

Session of 2021

House Substitute for SENATE BILL No. 158

By Committee on Federal and State Affairs

3-31

1 AN ACT concerning health and healthcare; enacting the Kansas medical
2 marijuana regulation act; relating to medical cannabis; licensure and
3 regulation of the manufacture, transportation and sale of medical
4 cannabis; crimes, punishment and criminal procedure; creating the
5 crime of unlawful transport of medical marijuana; exceptions from the
6 unlawful manufacture and possession of a controlled substance;
7 prescribing powers, duties and functions of the secretary of health and
8 environment, secretary of revenue, board of healing arts and board of
9 pharmacy; rules and regulations; providing certain fines and penalties
10 for violations; establishing the medical marijuana registration fund,
11 ~~medical marijuana cultivation regulation fund~~ and the medical
12 marijuana business entity regulation fund; amending K.S.A. 44-1009,
13 44-1015, 65-28b08, 79-5201 and 79-5210 and K.S.A. 2020 Supp. 21-
14 5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 23-3201, 38-
15 2269, 44-501, 44-706 and 65-1120 and repealing the existing sections.
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17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. The provisions of sections 1 through ~~52~~, and
19 amendments thereto, shall be known and may be cited as the Kansas
20 medical marijuana regulation act.

21 New Sec. 2. As used in the Kansas medical marijuana regulation act,
22 section 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) "Associated employee" means an owner or prospective owner,
26 officer or board member or prospective board member of an entity seeking
27 a retail dispensary license.

28 (c) "Board of healing arts" means the state board of healing arts.

29 (d) "Caregiver" means an individual registered pursuant to section 8,
30 and amendments thereto, who may purchase and possess medical
31 marijuana in accordance with section 11, and amendments thereto.

32 (e) "Cultivator" means a person issued a license pursuant to section
33 ~~21~~, and amendments thereto, who may grow and sell medical marijuana in
34 accordance with section ~~22~~, and amendments thereto.

35 (f) "Distributor" means a person issued a license pursuant to section
36 ~~31~~, and amendments thereto, who may purchase and sell medical

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- 1 marijuana in accordance with section ~~33~~, and amendments thereto.
- 2 (g) "Electronic cigarette" means the same as defined in K.S.A. 79-
3 3301, and amendments thereto.
- 4 (h) "Key employee" means a manager or other person responsible for
5 the daily operation of a licensed retail dispensary.
- 6 (i) "Marijuana" means the same as defined in K.S.A. 65-4101, and
7 amendments thereto.
- 8 (j) "Medical marijuana" means marijuana that is cultivated,
9 processed, tested, dispensed, possessed or used for a medical purpose.
- 10 (k) "Owned and controlled" means ownership of at least 51% of the
11 business, including corporate stock if a corporation, control over the
12 management and day-to-day operations of the business and an interest in
13 the capital, assets and profits and losses of the business proportionate to
14 such owner's percentage of ownership.
- 15 (l) "Patient" means an individual registered pursuant to section 8, and
16 amendments thereto, who may purchase and possess medical marijuana in
17 accordance with section 10, and amendments thereto.
- 18 (m) "Postsecondary educational institution" means the same as
19 defined in K.S.A. 74-3201b, and amendments thereto.
- 20 (n) "Processor" means a person issued a license pursuant to section
21 31, and amendments thereto, who may purchase, process and sell medical
22 marijuana in accordance with section ~~32~~, and amendments thereto.
- 23 (o) "Physician" means an individual licensed to practice medicine and
24 surgery in this state and who is certified by the board of healing arts to
25 recommend treatment with medical marijuana pursuant to section 17, and
26 amendments thereto.
- 27 (p) "Physician's designee" means:
28 (1) A registered nurse, licensed practical nurse, respiratory therapist,
29 emergency medical responder, paramedic, dental hygienist, pharmacy
30 technician or pharmacy intern who has registered for access to the program
31 database as an agent of a practitioner or pharmacist to request program
32 data on behalf of the practitioner or pharmacist;
- 33 (2) a death investigator who has registered for limited access to the
34 program database as an agent of a medical examiner, coroner or another
35 person authorized under law to investigate or determine causes of death; or
36 (3) an individual authorized by rules and regulations adopted by the
37 board of healing arts to access the prescription monitoring program
38 database by the board of healing arts in rules and regulations.
- 39 (q) "Qualifying medical condition" means any of the following:
40 (1) Acquired immune deficiency syndrome;
41 (2) Alzheimer's disease;
42 (3) amyotrophic lateral sclerosis;
43 (4) cancer;

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- 1 (5) chronic traumatic encephalopathy;
- 2 (6) Crohn's disease;
- 3 (7) epilepsy or another seizure disorder;
- 4 (8) fibromyalgia;
- 5 (9) glaucoma;
- 6 (10) hepatitis C;
- 7 (11) inflammatory bowel disease;
- 8 (12) multiple sclerosis;
- 9 (13) Parkinson's disease;
- 10 (14) positive status for human immunodeficiency virus;
- 11 (15) post-traumatic stress disorder;
- 12 (16) sickle cell anemia;
- 13 (17) spinal cord disease or injury;
- 14 (18) Tourette's syndrome;
- 15 (19) traumatic brain injury;
- 16 (20) ulcerative colitis;
- 17 (21) a chronic medical condition that:
 - 18 (A) Causes severe, persistent pain or persistent muscle spasms; or
 - 19 (B) is normally treated with a prescription medication that could lead
 - 20 to physical or psychological dependence if a licensed physician determines
 - 21 that treatment for such condition with medical marijuana would be
 - 22 effective and would serve as a safer alternative;
 - 23 (22) a debilitating psychiatric disorder that is diagnosed by a
 - 24 physician licensed in this state who is board-certified in the practice of
 - 25 psychiatry, as determined by the board of healing arts; or
 - 26 (23) any other chronic, debilitating or terminal condition that, in the
 - 27 professional judgment of a physician licensed by in this state, would be a
 - 28 detriment to the patient's mental or physical health if left untreated.
 - 29 (r) "Retail dispensary" means a person issued a license pursuant to
 - 30 section 34, and amendments thereto, who may purchase and sell medical
 - 31 marijuana in accordance with section 35, and amendments thereto.
 - 32 (s) "Smoking" means the use of a lighted cigarette, cigar or pipe or
 - 33 otherwise burning marijuana in any other form for the purpose of
 - 34 consuming such marijuana.
 - 35 (t) "Support employee" means an individual employed by a licensed
 - 36 retail dispensary who does not have authority to make operational
 - 37 decisions.
 - 38 (u) "Vaporization" means the use of an electronic cigarette for the
 - 39 purpose of consuming medical marijuana in which such medical marijuana
 - 40 comes into direct contact with a heating element.
 - 41 (v) "Veteran" means a person who:
 - 42 (1) Has served in the army, navy, marine corps, air force, coast guard,
 - 43 space force, any state air or army national guard or any branch of the

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1 and eligibility requirements for registration;
2 (2) establish procedures for the issuance of patient or caregiver
3 identification cards;
4 (3) establish a renewal schedule, renewal procedures and renewal
5 fees for registrations;
6 (4) subject to the provisions of subsection (b), specify, by form and
7 tetrahydrocannabinol content, a maximum 30-day supply of medical
8 marijuana that may be possessed;
9 (5) specify the forms or methods of using medical marijuana that are
10 attractive to children;
11 ~~(6) establish procedures for reviewing, approving and denying~~
12 ~~petitions for approval of new forms or methods of using medical~~
13 ~~marijuana; and~~
14 ~~(7) establish a program to assist patients who are indigent or who are~~
15 ~~veterans in obtaining medical marijuana.~~
16 (b) Any maximum supply of medical marijuana that may be
17 purchased or possessed by a patient or caregiver shall allow at least three
18 ounces of dried, unprocessed medical marijuana or its equivalent as a 30-
19 day supply and allow for exceptions from any such limitation upon
20 submission of a written certification from two independent physicians that
21 there are compelling reasons for the patient or caregiver to purchase and
22 possess greater quantities of medical marijuana.
23 (c) When adopting rules and regulations under this section, the
24 secretary shall consider standards and procedures that have been found to
25 be best practices relative to the use and regulation of medical marijuana.
26 New Sec. 15. On or before July 1, 2022, the department of health and
27 environment shall make a website available for the public to access
28 information regarding patient and caregiver registration under the Kansas
29 medical marijuana regulation act.
30 New Sec. 16. A medical marijuana registry identification card, or its
31 equivalent, that is issued under the laws of another state, district, territory,
32 commonwealth or insular possession of the United States that is verifiable
33 by the jurisdiction of issuance and allows a nonresident patient to possess
34 medical marijuana for medical purposes shall have the same force and
35 effect as an identification card issued by the secretary pursuant to this act
36 if the nonresident patient has not been residing in this state for more than
37 180 days.
38 New Sec. 17. (a) Except as provided in subsection (j), a physician
39 seeking to recommend treatment with medical marijuana shall apply to the
40 board of healing arts for a certificate authorizing such physician to
41 recommend treatment with medical marijuana. The application shall be
42 submitted in such form and manner as prescribed by the board. The board
43 shall grant a certificate to recommend if the following conditions are

and



1 (M) whose spouse has been convicted of a felony or other crime that
2 would disqualify a person from licensure under this section if such felony
3 or other crime was committed during the time that the spouse held a
4 license under this act;

5 (N) who has not been a resident of this state for at least four years
6 immediately preceding the date of application. A license shall be forfeited
7 if an individual licensee ceases to be a resident of this state at any time
8 after the license is granted;

9 (O) who does not provide any data or information required by the
10 director under this act; or

11 (P) who, after a hearing before the director, has been found to have
12 held an undisclosed beneficial interest in any license issued pursuant to
13 this act that was obtained by means of fraud or any false statement made
14 on the application for such license;

15 (2) not be issued to a corporation if less than 75% of the total equity
16 or similar ownership interest in such ~~corporation~~ is owned by individuals
17 who have been residents of this state for at least two years immediately
18 preceding the date of the application. A license shall be forfeited if, for
19 more than 90 consecutive days, less than 75% of the total equity or similar
20 ownership interest in such ~~corporation~~ is owned by individuals who are
21 residents of this state at any time after the license is granted; and

22 (3) require that any:

23 (A) Transfer of a license shall be reported to and approved by the
24 director. The director shall not approve any transfer of a license to any
25 individual or entity that does not satisfy the requirements of this section at
26 the time of the transfer;

27 (B) change in ownership of a corporation shall be reported to the
28 director within 30 days after such change occurs. If such change would
29 result in less than 75% of the total equity or similar ownership interest in
30 such ~~corporation~~ being owned by individuals who have been residents of
31 this state for at least two years, then such entity shall have 90 days to
32 ensure that 75% or greater of such equity or ownership interest is held by
33 individuals who are residents in Kansas or the license of such entity shall
34 be forfeited to the director;

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

43 (i) Includes any distribution that is made by individuals or other

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1 entities to one or more out-of-state individuals holding an equity or similar
2 ownership interest in the entity if such distribution is greater than 25% of
3 the total distributed amount; and
4 (ii) does not include payments of fixed amounts that are determined
5 prior to the commencement of applicable services or payments of variable
6 amounts based on verifiable quantities multiplied by a predetermined and
7 reasonably fixed rate.
8 (b) No retail dispensary license shall be issued to:
9 (1) A person who:
10 (A) Has not been a resident of this state for at least four years
11 immediately preceding the date of application; or
12 (B) has a beneficial interest in any other dispensary licensed under
13 this act, except that the spouse of a licensee may own and hold a license
14 for another dispensary;
15 (2) a copartnership, unless all of the copartners are qualified to obtain
16 a license;
17 (3) a corporation; or
18 (4) a trust, if any grantor, beneficiary or trustee would be ineligible to
19 receive a license under this act for any reason, except that the provisions of
20 subsection (a)(6) shall not apply in determining whether a beneficiary
21 would be eligible for a license.
22 (c) No cultivator's license shall be issued to:
23 (1) A corporation, if any officer or director thereof, or any
24 stockholder owning in the aggregate more than 25% of the stock of the
25 corporation would be ineligible to receive a cultivator's license;
26 (2) a copartnership, unless all of the copartners shall have been
27 residents of this state for at least five years immediately preceding the date
28 of application and unless all the members of the copartnership would be
29 eligible to receive a cultivator's license under this act;
30 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
31 receive a license under this act for any reason, except that the provisions of
32 subsection (a)(6) shall not apply in determining whether a beneficiary
33 would be eligible for a license; or
34 (4) an individual who has not been a resident of this state for at least
35 five years immediately preceding the date of application.
36 (d) No distributor's license shall be issued to:
37 (1) A corporation, if any officer, director or stockholder of the
38 corporation would be ineligible to receive a distributor's license for any
39 reason. It shall be unlawful for any stockholder of a corporation licensed
40 as a distributor to transfer any stock in the corporation to any person who
41 would be ineligible to receive a distributor's license for any reason, and
42 any such transfer shall be null and void, except that if:
43 (A) Any stockholder owning stock in the corporation dies and an heir

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1 or devisee to whom stock of ~~the corporation~~ transfers by descent and
2 distribution or by will is ineligible to receive a distributor's license, the
3 legal representatives of the deceased stockholder's estate and the ineligible
4 heir or devisee shall have 14 months from the date of the death of the
5 stockholder within which to sell the stock to a person eligible to receive a
6 distributor's license. Any such sale by a legal representative shall be made
7 in accordance with the provisions of the probate code; or

such entity

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8 (B) the stock in any such ~~corporation~~ is the subject of any trust and
9 any trustee or beneficiary of the trust who is 18 years of age or older is
10 ineligible to receive a distributor's license, the trustee, within 14 months
11 after the effective date of the trust, shall sell the stock to a person eligible
12 to receive a distributor's license and hold and disburse the proceeds in
13 accordance with the terms of the trust. If any legal representatives, heirs,
14 devisees or trustees fail, refuse or neglect to sell any stock as required by
15 this subparagraph, the stock shall revert to and become the property of ~~the~~
16 ~~corporation~~, and ~~the corporation~~ shall pay to the legal representatives,
17 heirs, devisees or trustees the book value of the stock. During the period of
18 14 months prescribed by this paragraph, ~~the corporation~~ shall not be
19 denied a distributor's license or have its distributor's license revoked if ~~the~~
20 ~~corporation~~ meets all of the other requirements necessary to have a
21 distributor's license;

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22 (2) a copartnership, unless all of the copartners are eligible to receive
23 a distributor's license; or

24 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
25 receive a license under this act for any reason, except that the provisions of
26 subsection ~~(a)(6)~~ shall not apply in determining whether a beneficiary
27 would be eligible for a license.

75%

28 (e) No processor's license shall be issued to a:

29 (1) Copartnership, unless all of the copartners are qualified to obtain a
30 license;

31 (2) corporation, unless stockholders owning in the aggregate ~~50%~~ or
32 more of the stock of ~~the corporation~~ would be eligible to receive such
33 license and all other stockholders would be eligible to receive such license
34 except for reason of citizenship or residency; or

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such entity

35 (3) a trust, if any grantor, beneficiary or trustee would be ineligible to
36 receive a license under this act for any reason, except that the provisions of
37 subsection ~~(a)(6)~~ shall not apply in determining whether a beneficiary
38 would be eligible for a license.

39 ~~New Sec. 21. (a) Any entity that seeks to cultivate medical marijuana~~
40 ~~or to conduct laboratory testing of medical marijuana shall submit an~~
41 ~~application for the appropriate license to the director of alcoholic beverage~~
42 ~~control in such form and manner as prescribed by the director. A separate~~
43 ~~license application shall be submitted for each location to be operated by~~

1 ~~the licensee.~~

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

3 ~~(1) The criminal history record check conducted pursuant to section~~
4 ~~48, and amendments thereto, with respect to the applicant demonstrates~~
5 ~~that the applicant is not disqualified from holding a license pursuant to~~
6 ~~section 20, and amendments thereto;~~

7 ~~(2) the applicant is not applying for a laboratory license and~~
8 ~~demonstrates that it does not have an ownership or investment interest in~~
9 ~~or compensation arrangement with a laboratory licensed under this section~~
10 ~~or an applicant for such license;~~

11 ~~(3) the applicant is not applying for a laboratory license and~~
12 ~~demonstrates that it does not share any corporate officers or employees~~
13 ~~with a laboratory licensed under this section or an applicant for such~~
14 ~~license;~~

15 ~~(4) the applicant demonstrates that it will not violate the provisions of~~
16 ~~section 47, and amendments thereto;~~

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

19 ~~(6) the 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 shall issue not less than 15% of cultivator and~~
23 ~~laboratory licenses to entities that are owned and controlled by United~~
24 ~~States citizens who are residents of this state and are members of one of~~
25 ~~the following economically disadvantaged groups: Blacks or African~~
26 ~~Americans, American Indians, Hispanics or Latinos and Asians. If no~~
27 ~~applications or an insufficient number of applications are submitted by~~
28 ~~such entities that meet the conditions set forth in subsection (b), licenses~~
29 ~~shall be issued in accordance with subsections (a) and (b).~~

30 ~~(d) A license shall be valid for a period of one year from the date such~~
31 ~~license is issued and may be renewed by submitting a license renewal~~
32 ~~application and paying the required fee.~~

33 New Sec. 22. (a) A cultivator licensee may cultivate medical
34 marijuana in an area either on open farmland or in a building and
35 designated by the licensee. A licensee may deliver or sell medical
36 marijuana to one or more licensed processors, distributors or dispensaries.

37 (b) A licensee may submit an application to the director of alcoholic
38 beverage control for approval of an expansion of such licensee's
39 cultivation area. Expansion approval applications shall be submitted in
40 such form and manner as prescribed by the director and shall include an
41 expansion plan that shall include the following:

42 (1) Specifications for the expansion or alteration that demonstrate
43 compliance with all applicable zoning ordinances, building codes and any

1 including, but not limited to, the department of health and environment,
2 the Kansas bureau of investigation and the state fire marshal.
3 New Sec. 24. (a) A laboratory licensee shall:
4 (1) Not be owned by a person who is a direct or indirect beneficial
5 owner of a retail dispensary, cultivator, processor or distributor;
6 (2) comply with all applicable local ordinances, including but not
7 limited to zoning, occupancy, licensing and building codes;
8 (3) obtain a separate license for each laboratory;
9 (4) comply with the application requirements of this section and
10 submit any information required by the director of alcoholic beverage
11 control;
12 (5) establish policies to prevent the existence of or appearance of
13 undue commercial, financial or other influences that diminish, or have the
14 effect of diminishing the public confidence in, the competency,
15 impartiality and integrity of the testing processes or results of such
16 laboratory. Such policies shall prohibit employees, owners or agents of a
17 laboratory who participate in any aspect of the analysis and results of a
18 sample from improperly influencing the testing process, manipulating data
19 or benefiting from any ongoing financial, employment, personal or
20 business relationship with the licensee that submitted the sample for
21 testing;
22 (6) not test samples for any licensee in which an owner, employee or
23 agent of the laboratory has any form of ownership or financial interest in
24 the licensee that submitted the sample for testing;
25 (7) promptly provide the director access to:
26 (A) A report of a test and any underlying data that is conducted on a
27 sample at the request of a licensee or registered patient; and
28 (B) laboratory premises and to any material or information requested
29 by the director to determine compliance with the requirements of this
30 section;
31 (8) retain all results of laboratory tests conducted on medical
32 marijuana or marijuana products for a period of at least two years and shall
33 make them available to the director upon request;
34 (9) establish standards, policies and procedures for laboratory testing
35 procedures in accordance with section 23, and amendments thereto;
36 (10) (A) test samples from each harvest batch or product batch, as
37 appropriate, of medical marijuana, medical marijuana concentrate and
38 medical marijuana product for each of the following categories of testing,
39 consistent with standards developed by the director:
40 (i) Microbials;
41 (ii) mycotoxins;
42 (iii) residual solvents;
43 (iv) pesticides;

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1 (v) tetrahydrocannabinol and other cannabinoid potency;
2 (vi) terpenoid potency type and concentration;
3 (vii) moisture content;
4 (viii) homogeneity; and
5 (ix) heavy metals; and
6 (B) only accept a test batch of usable medical marijuana or marijuana
7 product for testing purposes from a:
8 (i) Cultivator that has separated each harvest lot of usable marijuana
9 into harvest batches containing no more than 10 pounds, except harvest
10 batches of fresh, uncured medical marijuana or fresh or frozen medical
11 marijuana to be sold to a processor in order to make a concentrate may be
12 separated into batches containing no more than 20 pounds; and
13 (ii) processor that has separated each medical marijuana production
14 lot into production batches containing no more than 10 pounds.
15 (b) A laboratory licensee may:
16 (1) Accept samples of medical marijuana, medical marijuana
17 concentrate or medical marijuana product from:
18 (A) A licensee or any entity designated in section 50, and
19 amendments thereto, for testing and research purposes only, including the
20 provision of testing services for samples submitted by a licensee for
21 product development. A laboratory shall not be prohibited from obtaining a
22 license under this section due to such laboratory performing testing and
23 research on medical marijuana and medical marijuana products for any
24 entity designated in section 50, and amendments thereto; or
25 (B) an individual person for testing if such person is a:
26 (i) Registered patient or caregiver under this act and such person
27 provides the laboratory with the individual's registration identification and
28 a valid photo identification; or
29 (ii) participant in an approved clinical or observational study
30 conducted by a research facility;
31 (2) transfer samples to another licensed laboratory for testing. All
32 laboratory reports provided to or by a licensee or to a patient or caregiver
33 shall identify the laboratory that performed the testing of the sample that is
34 submitted; and
35 (3) utilize a licensed distributor to transport samples of medical
36 marijuana, medical marijuana concentrates and medical marijuana product
37 for testing, in accordance with this act, between the original licensee
38 requesting testing services and the destination licensed laboratory
39 performing testing services.
40 New Sec. 25. (a) In consultation with the compliance and quality
41 assurance testing laboratory contracted with pursuant to section 23, and
42 amendments thereto, the director of alcoholic beverage control shall
43 propose rules and regulations as necessary to develop acceptable testing

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1 and research practices in consultation with the contracted compliance and
2 quality assurance testing laboratory, including, but not limited to, testing,
3 standards, quality control analysis, equipment certification and calibration
4 and chemical identification and substances used in bona fide research
5 methods. After the hearing on a proposed rule and regulation has been held
6 as required by law, the director shall submit any such proposed rule and
7 regulation to the secretary of revenue who, if the secretary approves it,
8 shall adopt the rule and regulation.

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

11 (1) The cleanliness and orderliness of the premises of a licensed
12 laboratory and the establishing of licensed laboratories in secured
13 locations;

14 (2) the inspection, cleaning and maintenance of any equipment or
15 utensils used for the analysis of test samples;

16 (3) testing procedures and standards for cannabinoid and terpenoid
17 potency and safe levels of contaminants and appropriate remediation and
18 validation procedures;

19 (4) controlled access areas for storage of medical marijuana and
20 medical marijuana product test samples, waste and reference standards;

21 (5) records to be retained and computer systems to be utilized by the
22 laboratory;

23 (6) the possession, storage and use by the laboratory of reagents,
24 solutions and reference standards;

25 (7) a certificate of analysis for each lot of reference standard;

26 (8) the transport and disposal of unused marijuana, marijuana
27 products and waste;

28 (9) the mandatory use by a laboratory of an inventory tracking system
29 to ensure all test harvest and production batches or samples containing
30 medical marijuana, medical marijuana concentrate or medical marijuana
31 products are identified and tracked from the point they are transferred from
32 a licensee or a registered patient or caregiver through the point of transfer,
33 destruction or disposal. The inventory tracking system reporting shall
34 include the results of any tests that are conducted;

35 (10) the employment of laboratory personnel;

36 (11) a written standard operating procedure manual to be maintained
37 and updated by the laboratory;

38 (12) the successful participation in a proficiency testing program
39 approved by the director for conducting each testing required by section
40 24, and amendments thereto, in order to obtain and maintain certification;

41 (13) the establishment of and adherence to a quality assurance and
42 quality control program to ensure sufficient monitoring of laboratory
43 processes and the quality of results reported;

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1 (14) the immediate recall of medical marijuana or medical marijuana
2 products that test above allowable thresholds or are otherwise determined
3 to be unsafe;

4 (15) the establishment by the laboratory of a system to document the
5 complete chain of custody for samples from receipt through disposal;

6 (16) the establishment by the laboratory of a system to retain and
7 maintain all required records, including business records, and processes to
8 ensure results are reported in a timely and accurate manner; and

9 (17) any other aspect of laboratory testing of medical marijuana or
10 medical marijuana product deemed necessary by the director.

11 New Sec. 26. (a) A laboratory licensee may:

12 (1) Obtain medical marijuana from one or more licensed cultivators, 23
13 processors or retail dispensaries; and

14 (2) conduct medical marijuana testing in accordance with the
15 requirements of section 24, and amendments thereto, and rules and
16 regulations adopted by the secretary of revenue.

17 (b) (1) Licensure of laboratories shall be contingent upon the
18 successful onsite inspection, participation in proficiency testing and
19 ongoing compliance with the requirements of this act.

20 (2) A laboratory shall be inspected prior to initial licensure and up to
21 six times annually by an inspector approved by the director of alcoholic
22 beverage control. The director may enter the licensed premises of a
23 laboratory to conduct investigations and additional inspections when the
24 director believes an investigation or additional inspection is necessary due
25 to a possible violation of this act.

26 (3) After January 1, 2022, accreditation by the national environmental
27 laboratory accreditation program, ANSI/ASQ national accreditation board
28 or another accrediting body approved by the director shall be required for
29 licensure and renewal of licensure of laboratories.

30 ~~New Sec. 27. (a) The fees for a cultivator license shall be set by rules
31 and regulations adopted by the secretary of revenue in an amount not to
32 exceed an annual fee of:~~

33 ~~(1) \$5,000 for the license application; and~~

34 ~~(2) \$20 per plant at the time of licensing and each subsequent renewal
35 for the maximum number of flowering medical marijuana plants, based
36 upon a declaration by the applicant, that are cultivated by the licensee in
37 the facility at any given time.~~

38 ~~(b) The fees for a laboratory license shall be set by rules and
39 regulations adopted by the secretary of revenue in an amount not to
40 exceed:~~

41 ~~(1) \$2,000 for a laboratory license application;~~

42 ~~(2) \$18,000 for a laboratory license; and~~

43 ~~(3) \$20,000 for a renewal of a laboratory license.~~

1 ~~New Sec. 28. The director of alcoholic beverage control may refuse~~
2 ~~to issue or renew a license, or may revoke or suspend a license for any of~~
3 ~~the following reasons:~~

4 ~~(a) The applicant has failed to comply with any provision of the~~
5 ~~Kansas medical marijuana regulation act or any rules and regulations~~
6 ~~adopted thereunder;~~

7 ~~(b) the applicant has falsified or misrepresented any information~~
8 ~~submitted to the director in order to obtain a license;~~

9 ~~(c) the applicant has failed to adhere to any acknowledgment,~~
10 ~~verification or other representation made to the director when applying for~~
11 ~~a license;~~

12 ~~(d) the applicant has failed to submit or disclose information~~
13 ~~requested by the director; or~~

14 ~~(e) the applicant has failed to demonstrate that the person, limited~~
15 ~~liability company or corporation whose ownership on the date of issuance~~
16 ~~consists of at least 50% residents of Kansas.~~

17 ~~New Sec. 29. (a) In addition to or in lieu of any other civil or criminal~~
18 ~~penalty as provided by law, the director of alcoholic beverage control may~~
19 ~~impose a civil penalty or suspend or revoke a license upon a finding that~~
20 ~~the licensee committed a violation as provided in this section.~~

21 ~~(b) (1) Upon a finding that a licensee has submitted fraudulent~~
22 ~~information or otherwise falsified or misrepresented information required~~
23 ~~to be submitted by such licensee, the director may impose a civil fine not~~
24 ~~to exceed \$5,000 for a first offense and may suspend or revoke such~~
25 ~~licensee's license for a second or subsequent offense.~~

26 ~~(2) Upon a finding that a licensee has sold, transferred or otherwise~~
27 ~~distributed medical marijuana in violation of this act, the director may~~
28 ~~impose a civil fine not to exceed \$5,000 for a first offense and may~~
29 ~~suspend or revoke such licensee's license for a second or subsequent~~
30 ~~offense.~~

31 ~~(c) If the director suspends, revokes or refuses to renew any license~~
32 ~~issued pursuant to this act and determines that there is clear and~~
33 ~~convincing evidence of a danger of immediate and serious harm to any~~
34 ~~person, the director may place under seal all medical marijuana owned by~~
35 ~~or in the possession, custody or control of the affected license holder.~~
36 ~~Except as provided in this section, the director shall not dispose of the~~
37 ~~sealed medical marijuana until a final order is issued authorizing such~~
38 ~~disposition. During the pendency of an appeal from any order by the~~
39 ~~director, a court may order the director to sell medical marijuana that is~~
40 ~~perishable, and the proceeds of any such sale shall be deposited with the~~
41 ~~court.~~

42 ~~New Sec. 30. (a) There is hereby established the medical marijuana~~
43 ~~cultivation regulation fund in the state treasury. The director of alcoholic~~

43

1 ~~beverage control shall administer the medical marijuana cultivation~~
2 ~~regulation fund and shall remit all moneys collected from the payment by~~
3 ~~cultivators and laboratories of all fees and fines imposed by the director~~
4 ~~pursuant to the Kansas medical marijuana regulation act and any other~~
5 ~~moneys received by or on behalf of the director pursuant to such act to the~~
6 ~~state treasurer in accordance with the provisions of K.S.A. 75-4215, and~~
7 ~~amendments thereto. Upon receipt of each such remittance, the state~~
8 ~~treasurer shall deposit the entire amount in the state treasury to the credit~~
9 ~~of the medical marijuana cultivation regulation fund. Moneys credited to~~
10 ~~the medical marijuana cultivation regulation fund shall only be expended~~
11 ~~or transferred as provided in this section. Expenditures from such fund~~
12 ~~shall be made in accordance with appropriation acts upon warrants of the~~
13 ~~director of accounts and reports issued pursuant to vouchers approved by~~
14 ~~the director or the director's designee.~~

15 ~~(b) Moneys in the medical marijuana cultivation regulation fund shall~~
16 ~~be used for the payment or reimbursement of costs related to the regulation~~
17 ~~and enforcement of the cultivation, possession, testing and sale of medical~~
18 ~~marijuana by the division of alcoholic beverage control.~~

19 New Sec. 31. (a) Any entity that seeks to process or distribute
20 medical marijuana shall submit an application for the appropriate license
21 to the director of alcoholic beverage control in such form and manner as
22 prescribed by the director. A separate license application shall be submitted
23 for each location to be operated by the licensee.

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

25 (1) The criminal history record check conducted pursuant to section
26 48, and amendments thereto, with respect to the applicant demonstrates
27 that the applicant is not disqualified from holding a license pursuant to
28 section 20, and amendments thereto;

29 (2) the applicant demonstrates that it does not have an ownership or
30 investment interest in or compensation arrangement with a laboratory
31 licensed under section 21, and amendments thereto, or an applicant for
32 such license;

Or

33 (3) the applicant demonstrates that it does not share any corporate
34 officers or employees with a laboratory licensed under section 21, and
35 amendments thereto, or an applicant for such license,

36 (4) the applicant demonstrates that it will not violate the provisions of
37 section 47, and amendments thereto;

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

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

43 (c) The director shall issue not less than 15% of processor and

(1) An application for the appropriate license shall be submitted to the director of alcoholic beverage control in such form and manner as prescribed by the director by

person or

:
(A) Cultivate medical marijuana;
(B) conduct laboratory testing of medical marijuana;
(C)

;
(D) dispense medical marijuana at retail; or
(E) be an associated employee, key employee or support employee.
(2)

is not applying for a laboratory license and

(B)

:
(A)

licensed

licensed

cultivator, laboratory,

42

,

and retail dispensary

1 distributor licenses to entities that are owned and controlled by United
2 States citizens who are residents of this state and are members of one of
3 the following economically disadvantaged groups: Blacks or African
4 Americans, American Indians, Hispanics or Latinos and Asians. If no
5 applications or an insufficient number of applications are submitted by
6 such entities that meet the conditions set forth in subsection (b), licenses
7 shall be issued in accordance with subsections (a) and (b).

(1)

(A)

8 (d) A license shall be valid for a period of one year from the date such
9 license is issued, and may be renewed by submitting a license renewal
10 application and paying the required fee.

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

12 (1) Obtain medical marijuana from one or more licensed cultivators
13 or processors;

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

17 (3) deliver or sell processed medical marijuana to one or more
18 licensed processors, distributors or retail dispensaries.

19 (b) When packaging medical marijuana for final retail sale, a licensed
20 processor shall:

21 (1) Package the medical marijuana in accordance with child-resistant
22 effectiveness standards described in 16 C.F.R. § 1700.15(b) in effect on
23 July 1, 2021;

24 (2) label the medical marijuana packaging with the product's
25 tetrahydrocannabinol and cannabidiol content; and

26 (3) comply with any packaging or labeling requirements established
27 by rules and regulations adopted by the secretary of revenue.

28 New Sec. 33. (a) A distributor licensee may:

29 (1) Purchase at wholesale medical marijuana from one or more
30 licensed processors and cultivators;

31 (2) store medical marijuana obtained from one or more licensed
32 processors in a form described in section 36, and amendments thereto; and

33 (3) deliver, package for finale sale or sell processed medical
34 marijuana to one or more licensed retail dispensaries.

35 (b) When storing or selling medical marijuana, a licensed distributor
36 shall ensure that such medical marijuana meets the packaging and labeling
37 requirements established by rules and regulations adopted by the secretary
38 of revenue.

39 ~~New Sec. 34. (a) Any entity that seeks to dispense at retail medical~~
40 ~~marijuana shall submit an application for a retail dispensary license in such~~
41 ~~form and manner as prescribed by the director of alcoholic beverage~~
42 ~~control. A separate license application shall be submitted for each location~~
43 ~~to be operated by the licensee.~~

to a cultivator, laboratory, processor
and distributor; and
(B) two years from the date such
license is issued to a retail dispensary
or any associated employee, key
employee or support employee.
(2) Any license

31

1 ~~(b) The director shall issue a license to an applicant if:~~
2 ~~(1) The criminal history record check conducted pursuant to section~~
3 ~~48, and amendments thereto, with respect to the applicant demonstrates~~
4 ~~that the applicant is not disqualified from holding a license pursuant to~~
5 ~~section 20, and amendments thereto;~~
6 ~~(2) the applicant demonstrates that it does not have an ownership or~~
7 ~~investment interest in or compensation arrangement with a laboratory~~
8 ~~licensed under section 21, and amendments thereto, or an applicant for~~
9 ~~such license;~~
10 ~~(3) the applicant demonstrates that it does not share any corporate~~
11 ~~officers or employees with a laboratory licensed under section 21, and~~
12 ~~amendments thereto, or an applicant for such license;~~
13 ~~(4) the applicant demonstrates that it will not violate the provisions of~~
14 ~~section 47, and amendments thereto;~~
15 ~~(5) the applicant has submitted a tax clearance certificate issued by~~
16 ~~the department of revenue; and~~
17 ~~(6) the applicant meets all other licensure eligibility conditions~~
18 ~~established in rules and regulations adopted by the secretary and has paid~~
19 ~~all required fees.~~
20 ~~(c) The director shall issue not less than 15% of retail dispensary~~
21 ~~licenses to entities that are owned and controlled by United States citizens~~
22 ~~who are residents of this state and are members of one of the following~~
23 ~~economically disadvantaged groups: Blacks or African Americans,~~
24 ~~American Indians, Hispanics or Latinos and Asians. If no application or an~~
25 ~~insufficient number of applications are submitted by such entities that meet~~
26 ~~the conditions set forth in subsection (b), licenses shall be issued in~~
27 ~~accordance with subsections (a) and (b).~~
28 ~~(d) Each associated, key and support employee of a licensed retail~~
29 ~~dispensary shall submit an application for an employee license for such~~
30 ~~employee in such form and manner as prescribed by the director. A~~
31 ~~separate license application shall be submitted for each employee. The~~
32 ~~director shall issue a license to an applicant if all of the following~~
33 ~~conditions are met:~~
34 ~~(1) The criminal history record check conducted pursuant to section~~
35 ~~48, and amendments thereto, with respect to the applicant demonstrates~~
36 ~~that the applicant is not disqualified from holding a license pursuant to~~
37 ~~section 20, and amendments thereto; and~~
38 ~~(2) the applicant meets all other licensure eligibility conditions~~
39 ~~established in rules and regulations adopted by the secretary of revenue~~
40 ~~and has paid all required fees.~~
41 ~~(e) A license shall be valid for a period of two years from the date~~
42 ~~such license is issued and may be renewed by submitting a license renewal~~
43 ~~application and paying the required fee.~~

43

1 New Sec. 35. (a) A retail dispensary licensee may:
2 (1) Obtain medical marijuana from one or more licensed cultivators,
3 processors or distributors; and
4 (2) dispense or sell medical marijuana in accordance with subsection
5 (b).
6 (b) When dispensing or selling medical marijuana, a retail dispensary
7 shall:
8 (1) Dispense or sell medical marijuana only to a person who shows a
9 current, valid identification card and only in accordance with a written
10 recommendation issued by a physician;
11 (2) report to the prescription monitoring program database the
12 information required by K.S.A. 65-1683, and amendments thereto, and
13 rules and regulations adopted by the board of pharmacy pursuant to section
14 43, and amendments thereto;
15 (3) ensure that the package containing medical marijuana is labeled
16 with the following information:
17 (A) The name and address of the licensed processor that produced the
18 product and the retail dispensary;
19 (B) the name of the patient and caregiver, if any;
20 (C) the name of the physician who recommended treatment with
21 medical marijuana;
22 (D) the directions for use, if any, as recommended by the physician;
23 (E) a health warning as specified in rules and regulations adopted by
24 the secretary of health and environment;
25 (F) the date on which the medical marijuana was dispensed; and
26 (G) the quantity, strength, kind or form of medical marijuana
27 contained in the package;
28 (4) package the medical marijuana in accordance with child-resistant
29 effectiveness standards described in 16 C.F.R. § 1700.15(b), as in effect on
30 July 1, 2021; and
31 (5) dispense or sell medical marijuana in an official tamper-proof
32 Kansas specific package that is clearly marked and approved by the
33 director.
34 (c) A retail dispensary shall employ only those individuals who hold a
35 current, valid employee license issued pursuant to section 34, and
36 amendments thereto, and who have completed the training requirements
37 established by rules and regulations adopted by the secretary of revenue.
38 (d) A retail dispensary shall designate a pharmacist consultant who is
39 a pharmacist licensed in this state and registered pursuant to section 44,
40 and amendments thereto.
41 (e) A retail dispensary shall not make public any information it
42 collects that identifies or would tend to identify any specific patient.
43 New Sec. 36. (a) Only the following forms of medical marijuana may

38

26

recommended by the director of
alcoholic beverage control and

39

1 be dispensed under the Kansas medical marijuana regulation act:

- 2 (1) Oils;
- 3 (2) tinctures;
- 4 (3) plant material;
- 5 (4) edibles;
- 6 (5) patches; or
- 7 (6) any other form approved by the secretary of revenue under section
- 8 37, and amendments thereto.

32

9 (b) The smoking, combustion or vaporization of medical marijuana is
10 prohibited.

11 (c) Any form or method of using medical marijuana that is considered
12 attractive to children is prohibited.

13 (d) Plant material shall have a tetrahydrocannabinol content of not
14 more than 35% in its final, dispensed form.

15 (e) Extracts shall have a tetrahydrocannabinol content of not more
16 than 70% in their final, dispensed form.

17 (f) No form of medical marijuana shall be dispensed from a vending
18 machine or through electronic commerce.

19 New Sec. 37. (a) Any person may submit a petition to the director of
20 alcoholic beverage control requesting that a form or method of using
21 medical marijuana be approved for the purposes of section 36, and
22 amendments thereto. The petition shall be submitted in such form and
23 manner as prescribed by the director.

24 (b) Upon receipt of a petition, the director shall review such petition
25 to determine whether to recommend approval of the form or method of
26 using medical marijuana described in the petition. The director may
27 consolidate the review of petitions for the same or similar forms or
28 methods. The director shall consult with the medical marijuana advisory
29 committee and review any relevant scientific evidence when reviewing a
30 petition. The director shall recommend to the secretary of revenue whether
31 to approve or deny the proposed form or method of using medical
32 marijuana. The secretary shall approve or deny such proposed form or
33 method. The secretary's decision shall be final.

34 (c) Any petition that is recommended for denial by the director shall
35 not be resubmitted until 12 months have elapsed since the petition was
36 submitted.

37 New Sec. 38. (a) The fees for a processor license shall be set by rules
38 and regulations adopted by the secretary of revenue in an amount not to
39 exceed:

- 40 (1) \$5,000 for a processor license application; and
- 41 (2) \$40,000 for a processor license and any renewal thereof.
- 42 (b) The fees for a distributor license shall be set by rules and
43 regulations adopted by the secretary of revenue in an amount not to

31

The fees for a cultivator license shall be set by rules and regulations adopted by the secretary of revenue in an amount not to exceed an annual fee of:

- (1) \$5,000 for the license application; and
- (2) \$20 per plant at the time of licensing and each subsequent renewal for the maximum number of flowering medical marijuana plants, based upon a declaration by the applicant, that are cultivated by the licensee in the facility at any given time.

(b) The fees for a laboratory license shall be set by rules and regulations adopted by the secretary of revenue in an amount not to exceed:

- (1) \$2,000 for a laboratory license application;
- (2) \$18,000 for a laboratory license; and
- (3) \$20,000 for a renewal of a laboratory license.

(c)

1 exceed:
2 (1) \$5,000 for a distributor license application; and
3 (2) \$40,000 for a distributor license and any renewal thereof.
4 (c) The fees for a retail dispensary license shall be set by rules and
5 regulations adopted by the secretary of revenue in an amount not to
6 exceed:
7 (1) \$5,000 for a retail dispensary license application;
8 (2) \$40,000 for a retail dispensary license and any renewal thereof;
9 (3) \$500 for each associated employee license application;
10 (4) \$250 for each key employee license application; and
11 (5) \$100 for each support employee license application.
12 New Sec. 39. The director of alcoholic beverage control may refuse
13 to issue or renew a license, or may revoke or suspend a license if the
14 applicant has:
15 (a) Failed to comply with any provision of the Kansas medical
16 marijuana regulation act or any rules and regulations adopted thereunder;
17 (b) falsified or misrepresented any information submitted to the
18 director in order to obtain a license;
19 (c) failed to adhere to any acknowledgment, verification or other
20 representation made to the director when applying for a license; or
21 (d) failed to submit or disclose information requested by the director.
22 New Sec. 40. (a) In addition to or in lieu of any other civil or criminal
23 penalty as provided by law, the director of alcoholic beverage control may
24 impose a civil penalty or suspend or revoke a license upon a finding that
25 the licensee committed a violation as provided in this section.
26 (b) (1) Upon a finding that a licensee has submitted fraudulent
27 information or otherwise falsified or misrepresented information required
28 to be submitted by such licensee, the director may impose a civil fine not
29 to exceed \$5,000 for a first offense and may suspend or revoke such
30 licensee's license for a second or subsequent offense.
31 (2) (A) Except as provided in ~~paragraph (B), upon a finding that a~~
32 licensee has ~~sold, transferred or otherwise distributed~~ medical marijuana in
33 violation of this act, the director may impose a civil fine not to exceed
34 \$5,000 for a first offense and may suspend or revoke such licensee's
35 license for a second or subsequent offense.
36 (B) Upon a finding that a retail dispensary licensee has knowingly
37 disclosed patient information to any individual, the director shall impose a
38 civil fine of \$5,000 and revoke such licensee's license.
39 (c) The director may require any licensee to submit a sample of
40 medical marijuana, medical marijuana concentrate or medical marijuana
41 product to a laboratory upon demand.
42 (d) If the director suspends, revokes or refuses to renew any license
43 issued pursuant to this act and determines that there is clear and

cultivated,
tested,
processed,

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

10 New Sec. 41. (a) There is hereby established the medical marijuana
11 business entity regulation fund in the state treasury. The director of
12 alcoholic beverage control shall administer the medical marijuana business
13 entity regulation fund and shall remit all moneys collected from the
14 payment by processors, distributors ~~and~~ retail dispensaries of all fees and
15 fines imposed by the director pursuant to the Kansas medical marijuana
16 regulation act and any other moneys received by or on behalf of the
17 director pursuant to such act to the state treasurer in accordance with the
18 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
19 each such remittance, the state treasurer shall deposit the entire amount in
20 the state treasury to the credit of the medical marijuana business entity
21 regulation fund. Moneys credited to the medical marijuana business entity
22 regulation fund shall only be expended or transferred as provided in this
23 section. Expenditures from such fund shall be made in accordance with
24 appropriation acts upon warrants of the director of accounts and reports
25 issued pursuant to vouchers approved by the director or the director's
26 designee.

27 (b) Moneys in the medical marijuana business entity regulation fund
28 shall be used for the payment or reimbursement of costs related to the
29 regulation and enforcement of the possession, processing and sale of
30 medical marijuana by the division of alcoholic beverage control.

31 New Sec. 42. (a) On or before July 1, 2022, the secretary of revenue
32 shall, after consulting with the medical marijuana advisory committee,
33 adopt rules and regulations to administer the Kansas medical marijuana
34 regulation program and implement and enforce the provisions of ~~the~~
35 ~~Kansas medical marijuana regulation act~~. Such rules and regulations shall:

- 36 (1) Establish application procedures and fees for licenses issued
37 under ~~sections 21, 26, 31 and 34~~, and amendments thereto;
38 (2) specify the conditions for eligibility for licensure;
39 (3) establish a license renewal schedule, renewal procedures and
40 renewal fees;
41 (4) establish standards and procedures for the testing of medical
42 marijuana by a licensed laboratory;
43 (5) establish official packaging requirements that designate the

,

, associated employees, key employees and support employees

cultivation, testing, distributing,

director of alcoholic beverage control shall propose rules and regulations to administer the Kansas medical marijuana regulation act and the

this

section

- 1 health insurer or a workers' compensation carrier or self-insured employer
2 providing workers' compensation benefits to reimburse a person for costs
3 associated with the use of medical marijuana;
- 4 (d) affect the ability of an employer to implement policies to promote
5 workplace health and safety by restricting the use of marijuana by
6 employees;
- 7 (e) prohibit an employer from:
- 8 (1) Establishing and enforcing a drug testing policy, drug-free
9 workplace policy or zero-tolerance drug policy;
- 10 (2) disciplining an employee for a violation of a workplace drug
11 policy or for working while under the influence of marijuana; or
- 12 (3) including a provision in any contract that prohibits the use of
13 marijuana; or
- 14 (f) prevent an employer from, because of a person's violation of a
15 workplace drug policy or because that person was working while under the
16 influence of marijuana:
- 17 (1) Refusing to hire;
- 18 (2) discharging;
- 19 (3) disciplining; or
- 20 (4) otherwise taking an adverse employment action against a person
21 with respect to hiring decisions, tenure, terms, conditions or privileges of
22 employment

23 New Sec. 52. The provisions of the Kansas medical marijuana
24 regulation act are hereby declared to be severable. If any part or provision
25 of the Kansas medical marijuana regulation act is held to be void, invalid
26 or unconstitutional, such part or provision shall not affect or impair any of
27 the remaining parts or provisions of the Kansas medical marijuana
28 regulation act, and any such remaining provisions shall continue in full
29 force and effect.

30 New Sec. 53. (a) No person shall transport medical marijuana as
31 defined in section 2, and amendments thereto, in any vehicle upon a
32 highway or street unless such medical marijuana is in the.

33 (1) Original, sealed packaging that is in compliance with the
34 requirements of section 35, and amendments thereto, and rules and
35 regulations adopted by the secretary of revenue, and the seal of which has
36 not been broken and any other means of closure has not been removed;

37 (2) locked rear trunk or rear compartment or any locked outside
38 compartment that is not accessible to any person in the vehicle while it is
39 in motion. If a motor vehicle is not equipped with a trunk, then such
40 medical marijuana shall be behind the last upright seat or in an area not
41 normally occupied by the driver or a passenger; or

42 (3) exclusive possession of a passenger in a vehicle that is a
43 recreational vehicle, as defined by K.S.A. 75-1212, and amendments

30

recommended by the
director of alcoholic
beverage control and

1 (1) Drug severity level 2 felony, except as provided in subsections (b)
2 (2) and (b)(3);
3 (2) drug severity level 1 felony if:
4 (A) The controlled substance is not methamphetamine, as defined by
5 ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(3) or (f)(1), and
6 amendments thereto, or an analog thereof; and
7 (B) the offender has a prior conviction for unlawful manufacturing of
8 a controlled substance under this section, K.S.A. 65-4159, prior to its
9 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially
10 similar offense from another jurisdiction and the substance was not
11 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-
12 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any
13 such prior conviction; and
14 (3) drug severity level 1 felony if the controlled substance is
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.
17 (c) The provisions of ~~subsection (d) of~~ K.S.A. 2020 Supp. 21-
18 5301(d), and amendments thereto, shall not apply to a violation of
19 attempting to unlawfully manufacture any controlled substance or
20 controlled substance analog pursuant to this section.
21 (d) For persons arrested and charged under this section, bail shall be
22 at least \$50,000 cash or surety, and such person shall not be released upon
23 the person's own recognizance pursuant to K.S.A. 22-2802, and
24 amendments thereto, unless the court determines, on the record, that the
25 defendant is not likely to re-offend, the court imposes pretrial supervision,
26 or the defendant agrees to participate in a licensed or certified drug
27 treatment program.
28 (e) The sentence of a person who violates this section shall not be
29 subject to statutory provisions for suspended sentence, community service
30 work or probation.
31 (f) The sentence of a person who violates this section, K.S.A. 65-
32 4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its
33 transfer, shall not be reduced because these sections prohibit conduct
34 identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their
35 repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2020
36 Supp. 21-5705, and amendments thereto.
37 (g) *The provisions of this section shall not apply to a cultivator*
38 *licensed by the director of alcoholic beverage control pursuant to section*
39 *21, and amendments thereto, or a processor licensed by the director of*
40 *alcoholic beverage control pursuant to section 31, and amendments*
41 *thereto, that is producing medical marijuana, as defined in section 2, and*
42 *amendments thereto, when used for acts authorized by the Kansas medical*
43 *marijuana regulation act, section 1 et seq., and amendments thereto.*

26

or processor



1 (B) drug severity level 2 felony if the number of plants cultivated was
2 at least 50 but fewer than 100; and
3 (C) drug severity level 1 felony if the number of plants cultivated was
4 100 or more.
5 (e) In any prosecution under this section, there shall be a rebuttable
6 presumption of an intent to distribute if any person possesses the following
7 quantities of controlled substances or analogs thereof:
8 (1) 450 grams or more of marijuana;
9 (2) 3.5 grams or more of heroin or methamphetamine;
10 (3) 100 dosage units or more containing a controlled substance; or
11 (4) 100 grams or more of any other controlled substance.
12 (f) It shall not be a defense to charges arising under this section that
13 the defendant:
14 (1) Was acting in an agency relationship on behalf of any other party
15 in a transaction involving a controlled substance or controlled substance
16 analog;
17 (2) did not know the quantity of the controlled substance or
18 controlled substance analog; or
19 (3) did not know the specific controlled substance or controlled
20 substance analog contained in the material that was distributed or
21 possessed with the intent to distribute.
22 (g) *The provisions of subsections (a)(4) and (a)(5) shall not apply to:*
23 (1) *Any cultivator licensed by the director of alcoholic beverage*
24 *control pursuant to section 21, and amendments thereto, or any employee*
25 *or agent thereof, that is growing medical marijuana for the purpose of*
26 *sale to a licensed processor as authorized by section 22, and amendments*
27 *thereto;*
28 (2) *any processor licensed by the director of alcoholic beverage*
29 *control pursuant to section 31, and amendments thereto, or any employee*
30 *or agent thereof, that is processing medical marijuana for the purpose of*
31 *sale or distribution to a licensed processor, distributor or retail dispensary*
32 *as authorized by section 32, and amendments thereto;*
33 (3) *any distributor licensed by the director of alcoholic beverage*
34 *control pursuant to section 31, and amendments thereto, or any employee*
35 *or agent thereof, that is storing or distributing medical marijuana for the*
36 *purpose of wholesale or distribution to a licensed retail dispensary as*
37 *authorized by section 33, and amendments thereto; or*
38 (4) *any retail dispensary licensed by the director of alcoholic*
39 *beverage control pursuant to section 34, and amendments thereto, or any*
40 *employee or agent thereof, that is engaging in the sale of medical*
41 *marijuana in a manner authorized by section 35, and amendments thereto.*
42 (h) As used in this section:
43 (1) "Material" means the total amount of any substance, including a

for medical marijuana as defined in section 2, and amendments thereto,

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1 by the board according to the statutes relating to procedure in the district
2 court. All costs accrued by the board, when it is the successful party, and
3 ~~which~~ *that* the attorney general certifies cannot be collected from the
4 applicant or licensee shall be paid from the board of nursing fee fund. All
5 moneys collected following board proceedings shall be credited in full to
6 the board of nursing fee fund.

7 (e) *Professional incompetency defined.* As used in this section,
8 "professional incompetency" means:

9 (1) One or more instances involving failure to adhere to the
10 applicable standard of care to a degree ~~which~~ *that* constitutes gross
11 negligence, as determined by the board;

12 (2) repeated instances involving failure to adhere to the applicable
13 standard of care to a degree ~~which~~ *that* constitutes ordinary negligence, as
14 determined by the board; or

15 (3) a pattern of practice or other behavior ~~which~~ *that* demonstrates a
16 manifest incapacity or incompetence to practice nursing.

17 (f) *Criminal justice information.* The board upon request shall receive
18 from the Kansas bureau of investigation such criminal history record
19 information relating to arrests and criminal convictions as necessary for
20 the purpose of determining initial and continuing qualifications of
21 licensees of and applicants for board.

22 (g) *Medical marijuana exemption. The board shall not:*

23 (1) ~~Deny, revoke, limit or suspend the license of any licensee under~~
24 ~~the Kansas medical marijuana regulation act, section 1 et seq., and~~
25 ~~amendments thereto;~~

26 ~~(2) publicly or privately censure any licensee for any actions as a~~
27 ~~registered patient or caregiver pursuant to section 8, and amendments~~
28 ~~thereto, including whether the licensee possesses or has possessed, or uses~~
29 ~~or has used medical marijuana in accordance with the Kansas medical~~
30 ~~marijuana regulation act, section 1 et seq., and amendments thereto;~~

31 ~~(3) deny, revoke, limit or suspend an advanced practice registered~~
32 ~~nurse's license or publicly or privately censure an advanced practice~~
33 ~~registered nurse for any of the following:~~

34 (A) *The advanced practice registered nurse has:*

35 (i) *Advised a patient about the possible benefits and risks of using*
36 *medical marijuana; or*

37 (ii) *advised a patient that using medical marijuana may mitigate the*
38 *patient's symptoms; or*

39 (B) *the advanced practice registered nurse is a registered patient or*
40 *caregiver pursuant to section 8, and amendments thereto, possesses or has*
41 *possessed, or uses or has used medical marijuana in accordance with the*
42 *Kansas medical marijuana regulation act, section 1 et seq., and*
43 *amendments thereto.*

Or