20 (1) The original, sealed packaging in accordance with any packaging
21 requirements of the secretary of revenue adopted in rules and regulations,
22 and the seal of which has not been broken and any other means of closure
23 has not been removed; and

24 (2) (A) a locked rear trunk or rear compartment or any locked outside
25 compartment of the vehicle that is not accessible to any person in the
26 vehicle while it is in motion. If a vehicle is not equipped with such a trunk
27 or compartment, then such medical marijuana or medical marijuana
28 products shall be placed behind the last upright seat or in an area not
29 normally occupied by the driver or a passenger of the vehicle while it is in
30 motion; or

31 (B) the exclusive possession of a passenger in a vehicle that is a
32 recreational vehicle, as defined by K.S.A. 75-1212, and amendments
33 thereto, or a bus, as defined by K.S.A. 8-1406, and amendments thereto,
34 who is not in the driving compartment of such vehicle or who is in a
35 portion of such vehicle that is not directly accessible to the driver.

36 (b) Violation of this section is a class C nonperson misdemeanor.

37 (c) As used in this section, the terms "medical marijuana" and
38 "medical marijuana product" mean the same as those terms are defined in
39 section 2, and amendments thereto.

40 (d) This section shall be a part of and supplemental to the Kansas
41 criminal code.

42 New Sec. 51. (a) The division of alcoholic beverage control is hereby
43 renamed the division of alcohol and cannabis control.

1 (b) The division of alcohol and cannabis control and the director of
2 the division of alcohol and cannabis control shall be the successor in every
3 way to the powers, duties and functions of the division of alcoholic
4 beverage control and the director of the division of alcoholic beverage
5 control in which the same were vested prior to July 1, 2023. Every act
6 performed in the exercise of such powers, duties and functions by or under
7 the authority of the division of alcohol and cannabis control or the director
8 of the division of alcohol and cannabis control shall be deemed to have the
9 same force and effect as if performed by the division of alcoholic beverage
10 control or the director of the division of alcoholic beverage control in
11 which such powers, duties and functions were vested prior to July 1, 2023.

12 (c) Whenever the division of alcoholic beverage control, or words of
13 like effect, are referred to or designated by a statute, contract or other
14 document, and such reference or designation is in regard to any function,
15 power or duty of the division of alcoholic beverage control, such reference
16 or designation shall be deemed to apply to the division of alcohol and
17 cannabis control.

18 (d) Whenever the director of the division of alcoholic beverage
19 control, or words of like effect, are referred to or designated by a statute,
20 contract or other document, and such reference or designation is in regard
21 to any function, power or duty of the director of the division of alcoholic
22 beverage control, such reference or designation shall be deemed to apply
23 to the director of alcohol and cannabis control.

24 (e) All rules and regulations, orders and directives of the director of
25 the division of alcoholic beverage control that are in effect on July 1, 2023,
26 shall continue to be effective and shall be deemed to be rules and
27 regulations, orders and directives of the director of the division of alcohol
28 and cannabis control until revised, amended, revoked or nullified pursuant
29 to law.

30 New Sec. 52. (a) No law enforcement officer shall enforce any
31 violations of 18 U.S.C. § 922(g)(3) if the substance involved in such
32 violation is medical marijuana and such person is a registered patient
33 pursuant to the medical marijuana regulation act, section 1 et seq., and
34 amendments thereto, whose possession is authorized by such act.

35 (b) As used in this section:

36 (1) "Law enforcement officer" means the same as defined in K.S.A.
37 74-5602, and amendments thereto; and

38 (2) "medical marijuana" means the same as defined in section 2, and
39 amendments thereto.

40 New Sec. 53. (a) Subject to the provisions of K.S.A. 44-1018, and
41 amendments thereto, it shall be unlawful for any person to:

42 (1) Refuse to sell or rent after the making of a bona fide offer, to fail
43 to transmit a bona fide offer or refuse to negotiate in good faith for the sale

1 or rental of, or otherwise make unavailable or deny, real property to any
2 person because such person consumes medical marijuana in accordance
3 with section 10, and amendments thereto;

4 (2) discriminate against any person in the terms, conditions or
5 privileges of sale or rental of real property, or in the provision of services
6 or facilities in connection therewith, because such person consumes
7 medical marijuana in accordance with section 10, and amendments
8 thereto; and

9 (3) discriminate against any person in such person's use or occupancy
10 of real property because such person associates with another person who
11 consumes medical marijuana in accordance with section 10, and
12 amendments thereto.

13 (b) (1) It shall be unlawful for any person or other entity whose
14 business includes engaging in real estate related transactions to
15 discriminate against any person in making available such a transaction, or
16 in the terms or conditions of such a transaction, because such person or
17 any person associated with such person in connection with any real estate
18 related transaction consumes medical marijuana in accordance with
19 section 10, and amendments thereto.

20 (2) Nothing in this subsection prohibits a person engaged in the
21 business of furnishing appraisals of real property to take into consideration
22 factors other than an individual's consumption of medical marijuana in
23 accordance with section 10, and amendments thereto.

24 (3) As used in this subsection, "real estate related transaction" means
25 the same as defined in K.S.A. 44-1017, and amendments thereto.

26 (c) It shall be unlawful to coerce, intimidate, threaten or interfere with
27 any person in the exercise or enjoyment of, or on account of such person's
28 having exercised or enjoyed, or on account of such person's having aided
29 or encouraged any other person in the exercise or enjoyment of, any right
30 granted or protected by subsection (a) or (b).

31 (d) Nothing in this section shall be construed to prohibit a person
32 from taking any action necessary to procure or retain any monetary benefit
33 provided under federal law, or any rules and regulations adopted
34 thereunder, or to obtain or maintain any license, certificate, registration or
35 other legal status issued or bestowed under federal law, or any rules and
36 regulations adopted thereunder.

37 (e) The provisions of this section shall be a part of and supplement to
38 the Kansas act against discrimination.

39 New Sec. 54. (a) A covered entity, solely on the basis that an
40 individual consumes medical marijuana in accordance with section 10, and
41 amendments thereto, shall not:

42 (1) Consider such individual ineligible to receive an anatomical gift
43 or organ transplant;

1 (2) deny medical and other services related to organ transplantation,
2 including evaluation, surgery, counseling and post-transplantation
3 treatment and services;

4 (3) refuse to refer the individual to a transplant center or a related
5 specialist for the purpose of evaluation or receipt of an organ transplant;

6 (4) refuse to place such individual on an organ transplant waiting list;
7 or

8 (5) place such individual at a lower-priority position on an organ
9 transplant waiting list than the position at which such individual would
10 have been placed if not for such individual's consumption of medical
11 marijuana.

12 (b) A covered entity may take into account an individual's
13 consumption of medical marijuana when making treatment or coverage
14 recommendations or decisions, solely to the extent that such consumption
15 has been found by a physician, following an individualized evaluation of
16 the individual, to be medically significant to the provision of the
17 anatomical gift.

18 (c) Nothing in this section shall be construed to require a covered
19 entity to make a referral or recommendation for or perform a medically
20 inappropriate organ transplant.

21 (d) As used in this section, the terms "anatomical gift," "covered
22 entity" and "organ transplant" mean the same as those terms are defined in
23 K.S.A. 65-3276, and amendments thereto.

24 New Sec. 55. (a) No order shall be issued pursuant to K.S.A. 38-
25 2242, 38-2243 or 38-2244, and amendments thereto, if the sole basis for
26 the threat to the child's safety or welfare is that the child resides with an
27 individual who consumes medical marijuana in accordance with section
28 10, and amendments thereto, or the child consumes medical marijuana in
29 accordance with section 10, and amendments thereto.

30 (b) This section shall be a part of and supplemental to the revised
31 Kansas code for care of children.

32 New Sec. 56. (a) Notwithstanding the provisions of K.S.A. 65-2836,
33 and amendments thereto, the board shall not revoke, suspend or limit a
34 physician's license, publicly censure a physician or place a physician's
35 license under probationary conditions for any of the following:

36 (1) The physician has:

37 (A) Advised a patient about the possible benefits and risks of using
38 medical marijuana;

39 (B) advised the patient that using medical marijuana may mitigate the
40 patient's symptoms; or

41 (C) submitted an application on behalf of a patient or caregiver for
42 registration as a patient or caregiver under section 8, and amendments
43 thereto; or

1 (2) the physician is a registered patient or caregiver pursuant to
2 section 8, and amendments thereto, possesses or has possessed or uses or
3 has used medical marijuana in accordance with the medical marijuana
4 regulation act, section 1 et seq., and amendments thereto.

5 (b) As used in this section, the term "medical marijuana" means the
6 same as defined in section 2, and amendments thereto.

7 New Sec. 57. (a) Notwithstanding the provisions of K.S.A. 65-28a05,
8 and amendments thereto, the board shall not revoke, suspend or limit a
9 physician assistant's license, publicly or privately censure a physician
10 assistant or deny an application for a license or for reinstatement of a
11 license for any of the following:

12 (1) The physician assistant has:

13 (A) Advised a patient about the possible benefits and risks of using
14 medical marijuana; or

15 (B) advised the patient that using medical marijuana may mitigate the
16 patient's symptoms; or

17 (2) the physician assistant is a registered patient or caregiver pursuant
18 to section 8, and amendments thereto, possesses or has possessed or uses
19 or has used medical marijuana in accordance with the medical marijuana
20 regulation act, section 1 et seq., and amendments thereto.

21 (b) As used in this section, the term "medical marijuana" means the
22 same as defined in section 2, and amendments thereto.

23 New Sec. 58. (a) Notwithstanding any other provision of law, any
24 person, board, commission or similar body that determines the
25 qualifications of individuals for licensure, certification or registration shall
26 not disqualify an individual from licensure, certification or registration
27 solely because such individual consumes medical marijuana in accordance
28 with section 10, and amendments thereto.

29 (b) The provisions of this section shall not apply to the:

30 (1) Kansas commission on peace officers' standards and training;

31 (2) Kansas highway patrol;

32 (3) office of the attorney general;

33 (4) department of health and environment; or

34 (5) division of alcohol and cannabis control.

35 Sec. 59. K.S.A. 2021 Supp. 19-101a is hereby amended to read as
36 follows: 19-101a.(a) The board of county commissioners may transact all
37 county business and perform all powers of local legislation and
38 administration it deems appropriate, subject only to the following
39 limitations, restrictions or prohibitions:

40 (1) Counties shall be subject to all acts of the legislature which apply
41 uniformly to all counties.

42 (2) Counties may not affect the courts located therein.

43 (3) Counties shall be subject to acts of the legislature prescribing

1 limits of indebtedness.

2 (4) In the exercise of powers of local legislation and administration
3 authorized under provisions of this section, the home rule power conferred
4 on cities to determine their local affairs and government shall not be
5 superseded or impaired without the consent of the governing body of each
6 city within a county which may be affected.

7 (5) Counties may not legislate on social welfare administered under
8 state law enacted pursuant to or in conformity with public law No. 271 –
9 74th congress, or amendments thereof.

10 (6) Counties shall be subject to all acts of the legislature concerning
11 elections, election commissioners and officers and their duties as such
12 officers and the election of county officers.

13 (7) Counties shall be subject to the limitations and prohibitions
14 imposed under K.S.A. 12-187 through 12-195, and amendments thereto,
15 prescribing limitations upon the levy of retailers' sales taxes by counties.

16 (8) Counties may not exempt from or effect changes in statutes made
17 nonuniform in application solely by reason of authorizing exceptions for
18 counties having adopted a charter for county government.

19 (9) No county may levy ad valorem taxes under the authority of this
20 section upon real property located within any redevelopment project area
21 established under the authority of K.S.A. 12-1772, and amendments
22 thereto, unless the resolution authorizing the same specifically authorized
23 a portion of the proceeds of such levy to be used to pay the principal of
24 and interest upon bonds issued by a city under the authority of K.S.A. 12-
25 1774, and amendments thereto.

26 (10) Counties shall have no power under this section to exempt from
27 any statute authorizing or requiring the levy of taxes and providing
28 substitute and additional provisions on the same subject, unless the
29 resolution authorizing the same specifically provides for a portion of the
30 proceeds of such levy to be used to pay a portion of the principal and
31 interest on bonds issued by cities under the authority of K.S.A. 12-1774,
32 and amendments thereto.

33 (11) Counties may not exempt from or effect changes in the
34 provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

35 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101
36 through 12-1,109, and amendments thereto, counties may not levy and
37 collect taxes on incomes from whatever source derived.

38 (13) Counties may not exempt from or effect changes in K.S.A. 19-
39 430, and amendments thereto.

40 (14) Counties may not exempt from or effect changes in K.S.A. 19-
41 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

42 (15) Counties may not exempt from or effect changes in K.S.A. 19-
43 15,139, 19-15,140 and 19-15,141, and amendments thereto.

- 1 (16) Counties may not exempt from or effect changes in the
2 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c
3 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-
4 1260 through 12-1270 and 12-1276, and amendments thereto.
- 5 (17) Counties may not exempt from or effect changes in the
6 provisions of K.S.A. 19-211, and amendments thereto.
- 7 (18) Counties may not exempt from or effect changes in the
8 provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 9 (19) Counties may not regulate the production or drilling of any oil or
10 gas well in any manner which would result in the duplication of regulation
11 by the state corporation commission and the Kansas department of health
12 and environment pursuant to chapter 55 and chapter 65 of the Kansas
13 Statutes Annotated, and amendments thereto, and any rules and regulations
14 adopted pursuant thereto. Counties may not require any license or permit
15 for the drilling or production of oil and gas wells. Counties may not
16 impose any fee or charge for the drilling or production of any oil or gas
17 well.
- 18 (20) Counties may not exempt from or effect changes in K.S.A. 79-
19 41a04, and amendments thereto.
- 20 (21) Counties may not exempt from or effect changes in K.S.A. 79-
21 1611, and amendments thereto.
- 22 (22) Counties may not exempt from or effect changes in K.S.A. 79-
23 1494, and amendments thereto.
- 24 (23) Counties may not exempt from or effect changes in K.S.A. 19-
25 202(b), and amendments thereto.
- 26 (24) Counties may not exempt from or effect changes in K.S.A. 19-
27 204(b), and amendments thereto.
- 28 (25) Counties may not levy or impose an excise, severance or any
29 other tax in the nature of an excise tax upon the physical severance and
30 production of any mineral or other material from the earth or water.
- 31 (26) Counties may not exempt from or effect changes in K.S.A. 79-
32 2017 or 79-2101, and amendments thereto.
- 33 (27) Counties may not exempt from or effect changes in K.S.A. 2-
34 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
35 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments
36 thereto.
- 37 (28) Counties may not exempt from or effect changes in K.S.A. 80-
38 121, and amendments thereto.
- 39 (29) Counties may not exempt from or effect changes in K.S.A. 19-
40 228, and amendments thereto.
- 41 (30) Counties may not exempt from or effect changes in the Kansas
42 911 act.
- 43 (31) Counties may not exempt from or effect changes in K.S.A. 26-

1 601, and amendments thereto.

2 (32) (A) Counties may not exempt from or effect changes in the
3 Kansas liquor control act except as provided by paragraph (B).

4 (B) Counties may adopt resolutions which are not in conflict with the
5 Kansas liquor control act.

6 (33) (A) Counties may not exempt from or effect changes in the
7 Kansas cereal malt beverage act except as provided by paragraph (B).

8 (B) Counties may adopt resolutions which are not in conflict with the
9 Kansas cereal malt beverage act.

10 (34) Counties may not exempt from or effect changes in the Kansas
11 lottery act.

12 (35) Counties may not exempt from or effect changes in the Kansas
13 expanded lottery act.

14 (36) Counties may neither exempt from nor effect changes to the
15 eminent domain procedure act.

16 (37) Any county granted authority pursuant to the provisions of
17 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be
18 subject to the limitations and prohibitions imposed under K.S.A. 19-5001
19 through 19-5005, and amendments thereto.

20 (38) Except as otherwise specifically authorized by K.S.A. 19-5001
21 through 19-5005, and amendments thereto, counties may not exercise any
22 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and
23 amendments thereto, including the imposition or levy of any retailers' sales
24 tax.

25 (39) Counties may not exempt from or effect changes in K.S.A. 65-
26 201 and 65-202, and amendments thereto.

27 (40) *Except as provided in section 41, and amendments thereto,*
28 *counties may not exempt from or effect changes in the medical marijuana*
29 *regulation act, section 1 et seq., and amendments thereto.*

30 (b) Counties shall apply the powers of local legislation granted in
31 subsection (a) by resolution of the board of county commissioners. If no
32 statutory authority exists for such local legislation other than that set forth
33 in subsection (a) and the local legislation proposed under the authority of
34 such subsection is not contrary to any act of the legislature, such local
35 legislation shall become effective upon passage of a resolution of the
36 board and publication in the official county newspaper. If the legislation
37 proposed by the board under authority of subsection (a) is contrary to an
38 act of the legislature which is applicable to the particular county but not
39 uniformly applicable to all counties, such legislation shall become
40 effective by passage of a charter resolution in the manner provided in
41 K.S.A. 19-101b, and amendments thereto.

42 (c) Any resolution adopted by a county ~~which~~ *that* conflicts with the
43 restrictions in subsection (a) is null and void.

1 Sec. 60. K.S.A. 2021 Supp. 21-5703 is hereby amended to read as
2 follows: 21-5703. (a) It shall be unlawful for any person to manufacture
3 any controlled substance or controlled substance analog.

4 (b) Violation or attempted violation of subsection (a) is a:

5 (1) Drug severity level 2 felony, except as provided in subsections (b)
6 (2) and (b)(3);

7 (2) drug severity level 1 felony if:

8 (A) The controlled substance is not methamphetamine, as defined by
9 ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1)~~, and
10 amendments thereto, or an analog thereof; and

11 (B) the offender has a prior conviction for unlawful manufacturing of
12 a controlled substance under this section, K.S.A. 65-4159, prior to its
13 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially
14 similar offense from another jurisdiction and the substance was not
15 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-~~
16 ~~4107(d)(3) or (f)(1)~~, and amendments thereto, or an analog thereof, in any
17 such prior conviction; and

18 (3) drug severity level 1 felony if the controlled substance is
19 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-~~
20 ~~4107(d)(3) or (f)(1)~~, and amendments thereto, or an analog thereof.

21 (c) The provisions of ~~subsection (d) of K.S.A. 2021 Supp. 21-~~
22 ~~5301(d)~~, and amendments thereto, shall not apply to a violation of
23 attempting to unlawfully manufacture any controlled substance or
24 controlled substance analog pursuant to this section.

25 (d) For persons arrested and charged under this section, bail shall be
26 at least \$50,000 cash or surety, and such person shall not be released upon
27 the person's own recognizance pursuant to K.S.A. 22-2802, and
28 amendments thereto, unless the court determines, on the record, that the
29 defendant is not likely to re-offend, the court imposes pretrial supervision,
30 or the defendant agrees to participate in a licensed or certified drug
31 treatment program.

32 (e) The sentence of a person who violates this section shall not be
33 subject to statutory provisions for suspended sentence, community service
34 work or probation.

35 (f) The sentence of a person who violates this section, K.S.A. 65-
36 4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its
37 transfer, shall not be reduced because these sections prohibit conduct
38 identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their
39 repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2021
40 Supp. 21-5705, and amendments thereto.

41 (g) *The provisions of this section shall not apply to a cultivator or*
42 *processor licensed by the director of alcohol and cannabis control*
43 *pursuant to section 20, and amendments thereto, that is producing medical*

1 *marijuana, as defined in section 2, and amendments thereto, when used*
2 *for acts authorized by the medical marijuana regulation act, section 1 et*
3 *seq., and amendments thereto.*

4 Sec. 61. K.S.A. 2021 Supp. 21-5705 is hereby amended to read as
5 follows: 21-5705. (a) It shall be unlawful for any person to distribute or
6 possess with the intent to distribute any of the following controlled
7 substances or controlled substance analogs thereof:

8 (1) Opiates, opium or narcotic drugs, or any stimulant designated in
9 ~~subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107(d)(1), (d)(3) or (f)(1),~~
10 and amendments thereto;

11 (2) any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e),~~
12 ~~subsection (e) of K.S.A. 65-4107(e), subsection (b) or (e) of K.S.A. 65-~~
13 ~~4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b),~~ and amendments
14 thereto;

15 (3) any stimulant designated in ~~subsection (f) of K.S.A. 65-4105(f),~~
16 ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4),~~
17 ~~(d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e),~~ and amendments
18 thereto;

19 (4) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~
20 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~
21 ~~K.S.A. 65-4109(g),~~ and amendments thereto;

22 (5) any substance designated in ~~subsection (g) of K.S.A. 65-4105(g)~~
23 ~~and subsection (e), (d), (e), (f) or (g) of K.S.A. 65-4111(c), (d), (e), (f) or~~
24 ~~(g),~~ and amendments thereto;

25 (6) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~
26 ~~4109(f),~~ and amendments thereto; or

27 (7) any substance designated in ~~subsection (h) of K.S.A. 65-4105(h),~~
28 and amendments thereto.

29 (b) It shall be unlawful for any person to distribute or possess with
30 the intent to distribute a controlled substance or a controlled substance
31 analog designated in K.S.A. 65-4113, and amendments thereto.

32 (c) It shall be unlawful for any person to cultivate any controlled
33 substance or controlled substance analog listed in subsection (a).

34 (d) (1) Except as provided further, violation of subsection (a) is a:

35 (A) Drug severity level 4 felony if the quantity of the material was
36 less than 3.5 grams;

37 (B) drug severity level 3 felony if the quantity of the material was at
38 least 3.5 grams but less than 100 grams;

39 (C) drug severity level 2 felony if the quantity of the material was at
40 least 100 grams but less than 1 kilogram; and

41 (D) drug severity level 1 felony if the quantity of the material was 1
42 kilogram or more.

43 (2) Violation of subsection (a) with respect to material containing any

1 quantity of marijuana, or an analog thereof, is a:

2 (A) Drug severity level 4 felony if the quantity of the material was
3 less than 25 grams;

4 (B) drug severity level 3 felony if the quantity of the material was at
5 least 25 grams but less than 450 grams;

6 (C) drug severity level 2 felony if the quantity of the material was at
7 least 450 grams but less than 30 kilograms; and

8 (D) drug severity level 1 felony if the quantity of the material was 30
9 kilograms or more.

10 (3) Violation of subsection (a) with respect to material containing any
11 quantity of heroin, as defined by ~~subsection (c)(1) of K.S.A. 65-4105(c)~~
12 *(1)*, and amendments thereto, or methamphetamine, as defined by
13 ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1)~~, and
14 amendments thereto, or an analog thereof, is a:

15 (A) Drug severity level 4 felony if the quantity of the material was
16 less than 1 gram;

17 (B) drug severity level 3 felony if the quantity of the material was at
18 least 1 gram but less than 3.5 grams;

19 (C) drug severity level 2 felony if the quantity of the material was at
20 least 3.5 grams but less than 100 grams; and

21 (D) drug severity level 1 felony if the quantity of the material was
22 100 grams or more.

23 (4) Violation of subsection (a) with respect to material containing any
24 quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107,
25 65-4109 or 65-4111, and amendments thereto, or an analog thereof,
26 distributed by dosage unit, is a:

27 (A) Drug severity level 4 felony if the number of dosage units was
28 fewer than 10;

29 (B) drug severity level 3 felony if the number of dosage units was at
30 least 10 but less than 100;

31 (C) drug severity level 2 felony if the number of dosage units was at
32 least 100 but less than 1,000; and

33 (D) drug severity level 1 felony if the number of dosage units was
34 1,000 or more.

35 (5) For any violation of subsection (a), the severity level of the
36 offense shall be increased one level if the controlled substance or
37 controlled substance analog was distributed or possessed with the intent to
38 distribute on or within 1,000 feet of any school property.

39 (6) Violation of subsection (b) is a:

40 (A) Class A person misdemeanor, except as provided in ~~subsection~~
41 ~~(d)(6)(B)~~ *subparagraph (B)*; and

42 (B) nondrug severity level 7, person felony if the substance was
43 distributed to or possessed with the intent to distribute to a minor.

- 1 (7) Violation of subsection (c) is a:
- 2 (A) Drug severity level 3 felony if the number of plants cultivated
- 3 was more than 4 but fewer than 50;
- 4 (B) drug severity level 2 felony if the number of plants cultivated was
- 5 at least 50 but fewer than 100; and
- 6 (C) drug severity level 1 felony if the number of plants cultivated was
- 7 100 or more.
- 8 (e) In any prosecution under this section, there shall be a rebuttable
- 9 presumption of an intent to distribute if any person possesses the following
- 10 quantities of controlled substances or analogs thereof:
- 11 (1) 450 grams or more of marijuana;
- 12 (2) 3.5 grams or more of heroin or methamphetamine;
- 13 (3) 100 dosage units or more containing a controlled substance; or
- 14 (4) 100 grams or more of any other controlled substance.
- 15 (f) It shall not be a defense to charges arising under this section that
- 16 the defendant:
- 17 (1) Was acting in an agency relationship on behalf of any other party
- 18 in a transaction involving a controlled substance or controlled substance
- 19 analog;
- 20 (2) did not know the quantity of the controlled substance or
- 21 controlled substance analog; or
- 22 (3) did not know the specific controlled substance or controlled
- 23 substance analog contained in the material that was distributed or
- 24 possessed with the intent to distribute.
- 25 (g) *The provisions of subsections (a)(4) and (a)(5) shall not apply to*
- 26 *any cultivator, laboratory, processor, distributor or retail dispensary*
- 27 *licensed by the director of alcohol and cannabis control pursuant to*
- 28 *section 20, and amendments thereto, or any employee or agent thereof,*
- 29 *that is growing, testing, processing, distributing, dispensing or selling*
- 30 *medical marijuana in accordance with the medical marijuana regulation*
- 31 *act, section 1 et seq., and amendments thereto.*
- 32 (h) As used in this section:
- 33 (1) "Material" means the total amount of any substance, including a
- 34 compound or a mixture, ~~which~~ *that* contains any quantity of a controlled
- 35 substance or controlled substance analog.
- 36 (2) "Dosage unit" means a controlled substance or controlled
- 37 substance analog distributed or possessed with the intent to distribute as a
- 38 discrete unit, including but not limited to, one pill, one capsule or one
- 39 microdot, and not distributed by weight.
- 40 (A) For steroids, or controlled substances in liquid solution legally
- 41 manufactured for prescription use, or an analog thereof, "dosage unit"
- 42 means the smallest medically approved dosage unit, as determined by the
- 43 label, materials provided by the manufacturer, a prescribing authority,

1 licensed health care professional or other qualified health authority.

2 (B) For illegally manufactured controlled substances in liquid
3 solution, or controlled substances in liquid products not intended for
4 ingestion by human beings, or an analog thereof, "dosage unit" means 10
5 milligrams, including the liquid carrier medium, except as provided in
6 ~~subsection (g)(2)(C)~~ *subparagraph (C)*.

7 (C) For lysergic acid diethylamide (LSD) in liquid form, or an analog
8 thereof, a dosage unit is defined as 0.4 milligrams, including the liquid
9 medium.

10 (3) *"Medical marijuana" means the same as defined in section 2, and*
11 *amendments thereto.*

12 Sec. 62. K.S.A. 2021 Supp. 21-5706 is hereby amended to read as
13 follows: 21-5706. (a) It shall be unlawful for any person to possess any
14 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-
15 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled
16 substance analog thereof.

17 (b) It shall be unlawful for any person to possess any of the following
18 controlled substances or controlled substance analogs thereof:

19 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
20 4109(b) or (c) or 65-4111(b), and amendments thereto;

21 (2) any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)
22 (4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;

23 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
24 4107(g) or 65-4109(g), and amendments thereto;

25 (4) any substance designated in K.S.A. 65-4105(g) and 65-4111(c),
26 (d), (e), (f) or (g), and amendments thereto;

27 (5) any anabolic steroids as defined in K.S.A. 65-4109(f), and
28 amendments thereto;

29 (6) any substance designated in K.S.A. 65-4113, and amendments
30 thereto; or

31 (7) any substance designated in K.S.A. 65-4105(h), and amendments
32 thereto.

33 (c) (1) Violation of subsection (a) is a drug severity level 5 felony.

34 (2) Except as provided in subsection (c)(3):

35 (A) Violation of subsection (b) is a class A nonperson misdemeanor,
36 except as provided in subparagraph (B); and

37 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug
38 severity level 5 felony if that person has a prior conviction under such
39 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially
40 similar offense from another jurisdiction, or under any city ordinance or
41 county resolution for a substantially similar offense if the substance
42 involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana
43 as designated in K.S.A. 65-4105(d), and amendments thereto, or any

1 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an
2 analog thereof.

3 (3) If the substance involved is marijuana, as designated in K.S.A.
4 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
5 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
6 subsection (b) is a:

7 (A) Class B nonperson misdemeanor, except as provided in
8 subparagraphs (B) ~~and~~, (C) *and* (D);

9 (B) class A nonperson misdemeanor if that person has a prior
10 conviction under such subsection, under K.S.A. 65-4162, prior to its
11 repeal, under a substantially similar offense from another jurisdiction, or
12 under any city ordinance or county resolution for a substantially similar
13 offense; ~~and~~

14 (C) drug severity level 5 felony if that person has two or more prior
15 convictions under such subsection, under K.S.A. 65-4162, prior to its
16 repeal, under a substantially similar offense from another jurisdiction, or
17 under any city ordinance or county resolution for a substantially similar
18 offense; *and*

19 (D) *nonperson misdemeanor punishable by a fine of not to exceed*
20 *\$400 if that person is not a registered patient or caregiver under the*
21 *medical marijuana regulation act, section 1 et seq., and amendments*
22 *thereto, is found in possession of not more than 1.5 ounces of marijuana*
23 *and provides a statement from such person's physician recommending the*
24 *use of medical marijuana to treat such person's symptoms.*

25 (d) ~~It shall be an affirmative defense to prosecution under this section~~
26 ~~arising out of a person's possession of any cannabidiol treatment~~
27 ~~preparation if the person:~~

28 ~~(1) Has a debilitating medical condition, as defined in K.S.A. 2021~~
29 ~~Supp. 65-6235, and amendments thereto, or is the parent or guardian of a~~
30 ~~minor child who has such debilitating medical condition;~~

31 ~~(2) is possessing a cannabidiol treatment preparation, as defined in~~
32 ~~K.S.A. 2021 Supp. 65-6235, and amendments thereto, that is being used to~~
33 ~~treat such debilitating medical condition; and~~

34 ~~(3) has possession of a letter, at all times while the person has~~
35 ~~possession of the cannabidiol treatment preparation, that:~~

36 ~~(A) Shall be shown to a law enforcement officer on such officer's~~
37 ~~request;~~

38 ~~(B) is dated within the preceding 15 months and signed by the~~
39 ~~physician licensed to practice medicine and surgery in Kansas who~~
40 ~~diagnosed the debilitating medical condition;~~

41 ~~(C) is on such physician's letterhead; and~~

42 ~~(D) identifies the person or the person's minor child as such~~
43 ~~physician's patient and identifies the patient's debilitating medical~~

1 ~~condition~~ *If the substance involved is medical marijuana, as defined in*
2 *section 2, and amendments thereto, the provisions of subsections (b) and*
3 *(c) shall not apply to:*

4 (1) *Any person who is registered or licensed pursuant to the medical*
5 *marijuana regulation act, section 1 et seq., and amendments thereto, and*
6 *whose possession is authorized by such act; or*

7 (2) *any person who is not a resident of this state and who holds a*
8 *license issued by another jurisdiction authorizing such person to purchase*
9 *and possess medical marijuana as recognized under section 17, and*
10 *amendments thereto.*

11 (e) It shall not be a defense to charges arising under this section that
12 the defendant was acting in an agency relationship on behalf of any other
13 party in a transaction involving a controlled substance or controlled
14 substance analog.

15 Sec. 63. K.S.A. 2021 Supp. 21-5707 is hereby amended to read as
16 follows: 21-5707. (a) It shall be unlawful for any person to knowingly or
17 intentionally use any communication facility:

18 (1) In committing, causing, or facilitating the commission of any
19 felony under K.S.A. 2021 Supp. 21-5703, 21-5705 or 21-5706, and
20 amendments thereto; or

21 (2) in any attempt to commit, any conspiracy to commit, or any
22 criminal solicitation of any felony under K.S.A. 2021 Supp. 21-5703, 21-
23 5705 or 21-5706, and amendments thereto. Each separate use of a
24 communication facility may be charged as a separate offense under this
25 subsection.

26 (b) Violation of subsection (a) is a nondrug severity level 8,
27 nonperson felony.

28 (c) *The provisions of this section shall not apply to any person using*
29 *communication facilities for activities authorized by the medical*
30 *marijuana regulation act, section 1 et seq., and amendments thereto.*

31 (d) As used in this section, "communication facility" means any and
32 all public and private instrumentalities used or useful in the transmission
33 of writing, signs, signals, pictures or sounds of all kinds and includes
34 telephone, wire, radio, computer, computer networks, beepers, pagers and
35 all other means of communication.

36 Sec. 64. K.S.A. 2021 Supp. 21-5709 is hereby amended to read as
37 follows: 21-5709. (a) It shall be unlawful for any person to possess
38 ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal,
39 iodine, anhydrous ammonia, pressurized ammonia or
40 phenylpropanolamine, or their salts, isomers or salts of isomers with an
41 intent to use the product to manufacture a controlled substance.

42 (b) It shall be unlawful for any person to use or possess with intent to
43 use any drug paraphernalia to:

1 (1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or
2 distribute a controlled substance; or

3 (2) store, contain, conceal, inject, ingest, inhale or otherwise
4 introduce a controlled substance into the human body.

5 (c) It shall be unlawful for any person to use or possess with intent to
6 use anhydrous ammonia or pressurized ammonia in a container not
7 approved for that chemical by the Kansas department of agriculture.

8 (d) It shall be unlawful for any person to purchase, receive or
9 otherwise acquire at retail any compound, mixture or preparation
10 containing more than 3.6 grams of pseudoephedrine base or ephedrine
11 base in any single transaction or any compound, mixture or preparation
12 containing more than nine grams of pseudoephedrine base or ephedrine
13 base within any 30-day period.

14 (e) (1) Violation of subsection (a) is a drug severity level 3 felony;

15 (2) violation of subsection (b)(1) is a:

16 (A) Drug severity level 5 felony, except as provided in subsection (e)
17 (2)(B); and

18 (B) class B nonperson misdemeanor if the drug paraphernalia was
19 used to cultivate fewer than five marijuana plants;

20 (3) violation of subsection (b)(2) is a class B nonperson
21 misdemeanor;

22 (4) violation of subsection (c) is a drug severity level 5 felony; and

23 (5) violation of subsection (d) is a class A nonperson misdemeanor.

24 (f) For persons arrested and charged under subsection (a) or (c), bail
25 shall be at least \$50,000 cash or surety, and such person shall not be
26 released upon the person's own recognizance pursuant to K.S.A. 22-2802,
27 and amendments thereto, unless the court determines, on the record, that
28 the defendant is not likely to reoffend, the court imposes pretrial
29 supervision or the defendant agrees to participate in a licensed or certified
30 drug treatment program.

31 (g) *The provisions of subsection (b) shall not apply to any person*
32 *registered or licensed pursuant to the medical marijuana regulation act,*
33 *section 1 et seq., and amendments thereto, whose possession of such*
34 *equipment or material is used solely to produce or for the administration*
35 *of medical marijuana, as defined in section 2, and amendments thereto, in*
36 *a manner authorized by the medical marijuana regulation act, section 1 et*
37 *seq., and amendments thereto.*

38 Sec. 65. K.S.A. 2021 Supp. 21-5710 is hereby amended to read as
39 follows: 21-5710. (a) It shall be unlawful for any person to advertise,
40 market, label, distribute or possess with the intent to distribute:

41 (1) Any product containing ephedrine, pseudoephedrine, red
42 phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia,
43 pressurized ammonia or phenylpropanolamine or their salts, isomers or

1 salts of isomers if the person knows or reasonably should know that the
2 purchaser will use the product to manufacture a controlled substance or
3 controlled substance analog; or

4 (2) any product containing ephedrine, pseudoephedrine or
5 phenylpropanolamine, or their salts, isomers or salts of isomers for
6 indication of stimulation, mental alertness, weight loss, appetite control,
7 energy or other indications not approved pursuant to the pertinent federal
8 over-the-counter drug final monograph or tentative final monograph or
9 approved new drug application.

10 (b) It shall be unlawful for any person to distribute, possess with the
11 intent to distribute or manufacture with intent to distribute any drug
12 paraphernalia, knowing or under circumstances where one reasonably
13 should know that it will be used to manufacture or distribute a controlled
14 substance or controlled substance analog in violation of K.S.A. 2021 Supp.
15 21-5701 through 21-5717, and amendments thereto.

16 (c) It shall be unlawful for any person to distribute, possess with
17 intent to distribute or manufacture with intent to distribute any drug
18 paraphernalia, knowing or under circumstances where one reasonably
19 should know, that it will be used as such in violation of K.S.A. 2021 Supp.
20 21-5701 through 21-5717, and amendments thereto, except ~~subsection (b)~~
21 ~~of~~ K.S.A. 2021 Supp. 21-5706(b), and amendments thereto.

22 (d) It shall be unlawful for any person to distribute, possess with
23 intent to distribute or manufacture with intent to distribute any drug
24 paraphernalia, knowing, or under circumstances where one reasonably
25 should know, that it will be used as such in violation of ~~subsection (b)~~ of
26 K.S.A. 2021 Supp. 21-5706(b), and amendments thereto.

27 (e) (1) Violation of subsection (a) is a drug severity level 3 felony;

28 (2) violation of subsection (b) is a:

29 (A) Drug severity level 5 felony, except as provided in ~~subsection (e)~~
30 ~~(2)(B)~~ *subparagraph (B)*; and

31 (B) drug severity level 4 felony if the trier of fact makes a finding that
32 the offender distributed or caused drug paraphernalia to be distributed to a
33 minor or on or within 1,000 feet of any school property;

34 (3) violation of subsection (c) is a:

35 (A) Nondrug severity level 9, nonperson felony, except as provided in
36 ~~subsection (e)(3)(B)~~ *subparagraph (B)*; and

37 (B) drug severity level 5 felony if the trier of fact makes a finding that
38 the offender distributed or caused drug paraphernalia to be distributed to a
39 minor or on or within 1,000 feet of any school property; and

40 (4) violation of subsection (d) is a:

41 (A) Class A nonperson misdemeanor, except as provided in
42 ~~subsection (e)(4)(B)~~ *subparagraph (B)*; and

43 (B) nondrug severity level 9, nonperson felony if the trier of fact

1 makes a finding that the offender distributed or caused drug paraphernalia
2 to be distributed to a minor or on or within 1,000 feet of any school
3 property.

4 (f) For persons arrested and charged under subsection (a), bail shall
5 be at least \$50,000 cash or surety, and such person shall not be released
6 upon the person's own recognizance pursuant to K.S.A. 22-2802, and
7 amendments thereto, unless the court determines, on the record, that the
8 defendant is not likely to re-offend, the court imposes pretrial supervision
9 or the defendant agrees to participate in a licensed or certified drug
10 treatment program.

11 (g) *The provisions of subsection (c) shall not apply to any person*
12 *licensed pursuant to the medical marijuana regulation act, section 1 et*
13 *seq., and amendments thereto, whose distribution or manufacture is used*
14 *solely to distribute or produce medical marijuana, as defined in section 2,*
15 *and amendments thereto, in a manner authorized by the medical*
16 *marijuana regulation act, section 1 et seq., and amendments thereto.*

17 (h) As used in this section, "or under circumstances where one
18 reasonably should know" that an item will be used in violation of this
19 section, shall include, but not be limited to, the following:

20 (1) Actual knowledge from prior experience or statements by
21 customers;

22 (2) inappropriate or impractical design for alleged legitimate use;

23 (3) receipt of packaging material, advertising information or other
24 manufacturer supplied information regarding the item's use as drug
25 paraphernalia; or

26 (4) receipt of a written warning from a law enforcement or
27 prosecutorial agency having jurisdiction that the item has been previously
28 determined to have been designed specifically for use as drug
29 paraphernalia.

30 Sec. 66. K.S.A. 2021 Supp. 23-3201 is hereby amended to read as
31 follows: 23-3201. (a) The court shall determine legal custody, residency
32 and parenting time of a child in accordance with the best interests of the
33 child.

34 (b) *The court shall not consider the fact that a parent or a child*
35 *consumes medical marijuana in accordance with section 10, and*
36 *amendments thereto, when determining the legal custody, residency or*
37 *parenting time of a child.*

38 Sec. 67. K.S.A. 38-2269 is hereby amended to read as follows: 38-
39 2269. (a) When the child has been adjudicated to be a child in need of
40 care, the court may terminate parental rights or appoint a permanent
41 custodian when the court finds by clear and convincing evidence that the
42 parent is unfit by reason of conduct or condition which renders the parent
43 unable to care properly for a child and the conduct or condition is unlikely

1 to change in the foreseeable future.

2 (b) In making a determination of unfitness the court shall consider,
3 but is not limited to, the following, if applicable:

4 (1) Emotional illness, mental illness, mental deficiency or physical
5 disability of the parent, of such duration or nature as to render the parent
6 unable to care for the ongoing physical, mental and emotional needs of the
7 child;

8 (2) conduct toward a child of a physically, emotionally or sexually
9 cruel or abusive nature;

10 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
11 such duration or nature as to render the parent unable to care for the
12 ongoing physical, mental or emotional needs of the child, *except that the*
13 *use of medical marijuana in accordance with section 10, and amendments*
14 *thereto, shall not be considered to render the parent unable to care for the*
15 *ongoing physical, mental or emotional needs of the child;*

16 (4) physical, mental or emotional abuse or neglect or sexual abuse of
17 a child;

18 (5) conviction of a felony and imprisonment;

19 (6) unexplained injury or death of another child or stepchild of the
20 parent or any child in the care of the parent at the time of injury or death;

21 (7) failure of reasonable efforts made by appropriate public or private
22 agencies to rehabilitate the family;

23 (8) lack of effort on the part of the parent to adjust the parent's
24 circumstances, conduct or conditions to meet the needs of the child; and

25 (9) whether, as a result of the actions or inactions attributable to the
26 parent and one or more of the factors listed in subsection (c) apply, the
27 child has been in the custody of the secretary and placed with neither
28 parent for 15 of the most recent 22 months beginning 60 days after the
29 date on which a child in the secretary's custody was removed from the
30 child's home.

31 (c) In addition to the foregoing, when a child is not in the physical
32 custody of a parent, the court, shall consider, but is not limited to, the
33 following:

34 (1) Failure to assure care of the child in the parental home when able
35 to do so;

36 (2) failure to maintain regular visitation, contact or communication
37 with the child or with the custodian of the child;

38 (3) failure to carry out a reasonable plan approved by the court
39 directed toward the integration of the child into a parental home; and

40 (4) failure to pay a reasonable portion of the cost of substitute
41 physical care and maintenance based on ability to pay.

42 In making the above determination, the court may disregard incidental
43 visitations, contacts, communications or contributions.

1 (d) A finding of unfitness may be made as provided in this section if
2 the court finds that the parents have abandoned the child, the custody of
3 the child was surrendered pursuant to K.S.A. 38-2282, and amendments
4 thereto, or the child was left under such circumstances that the identity of
5 the parents is unknown and cannot be ascertained, despite diligent
6 searching, and the parents have not come forward to claim the child within
7 three months after the child is found.

8 (e) If a person is convicted of a felony in which sexual intercourse
9 occurred, or if a juvenile is adjudicated a juvenile offender because of an
10 act which, if committed by an adult, would be a felony in which sexual
11 intercourse occurred, and as a result of the sexual intercourse, a child is
12 conceived, a finding of unfitness may be made.

13 (f) The existence of any one of the above factors standing alone may,
14 but does not necessarily, establish grounds for termination of parental
15 rights.

16 (g) (1) If the court makes a finding of unfitness, the court shall
17 consider whether termination of parental rights as requested in the petition
18 or motion is in the best interests of the child. In making the determination,
19 the court shall give primary consideration to the physical, mental and
20 emotional health of the child. If the physical, mental or emotional needs of
21 the child would best be served by termination of parental rights, the court
22 shall so order. A termination of parental rights under the code shall not
23 terminate the right of a child to inherit from or through a parent. Upon
24 such termination all rights of the parent to such child, including, such
25 parent's right to inherit from or through such child, shall cease.

26 (2) If the court terminates parental rights, the court may authorize
27 adoption pursuant to K.S.A. 38-2270, and amendments thereto,
28 appointment of a permanent custodian pursuant to K.S.A. 38-2272, and
29 amendments thereto, or continued permanency planning.

30 (3) If the court does not terminate parental rights, the court may
31 authorize appointment of a permanent custodian pursuant to K.S.A. 38-
32 2272, and amendments thereto, or continued permanency planning.

33 (h) If a parent is convicted of an offense as provided in K.S.A. 38-
34 2271(a)(7), and amendments thereto, or is adjudicated a juvenile offender
35 because of an act which if committed by an adult would be an offense as
36 provided in K.S.A. 38-2271(a)(7), and amendments thereto, and if the
37 victim was the other parent of a child, the court may disregard such
38 convicted or adjudicated parent's opinions or wishes in regard to the
39 placement of such child.

40 (i) A record shall be made of the proceedings.

41 (j) When adoption, proceedings to appoint a permanent custodian or
42 continued permanency planning has been authorized, the person or agency
43 awarded custody of the child shall within 30 days submit a written plan for

1 permanent placement which shall include measurable objectives and time
2 schedules.

3 Sec. 68. K.S.A. 44-501 is hereby amended to read as follows: 44-501.

4 (a) (1) Compensation for an injury shall be disallowed if such injury to the
5 employee results from:

6 (A) The employee's deliberate intention to cause such injury;

7 (B) the employee's willful failure to use a guard or protection against
8 accident or injury which is required pursuant to any statute and provided
9 for the employee;

10 (C) the employee's willful failure to use a reasonable and proper
11 guard and protection voluntarily furnished the employee by the employer;

12 (D) the employee's reckless violation of their employer's workplace
13 safety rules or regulations; or

14 (E) the employee's voluntary participation in fighting or horseplay
15 with a co-employee for any reason, work related or otherwise.

16 (2) ~~Subparagraphs (B) and (C) of paragraph (1) of subsection (a)~~
17 *Subsections (a)(1)(B) and (a)(1)(C)* shall not apply when it was reasonable
18 under the totality of the circumstances to not use such equipment, or if the
19 employer approved the work engaged in at the time of an accident or
20 injury to be performed without such equipment.

21 (b) (1) (A) The employer shall not be liable under the workers
22 compensation act where the injury, disability or death was contributed to
23 by the employee's use or consumption of alcohol or any drugs, chemicals
24 or any other compounds or substances, including, but not limited to, any
25 drugs or medications ~~which~~ *that* are available to the public without a
26 prescription from a health care provider, prescription drugs or medications,
27 any form or type of narcotic drugs, marijuana, stimulants, depressants or
28 hallucinogens.

29 (B) (i) In the case of drugs or medications which are available to the
30 public without a prescription from a health care provider and prescription
31 drugs or medications, compensation shall not be denied if the employee
32 can show that such drugs or medications were being taken or used in
33 therapeutic doses and there have been no prior incidences of the
34 employee's impairment on the job as the result of the use of such drugs or
35 medications within the previous 24 months.

36 (ii) *In the case of marijuana or any other form of cannabis, including*
37 *any cannabis derivatives, compensation shall not be denied if the*
38 *employee is registered as a patient pursuant to section 8, and amendments*
39 *thereto, such cannabis or cannabis derivative was used in accordance*
40 *with the medical marijuana regulation act, section 1 et seq., and*
41 *amendments thereto, and there has been no prior incidence of the*
42 *employee's impairment on the job as a result of the use of such cannabis*
43 *or cannabis derivative within the immediately preceding 24 months.*

1 (C) It shall be conclusively presumed that the employee was impaired
 2 due to alcohol or drugs if it is shown that, at the time of the injury, the
 3 employee had an alcohol concentration of .04 or more, or a GCMS
 4 confirmatory test by quantitative analysis showing a concentration at or
 5 above the levels shown on the following chart for the drugs of abuse listed:

| | Confirmatory test cutoff levels (ng/ml) |
|---|---|
| 9 Marijuana metabolite ¹ | 15 |
| 10 Cocaine metabolite ² | 150 |
| 11 Opiates: | |
| 12 Morphine | 2000 |
| 13 Codeine | 2000 |
| 14 6-Acetylmorphine ⁴ | 10 ng/ml |
| 15 Phencyclidine | 25 |
| 16 Amphetamines: | |
| 17 Amphetamine | 500 |
| 18 Methamphetamine ³ | 500 |

19 ¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid.

20 ² Benzoylcegonine.

21 ³ Specimen must also contain amphetamine at a concentration greater
 22 than or equal to 200 ng/ml.

23 ⁴ Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

24 (D) If it is shown that the employee was impaired pursuant to
 25 subsection (b)(1)(C) at the time of the injury, there shall be a rebuttable
 26 presumption that the accident, injury, disability or death was contributed to
 27 by such impairment. The employee may overcome the presumption of
 28 contribution by clear and convincing evidence.

29 (E) An employee's refusal to submit to a chemical test at the request
 30 of the employer shall result in the forfeiture of benefits under the workers
 31 compensation act if the employer had sufficient cause to suspect the use of
 32 alcohol or drugs by the claimant or if the employer's policy clearly
 33 authorizes post-injury testing.

34 (2) The results of a chemical test shall be admissible evidence to
 35 prove impairment if the employer establishes that the testing was done
 36 under any of the following circumstances:

37 (A) As a result of an employer mandated drug testing policy, in place
 38 in writing prior to the date of accident or injury, requiring any worker to
 39 submit to testing for drugs or alcohol;

40 (B) during an autopsy or in the normal course of medical treatment
 41 for reasons related to the health and welfare of the injured worker and not
 42 at the direction of the employer;

43 (C) the worker, prior to the date and time of the accident or injury,

1 gave written consent to the employer that the worker would voluntarily
2 submit to a chemical test for drugs or alcohol following any accident or
3 injury;

4 (D) the worker voluntarily agrees to submit to a chemical test for
5 drugs or alcohol following any accident or injury; or

6 (E) as a result of federal or state law or a federal or state rule or
7 regulation having the force and effect of law requiring a post-injury testing
8 program and such required program was properly implemented at the time
9 of testing.

10 (3) Notwithstanding subsection (b)(2), the results of a chemical test
11 performed on a sample collected by an employer shall not be admissible
12 evidence to prove impairment unless the following conditions are met:

13 (A) The test sample was collected within a reasonable time following
14 the accident or injury;

15 (B) the collecting and labeling of the test sample was performed by or
16 under the supervision of a licensed health care professional;

17 (C) the test was performed by a laboratory approved by the United
18 States department of health and human services or licensed by the
19 department of health and environment, except that a blood sample may be
20 tested for alcohol content by a laboratory commonly used for that purpose
21 by state law enforcement agencies;

22 (D) the test was confirmed by gas chromatography-mass
23 spectroscopy or other comparably reliable analytical method, except that
24 no such confirmation is required for a blood alcohol sample;

25 (E) the foundation evidence must establish, beyond a reasonable
26 doubt, that the test results were from the sample taken from the employee;
27 and

28 (F) a split sample sufficient for testing shall be retained and made
29 available to the employee within 48 hours of a positive test.

30 (c) (1) Except as provided in paragraph (2), compensation shall not
31 be paid in case of coronary or coronary artery disease or cerebrovascular
32 injury unless it is shown that the exertion of the work necessary to
33 precipitate the disability was more than the employee's usual work in the
34 course of the employee's regular employment.

35 (2) For events occurring on or after July 1, 2014, in the case of a
36 firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto,
37 or a law enforcement officer as defined by K.S.A. 74-5602, and
38 amendments thereto, coronary or coronary artery disease or
39 cerebrovascular injury shall be compensable if:

40 (A) The injury can be identified as caused by a specific event
41 occurring in the course and scope of employment;

42 (B) the coronary or cerebrovascular injury occurred within 24 hours
43 of the specific event; and

1 (C) the specific event was the prevailing factor in causing the
2 coronary or coronary artery disease or cerebrovascular injury.

3 (d) Except as provided in the workers compensation act, no
4 construction design professional who is retained to perform professional
5 services on a construction project or any employee of a construction
6 design professional who is assisting or representing the construction
7 design professional in the performance of professional services on the site
8 of the construction project, shall be liable for any injury resulting from the
9 employer's failure to comply with safety standards on the construction
10 project for which compensation is recoverable under the workers
11 compensation act, unless responsibility for safety practices is specifically
12 assumed by contract. The immunity provided by this subsection to any
13 construction design professional shall not apply to the negligent
14 preparation of design plans or specifications.

15 (e) An award of compensation for permanent partial impairment,
16 work disability, or permanent total disability shall be reduced by the
17 amount of functional impairment determined to be preexisting. Any such
18 reduction shall not apply to temporary total disability, nor shall it apply to
19 compensation for medical treatment.

20 (1) Where workers compensation benefits have previously been
21 awarded through settlement or judicial or administrative determination in
22 Kansas, the percentage basis of the prior settlement or award shall
23 conclusively establish the amount of functional impairment determined to
24 be preexisting. Where workers compensation benefits have not previously
25 been awarded through settlement or judicial or administrative
26 determination in Kansas, the amount of preexisting functional impairment
27 shall be established by competent evidence.

28 (2) In all cases, the applicable reduction shall be calculated as
29 follows:

30 (A) If the preexisting impairment is the result of injury sustained
31 while working for the employer against whom workers compensation
32 benefits are currently being sought, any award of compensation shall be
33 reduced by the current dollar value attributable under the workers
34 compensation act to the percentage of functional impairment determined to
35 be preexisting. The "current dollar value" shall be calculated by
36 multiplying the percentage of preexisting impairment by the compensation
37 rate in effect on the date of the accident or injury against which the
38 reduction will be applied.

39 (B) In all other cases, the employer against whom benefits are
40 currently being sought shall be entitled to a credit for the percentage of
41 preexisting impairment.

42 (f) If the employee receives, whether periodically or by lump sum,
43 retirement benefits under the federal social security act or retirement

1 benefits from any other retirement system, program, policy or plan ~~which~~
2 *that* is provided by the employer against which the claim is being made,
3 any compensation benefit payments which the employee is eligible to
4 receive under the workers compensation act for such claim shall be
5 reduced by the weekly equivalent amount of the total amount of all such
6 retirement benefits, less any portion of any such retirement benefit, other
7 than retirement benefits under the federal social security act, that is
8 attributable to payments or contributions made by the employee, but in no
9 event shall the workers compensation benefit be less than the workers
10 compensation benefit payable for the employee's percentage of functional
11 impairment. Where the employee elects to take retirement benefits in a
12 lump sum, the lump sum payment shall be amortized at the rate of 4% per
13 year over the employee's life expectancy to determine the weekly
14 equivalent value of the benefits.

15 Sec. 69. K.S.A. 44-706 is hereby amended to read as follows: 44-706.
16 The secretary shall examine whether an individual has separated from
17 employment for each week claimed. The secretary shall apply the
18 provisions of this section to the individual's most recent employment prior
19 to the week claimed. An individual shall be disqualified for benefits:

20 (a) If the individual left work voluntarily without good cause
21 attributable to the work or the employer, subject to the other provisions of
22 this subsection. For purposes of this subsection, "good cause" is cause of
23 such gravity that would impel a reasonable, not supersensitive, individual
24 exercising ordinary common sense to leave employment. Good cause
25 requires a showing of good faith of the individual leaving work, including
26 the presence of a genuine desire to work. Failure to return to work after
27 expiration of approved personal or medical leave, or both, shall be
28 considered a voluntary resignation. After a temporary job assignment,
29 failure of an individual to affirmatively request an additional assignment
30 on the next succeeding workday, if required by the employment
31 agreement, after completion of a given work assignment, shall constitute
32 leaving work voluntarily. The disqualification shall begin the day
33 following the separation and shall continue until after the individual has
34 become reemployed and has had earnings from insured work of at least
35 three times the individual's weekly benefit amount. An individual shall not
36 be disqualified under this subsection if:

37 (1) The individual was forced to leave work because of illness or
38 injury upon the advice of a licensed and practicing health care provider
39 and, upon learning of the necessity for absence, immediately notified the
40 employer thereof, or the employer consented to the absence, and after
41 recovery from the illness or injury, when recovery was certified by a
42 practicing health care provider, the individual returned to the employer and
43 offered to perform services and the individual's regular work or

1 comparable and suitable work was not available. As used in this paragraph
2 "health care provider" means any person licensed by the proper licensing
3 authority of any state to engage in the practice of medicine and surgery,
4 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

5 (2) the individual left temporary work to return to the regular
6 employer;

7 (3) the individual left work to enlist in the armed forces of the United
8 States, but was rejected or delayed from entry;

9 (4) the spouse of an individual who is a member of the armed forces
10 of the United States who left work because of the voluntary or involuntary
11 transfer of the individual's spouse from one job to another job, which is for
12 the same employer or for a different employer, at a geographic location
13 which makes it unreasonable for the individual to continue work at the
14 individual's job. For the purposes of this provision the term "armed forces"
15 means active duty in the army, navy, marine corps, air force, coast guard or
16 any branch of the military reserves of the United States;

17 (5) the individual left work because of hazardous working
18 conditions. In determining whether or not working conditions are
19 hazardous for an individual, the degree of risk involved to the individual's
20 health, safety and morals, the individual's physical fitness and prior
21 training and the working conditions of workers engaged in the same or
22 similar work for the same and other employers in the locality shall be
23 considered. As used in this paragraph, "hazardous working conditions"
24 means working conditions that could result in a danger to the physical or
25 mental well-being of the individual. Each determination as to whether
26 hazardous working conditions exist shall include, but shall not be limited to,
27 a consideration of: (A) The safety measures used or the lack thereof;
28 and (B) the condition of equipment or lack of proper equipment. No work
29 shall be considered hazardous if the working conditions surrounding the
30 individual's work are the same or substantially the same as the working
31 conditions generally prevailing among individuals performing the same or
32 similar work for other employers engaged in the same or similar type of
33 activity;

34 (6) the individual left work to enter training approved under section
35 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
36 substantially equal or higher skill level than the individual's past adversely
37 affected employment, as defined for purposes of the federal trade act of
38 1974, and wages for such work are not less than 80% of the individual's
39 average weekly wage as determined for the purposes of the federal trade
40 act of 1974;

41 (7) the individual left work because of unwelcome harassment of the
42 individual by the employer or another employee of which the employing
43 unit had knowledge and that would impel the average worker to give up

1 such worker's employment;

2 (8) the individual left work to accept better work; each determination
3 as to whether or not the work accepted is better work shall include, but
4 shall not be limited to, consideration of: (A) The rate of pay, the hours of
5 work and the probable permanency of the work left as compared to the
6 work accepted; (B) the cost to the individual of getting to the work left in
7 comparison to the cost of getting to the work accepted; and (C) the
8 distance from the individual's place of residence to the work accepted in
9 comparison to the distance from the individual's residence to the work left;

10 (9) the individual left work as a result of being instructed or requested
11 by the employer, a supervisor or a fellow employee to perform a service or
12 commit an act in the scope of official job duties which is in violation of an
13 ordinance or statute;

14 (10) the individual left work because of a substantial violation of the
15 work agreement by the employing unit and, before the individual left, the
16 individual had exhausted all remedies provided in such agreement for the
17 settlement of disputes before terminating. For the purposes of this
18 paragraph, a demotion based on performance does not constitute a
19 violation of the work agreement;

20 (11) after making reasonable efforts to preserve the work, the
21 individual left work due to a personal emergency of such nature and
22 compelling urgency that it would be contrary to good conscience to
23 impose a disqualification; or

24 (12) (A) the individual left work due to circumstances resulting from
25 domestic violence, including:

26 (i) The individual's reasonable fear of future domestic violence at or
27 en route to or from the individual's place of employment;

28 (ii) the individual's need to relocate to another geographic area in
29 order to avoid future domestic violence;

30 (iii) the individual's need to address the physical, psychological and
31 legal impacts of domestic violence;

32 (iv) the individual's need to leave employment as a condition of
33 receiving services or shelter from an agency which provides support
34 services or shelter to victims of domestic violence; or

35 (v) the individual's reasonable belief that termination of employment
36 is necessary to avoid other situations which may cause domestic violence
37 and to provide for the future safety of the individual or the individual's
38 family.

39 (B) An individual may prove the existence of domestic violence by
40 providing one of the following:

41 (i) A restraining order or other documentation of equitable relief by a
42 court of competent jurisdiction;

43 (ii) a police record documenting the abuse;

1 (iii) documentation that the abuser has been convicted of one or more
2 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
3 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
4 chapter 21 of the Kansas Statutes Annotated, *and amendments thereto*, or
5 K.S.A. 2021 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-
6 6422, and amendments thereto, where the victim was a family or
7 household member;

8 (iv) medical documentation of the abuse;

9 (v) a statement provided by a counselor, social worker, health care
10 provider, clergy, shelter worker, legal advocate, domestic violence or
11 sexual assault advocate or other professional who has assisted the
12 individual in dealing with the effects of abuse on the individual or the
13 individual's family; or

14 (vi) a sworn statement from the individual attesting to the abuse.

15 (C) No evidence of domestic violence experienced by an individual,
16 including the individual's statement and corroborating evidence, shall be
17 disclosed by the department of labor unless consent for disclosure is given
18 by the individual.

19 (b) If the individual has been discharged or suspended for misconduct
20 connected with the individual's work. The disqualification shall begin the
21 day following the separation and shall continue until after the individual
22 becomes reemployed and in cases where the disqualification is due to
23 discharge for misconduct has had earnings from insured work of at least
24 three times the individual's determined weekly benefit amount, except that
25 if an individual is discharged for gross misconduct connected with the
26 individual's work, such individual shall be disqualified for benefits until
27 such individual again becomes employed and has had earnings from
28 insured work of at least eight times such individual's determined weekly
29 benefit amount. In addition, all wage credits attributable to the
30 employment from which the individual was discharged for gross
31 misconduct connected with the individual's work shall be canceled. No
32 such cancellation of wage credits shall affect prior payments made as a
33 result of a prior separation.

34 (1) (A) For the purposes of this subsection, "misconduct" is defined as
35 a violation of a duty or obligation reasonably owed the employer as a
36 condition of employment including, but not limited to, a violation of a
37 company rule, including a safety rule, if:

38 ~~(A)~~(i) The individual knew or should have known about the rule;

39 ~~(B)~~(ii) the rule was lawful and reasonably related to the job; and

40 ~~(C)~~(iii) the rule was fairly and consistently enforced.

41 (B) *The term "misconduct":*

42 (i) *Does not include any violation of a duty, obligation or company*
43 *rule if:*

1 (a) *The individual is a registered patient pursuant to section 8, and*
 2 *amendments thereto; and*

3 (b) *the basis for the violation is the possession of an identification*
 4 *card issued under section 8, and amendments thereto, or the possession or*
 5 *use of medical marijuana in accordance with the medical marijuana*
 6 *regulation act, section 1 et seq., and amendments thereto; and*

7 (ii) *includes any violation of a duty, obligation or company rule if the*
 8 *individual ingested marijuana in the workplace, worked while under the*
 9 *influence of marijuana or tested positive for a controlled substance.*

10 (2) (A) Failure of the employee to notify the employer of an absence
 11 and an individual's leaving work prior to the end of such individual's
 12 assigned work period without permission shall be considered prima facie
 13 evidence of a violation of a duty or obligation reasonably owed the
 14 employer as a condition of employment.

15 (B) For the purposes of this subsection, misconduct shall include, but
 16 not be limited to, violation of the employer's reasonable attendance
 17 expectations if the facts show:

18 (i) The individual was absent or tardy without good cause;

19 (ii) the individual had knowledge of the employer's attendance
 20 expectation; and

21 (iii) the employer gave notice to the individual that future absence or
 22 tardiness may or will result in discharge.

23 (C) For the purposes of this subsection, if an employee disputes being
 24 absent or tardy without good cause, the employee shall present evidence
 25 that a majority of the employee's absences or tardiness were for good
 26 cause. If the employee alleges that the employee's repeated absences or
 27 tardiness were the result of health related issues, such evidence shall
 28 include documentation from a licensed and practicing health care provider
 29 as defined in subsection (a)(1).

30 (3) (A) (i) The term "gross misconduct" as used in this subsection
 31 shall be construed to mean conduct evincing extreme, willful or wanton
 32 misconduct as defined by this subsection. Gross misconduct shall include,
 33 but not be limited to:

34 ~~(i)~~(a) Theft;

35 ~~(ii)~~(b) fraud;

36 ~~(iii)~~(c) intentional damage to property;

37 ~~(iv)~~(d) intentional infliction of personal injury; or

38 ~~(v)~~(e) any conduct that constitutes a felony.

39 (ii) *The term "gross misconduct":*

40 (a) *Does not include any conduct of an individual if:*

41 (1) *The individual is a registered patient pursuant to section 8, and*
 42 *amendments thereto; and*

43 (2) *the basis for such conduct is the possession of an identification*

1 *card issued under section 8, and amendments thereto, or the possession or*
2 *use of medical marijuana in accordance with the medical marijuana*
3 *regulation act, section 1 et seq., and amendments thereto; and*

4 *(b) includes any conduct of an individual if the individual ingested*
5 *marijuana in the workplace, worked while under the influence of*
6 *marijuana or tested positive for a controlled substance.*

7 (B) For the purposes of this subsection, the following shall be
8 conclusive evidence of gross misconduct:

9 (i) The use of alcoholic liquor, cereal malt beverage or a
10 nonprescribed controlled substance by an individual while working;

11 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
12 or a nonprescribed controlled substance by an individual while working;

13 (iii) a positive breath alcohol test or a positive chemical test,
14 provided:

15 (a) The test was either:

16 (1) Required by law and was administered pursuant to the drug free
17 workplace act, 41 U.S.C. § 701 et seq.;

18 (2) administered as part of an employee assistance program or other
19 drug or alcohol treatment program in which the employee was
20 participating voluntarily or as a condition of further employment;

21 (3) requested pursuant to a written policy of the employer of which
22 the employee had knowledge and was a required condition of
23 employment;

24 (4) required by law and the test constituted a required condition of
25 employment for the individual's job; or

26 (5) there was reasonable suspicion to believe that the individual used,
27 had possession of, or was impaired by alcoholic liquor, cereal malt
28 beverage or a nonprescribed controlled substance while working;

29 (b) the test sample was collected either:

30 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
31 seq.;

32 (2) as prescribed by an employee assistance program or other drug or
33 alcohol treatment program in which the employee was participating
34 voluntarily or as a condition of further employment;

35 (3) as prescribed by the written policy of the employer of which the
36 employee had knowledge and which constituted a required condition of
37 employment;

38 (4) as prescribed by a test which was required by law and which
39 constituted a required condition of employment for the individual's job; or

40 (5) at a time contemporaneous with the events establishing probable
41 cause;

42 (c) the collecting and labeling of a chemical test sample was
43 performed by a licensed health care professional or any other individual

1 certified pursuant to ~~paragraph (b)(3)(A)(iii)(f)~~ *subsection (b)(3)(B)(iii)(f)*
2 or authorized to collect or label test samples by federal or state law, or a
3 federal or state rule or regulation having the force or effect of law,
4 including law enforcement personnel;

5 (d) the chemical test was performed by a laboratory approved by the
6 United States department of health and human services or licensed by the
7 department of health and environment, except that a blood sample may be
8 tested for alcohol content by a laboratory commonly used for that purpose
9 by state law enforcement agencies;

10 (e) the chemical test was confirmed by gas chromatography, gas
11 chromatography-mass spectroscopy or other comparably reliable
12 analytical method, except that no such confirmation is required for a blood
13 alcohol sample or a breath alcohol test;

14 (f) the breath alcohol test was administered by an individual trained
15 to perform breath tests, the breath testing instrument used was certified
16 and operated strictly according to a description provided by the
17 manufacturers and the reliability of the instrument performance was
18 assured by testing with alcohol standards; and

19 (g) the foundation evidence establishes, beyond a reasonable doubt,
20 that the test results were from the sample taken from the individual;

21 (iv) an individual's refusal to submit to a chemical test or breath
22 alcohol test, provided:

23 (a) The test meets the standards of the drug free workplace act, 41
24 U.S.C. § 701 et seq.;

25 (b) the test was administered as part of an employee assistance
26 program or other drug or alcohol treatment program in which the
27 employee was participating voluntarily or as a condition of further
28 employment;

29 (c) the test was otherwise required by law and the test constituted a
30 required condition of employment for the individual's job;

31 (d) the test was requested pursuant to a written policy of the employer
32 of which the employee had knowledge and was a required condition of
33 employment; or

34 (e) there was reasonable suspicion to believe that the individual used,
35 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
36 nonprescribed controlled substance while working;

37 (v) an individual's dilution or other tampering of a chemical test.

38 (C) For purposes of this subsection:

39 (i) "Alcohol concentration" means the number of grams of alcohol
40 per 210 liters of breath;

41 (ii) "alcoholic liquor" means the same as provided in K.S.A. 41-102,
42 and amendments thereto;

43 (iii) "cereal malt beverage" means the same as provided in K.S.A. 41-

1 2701, and amendments thereto;

2 (iv) "chemical test" includes, but is not limited to, tests of urine,
3 blood or saliva;

4 (v) "controlled substance" means the same as provided in K.S.A.
5 2021 Supp. 21-5701, and amendments thereto;

6 (vi) "required by law" means required by a federal or state law, a
7 federal or state rule or regulation having the force and effect of law, a
8 county resolution or municipal ordinance, or a policy relating to public
9 safety adopted in an open meeting by the governing body of any special
10 district or other local governmental entity;

11 (vii) "positive breath test" means a test result showing an alcohol
12 concentration of 0.04 or greater, or the levels listed in 49 C.F.R. part 40, if
13 applicable, unless the test was administered as part of an employee
14 assistance program or other drug or alcohol treatment program in which
15 the employee was participating voluntarily or as a condition of further
16 employment, in which case "positive chemical test" shall mean a test result
17 showing an alcohol concentration at or above the levels provided for in the
18 assistance or treatment program; *and*

19 (viii) "positive chemical test" means a chemical result showing a
20 concentration at or above the levels listed in K.S.A. 44-501, and
21 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
22 abuse listed therein, unless the test was administered as part of an
23 employee assistance program or other drug or alcohol treatment program
24 in which the employee was participating voluntarily or as a condition of
25 further employment, in which case "positive chemical test" means a
26 chemical result showing a concentration at or above the levels provided for
27 in the assistance or treatment program.

28 (4) An individual shall not be disqualified under this subsection if the
29 individual is discharged under the following circumstances:

30 (A) The employer discharged the individual after learning the
31 individual was seeking other work or when the individual gave notice of
32 future intent to quit, except that the individual shall be disqualified after
33 the time at which such individual intended to quit and any individual who
34 commits misconduct after such individual gives notice to such individual's
35 intent to quit shall be disqualified;

36 (B) the individual was making a ~~good faith~~ *good faith* effort to do the
37 assigned work but was discharged due to:

38 (i) Inefficiency;

39 (ii) unsatisfactory performance due to inability, incapacity or lack of
40 training or experience;

41 (iii) isolated instances of ordinary negligence or inadvertence;

42 (iv) ~~good faith~~ *good faith* errors in judgment or discretion; or

43 (v) unsatisfactory work or conduct due to circumstances beyond the

1 individual's control; or

2 (C) the individual's refusal to perform work in excess of the contract
3 of hire.

4 (c) If the individual has failed, without good cause, to either apply for
5 suitable work when so directed by the employment office of the secretary
6 of labor, or to accept suitable work when offered to the individual by the
7 employment office, the secretary of labor, or an employer, such
8 disqualification shall begin with the week in which such failure occurred
9 and shall continue until the individual becomes reemployed and has had
10 earnings from insured work of at least three times such individual's
11 determined weekly benefit amount. In determining whether or not any
12 work is suitable for an individual, the secretary of labor, or a person or
13 persons designated by the secretary, shall consider the degree of risk
14 involved to health, safety and morals, physical fitness and prior training,
15 experience and prior earnings, length of unemployment and prospects for
16 securing local work in the individual's customary occupation or work for
17 which the individual is reasonably fitted by training or experience, and the
18 distance of the available work from the individual's residence.
19 Notwithstanding any other provisions of this act, an otherwise eligible
20 individual shall not be disqualified for refusing an offer of suitable
21 employment, or failing to apply for suitable employment when notified by
22 an employment office, or for leaving the individual's most recent work
23 accepted during approved training, including training approved under
24 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
25 for suitable employment or continuing such work would require the
26 individual to terminate approved training and no work shall be deemed
27 suitable and benefits shall not be denied under this act to any otherwise
28 eligible individual for refusing to accept new work under any of the
29 following conditions:

30 (1) If the position offered is vacant due directly to a strike, lockout or
31 other labor dispute;

32 (2) if the remuneration, hours or other conditions of the work offered
33 are substantially less favorable to the individual than those prevailing for
34 similar work in the locality;

35 (3) if as a condition of being employed, the individual would be
36 required to join or to resign from or refrain from joining any labor
37 organization; and

38 (4) if the individual left employment as a result of domestic violence,
39 and the position offered does not reasonably accommodate the individual's
40 physical, psychological, safety, or legal needs relating to such domestic
41 violence.

42 (d) For any week with respect to which the secretary of labor, or a
43 person or persons designated by the secretary, finds that the individual's

1 unemployment is due to a stoppage of work which exists because of a
2 labor dispute or there would have been a work stoppage had normal
3 operations not been maintained with other personnel previously and
4 currently employed by the same employer at the factory, establishment or
5 other premises at which the individual is or was last employed, except that
6 this subsection (d) shall not apply if it is shown to the satisfaction of the
7 secretary of labor, or a person or persons designated by the secretary, that:
8 (1) The individual is not participating in or financing or directly interested
9 in the labor dispute which caused the stoppage of work; and (2) the
10 individual does not belong to a grade or class of workers of which,
11 immediately before the commencement of the stoppage, there were
12 members employed at the premises at which the stoppage occurs any of
13 whom are participating in or financing or directly interested in the dispute.
14 If in any case separate branches of work which are commonly conducted
15 as separate businesses in separate premises are conducted in separate
16 departments of the same premises, each such department shall, for the
17 purpose of this subsection be deemed to be a separate factory,
18 establishment or other premises. For the purposes of this subsection,
19 failure or refusal to cross a picket line or refusal for any reason during the
20 continuance of such labor dispute to accept the individual's available and
21 customary work at the factory, establishment or other premises where the
22 individual is or was last employed shall be considered as participation and
23 interest in the labor dispute.

24 (e) For any week with respect to which or a part of which the
25 individual has received or is seeking unemployment benefits under the
26 unemployment compensation law of any other state or of the United
27 States, except that if the appropriate agency of such other state or the
28 United States finally determines that the individual is not entitled to such
29 unemployment benefits, this disqualification shall not apply.

30 (f) For any week with respect to which the individual is entitled to
31 receive any unemployment allowance or compensation granted by the
32 United States under an act of congress to ex-service men and women in
33 recognition of former service with the military or naval services of the
34 United States.

35 (g) If the individual, or another in such individual's behalf with the
36 knowledge of the individual, has knowingly made a false statement or
37 representation, or has knowingly failed to disclose a material fact to obtain
38 or increase benefits under this act or any other unemployment
39 compensation law administered by the secretary of labor, unless the
40 individual has repaid the full amount of the overpayment as determined by
41 the secretary or the secretary's designee, including, but not limited to, the
42 total amount of money erroneously paid as benefits or unlawfully
43 obtained, interest, penalties and any other costs or fees provided by law. If

1 the individual has made such repayment, the individual shall be
2 disqualified for a period of one year for the first occurrence or five years
3 for any subsequent occurrence, beginning with the first day following the
4 date the department of labor confirmed the individual has successfully
5 repaid the full amount of the overpayment. In addition to the penalties set
6 forth in K.S.A. 44-719, and amendments thereto, an individual who has
7 knowingly made a false statement or representation or who has knowingly
8 failed to disclose a material fact to obtain or increase benefits under this
9 act or any other unemployment compensation law administered by the
10 secretary of labor shall be liable for a penalty in the amount equal to 25%
11 of the amount of benefits unlawfully received. Notwithstanding any other
12 provision of law, such penalty shall be deposited into the employment
13 security trust fund. No person who is a victim of identify theft shall be
14 subject to the provisions of this subsection. The secretary shall investigate
15 all cases of an alleged false statement or representation or failure to
16 disclose a material fact to ensure no victim of identity theft is disqualified,
17 required to repay or subject to any penalty as provided by this subsection
18 as a result of identity theft.

19 (h) For any week with respect to which the individual is receiving
20 compensation for temporary total disability or permanent total disability
21 under the workmen's compensation law of any state or under a similar law
22 of the United States.

23 (i) For any week of unemployment on the basis of service in an
24 instructional, research or principal administrative capacity for an
25 educational institution as defined in K.S.A. 44-703(v), and amendments
26 thereto, if such week begins during the period between two successive
27 academic years or terms or, when an agreement provides instead for a
28 similar period between two regular but not successive terms during such
29 period or during a period of paid sabbatical leave provided for in the
30 individual's contract, if the individual performs such services in the first of
31 such academic years or terms and there is a contract or a reasonable
32 assurance that such individual will perform services in any such capacity
33 for any educational institution in the second of such academic years or
34 terms.

35 (j) For any week of unemployment on the basis of service in any
36 capacity other than service in an instructional, research, or administrative
37 capacity in an educational institution, as defined in K.S.A. 44-703(v), and
38 amendments thereto, if such week begins during the period between two
39 successive academic years or terms if the individual performs such
40 services in the first of such academic years or terms and there is a
41 reasonable assurance that the individual will perform such services in the
42 second of such academic years or terms, except that if benefits are denied
43 to the individual under this subsection and the individual was not offered

1 an opportunity to perform such services for the educational institution for
2 the second of such academic years or terms, such individual shall be
3 entitled to a retroactive payment of benefits for each week for which the
4 individual filed a timely claim for benefits and for which benefits were
5 denied solely by reason of this subsection.

6 (k) For any week of unemployment on the basis of service in any
7 capacity for an educational institution as defined in K.S.A. 44-703(v), and
8 amendments thereto, if such week begins during an established and
9 customary vacation period or holiday recess, if the individual performs
10 services in the period immediately before such vacation period or holiday
11 recess and there is a reasonable assurance that such individual will perform
12 such services in the period immediately following such vacation period or
13 holiday recess.

14 (l) For any week of unemployment on the basis of any services,
15 substantially all of which consist of participating in sports or athletic
16 events or training or preparing to so participate, if such week begins during
17 the period between two successive sport seasons or similar period if such
18 individual performed services in the first of such seasons or similar periods
19 and there is a reasonable assurance that such individual will perform such
20 services in the later of such seasons or similar periods.

21 (m) For any week on the basis of services performed by an alien
22 unless such alien is an individual who was lawfully admitted for
23 permanent residence at the time such services were performed, was
24 lawfully present for purposes of performing such services, or was
25 permanently residing in the United States under color of law at the time
26 such services were performed, including an alien who was lawfully present
27 in the United States as a result of the application of the provisions of
28 section 212(d)(5) of the federal immigration and nationality act. Any data
29 or information required of individuals applying for benefits to determine
30 whether benefits are not payable to them because of their alien status shall
31 be uniformly required from all applicants for benefits. In the case of an
32 individual whose application for benefits would otherwise be approved, no
33 determination that benefits to such individual are not payable because of
34 such individual's alien status shall be made except upon a preponderance
35 of the evidence.

36 (n) For any week in which an individual is receiving a governmental
37 or other pension, retirement or retired pay, annuity or other similar
38 periodic payment under a plan maintained by a base period employer and
39 to which the entire contributions were provided by such employer, except
40 that: (1) If the entire contributions to such plan were provided by the base
41 period employer but such individual's weekly benefit amount exceeds such
42 governmental or other pension, retirement or retired pay, annuity or other
43 similar periodic payment attributable to such week, the weekly benefit

1 amount payable to the individual shall be reduced, but not below zero, by
2 an amount equal to the amount of such pension, retirement or retired pay,
3 annuity or other similar periodic payment which is attributable to such
4 week;~~or~~ (2) if only a portion of contributions to such plan were provided
5 by the base period employer, the weekly benefit amount payable to such
6 individual for such week shall be reduced, but not below zero, by the
7 prorated weekly amount of the pension, retirement or retired pay, annuity
8 or other similar periodic payment after deduction of that portion of the
9 pension, retirement or retired pay, annuity or other similar periodic
10 payment that is directly attributable to the percentage of the contributions
11 made to the plan by such individual;~~or~~ (3) if the entire contributions to the
12 plan were provided by such individual, or by the individual and an
13 employer, or any person or organization, who is not a base period
14 employer, no reduction in the weekly benefit amount payable to the
15 individual for such week shall be made under this subsection; or (4)
16 whatever portion of contributions to such plan were provided by the base
17 period employer, if the services performed for the employer by such
18 individual during the base period, or remuneration received for the
19 services, did not affect the individual's eligibility for, or increased the
20 amount of, such pension, retirement or retired pay, annuity or other similar
21 periodic payment, no reduction in the weekly benefit amount payable to
22 the individual for such week shall be made under this subsection. No
23 reduction shall be made for payments made under the social security act or
24 railroad retirement act of 1974.

25 (o) For any week of unemployment on the basis of services
26 performed in any capacity and under any of the circumstances described in
27 subsection (i), (j) or (k) that an individual performed in an educational
28 institution while in the employ of an educational service agency. For the
29 purposes of this subsection, the term "educational service agency" means a
30 governmental agency or entity which is established and operated
31 exclusively for the purpose of providing such services to one or more
32 educational institutions.

33 (p) For any week of unemployment on the basis of service as a school
34 bus or other motor vehicle driver employed by a private contractor to
35 transport pupils, students and school personnel to or from school-related
36 functions or activities for an educational institution, as defined in K.S.A.
37 44-703(v), and amendments thereto, if such week begins during the period
38 between two successive academic years or during a similar period between
39 two regular terms, whether or not successive, if the individual has a
40 contract or contracts, or a reasonable assurance thereof, to perform
41 services in any such capacity with a private contractor for any educational
42 institution for both such academic years or both such terms. An individual
43 shall not be disqualified for benefits as provided in this subsection for any

1 week of unemployment on the basis of service as a bus or other motor
2 vehicle driver employed by a private contractor to transport persons to or
3 from nonschool-related functions or activities.

4 (q) For any week of unemployment on the basis of services
5 performed by the individual in any capacity and under any of the
6 circumstances described in subsection (i), (j), (k) or (o) ~~which~~ *that* are
7 provided to or on behalf of an educational institution, as defined in K.S.A.
8 44-703(v), and amendments thereto, while the individual is in the employ
9 of an employer which is a governmental entity, Indian tribe or any
10 employer described in section 501(c)(3) of the federal internal revenue
11 code of 1986 which is exempt from income under section 501(a) of the
12 code.

13 (r) For any week in which an individual is registered at and attending
14 an established school, training facility or other educational institution, or is
15 on vacation during or between two successive academic years or terms. An
16 individual shall not be disqualified for benefits as provided in this
17 subsection provided:

18 (1) The individual was engaged in full-time employment concurrent
19 with the individual's school attendance;

20 (2) the individual is attending approved training as defined in K.S.A.
21 44-703(s), and amendments thereto; or

22 (3) the individual is attending evening, weekend or limited day time
23 classes, which would not affect availability for work, and is otherwise
24 eligible under K.S.A. 44-705(c), and amendments thereto.

25 (s) For any week with respect to which an individual is receiving or
26 has received remuneration in the form of a back pay award or settlement.
27 The remuneration shall be allocated to the week or weeks in the manner as
28 specified in the award or agreement, or in the absence of such specificity
29 in the award or agreement, such remuneration shall be allocated to the
30 week or weeks in which such remuneration, in the judgment of the
31 secretary, would have been paid.

32 (1) For any such weeks that an individual receives remuneration in
33 the form of a back pay award or settlement, an overpayment will be
34 established in the amount of unemployment benefits paid and shall be
35 collected from the claimant.

36 (2) If an employer chooses to withhold from a back pay award or
37 settlement, amounts paid to a claimant while they claimed unemployment
38 benefits, such employer shall pay the department the amount withheld.
39 With respect to such amount, the secretary shall have available all of the
40 collection remedies authorized or provided in K.S.A. 44-717, and
41 amendments thereto.

42 (t) (1) Any applicant for or recipient of unemployment benefits who
43 tests positive for unlawful use of a controlled substance or controlled

1 substance analog shall be required to complete a substance abuse treatment
2 program approved by the secretary of labor, secretary of commerce or
3 secretary for children and families, and a job skills program approved by
4 the secretary of labor, secretary of commerce or the secretary for children
5 and families. Subject to applicable federal laws, any applicant for or
6 recipient of unemployment benefits who fails to complete or refuses to
7 participate in the substance abuse treatment program or job skills program
8 as required under this subsection shall be ineligible to receive
9 unemployment benefits until completion of such substance abuse
10 treatment and job skills programs. Upon completion of both substance
11 abuse treatment and job skills programs, such applicant for or recipient of
12 unemployment benefits may be subject to periodic drug screening, as
13 determined by the secretary of labor. Upon a second positive test for
14 unlawful use of a controlled substance or controlled substance analog, an
15 applicant for or recipient of unemployment benefits shall be ordered to
16 complete again a substance abuse treatment program and job skills
17 program, and shall be terminated from unemployment benefits for a period
18 of 12 months, or until such applicant for or recipient of unemployment
19 benefits completes both substance abuse treatment and job skills programs,
20 whichever is later. Upon a third positive test for unlawful use of a
21 controlled substance or controlled substance analog, an applicant for or a
22 recipient of unemployment benefits shall be terminated from receiving
23 unemployment benefits, subject to applicable federal law.

24 (2) Any individual who has been discharged or refused employment
25 for failing a preemployment drug screen required by an employer may
26 request that the drug screening specimen be sent to a different drug testing
27 facility for an additional drug screening. Any such individual who requests
28 an additional drug screening at a different drug testing facility shall be
29 required to pay the cost of drug screening.

30 (3) *The provisions of this subsection shall not apply to any individual*
31 *who is a registered patient pursuant to section 8, and amendments thereto,*
32 *for activities authorized by the medical marijuana regulation act, section 1*
33 *et seq., and amendments thereto.*

34 (u) If the individual was found not to have a disqualifying
35 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
36 amendments thereto, was hired and then was subsequently convicted of a
37 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
38 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and
39 amendments thereto. The disqualification shall begin the day following the
40 separation and shall continue until after the individual becomes
41 reemployed and has had earnings from insured work of at least three times
42 the individual's determined weekly benefit amount.

43 (v) Notwithstanding the provisions of any subsection, an individual

1 shall not be disqualified for such week of part-time employment in a
2 substitute capacity for an educational institution if such individual's most
3 recent employment prior to the individual's benefit year begin date was for
4 a non-educational institution and such individual demonstrates application
5 for work in such individual's customary occupation or for work for which
6 the individual is reasonably fitted by training or experience.

7 Sec. 70. K.S.A. 44-1009 is hereby amended to read as follows: 44-
8 1009. (a) It shall be an unlawful employment practice:

9 (1) For an employer, because of the race, religion, color, sex,
10 disability, national origin or ancestry of any person to refuse to hire or
11 employ such person to bar or discharge such person from employment or
12 to otherwise discriminate against such person in compensation or in terms,
13 conditions or privileges of employment; to limit, segregate, separate,
14 classify or make any distinction in regards to employees; or to follow any
15 employment procedure or practice which, in fact, results in discrimination,
16 segregation or separation without a valid business necessity.

17 (2) For a labor organization, because of the race, religion, color, sex,
18 disability, national origin or ancestry of any person, to exclude or to expel
19 from its membership such person or to discriminate in any way against any
20 of its members or against any employer or any person employed by an
21 employer.

22 (3) For any employer, employment agency or labor organization to
23 print or circulate or cause to be printed or circulated any statement,
24 advertisement or publication, or to use any form of application for
25 employment or membership or to make any inquiry in connection with
26 prospective employment or membership, which expresses, directly or
27 indirectly, any limitation, specification or discrimination as to race,
28 religion, color, sex, disability, national origin or ancestry, or any intent to
29 make any such limitation, specification or discrimination, unless based on
30 a bona fide occupational qualification.

31 (4) For any employer, employment agency or labor organization to
32 discharge, expel or otherwise discriminate against any person because such
33 person has opposed any practices or acts forbidden under this act or
34 because such person has filed a complaint, testified or assisted in any
35 proceeding under this act.

36 (5) For an employment agency to refuse to list and properly classify
37 for employment or to refuse to refer any person for employment or
38 otherwise discriminate against any person because of such person's race,
39 religion, color, sex, disability, national origin or ancestry; or to comply
40 with a request from an employer for a referral of applicants for
41 employment if the request expresses, either directly or indirectly, any
42 limitation, specification or discrimination as to race, religion, color, sex,
43 disability, national origin or ancestry.

1 (6) For an employer, labor organization, employment agency, or
2 school which provides, coordinates or controls apprenticeship, on-the-job,
3 or other training or retraining program, to maintain a practice of
4 discrimination, segregation or separation because of race, religion, color,
5 sex, disability, national origin or ancestry, in admission, hiring,
6 assignments, upgrading, transfers, promotion, layoff, dismissal,
7 apprenticeship or other training or retraining program, or in any other
8 terms, conditions or privileges of employment, membership,
9 apprenticeship or training; or to follow any policy or procedure which, in
10 fact, results in such practices without a valid business motive.

11 (7) For any person, whether an employer or an employee or not, to
12 aid, abet, incite, compel or coerce the doing of any of the acts forbidden
13 under this act, or attempt to do so.

14 (8) For an employer, labor organization, employment agency or joint
15 labor-management committee to:

16 (A) Limit, segregate or classify a job applicant or employee in a way
17 that adversely affects the opportunities or status of such applicant or
18 employee because of the disability of such applicant or employee;

19 (B) participate in a contractual or other arrangement or relationship,
20 including a relationship with an employment or referral agency, labor
21 union, an organization providing fringe benefits to an employee or an
22 organization providing training and apprenticeship programs that has the
23 effect of subjecting a qualified applicant or employee with a disability to
24 the discrimination prohibited by this act;

25 (C) utilize standards criteria, or methods of administration that have
26 the effect of discrimination on the basis of disability or that perpetuate the
27 discrimination of others who are subject to common administrative
28 control;

29 (D) exclude or otherwise deny equal jobs or benefits to a qualified
30 individual because of the known disability of an individual with whom the
31 qualified individual is known to have a relationship or association;

32 (E) not make reasonable accommodations to the known physical or
33 mental limitations of an otherwise qualified individual with a disability
34 who is an applicant or employee, unless such employer, labor organization,
35 employment agency or joint labor-management committee can
36 demonstrate that the accommodation would impose an undue hardship on
37 the operation of the business thereof;

38 (F) deny employment opportunities to a job applicant or employee
39 who is an otherwise qualified individual with a disability, if such denial is
40 based on the need to make reasonable accommodation to the physical or
41 mental impairments of the employee or applicant;

42 (G) use qualification standards, employment tests or other selection
43 criteria that screen out or tend to screen out an individual with a disability

1 or a class of individuals with disabilities unless the standard, test or other
2 selection criteria, as used, is shown to be job-related for the position in
3 question and is consistent with business necessity; or

4 (H) fail to select and administer tests concerning employment in the
5 most effective manner to ensure that, when such test is administered to a
6 job applicant or employee who has a disability that impairs sensory,
7 manual or speaking skills, the test results accurately reflect the skills,
8 aptitude or whatever other factor of such applicant or employee that such
9 test purports to measure, rather than reflecting the impaired sensory,
10 manual or speaking skills of such employee or applicant, except where
11 such skills are the factors that the test purports to measure).

12 (9) For any employer to:

13 (A) Seek to obtain, to obtain or to use genetic screening or testing
14 information of an employee or a prospective employee to distinguish
15 between or discriminate against or restrict any right or benefit otherwise
16 due or available to an employee or a prospective employee; or

17 (B) subject, directly or indirectly, any employee or prospective
18 employee to any genetic screening or test.

19 (10) (A) *For an employer, because a person is a registered patient or*
20 *caregiver pursuant to section 8, and amendments thereto, or possesses or*
21 *uses medical marijuana in accordance with the medical marijuana*
22 *regulation act, section 1 et seq., and amendments thereto, to:*

23 (i) *Refuse to hire or employ a person;*

24 (ii) *bar or discharge such person from employment; or*

25 (iii) *otherwise discriminate against such person in compensation or*
26 *in terms, conditions or privileges of employment without a valid business*
27 *necessity.*

28 (B) *For a labor organization, because a person is a registered patient*
29 *or caregiver pursuant to section 8, and amendments thereto, or possesses*
30 *or uses medical marijuana in accordance with the medical marijuana*
31 *regulation act, section 1 et seq., and amendments thereto, to exclude or*
32 *expel such person from its membership.*

33 (C) *Nothing in this paragraph shall be construed to prohibit a person*
34 *from taking any action necessary to procure or retain any monetary*
35 *benefit provided under federal law, or any rules and regulations adopted*
36 *thereunder; or to obtain or maintain any license, certificate, registration*
37 *or other legal status issued or bestowed under federal law, or any rules*
38 *and regulations adopted thereunder.*

39 (D) *Nothing in this paragraph shall be construed to provide a cause*
40 *of action against an employer for wrongful discharge or discrimination for*
41 *any unlawful act involving marijuana.*

42 (b) It shall not be an unlawful employment practice to fill vacancies
43 in such way as to eliminate or reduce imbalance with respect to race,

1 religion, color, sex, disability, national origin or ancestry.

2 (c) It shall be an unlawful discriminatory practice:

3 (1) For any person, as defined herein being the owner, operator,
4 lessee, manager, agent or employee of any place of public accommodation
5 to refuse, deny or make a distinction, directly or indirectly, in offering its
6 goods, services, facilities, and accommodations to any person as covered
7 by this act because of race, religion, color, sex, disability, national origin or
8 ancestry, except where a distinction because of sex is necessary because of
9 the intrinsic nature of such accommodation.

10 (2) For any person, whether or not specifically enjoined from
11 discriminating under any provisions of this act, to aid, abet, incite, compel
12 or coerce the doing of any of the acts forbidden under this act, or to
13 attempt to do so.

14 (3) For any person, to refuse, deny, make a distinction, directly or
15 indirectly, or discriminate in any way against persons because of the race,
16 religion, color, sex, disability, national origin or ancestry of such persons
17 in the full and equal use and enjoyment of the services, facilities,
18 privileges and advantages of any institution, department or agency of the
19 state of Kansas or any political subdivision or municipality thereof.

20 Sec. 71. K.S.A. 44-1015 is hereby amended to read as follows: 44-
21 1015. As used in this act, unless the context otherwise requires:

22 (a) "Commission" means the Kansas human rights commission.

23 (b) "Real property" means and includes:

24 (1) All vacant or unimproved land; and

25 (2) any building or structure ~~which~~ *that* is occupied or designed or
26 intended for occupancy, or any building or structure having a portion
27 thereof ~~which~~ *that* is occupied or designed or intended for occupancy.

28 (c) "Family" includes a single individual.

29 (d) "Person" means an individual, corporation, partnership,
30 association, labor organization, legal representative, mutual company,
31 joint-stock company, trust, unincorporated organization, trustee, trustee in
32 bankruptcy, receiver and fiduciary.

33 (e) "To rent" means to lease, to sublease, to let and otherwise to grant
34 for a consideration the right to occupy premises not owned by the
35 occupant.

36 (f) "Discriminatory housing practice" means any act that is unlawful
37 under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto, *or*
38 *section 54, and amendments thereto.*

39 (g) "Person aggrieved" means any person who claims to have been
40 injured by a discriminatory housing practice or believes that such person
41 will be injured by a discriminatory housing practice that is about to occur.

42 (h) "Disability" ~~has the meaning provided by~~ *means the same as*
43 *defined in K.S.A. 44-1002, and amendments thereto.*

1 (i) "Familial status" means having one or more individuals less than
2 18 years of age domiciled with:

3 (1) A parent or another person having legal custody of such
4 individual or individuals; or

5 (2) the designee of such parent or other person having such custody,
6 with the written permission of such parent or other person.

7 Sec. 72. K.S.A. 2021 Supp. 65-1120 is hereby amended to read as
8 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
9 deny, revoke, limit or suspend any license or authorization to practice
10 nursing as a registered professional nurse, as a licensed practical nurse, as
11 an advanced practice registered nurse or as a registered nurse anesthetist
12 that is issued by the board or applied for under this act, or may require the
13 licensee to attend a specific number of hours of continuing education in
14 addition to any hours the licensee may already be required to attend or
15 may publicly or privately censure a licensee or holder of a temporary
16 permit or authorization, if the applicant, licensee or holder of a temporary
17 permit or authorization is found after hearing:

18 (1) To be guilty of fraud or deceit in practicing nursing or in
19 procuring or attempting to procure a license to practice nursing;

20 (2) to have been guilty of a felony or to have been guilty of a
21 misdemeanor involving an illegal drug offense unless the applicant or
22 licensee establishes sufficient rehabilitation to warrant the public trust, no
23 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
24 license or authorization to practice nursing as a licensed professional
25 nurse, as a licensed practical nurse, as an advanced practice registered
26 nurse or registered nurse anesthetist shall be granted to a person with a
27 felony conviction for a crime against persons as specified in article 34 of
28 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
29 54 of chapter 21 of the Kansas Statutes Annotated, *and amendments*
30 *thereto*, or K.S.A. 2021 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
31 amendments thereto;

32 (3) has been convicted or found guilty or has entered into an agreed
33 disposition of a misdemeanor offense related to the practice of nursing as
34 determined on a case-by-case basis;

35 (4) to have committed an act of professional incompetency as defined
36 in subsection (e);

37 (5) to be unable to practice with skill and safety due to current abuse
38 of drugs or alcohol;

39 (6) to be a person who has been adjudged in need of a guardian or
40 conservator, or both, under the act for obtaining a guardian or conservator,
41 or both, and who has not been restored to capacity under that act;

42 (7) to be guilty of unprofessional conduct as defined by rules and
43 regulations of the board;

1 (8) to have willfully or repeatedly violated the provisions of the
2 Kansas nurse practice act or any rules and regulations adopted pursuant to
3 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

4 (9) to have a license to practice nursing as a registered nurse or as a
5 practical nurse denied, revoked, limited or suspended, or to be publicly or
6 privately censured, by a licensing authority of another state, agency of the
7 United States government, territory of the United States or country or to
8 have other disciplinary action taken against the applicant or licensee by a
9 licensing authority of another state, agency of the United States
10 government, territory of the United States or country. A certified copy of
11 the record or order of public or private censure, denial, suspension,
12 limitation, revocation or other disciplinary action of the licensing authority
13 of another state, agency of the United States government, territory of the
14 United States or country shall constitute prima facie evidence of such a
15 fact for purposes of this paragraph (9); or

16 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
17 its repeal, or K.S.A. 2021 Supp. 21-5407, and amendments thereto, as
18 established by any of the following:

19 (A) A copy of the record of criminal conviction or plea of guilty for a
20 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2021
21 Supp. 21-5407, and amendments thereto.

22 (B) A copy of the record of a judgment of contempt of court for
23 violating an injunction issued under K.S.A. 2021 Supp. 60-4404, and
24 amendments thereto.

25 (C) A copy of the record of a judgment assessing damages under
26 K.S.A. 2021 Supp. 60-4405, and amendments thereto.

27 (b) *Proceedings.* Upon filing of a sworn complaint with the board
28 charging a person with having been guilty of any of the unlawful practices
29 specified in subsection (a), two or more members of the board shall
30 investigate the charges, or the board may designate and authorize an
31 employee or employees of the board to conduct an investigation. After
32 investigation, the board may institute charges. If an investigation, in the
33 opinion of the board, reveals reasonable grounds for believing the
34 applicant or licensee is guilty of the charges, the board shall fix a time and
35 place for proceedings, which shall be conducted in accordance with the
36 provisions of the Kansas administrative procedure act.

37 (c) *Witnesses.* No person shall be excused from testifying in any
38 proceedings before the board under this act or in any civil proceedings
39 under this act before a court of competent jurisdiction on the ground that
40 such testimony may incriminate the person testifying, but such testimony
41 shall not be used against the person for the prosecution of any crime under
42 the laws of this state except the crime of perjury as defined in K.S.A. 2021
43 Supp. 21-5903, and amendments thereto.

1 (d) *Costs*. If final agency action of the board in a proceeding under
2 this section is adverse to the applicant or licensee, the costs of the board's
3 proceedings shall be charged to the applicant or licensee as in ordinary
4 civil actions in the district court, but if the board is the unsuccessful party,
5 the costs shall be paid by the board. Witness fees and costs may be taxed
6 by the board according to the statutes relating to procedure in the district
7 court. All costs accrued by the board, when it is the successful party, and
8 ~~which~~ *that* the attorney general certifies cannot be collected from the
9 applicant or licensee shall be paid from the board of nursing fee fund. All
10 moneys collected following board proceedings shall be credited in full to
11 the board of nursing fee fund.

12 (e) *Professional incompetency defined*. As used in this section,
13 "professional incompetency" means:

14 (1) One or more instances involving failure to adhere to the
15 applicable standard of care to a degree ~~which~~ *that* constitutes gross
16 negligence, as determined by the board;

17 (2) repeated instances involving failure to adhere to the applicable
18 standard of care to a degree ~~which~~ *that* constitutes ordinary negligence, as
19 determined by the board; or

20 (3) a pattern of practice or other behavior ~~which~~ *that* demonstrates a
21 manifest incapacity or incompetence to practice nursing.

22 (f) *Criminal justice information*. The board upon request shall receive
23 from the Kansas bureau of investigation such criminal history record
24 information relating to arrests and criminal convictions as necessary for
25 the purpose of determining initial and continuing qualifications of
26 licensees of and applicants for licensure by the board.

27 (g) *Medical marijuana exemption*. *The board shall not deny, revoke,*
28 *limit or suspend the license of any licensee or publicly or privately*
29 *censure any licensee for:*

30 (1) *Advising a patient about the possible benefits and risks of using*
31 *medical marijuana, or that using medical marijuana may mitigate the*
32 *patient's symptoms; or*

33 (2) *any actions as a registered patient or caregiver pursuant to*
34 *section 8, and amendments thereto, including whether the licensee*
35 *possesses or has possessed, or uses or has used medical marijuana in*
36 *accordance with the medical marijuana regulation act, section 1 et seq.,*
37 *and amendments thereto.*

38 Sec. 73. K.S.A. 65-28b08 is hereby amended to read as follows: 65-
39 28b08. (a) The board may deny, revoke, limit or suspend any license or
40 authorization issued to a certified nurse-midwife to engage in the
41 independent practice of midwifery that is issued by the board or applied
42 for under this act, or may publicly censure a licensee or holder of a
43 temporary permit or authorization, if the applicant or licensee is found

1 after a hearing:

2 (1) To be guilty of fraud or deceit while engaging in the independent
3 practice of midwifery or in procuring or attempting to procure a license to
4 engage in the independent practice of midwifery;

5 (2) to have been found guilty of a felony or to have been found guilty
6 of a misdemeanor involving an illegal drug offense unless the applicant or
7 licensee establishes sufficient rehabilitation to warrant the public trust,
8 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
9 license or authorization to practice and engage in the independent practice
10 of midwifery shall be granted to a person with a felony conviction for a
11 crime against persons as specified in article 34 of chapter 21 of the Kansas
12 Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the
13 Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2021 Supp.
14 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

15 (3) to have committed an act of professional incompetence as defined
16 in subsection (c);

17 (4) to be unable to practice the healing arts with reasonable skill and
18 safety by reason of impairment due to physical or mental illness or
19 condition or use of alcohol, drugs or controlled substances. All
20 information, reports, findings and other records relating to impairment
21 shall be confidential and not subject to discovery or release to any person
22 or entity outside of a board proceeding. The provisions of this paragraph
23 providing confidentiality of records shall expire on July 1, 2022, unless the
24 legislature reviews and reenacts such provisions pursuant to K.S.A. 45-
25 229, and amendments thereto, prior to July 1, 2022;

26 (5) to be a person who has been adjudged in need of a guardian or
27 conservator, or both, under the act for obtaining a guardian or conservator,
28 or both, and who has not been restored to capacity under that act;

29 (6) to be guilty of unprofessional conduct as defined by rules and
30 regulations of the board;

31 (7) to have willfully or repeatedly violated the provisions of the
32 Kansas nurse practice act or any rules and regulations adopted pursuant to
33 that act;

34 (8) to have a license to practice nursing as a registered nurse or as a
35 practical nurse denied, revoked, limited or suspended, or to have been
36 publicly or privately censured, by a licensing authority of another state,
37 agency of the United States government, territory of the United States or
38 country, or to have other disciplinary action taken against the applicant or
39 licensee by a licensing authority of another state, agency of the United
40 States government, territory of the United States or country. A certified
41 copy of the record or order of public or private censure, denial, suspension,
42 limitation, revocation or other disciplinary action of the licensing authority
43 of another state, agency of the United States government, territory of the

1 United States or country shall constitute prima facie evidence of such a
2 fact for purposes of this paragraph; or

3 (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its
4 repeal, or K.S.A. 2021 Supp. 21-5407, and amendments thereto, as
5 established by any of the following:

6 (A) A copy of the record of criminal conviction or plea of guilty to a
7 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2021
8 Supp. 21-5407, and amendments thereto;

9 (B) a copy of the record of a judgment of contempt of court for
10 violating an injunction issued under K.S.A. 60-4404, and amendments
11 thereto; or

12 (C) a copy of the record of a judgment assessing damages under
13 K.S.A. 60-4405, and amendments thereto.

14 (b) No person shall be excused from testifying in any proceedings
15 before the board under this act or in any civil proceedings under this act
16 before a court of competent jurisdiction on the ground that such testimony
17 may incriminate the person testifying, but such testimony shall not be used
18 against the person for the prosecution of any crime under the laws of this
19 state, except the crime of perjury as defined in K.S.A. 2021 Supp. 21-
20 5903, and amendments thereto.

21 (c) *The board shall not deny, revoke, limit or suspend any license or*
22 *authorization issued to a certified nurse-midwife or publicly censure a*
23 *certified nurse-midwife for any of the following:*

24 (1) *The certified nurse-midwife has advised a patient about the*
25 *possible benefits and risks of using medical marijuana, or that using*
26 *medical marijuana may mitigate the patient's symptoms; or*

27 (2) *the certified nurse-midwife is a registered patient or caregiver*
28 *pursuant to section 8, and amendments thereto, possesses or has*
29 *possessed, or uses or has used medical marijuana in accordance with the*
30 *medical marijuana regulation act, section 1 et seq., and amendments*
31 *thereto.*

32 (d) As used in this section, "professional incompetency" means:

33 (1) One or more instances involving failure to adhere to the
34 applicable standard of care to a degree ~~which~~ *that* constitutes gross
35 negligence, as determined by the board;

36 (2) repeated instances involving failure to adhere to the applicable
37 standard of care to a degree ~~which~~ *that* constitutes ordinary negligence, as
38 determined by the board; or

39 (3) a pattern of practice or other behavior ~~which~~ *that* demonstrates a
40 manifest incapacity or incompetence to engage in the independent practice
41 of midwifery.

42 (d) The board, upon request, shall receive from the Kansas bureau of
43 investigation such criminal history record information relating to arrests

1 and criminal convictions, as necessary, for the purpose of determining
2 initial and continuing qualifications of licensees and applicants for
3 licensure by the board.

4 ~~(e) The provisions of this section shall become effective on January 1,~~
5 ~~2017.~~

6 Sec. 74. K.S.A. 79-5201 is hereby amended to read as follows: 79-
7 5201. As used in ~~this act~~ *article 52 of chapter 79 of the Kansas Statutes*
8 *Annotated, and amendments thereto:*

9 (a) ~~"Marijuana" means any marijuana, whether real or counterfeit, as~~
10 ~~defined by K.S.A. 2021 Supp. 21-5701, and amendments thereto, which is~~
11 ~~held, possessed, transported, transferred, sold or offered to be sold in~~
12 ~~violation of the laws of Kansas;~~

13 (b) ~~"Controlled substance" means any drug or substance, whether real~~
14 ~~or counterfeit, as defined by K.S.A. 2021 Supp. 21-5701, and amendments~~
15 ~~thereto, which that is held, possessed, transported, transferred, sold or~~
16 ~~offered to be sold in violation of the laws of Kansas. Such term shall not~~
17 ~~include marijuana;~~

18 ~~(e)(b)~~ (b) "dealer" means any person who, in violation of Kansas law,
19 manufactures, produces, ships, transports or imports into Kansas or in any
20 manner acquires or possesses more than 28 grams of marijuana, or more
21 than one gram of any controlled substance, or 10 or more dosage units of
22 any controlled substance ~~which that~~ is not sold by weight;

23 ~~(d)(c)~~ (c) "domestic marijuana plant" means any cannabis plant at any
24 level of growth ~~which that~~ is harvested or tended, manicured, irrigated,
25 fertilized or where there is other evidence that it has been treated in any
26 other way in an effort to enhance growth;

27 (d) ~~"marijuana" means any marijuana, whether real or counterfeit,~~
28 ~~as defined in K.S.A. 2021 Supp. 21-5701, and amendments thereto, that is~~
29 ~~held, possessed, transported, transferred, sold or offered for sale in~~
30 ~~violation of the laws of Kansas; and~~

31 (e) ~~"medical marijuana" means the same as defined in section 2, and~~
32 ~~amendments thereto.~~

33 Sec. 75. K.S.A. 79-5210 is hereby amended to read as follows: 79-
34 5210. Nothing in this act requires persons registered under article 16 of
35 chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*, or
36 otherwise lawfully in possession of marijuana, *medical marijuana* or a
37 controlled substance to pay the tax required under this act.

38 Sec. 76. K.S.A. 38-2269, 44-501, 44-706, 44-1009, 44-1015, 65-
39 28b08, 79-5201 and 79-5210 and K.S.A. 2021 Supp. 19-101a, 21-5703,
40 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 23-3201 and 65-1120 are
41 hereby repealed.

42 Sec. 77. This act shall take effect and be in force from and after July
43 1, 2023, and its publication in the statute book.