

HOUSE BILL No. 2330

By Committee on Commerce and Economic Development

2-11

1 AN ACT enacting the cannabis compassion and care act; providing for
2 the legal use of cannabis for certain debilitating medical conditions;
3 providing for the registration and functions of compassion centers;
4 authorizing the issuance of identification cards; establishing the
5 compassion board; providing for administration of the act by
6 department of health and environment; amending K.S.A. 79-5210 and
7 repealing the existing section.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. Sections 1 through 11 of this act shall be known as
11 the cannabis compassion and care act.

12 New Sec. 2. (a) Modern medical research has discovered beneficial
13 uses for cannabis in treating or alleviating the pain, nausea and other
14 symptoms associated with a variety of debilitating medical conditions, as
15 found by the national academy of sciences' institute of medicine in
16 March, 1999.

17 (b) Subsequent studies since the 1999 national academy of sciences'
18 institute of medicine report continue to show the therapeutic value of
19 cannabis in treating a wide array of debilitating medical conditions,
20 including increasing the chances of patients finishing their treatments for
21 HIV/AIDS and hepatitis C.

22 (c) Data from the federal bureau of investigation's uniform crime
23 reports and the compendium of federal justice statistics show that
24 approximately 99 out of every 100 cannabis arrests in the United States
25 are made under state law, rather than under federal law. Consequently,
26 changing state law will have the practical effect of protecting from arrest
27 the vast majority of seriously ill patients who have a medical need to use
28 cannabis.

29 (d) Although federal law currently prohibits any use of cannabis
30 except under very limited circumstances, Alaska, Arizona, California,
31 Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New
32 Mexico, Oregon, Vermont, Rhode Island and Washington have removed
33 state-level criminal penalties from the medical use and cultivation of
34 cannabis. Under this bill Kansas joins in this effort for the health and
35 welfare of its citizens.

36 (e) States are not required to enforce federal law or prosecute people

1 for engaging in activities prohibited by federal law. Therefore,
2 compliance with this act does not put the state of Kansas in violation of
3 federal law.

4 (f) State law should make a distinction between the medical and
5 non-medical uses of cannabis. Hence, the purpose of this act is to protect
6 patients with debilitating medical conditions, as well as their practitioners
7 and providers, from arrest and prosecution, criminal and other penalties,
8 and property forfeiture if such patients engage in the medical use of
9 cannabis.

10 (g) The legislature of the state of Kansas declares that this act is
11 enacted pursuant to the police power of the state to protect the health of
12 its citizens that is reserved to the state of Kansas and its people under the
13 10th Amendment to the United States Constitution.

14 New Sec. 3. The following terms, as used in this act, shall have the
15 meanings set forth in this section:

16 (a) "Cardholder" means a qualifying patient, a designated caregiver,
17 or a principal officer, board member, employee, volunteer, or agent of a
18 compassion center who has been issued and possesses a valid registry
19 identification card.

20 (b) "Compassion board" means the board created under section 11,
21 and amendments thereto.

22 (c) "Cannabis" means all parts of all varieties of the plant cannabis
23 whether growing or not, the seeds thereof, the resin extracted from any
24 part of the plant and every compound, manufacture, salt, derivative,
25 mixture or preparation of the plant, its seeds or resin. It does not include
26 the mature stalks of the plant, fiber produced from the stalks, oil or cake
27 made from the seeds of the plant, any other compound, manufacture, salt,
28 derivative, mixture or preparation of the mature stalks, except the resin
29 extracted therefrom, fiber, oil or cake or the sterilized seed of the plant
30 which is incapable of germination.

31 (d) "Compassion center staffer" means a principal officer, board
32 member, employee, volunteer, or agent of a compassion center who has
33 been issued and possesses a valid registry identification card.

34 (e) "Debilitating medical condition" means one or more of the
35 following:

36 (1) Cancer, glaucoma, positive status for human immunodeficiency
37 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic
38 lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail
39 patella or the treatment of these conditions;

40 (2) a chronic or debilitating disease or medical condition or its
41 treatment that produces one or more of the following: cachexia or wasting
42 syndrome; severe pain; severe nausea; seizures, including, but not limited
43 to, those characteristic of epilepsy or severe and persistent muscle

1 spasms, including, but not limited to, those characteristic of multiple
2 sclerosis; or

3 (3) any other medical condition or its treatment approved by the
4 department, as provided for in subsection (a) of section 6, and
5 amendments thereto.

6 (f) “Department” means the department of health and environment.

7 (g) “Designated caregiver” means a person who is at least 21 years
8 of age, who has agreed to assist with a patient’s medical use of cannabis
9 and who has never been convicted of an excluded felony offense. A
10 designated caregiver may assist no more than five qualifying patients
11 with their medical use of cannabis.

12 (h) “Enclosed, locked facility” means a closet, room, greenhouse or
13 other enclosed area equipped with locks or other security devices that
14 permit access only by a cardholder.

15 (i) “Excluded felony offense” means:

16 (1) A crime involving violence to the person of another that was
17 classified as a felony in the jurisdiction where the person was convicted;
18 or

19 (2) a violation of a state or federal controlled substance law that was
20 classified as a felony in the jurisdiction where the person was convicted.

21 An excluded felony offense does not include:

22 (A) An offense for which the sentence, including any term of
23 probation, incarceration or supervised release, was completed 10 or more
24 years earlier; or

25 (B) an offense that consisted of conduct for which this act would
26 likely have prevented a conviction, but the conduct either occurred prior
27 to the enactment of this act or was prosecuted by an authority other than
28 the state of Kansas.

29 (j) “Medical use” means the acquisition, possession, cultivation,
30 manufacture, use, delivery, sale, transfer or transportation of cannabis or
31 paraphernalia relating to the administration of cannabis to treat or
32 alleviate a registered qualifying patient’s debilitating medical condition or
33 symptoms associated with the patient’s debilitating medical condition.

34 (k) “Practitioner” means a person who is licensed to practice
35 medicine and surgery.

36 (l) “Qualifying patient” means a person who has been diagnosed by
37 a practitioner as having a debilitating medical condition.

38 (m) “Registered compassion center” means a not-for-profit entity
39 registered pursuant to section 5, and amendments thereto, that acquires,
40 possesses, cultivates, manufactures, delivers, transfers, transports,
41 supplies or dispenses cannabis or related supplies and educational
42 materials to cardholders. A registered compassion center may receive
43 compensation for all expenses incurred in its operation.

1 (n) “Registry identification card” means a document issued by the
2 department that identifies a person as a registered qualifying patient,
3 registered designated caregiver or a registered principal officer, board
4 member, employee, volunteer or agent of a registered compassion center.

5 (o) “Unusable cannabis” means cannabis seeds, stalks, seedlings
6 and unusable roots. “Seedling” means a cannabis plant that has no
7 flowers and is less than 12 inches in height and less than 12 inches in
8 diameter. A seedling must meet all three criteria set forth above.

9 (p) “Usable cannabis” means the dried leaves and flowers of the
10 cannabis plant and any mixture or preparation thereof, but does not
11 include the seeds, stalks and roots of the plant and does not include the
12 weight of any non-cannabis ingredients combined with cannabis and
13 prepared for consumption as food or drink.

14 (q) “Verification system” means a secure, password-protected, web-
15 based system that is operational 24 hours each day that law enforcement
16 personnel and compassion center staffers shall use to verify registry
17 identification cards and that shall be established and maintained by the
18 department pursuant to subsection (h)(4) of section 7.

19 (r) “Visiting qualifying patient” means a patient with a debilitating
20 medical condition who is not a resident of Kansas or who has been a
21 resident of Kansas less than 30 days.

22 (s) “Written certification” means a document signed by a
23 practitioner, stating that in the practitioner’s professional opinion the
24 patient is likely to receive therapeutic or palliative benefit from the
25 medical use of cannabis to treat or alleviate the patient’s debilitating
26 medical condition or symptoms associated with the debilitating medical
27 condition. A written certification shall be made only in the course of a
28 bona fide practitioner-patient relationship after the practitioner has
29 completed a full assessment of the qualifying patient’s medical history.
30 The written certification shall specify the qualifying patient’s debilitating
31 medical condition.

32 New Sec. 4. (a) A qualifying patient who has been issued and
33 possesses a registry identification card shall not be subject to arrest,
34 prosecution or penalty in any manner, or denied any right or privilege,
35 including, but not limited to, civil penalty or disciplinary action by a court
36 or occupational or professional licensing board or bureau, for the medical
37 use of cannabis in accordance with this act, provided that the qualifying
38 patient possesses an amount of cannabis that does not exceed 12 cannabis
39 plants and six ounces of usable cannabis. The plants shall be kept in an
40 enclosed, locked facility, unless they are being transported because the
41 qualifying patient is moving or if they are being transported to the
42 qualifying patient’s or designated caregiver’s property. This subsection
43 shall not apply to matters and entities that are covered by subsections (f)

1 or (g).

2 (b) A designated caregiver who has been issued and possesses a
3 registry identification card shall not be subject to arrest, prosecution, or
4 penalty in any manner, or denied any right or privilege, including, but not
5 limited to, civil penalty or disciplinary action by a court or occupational
6 or professional licensing board or bureau, for assisting a qualifying
7 patient to whom such designated caregiver is connected through the
8 department's registration process with the medical use of cannabis in
9 accordance with this act, provided that the designated caregiver possesses
10 an amount of cannabis that does not exceed 12 cannabis plants and six
11 ounces of usable cannabis for each qualifying patient to whom such
12 designated caregiver is connected through the department's registration
13 process. The plants shall be kept in an enclosed, locked facility, unless
14 they are being transported because the designated caregiver is moving or
15 if they are being transported to a designated caregiver's or a qualifying
16 patient's property. This subsection shall not apply to matters and entities
17 that are covered by subsections (f) or (g).

18 (c) Registered designated caregivers and registered qualifying
19 patients may possess a reasonable amount of unusable cannabis,
20 including up to 12 seedlings, which shall not be counted toward the limits
21 in this section.

22 (d) (1) There shall be a presumption that a qualifying patient or
23 designated caregiver is engaged in the medical use of cannabis in
24 accordance with this act if the qualifying patient or designated caregiver:

25 (A) Is in possession of a registry identification card; and

26 (B) is in possession of an amount of cannabis that does not exceed
27 the amount allowed under this act.

28 (2) The presumption may be rebutted by evidence that conduct
29 related to cannabis was not for the purpose of treating or alleviating the
30 qualifying patient's debilitating medical condition or symptoms
31 associated with the debilitating medical condition, in accordance with this
32 act.

33 (e) A registered qualifying patient or designated primary caregiver
34 shall not be subject to arrest, prosecution or penalty in any manner, or
35 denied any right or privilege, including, but not limited to, civil penalty or
36 disciplinary action by a court or occupational or professional licensing
37 board or bureau, for giving cannabis to a registered qualifying patient or a
38 registered designated caregiver for the registered qualifying patient's
39 medical use where nothing of value is transferred in return, or for offering
40 to do the same, provided that the person giving the cannabis does not
41 knowingly cause the recipient to possess more cannabis than is permitted
42 by section 4, and amendments thereto.

43 (f) (1) No school or landlord may refuse to enroll or lease to, or

1 otherwise penalize, a person solely for such person's status as a registered
2 qualifying patient or a registered designated caregiver, unless failing to do
3 so would put the school or landlord in violation of federal law or
4 regulations.

5 (2) For the purposes of medical care, including organ transplants, a
6 registered qualifying patient's authorized use of cannabis in accordance
7 with this act shall be considered the equivalent of the authorized use of
8 any other medication used at the direction of a physician, and shall not
9 constitute the use of an illicit substance.

10 (3) Unless a failure to do so would put an employer in violation of
11 federal law or federal regulations, an employer may not discriminate
12 against a person in hiring, termination or any term or condition of
13 employment, or otherwise penalize a person, if the discrimination is
14 based upon either of the following:

15 (A) The person's status as a registered qualifying patient or
16 registered designated caregiver; or

17 (B) a registered qualifying patient's positive drug test for cannabis
18 components or metabolites, unless the patient used, possessed or was
19 impaired by cannabis on the premises of the place of employment or
20 during the hours of employment.

21 (g) A person shall not be denied custody of or visitation or parenting
22 time with a minor and there shall be no presumption of neglect or child
23 endangerment for conduct allowed under this act, unless the person's
24 behavior is such that it creates an unreasonable danger to the safety of the
25 minor as established by clear and convincing evidence.

26 (h) A registered designated caregiver may receive compensation for
27 costs associated with assisting a registered qualifying patient's medical
28 use of cannabis, provided that registered designated caregiver is
29 connected to the registered qualifying patient through the department's
30 registration process. Any such compensation shall not constitute the sale
31 of controlled substances.

32 (i) A practitioner shall not be subject to arrest, prosecution, or
33 penalty in any manner, or denied any right or privilege, including, but not
34 limited to, civil penalty or disciplinary action by the state board of
35 healing arts or by any other occupational or professional licensing board
36 or bureau, solely for providing written certifications or for otherwise
37 stating that, in the practitioner's professional opinion, a patient is likely to
38 receive therapeutic benefit from the medical use of cannabis to treat or
39 alleviate the patient's serious or debilitating medical condition or
40 symptoms associated with the serious or debilitating medical condition.
41 Nothing in this act shall prevent a professional licensing board from
42 sanctioning a practitioner for failing to properly evaluate a patient's
43 medical condition or otherwise violating the standard of care for

1 evaluating medical conditions.

2 (j) A person shall not be subject to arrest, prosecution or penalty in
3 any manner, or denied any right or privilege, including, but not limited to,
4 civil penalty or disciplinary action by a court or occupational or
5 professional licensing board or bureau, for providing a registered
6 qualifying patient or a registered designated caregiver with cannabis
7 paraphernalia for purposes of a qualifying patient's medical use of
8 cannabis.

9 (k) Any cannabis, cannabis paraphernalia, licit property or interest in
10 licit property that is possessed, owned or used in connection with the
11 medical use of cannabis as allowed under this act, or acts incidental to
12 such use, shall not be seized or forfeited. This act shall not prevent the
13 seizure or forfeiture of cannabis exceeding the amounts allowed under
14 this act.

15 (l) A person shall not be subject to arrest, prosecution or penalty in
16 any manner, or denied any right or privilege, including, but not limited to,
17 civil penalty or disciplinary action by a court or occupational or
18 professional licensing board or bureau, simply for being in the presence
19 or vicinity of the medical use of cannabis as allowed under this act, or for
20 assisting a registered qualifying patient with using or administering
21 cannabis.

22 (m) A registry identification card, or its equivalent, that is issued
23 under the laws of another state, district, territory, commonwealth or
24 insular possession of the United States that allows, in the jurisdiction of
25 issuance, a visiting qualifying patient to possess cannabis for medical
26 purposes, shall have the same force and effect as a registry identification
27 card issued by the department.

28 New Sec. 5. (a) The following provisions govern the registration of
29 compassion centers:

30 (1) The department shall register a compassion center and issue a
31 registration certificate, with a random 20-digit alphanumeric
32 identification number, within 90 days of receiving an application for a
33 compassion center if the following conditions are met:

34 (A) The prospective compassion center provided the following, in
35 accordance with the department's rules and regulations:

36 (i) An application or renewal fee;

37 (ii) the legal name of the compassion center;

38 (iii) the physical address of the compassion center and the physical
39 address of one additional location, if any, where cannabis will be
40 cultivated, neither of which may be within 500 feet of a preexisting
41 public or private school;

42 (iv) the name, address and date of birth of each principal officer and
43 board member of the compassion center;

1 (v) the name, address and date of birth of any person who is an agent
2 of or employed by the compassion center;

3 (vi) operating regulations that include procedures for the oversight
4 of the compassion center and procedures to ensure accurate record-
5 keeping and security measures, that are in accordance with the rules and
6 regulations issued by the department under subsection (c) of section 6,
7 and amendments thereto; and

8 (vii) if the city or county in which the compassion center would be
9 located has enacted reasonable zoning restrictions, a sworn and truthful
10 statement that the registered compassion center would be in compliance
11 with those restrictions; and

12 (B) issuing the compassion center a registration would not be in
13 violation of a reasonable limitation on the number of registered
14 compassion centers that can operate in the jurisdiction in which it would
15 operate; and

16 (C) none of the principal officers or board members has been
17 convicted of an offense that was classified as a felony in the jurisdiction
18 where the person was convicted, unless the offense consisted of conduct
19 for which this act would likely have prevented a conviction, but the
20 conduct either occurred prior to the enactment of this act or was
21 prosecuted by an authority other than the state of Kansas; and

22 (D) none of the prospective principal officers or board members has
23 served as a principal officer or board member for a registered compassion
24 center that has had its registration certificate revoked; and

25 (E) none of the principal officers or board members is younger than
26 21 years of age; and

27 (F) the compassion center has been approved for registration by the
28 compassion board.

29 (2) Except as provided in subsection (a)(3), the department shall
30 issue each compassion center staffer a registry identification card and log-
31 in information for the verification system within 10 days of receipt of the
32 person's name, address, date of birth and a fee in an amount established
33 by the department. Each card shall specify that the cardholder is a
34 principal officer, board member, agent, volunteer or employee of a
35 registered compassion center and shall contain the following:

36 (A) The name, address and date of birth of the compassion center
37 staffer;

38 (B) the legal name of the registered compassion center with which
39 the compassion center staffer is affiliated;

40 (C) a random 20-digit alphanumeric identification number that is
41 unique to the cardholder;

42 (D) the date of issuance and expiration date of the registry
43 identification card;

1 (E) a photograph, if the department decides to require one; and

2 (F) a statement signed by the prospective principal officer, board
3 member, agent, volunteer or employee pledging not to divert cannabis to
4 anyone who is not allowed to possess cannabis pursuant to this act.

5 (3) (A) The department shall not issue a registry identification card
6 to any compassion center staffer who has been convicted of an offense
7 that was classified as a felony in the jurisdiction where the person was
8 convicted, unless the offense consisted of conduct for which this act
9 would likely have prevented a conviction, but the conduct either occurred
10 prior to the enactment of this act or was prosecuted by an authority other
11 than the state of Kansas. The department may conduct a background
12 check of each compassion center staffer in order to carry out this
13 provision. The department shall notify the registered compassion center
14 in writing of the reason for denying the registry identification card.

15 (B) The department shall not issue a registry identification card to
16 any principal officer, board member, agent, volunteer or employee of a
17 registered compassion center who is younger than 21 years of age.

18 (C) The department may refuse to issue a registry identification card
19 to a compassion center staffer who has had a card revoked for violating
20 this act.

21 (b) (1) A registered compassion center's registration certificate and
22 the registry identification card for each compassion center staffer shall
23 expire one year after the date of issuance. The department shall issue a
24 renewal compassion center registration certificate within 10 days to any
25 registered compassion center that submits a renewal fee, provided that its
26 registration is not suspended and has not been revoked. The department
27 shall issue a renewal registry identification card within 10 days to any
28 compassion center staffer who submits a renewal fee, except as provided
29 by subsection (a)(3).

30 (2) A registry identification card of a compassion center staffer shall
31 expire and the person's login information to the verification system shall
32 be deactivated upon notification by a registered compassion center that
33 such person ceases to work at the registered compassion center.

34 (c) Registered compassion centers are subject to reasonable
35 inspection by the department. The department shall give at least 24 hours
36 notice of an inspection under this subsection.

37 (d) (1) A registered compassion center may not be located within
38 500 feet of the property line of a preexisting public or private school.

39 (2) A registered compassion center shall be operated on a not-for-
40 profit basis for the mutual benefit of its members and patrons. The by-
41 laws of a registered compassion center or its contracts with patrons shall
42 contain such provisions relative to the disposition of revenues and
43 receipts as may be necessary and appropriate to establish and maintain its

1 non-profit character. A registered compassion center need not be
2 recognized as tax-exempt by the internal revenue service and is not
3 required to be incorporated.

4 (3) A registered compassion center shall notify the department
5 within 10 days of when a compassion center staffer ceases to work at the
6 registered compassion center.

7 (4) A registered compassion center shall notify the department in
8 writing of the name, address, and date of birth of any new compassion
9 center staffer and shall submit a fee in an amount established by the
10 department for a new registry identification card before a new
11 compassion center staffer begins working at the registered compassion
12 center.

13 (5) A registered compassion center shall implement appropriate
14 security measures to deter and prevent unauthorized entrance into areas
15 containing cannabis and the theft of cannabis.

16 (6) The operating documents of a registered compassion center shall
17 include procedures for the oversight of the registered compassion center
18 and procedures to ensure accurate record keeping.

19 (7) A registered compassion center is prohibited from acquiring,
20 possessing, cultivating, manufacturing, delivering, transferring,
21 transporting, supplying or dispensing cannabis for any purpose except to
22 assist registered qualifying patients with the medical use of cannabis
23 directly or through the qualifying patients' designated caregivers.

24 (8) All principal officers and board members of a registered
25 compassion center must be residents of the state of Kansas.

26 (9) All cultivation of cannabis must take place in an enclosed,
27 locked facility which can only be accessed by principal officers, board
28 members, agents, volunteers or employees of the registered compassion
29 center who are cardholders.

30 (10) County and city governments may enact reasonable limits on
31 the number of registered compassion centers that can operate in their
32 jurisdictions and may enact zoning regulations that reasonably limit
33 registered compassion centers to certain areas of their jurisdictions.

34 (e) (1) Before cannabis may be dispensed to a designated caregiver
35 or a registered qualifying patient, a compassion center staffer must look
36 up the registered qualifying patient for whom the cannabis is intended,
37 and the designated caregiver transporting the cannabis to the patient, if
38 any, in the verification system and must verify each of the following:

39 (A) That the registry identification card presented to the registered
40 compassion center is valid;

41 (B) that the person presenting the card is the person identified on the
42 registry identification card presented to the compassion center staffer; and

43 (C) that the amount to be dispensed would not cause the registered

1 qualifying patient to exceed such person's limit of obtaining six ounces of
2 cannabis during any 30-day period.

3 (2) After verifying the information in subsection (e)(1), but before
4 dispensing cannabis to a registered qualifying patient or a registered
5 designated caregiver on a registered qualifying patient's behalf, a
6 compassion center staffer must make an entry in the verification system,
7 specifying how much cannabis is being dispensed to the registered
8 qualifying patient and whether it was dispensed directly to the registered
9 qualifying patient or to the registered qualifying patient's registered
10 designated caregiver. The entry must include the date and time the
11 cannabis was dispensed.

12 (f) (1) A registered compassion center shall not be subject to
13 prosecution; search, except by the department pursuant to subsection (c);
14 seizure; or penalty in any manner or be denied any right or privilege,
15 including, but not limited to, civil penalty or disciplinary action by a court
16 or business licensing board or entity, solely for acting in accordance with
17 this act and department rules and regulations to acquire, possess,
18 cultivate, manufacture, deliver, transfer, transport, supply or dispense
19 cannabis or related supplies and educational materials to registered
20 qualifying patients, to registered designated caregivers on behalf of
21 registered qualifying patients or to other registered compassion centers.

22 (2) No compassion center staffers shall be subject to arrest,
23 prosecution, search, seizure or penalty in any manner or denied any right
24 or privilege, including, but not limited to, civil penalty or disciplinary
25 action by a court or occupational or professional licensing board or entity,
26 solely for working for a registered compassion center in accordance with
27 this act and department rules and regulations to acquire, possess,
28 cultivate, manufacture, deliver, transfer, transport, supply or dispense
29 cannabis or related supplies and educational materials to registered
30 qualifying patients, to registered designated caregivers on behalf of
31 registered qualifying patients or to other registered compassion centers.

32 (g) (1) A registered qualifying patient shall not directly, or through
33 a designated caregiver, obtain more than six ounces of cannabis from
34 registered compassion centers in any 30-day period.

35 (2) A registered compassion center may not dispense, deliver or
36 otherwise transfer cannabis to a person other than another registered
37 compassion center, a registered qualifying patient or a registered
38 qualifying patient's registered designated caregiver.

39 (3) A registered compassion center may not obtain cannabis from
40 outside the state of Kansas.

41 (4) Except as provided in subsection (a)(3), no person who has been
42 convicted of an offense that was classified as a felony in the jurisdiction
43 where the person was convicted may be a compassion center staffer. A

1 person who works as an agent, volunteer, employee, principal officer, or
2 board member of a registered compassion center in violation of this
3 section is subject to a civil violation punishable by a penalty of not to
4 exceed \$1,000 levied by the department. A subsequent violation of this
5 section is a class C misdemeanor.

6 (5) A registered compassion center may not acquire usable cannabis
7 or mature cannabis plants from any person other than another registered
8 compassion center, a registered qualifying patient or a registered
9 designated caregiver. A registered compassion center is only allowed to
10 acquire usable cannabis or cannabis plants from a registered qualifying
11 patient or a registered designated caregiver if the registered qualifying
12 patient or registered designated caregiver receives no compensation for
13 the cannabis.

14 (6) A person who violates paragraph (2) or (5) of this subsection
15 may not be a compassion center staffer, and such person's registry
16 identification card shall be immediately revoked. The department may
17 suspend or revoke a compassion center staffer's registry identification
18 card for violating this act.

19 (7) A registered compassion center that violates paragraph (2) or (5)
20 of this subsection shall immediately have its registration revoked, and its
21 board members and principal officers may not serve as the board
22 members or principal officers for any other registered compassion
23 centers.

24 New Sec. 6. (a) Not later than 90 days after the effective date of this
25 act, the department, in consultation with the compassion board, shall
26 adopt rules and regulations governing the manner in which the
27 department shall consider petitions from the public to add debilitating
28 medical conditions or treatments to the list of debilitating medical
29 conditions set forth in subsection (e) of section 3, and amendments
30 thereto. In considering such petitions, the department shall include public
31 notice of, and an opportunity to comment in a public hearing upon, the
32 petitions. The department, after hearing, shall approve or deny a petition
33 within 90 days of its submission. The approval or denial of a petition is a
34 final department action, subject to judicial review. Jurisdiction and venue
35 for judicial review are vested in the district court.

36 (b) Not later than 90 days after the effective date of this act, the
37 department shall, in consultation with the compassion board, shall adopt
38 rules and regulations governing the manner in which it shall consider
39 applications for and renewals of registry identification cards.

40 (c) (1) Not later than 90 days after the effective date of this act, the
41 department, in consultation with the compassion board, shall adopt rules
42 and regulations governing the manner in which it shall consider
43 applications for and renewals of registration certificates for registered

1 compassion centers, including reasonable rules and regulations
2 governing:

3 (A) The form and content of registration and renewal applications;

4 (B) minimum oversight requirements for registered compassion
5 centers;

6 (C) minimum record keeping requirements for registered
7 compassion centers;

8 (D) minimum security requirements for registered compassion
9 centers, which shall include that each registered compassion center
10 location must be protected by a fully operational security alarm system;
11 and

12 (E) procedures for suspending or terminating the registration of
13 registered compassion centers that violate the provisions of this act or the
14 rules and regulations promulgated pursuant to this section.

15 (2) The department, in consultation with the compassion board, shall
16 design rules and regulations with the goal of protecting against diversion
17 and theft, without imposing an undue burden on the registered
18 compassion centers or compromising the confidentiality of registered
19 qualifying patients and their registered designated caregivers. Any
20 dispensing records that a registered compassion center is required to keep
21 shall track transactions according to registered qualifying patients',
22 registered designated caregivers', and registered compassion centers'
23 registry identification numbers, rather than their names, to protect their
24 confidentiality.

25 (d) Not later than 90 days after the effective date of this act, the
26 department, in consultation with the compassion board, shall adopt rules
27 and regulations establishing application and renewal fees for registry
28 identification cards and registered compassion center registration
29 certificates. The fees shall be in accordance with the following
30 parameters:

31 (1) The total fees collected must generate revenues sufficient to
32 offset all expenses of implementing and administering this act;

33 (2) compassion center application fees may not exceed \$5,000;

34 (3) compassion center renewal fees may not exceed \$1,000;

35 (4) the total revenue from compassion center application and
36 renewal fees and registry identification card fees for compassion center
37 staffers must be sufficient to offset all expenses of implementing and
38 administering the compassion center aspects of this act, including the
39 verification system;

40 (5) the department may establish a sliding scale of patient
41 application and renewal fees based upon a qualifying patient's family
42 income; and

43 (6) the department may accept donations from private sources in

1 order to reduce the application and renewal fees.

2 New Sec. 7. (a) The department shall issue registry identification
3 cards to qualifying patients who submit the following, in accordance with
4 the department's rules and regulations:

5 (1) Written certification;

6 (2) application or renewal fee;

7 (3) name, address and date of birth of the qualifying patient, except
8 that if the applicant is homeless, no address is required;

9 (4) name, address and telephone number of the qualifying patient's
10 practitioner;

11 (5) name, address, and date of birth of the designated caregiver
12 designated, if any, by the qualifying patient;

13 (6) a statement signed by the qualifying patient, pledging not to
14 divert cannabis to anyone who is not allowed to possess cannabis
15 pursuant to this act; and

16 (7) a signed statement from the designated caregiver, if any, agreeing
17 to be designated as the patient's designated caregiver and pledging not to
18 divert cannabis to anyone who is not allowed to possess cannabis
19 pursuant to this act.

20 (b) The department shall not issue a registry identification card to a
21 qualifying patient who is younger than 18 years of age unless:

22 (1) The qualifying patient's practitioner has explained the potential
23 risks and benefits of the medical use of cannabis to the custodial parent or
24 legal guardian with responsibility for health care decisions for the
25 qualifying patient; and

26 (2) The custodial parent or legal guardian with responsibility for
27 health care decisions for the qualifying patient consents in writing to:

28 (A) Allow the qualifying patient's medical use of cannabis;

29 (B) serve as the qualifying patient's designated caregiver; and

30 (C) control the acquisition of the cannabis, the dosage and the
31 frequency of the medical use of cannabis by the qualifying patient.

32 (c) The department shall verify the information contained in an
33 application or renewal submitted pursuant to this section and shall
34 approve or deny an application or renewal within 15 days of receiving it.
35 The department may deny an application or renewal only if the applicant
36 did not provide the information required pursuant to this section, the
37 applicant previously had a registry identification card revoked for
38 violating this act or if the department determines that the information
39 provided was falsified. Rejection of an application or renewal is
40 considered a final department action, subject to judicial review.
41 Jurisdiction and venue for judicial review are vested in the district court.

42 (d) The department shall issue a registry identification card to the
43 designated caregiver, if any, who is named in a qualifying patient's

1 approved application, up to a maximum of one designated caregiver per
2 qualifying patient, provided that the designated caregiver meets the
3 requirements of subsection (g) of section 3, and amendments thereto. The
4 department shall notify the qualifying patient who has designated
5 someone to serve as the patient's designated caregiver if a registry
6 identification card will not be issued to the designated person. A
7 designated caregiver shall be issued a registry identification card each
8 time the designated caregiver is designated by a qualifying patient.

9 (e) The department shall issue registry identification cards to
10 qualifying patients and to designated caregivers within five days of
11 approving an application or renewal. Each registry identification card
12 shall expire one year after the date of issuance, unless the practitioner
13 states in the written certification that the practitioner believes the
14 qualifying patient would benefit from medical cannabis only until a
15 specified earlier or later date, then the registry identification card shall
16 expire on that date. Registry identification cards shall contain all of the
17 following:

18 (1) Name, address and date of birth of the qualifying patient;

19 (2) name, address and date of birth of the designated caregiver, if
20 any, of the qualifying patient;

21 (3) the date of issuance and expiration date of the registry
22 identification card;

23 (4) a random 20-digit alphanumeric identification number,
24 containing at least four numbers and at least four letters, that is unique to
25 the cardholder;

26 (5) if the cardholder is a designated caregiver, the random
27 identification number of the registered qualifying patient the designated
28 caregiver is assisting; and

29 (6) a photograph, if the department decides to require one.

30 (f) The following notifications and department responses are
31 required:

32 (1) A registered qualifying patient shall notify the department of any
33 change of name, address or designated caregiver, or if the registered
34 qualifying patient ceases to have a debilitating medical condition, within
35 10 days of such change.

36 (2) A registered qualifying patient who fails to notify the department
37 of any of these changes is subject to a civil penalty of no more than \$150
38 levied by the department. If the registered qualifying patient's certifying
39 practitioner notifies the department in writing that either the registered
40 qualifying patient has ceased to suffer from a debilitating medical
41 condition or that the practitioner no longer believes the patient would
42 receive therapeutic or palliative benefit from the medical use of cannabis,
43 the card is null and void upon notification by the department to the

1 qualifying patient.

2 (3) Any registered designated caregiver or compassion center staffer
3 must notify the department of any change in name or address within 10
4 days of such change. A registered designated caregiver or compassion
5 center staffer who fails to notify the department of any of these changes is
6 subject to a civil penalty of no more than \$150 levied by the department.

7 (4) When a cardholder notifies the department of any changes listed
8 in this subsection, the department shall issue the cardholder a new
9 registry identification card with new random 20-digit alphanumeric
10 identification numbers within 10 days of receiving the updated
11 information and a \$10 fee. If the person notifying the department is a
12 registered qualifying patient, the department shall also issue the patient's
13 registered designated caregiver, if any, a new registry identification card
14 within 10 days of receiving the updated information.

15 (5) When a registered qualifying patient ceases to be a registered
16 qualifying patient or changes the registered designated caregiver, the
17 department shall notify the designated caregiver within 10 days. The
18 registered designated caregiver's protections under this act as to that
19 qualifying patient shall expire 10 days after notification by the
20 department.

21 (6) If a cardholder loses the registry identification card, the
22 cardholder shall notify the department and submit a \$10 fee within 10
23 days of losing the card. Within five days after such notification, the
24 department shall issue a new registry identification card with a new
25 random identification number to the cardholder and, if the cardholder is a
26 registered qualifying patient, to the registered qualifying patient's
27 registered designated caregiver, if any.

28 (g) Mere possession of, or application for, a registry identification
29 card shall not constitute probable cause or reasonable suspicion, nor shall
30 it be used to support the search of the person or property of the person
31 possessing or applying for the registry identification card. The possession
32 of, or application for, a registry identification card shall not preclude the
33 existence of probable cause if probable cause exists on other grounds.

34 (h) The following confidentiality rules shall apply:

35 (1) Applications and supporting information submitted by qualifying
36 patients and designated caregivers, including information regarding their
37 designated caregivers and practitioners, are confidential.

38 (2) Applications and supporting information submitted by
39 compassion centers and compassion center personnel operating in
40 compliance with this act, including the physical addresses of compassion
41 centers, are confidential.

42 (3) The department shall maintain a confidential list of the persons
43 to whom the department has issued registry identification cards.

1 Individual names and other identifying information on the list shall be
2 confidential, exempt from the Kansas open records act, and not subject to
3 disclosure, except to authorized employees of the department as
4 necessary to perform official duties of the department and as provided in
5 paragraph (4) of this subsection.

6 (4) Within 90 days of the effective date of this act, the department
7 shall establish a secure, password-protected, web-based verification
8 system that is operational 24 hours each day, which law enforcement
9 personnel and compassion center staffers can use to verify registry
10 identification cards. The verification system must allow law enforcement
11 personnel and compassion center staffers to enter in a registry
12 identification number to determine whether or not the number
13 corresponds with a current, valid ID card. The system shall disclose the
14 name and photograph of the cardholder but shall not disclose the
15 cardholder's address. The system shall also display the amount and
16 quantity of cannabis that each registered qualifying patient received from
17 compassion centers during the past 60 days. The system shall allow
18 compassion center staffers to add the amount of cannabis dispensed to
19 registered qualifying patients, directly or through their designated
20 caregivers, and the date and time the cannabis was dispensed. The
21 verification system must include the following data security features:

22 (A) Any time an authorized user enters five invalid registry
23 identification numbers within five minutes, that user cannot log in to the
24 system again for 10 minutes; and

25 (B) the server must reject any log-in request that is not over an
26 encrypted connection.

27 (5) Any hard drives containing cardholder information must be
28 destroyed once they are no longer in use, and the department shall retain a
29 signed statement from a department employee confirming the destruction.

30 (6) (A) It shall be a class B misdemeanor for any person, including
31 an employee or official of the department or another state agency or local
32 government, to breach the confidentiality of information obtained
33 pursuant to this act.

34 (B) Notwithstanding this provision, this section shall not prevent the
35 following notifications:

36 (i) Department employees may notify law enforcement about
37 falsified or fraudulent information submitted to the department, so long as
38 the employee who suspects that falsified or fraudulent information has
39 been submitted confers with such employee's supervisor and both agree
40 that circumstances exist that warrant reporting;

41 (ii) the department may notify state or local law enforcement about
42 apparent criminal violations of this act, if the employee who suspects the
43 offense confers with such employee's supervisor and both agree that

1 circumstances exist that warrant reporting; and

2 (iii) compassion center staffers may notify the department of a
3 suspected violation or attempted violation of this act or the rules and
4 regulations issued pursuant to it.

5 (i) Any cardholder who sells cannabis to a person who is not
6 allowed to possess cannabis for medical purposes under this act shall
7 have the cardholder's identification card revoked and shall be subject to
8 other penalties for the unauthorized sale of cannabis. The department may
9 revoke the registry identification card of any cardholder who violates this
10 act, and the cardholder shall be subject to any other penalties for the
11 violation.

12 (j) The department shall submit to the legislature an annual report
13 that does not disclose any identifying information about cardholders,
14 compassion centers or practitioners but does contain, at a minimum, all of
15 the following information:

16 (1) The number of applications and renewals filed for registry
17 identification cards;

18 (2) the number of qualifying patients and designated caregivers
19 approved in each county;

20 (3) the nature of the debilitating medical conditions of the qualifying
21 patients;

22 (4) the number of registry identification cards revoked;

23 (5) the number of practitioners providing written certifications for
24 qualifying patients;

25 (6) the number of registered compassion centers; and

26 (7) the number of compassion center staffers.

27 (k) Where a state-funded or locally funded law enforcement agency
28 encounters an individual who, during the course of the investigation,
29 credibly asserts that such individual is a registered cardholder or an entity
30 whose personnel credibly assert that it is a compassion center, the law
31 enforcement agency shall not provide any information from any
32 cannabis-related investigation of the person to any law enforcement
33 authority that does not recognize the protection of this act, and any
34 prosecution of the individual, individuals or entity for a violation of this
35 act shall be conducted pursuant to the laws of this state. The application
36 for qualifying patients' registry identification cards shall include a
37 question asking whether the patient would like the department to notify
38 the patient of any clinical studies regarding cannabis' risk or efficacy that
39 seek human subjects. The department shall inform those patients who
40 answer in the affirmative of any such studies it is notified of that will be
41 conducted in the United States.

42 New Sec. 8. (a) Except as provided in section 9, and amendments
43 thereto, a patient may assert the medical purpose for using cannabis as a

1 defense to any prosecution of an offense involving cannabis intended for
2 the patient's medical use, and this defense shall be presumed valid where
3 the evidence shows that:

4 (1) A practitioner has stated that, in the practitioner's professional
5 opinion, after having completed a full assessment of the patient's medical
6 history and current medical condition made in the course of a bona fide
7 practitioner-patient relationship, the patient is likely to receive therapeutic
8 or palliative benefit from the medical use of cannabis to treat or alleviate
9 the patient's serious or debilitating medical condition or symptoms
10 associated with the patient's serious or debilitating medical condition; and

11 (2) the patient and the patient's designated caregiver, if any, were
12 collectively in possession of a quantity of cannabis that was not more
13 than was reasonably necessary to ensure the uninterrupted availability of
14 cannabis for the purpose of treating or alleviating the patient's serious or
15 debilitating medical condition or symptoms associated with the patient's
16 serious or debilitating medical condition; and

17 (3) the patient was engaged in the acquisition, possession,
18 cultivation, manufacture, use or transportation of cannabis, paraphernalia,
19 or both, relating to the administration of cannabis solely to treat or
20 alleviate the patient's serious or debilitating medical condition or
21 symptoms associated with the patient's serious or debilitating medical
22 condition.

23 (b) A person may assert the medical purpose for using cannabis in a
24 motion to dismiss, and the charges shall be dismissed following an
25 evidentiary hearing where the person shows the elements listed in
26 subsection (a).

27 (c) If a patient demonstrates the patient's medical purpose for using
28 cannabis pursuant to this section, except as provided in section 9, and
29 amendments thereto, the patient and the patient's designated caregiver
30 shall not be subject to the following for the patient's use of cannabis for
31 medical purposes: (1) Disciplinary action by an occupational or
32 professional licensing board or bureau; or (2) forfeiture of any interest in
33 or right to non-cannabis, licit property.

34 New Sec. 9. (a) This act shall not permit any person to do any of the
35 following, nor shall it prevent the imposition of any civil, criminal or
36 other penalties for any such actions:

37 (1) Undertake any task under the influence of cannabis, when doing
38 so would constitute negligence or professional malpractice.

39 (2) Possess cannabis, or otherwise engage in the medical use of
40 cannabis: (A) In a school bus; or (B) on the grounds of any preschool or
41 primary or secondary school; or (C) in any correctional facility.

42 (3) Smoke cannabis: (A) On any form of public transportation; or
43 (B) in any public place.

1 (4) Operate, navigate or be in actual physical control of any motor
2 vehicle, aircraft or motorboat while under the influence of cannabis.
3 However, a registered qualifying patient shall not be considered to be
4 under the influence of cannabis solely because of the presence of
5 metabolites or components of cannabis that appear in insufficient
6 concentration to cause impairment.

7 (5) Use cannabis if that person does not have a serious or
8 debilitating medical condition.

9 (b) Nothing in this act shall be construed to require:

10 (1) A government medical assistance program or private health
11 insurer to reimburse a person for costs associated with the medical use of
12 cannabis;

13 (2) any person or establishment in lawful possession of property to
14 allow a guest, client, customer or other visitor to use cannabis on or in
15 that property. This act shall not limit a person or entity in lawful
16 possession of property, or an agent of such person or entity, from
17 expelling a person who uses cannabis without permission from their
18 property and from seeking civil and criminal penalties for the
19 unauthorized use of cannabis on their property; or

20 (3) an employer to accommodate the ingestion of cannabis in any
21 workplace or any employee working while under the influence of
22 cannabis, provided that a qualifying patient shall not be considered to be
23 under influence of cannabis solely because of the presence of metabolites
24 or components of cannabis that appear in insufficient concentration to
25 cause impairment. This act shall in no way limit an employer's ability to
26 discipline an employee for ingesting cannabis in the workplace or
27 working while under the influence of cannabis.

28 (c) Fraudulent representation to a law enforcement official of any
29 fact or circumstance relating to the medical use of cannabis to avoid
30 arrest or prosecution shall be punishable by a fine of \$500, which shall be
31 in addition to any other penalties that may apply for making a false
32 statement or for the use of cannabis other than use undertaken pursuant to
33 this act.

34 New Sec. 10. (a) If the department fails to adopt rules and
35 regulations to implement this act within 90 days of the effective date of
36 this act, a qualifying patient or a prospective board member or
37 prospective principal officer of a compassion center may commence an
38 action in district court to compel the department to perform the actions
39 mandated pursuant to the provisions of this act.

40 (b) If the department fails to issue a valid registry identification card
41 in response to a valid application or renewal submitted pursuant to this
42 act within 20 days of its submission, the registry identification card shall
43 be deemed granted, and a copy of the registry identification application or

1 renewal shall be deemed a valid registry identification card.

2 (c) If at any time after the 110 days following the effective date of
3 this act, the department is not accepting applications, including if it has
4 not created rules and regulations allowing qualifying patients to submit
5 applications, a notarized statement by a qualifying patient containing the
6 information required in an application, pursuant to subsection (a) of
7 section 7, and amendments thereto, together with a written certification
8 shall be deemed a valid registry identification card.

9 New Sec. 11. (a) There is established within the department of
10 health and environment a compassion board. The board shall consist of
11 11 members appointed by the secretary of health and environment. The
12 secretary, insofar as possible, shall appoint persons from different
13 geographical areas and persons who represent various economic interests.
14 If a vacancy occurs on the board, the secretary shall appoint a person to
15 fill the vacant position for the unexpired term, if any. Members of the
16 board shall be appointed for terms of three years and until their
17 successors are appointed and qualified, except that of the members first
18 appointed by the secretary on or after the effective date of this act, three
19 shall be appointed for a term of one year, three shall be appointed for a
20 term of two years and five shall be appointed for a term of three years, as
21 designated by the secretary. The board shall advise the secretary about the
22 administration of the cannabis compassion and care act and shall perform
23 such duties as are required by this act.

24 (b) Members of the board attending meetings of the board, or
25 attending a subcommittee meeting thereof authorized by the board, shall
26 be paid amounts provided in subsection (e) of K.S.A. 75-3223, and
27 amendments thereto, from moneys appropriated to the department of
28 health and environment.

29 Sec. 12. K.S.A. 79-5210 is hereby amended to read as follows: 79-
30 5210. Nothing in this act requires persons registered under article 16 of
31 chapter 65 of the Kansas Statutes Annotated or otherwise lawfully in
32 possession of cannabis or a controlled substance to pay the tax required
33 under this act, *except that persons lawfully in possession of cannabis*
34 *under the cannabis compassion and care act shall pay the tax required by*
35 *K.S.A. 75-5201 et seq., and amendments thereto.*

36 New Sec. 13. Any section of this act being held invalid as to any
37 person or circumstances shall not affect the application of any other
38 section of this act that can be given full effect without the invalid section
39 or application.

40 Sec. 14. K.S.A. 79-5210 is hereby repealed.

41 Sec. 15. This act shall take effect and be in force from and after its
42 publication in the statute book.

43

