

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.

16

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

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;

- 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

1 military reserves of the United States; and

2 (2) has been separated from the branch of service in which the person
3 was honorably discharged or received a general discharge under honorable
4 conditions.

5 New Sec. 3. (a) No person shall grow, harvest, process, sell, barter,
6 transport, deliver, furnish or otherwise possess any form of marijuana,
7 except as specifically provided in the Kansas medical marijuana regulation
8 act or the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et
9 seq., and amendments thereto.

10 (b) Nothing in the Kansas medical marijuana regulation act shall be
11 construed to:

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

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

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

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

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

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

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

31 New Sec. 4. (a) There is hereby established a Kansas medical
32 marijuana regulation program.

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

37 (c) The board of healing arts shall administer the program in
38 accordance with the provisions of this act and provide for the certification
39 authorizing physicians to recommend medical marijuana.

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

1 (e) The director of alcoholic beverage control shall administer the
2 program in accordance with the provisions of this act and provide for the
3 licensure of cultivators, laboratories that test medical marijuana,
4 processors, distributors and retail dispensaries.

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

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

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

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

15 (C) one member who represents employers;

16 (D) one member who represents agriculture;

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

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

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

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

23 (B) one member who represents caregivers;

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

26 (4) two members appointed by the speaker of the house of
27 representatives as follows:

28 (A) One member who represents persons involved in mental health
29 treatment; and

30 (B) one member who represents patients;

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

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

35 (b) The initial appointments to the committee shall be made on or
36 before July 31, 2021.

37 (c) Except for the secretary of health and environment, each member
38 of the committee shall serve from the date of appointment until the
39 committee ceases to exist, except that members shall serve at the pleasure
40 of the appointing authority. A vacancy shall be filled within 21 days of
41 such vacancy in the same manner as the original appointment.

42 (d) Each member of the committee shall be paid compensation,
43 subsistence allowances, mileage and other expenses as provided in K.S.A.

1 75-3223(e), and amendments thereto.

2 (e) The committee shall hold its initial meeting not later than 30 days
3 after the last member of the committee is appointed. The committee may
4 develop and submit to the secretary of health and environment and the
5 director of alcoholic beverage control any recommendations related to the
6 Kansas medical marijuana regulation program and the implementation and
7 enforcement of this act.

8 (f) The medical marijuana advisory committee shall make
9 recommendations to the secretary of health and environment and the
10 director of alcoholic beverage control regarding those offenses that would
11 disqualify an applicant from registration or licensure by the respective
12 state agency. The committee shall annually review such offenses and make
13 any subsequent recommendations the committee deems necessary.

14 (g) Prior to January 31 of each year, the medical marijuana advisory
15 committee shall provide a report to the legislature detailing any concerns
16 or recommended changes that the committee has for the medical marijuana
17 regulation act.

18 (h) The provisions of this section shall expire on July 1, 2026.

19 New Sec. 6. (a) Except as permitted under subsection (c), the
20 following individuals shall not solicit or accept, directly or indirectly, any
21 gift, gratuity, emolument or employment from any person who is an
22 applicant for any license or is a licensee under the provisions of the Kansas
23 medical marijuana regulation act or any officer, agent or employee thereof,
24 or solicit requests from or recommend, directly or indirectly, to any such
25 person, the appointment of any individual to any place or position:

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

28 (2) the secretary of revenue, the director of alcoholic beverage control
29 or any officer, employee or agent of the division of alcoholic beverage
30 control;

31 (3) any member of the board of pharmacy; or

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

33 (b) Except as permitted under subsection (c), an applicant for a
34 license or a licensee under the provisions of the Kansas medical marijuana
35 regulation act shall not offer any gift, gratuity, emolument or employment
36 to any of the following:

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

39 (2) the secretary of revenue, the director of alcoholic beverage control
40 or any officer, employee or agent of the division of alcoholic beverage
41 control;

42 (3) any member of the board of pharmacy; or

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

1 (c) The board of healing arts, the board of pharmacy, the secretary of
2 health and environment and the secretary of revenue may adopt rules and
3 regulations for their respective agencies allowing the acceptance of official
4 hospitality by members of the board of healing arts, the board of pharmacy
5 or the respective secretary and employees of each such respective agency,
6 subject to any limits as prescribed by such rules and regulations.

7 (d) If any member of the board of healing arts, the board of
8 pharmacy, the secretary of health and environment, the secretary of
9 revenue or any employee of each such respective agency violates any
10 provision of this section, such person shall be removed from such person's
11 office or employment.

12 (e) Violation of any provision of this section is a misdemeanor
13 punishable by a fine of not to exceed \$500 or imprisonment of not less
14 than 60 days nor more than six months, or both such fine and
15 imprisonment.

16 (f) Nothing in this section shall be construed to prohibit the
17 prosecution and punishment of any person for bribery as defined in the
18 Kansas criminal code.

19 New Sec. 7. All actions taken by the board of healing arts, the board
20 of pharmacy, the secretary of health and environment or the director of
21 alcoholic beverage control under the Kansas medical marijuana regulation
22 act shall be in accordance with the Kansas administrative procedure act
23 and reviewable in accordance with the Kansas judicial review act.

24 New Sec. 8. (a) A patient seeking to use medical marijuana or a
25 caregiver seeking to assist a patient in the use or administration of medical
26 marijuana shall apply to the department of health and environment for
27 registration. The physician who is treating the patient, or such physician's
28 designee, shall submit the application on the patient's or caregiver's behalf
29 in such form and manner as prescribed by the secretary of health and
30 environment.

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

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

33 (A) A bona fide physician-patient relationship exists between the
34 physician and patient;

35 (B) the patient has been diagnosed with a qualifying medical
36 condition;

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

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

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

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

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

9 (4) in the case of a patient who is a minor, the name of the patient's
10 parent or legal guardian who has consented to treatment with medical
11 marijuana and who shall be designated as the patient's caregiver.

12 (c) If the application is complete and meets the requirements of this
13 act and rules and regulations adopted thereunder and the patient or
14 caregiver has paid the required fee, the secretary of health and
15 environment shall register the patient or caregiver and issue to the patient
16 or caregiver an identification card.

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

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

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

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

28 (e) Any information collected by the department of health and
29 environment pursuant to this section is confidential and not a public
30 record. The department may share information identifying a specific
31 patient with a licensed retail dispensary or any law enforcement agency for
32 the purpose of confirming that such patient has a valid registration.
33 Information that does not identify a person may be released in summary,
34 statistical or aggregate form. The provisions of this subsection shall expire
35 on July 1, 2026, unless the legislature reviews and reenacts such
36 provisions in accordance with K.S.A. 45-229, and amendments thereto,
37 prior to July 1, 2026.

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

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

42 (2) \$25 for a patient registration if the patient is indigent or is a
43 veteran; and

1 (3) \$25 for a caregiver registration.

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

5 New Sec. 9. The department of health and environment shall assign a
6 unique 24-character identification number to each registered patient and
7 caregiver when issuing an identification card. Licensed retail dispensaries
8 may request verification by the department that a patient or caregiver has a
9 valid registration.

10 New Sec. 10. (a) A patient registered pursuant to section 8, and
11 amendments thereto, who obtains medical marijuana from a licensed retail
12 dispensary may:

13 (1) Use medical marijuana;

14 (2) subject to subsection (b), possess medical marijuana; and

15 (3) possess any paraphernalia or accessories used to administer
16 medical marijuana.

17 (b) A registered patient may possess medical marijuana in an amount
18 not to exceed a 30-day supply.

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

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

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

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

29 (3) possess any paraphernalia or accessories used to administer
30 medical marijuana.

31 (b) A registered caregiver may possess medical marijuana on behalf
32 of a registered patient in an amount not to exceed a 30-day supply. If a
33 caregiver provides care to more than one registered patient, the caregiver
34 shall maintain separate inventories of medical marijuana for each patient.

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

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

43 (b) Nothing in this act shall be construed to require the secretary to

1 enforce minor violations if the secretary determines that the public interest
2 is adequately served by a notice or warning to the alleged offender.

3 (c) Upon a finding that a registrant has submitted fraudulent
4 information or otherwise falsified or misrepresented information required
5 to be submitted by such registrant, the secretary may impose a civil fine of
6 not to exceed \$500 for a first offense and may suspend or revoke the
7 individual's registration for a second or subsequent offense.

8 (d) If the secretary suspends, revokes or refuses to renew any
9 registration issued pursuant to this act and determines that there is clear
10 and convincing evidence of a danger of immediate and serious harm to any
11 person, the secretary may place under seal all medical marijuana owned by
12 or in the possession, custody or control of the affected registrant. Except as
13 provided in this section, the secretary shall not dispose of the sealed
14 medical marijuana until a final order is issued authorizing such disposition.
15 During the pendency of an appeal from any order issued by the secretary, a
16 court may order the secretary to sell medical marijuana that is perishable,
17 and the proceeds of any such sale shall be deposited with the court.

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

33 (b) Moneys in the medical marijuana registration fund shall be used
34 for the payment or reimbursement of costs related to the regulation and
35 enforcement of the possession and use of medical marijuana by the
36 secretary.

37 New Sec. 14. (a) On or before July 1, 2022, the secretary of health
38 and environment shall, after consulting with the medical marijuana
39 advisory committee, adopt rules and regulations to administer the Kansas
40 medical marijuana regulation program and implement and enforce the
41 provisions of the Kansas medical marijuana regulation act. Such rules and
42 regulations shall:

43 (1) Establish procedures for registration of patients and caregivers

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

1 satisfied:

2 (1) The application is complete and meets the requirements
3 established in rules and regulations adopted by the board of healing arts;
4 and

5 (2) the applicant demonstrates that the applicant does not have an
6 ownership or investment interest in or compensation arrangement with an
7 entity licensed by the department of health and environment or the director
8 of alcoholic beverage control under this act or an applicant for such
9 licensure.

10 (b) Pursuant to rules and regulations adopted by the board of healing
11 arts, a certificate to recommend shall:

12 (A) Expire annually unless renewed in the manner prescribed by the
13 board; and

14 (B) be accompanied by an annual fee in an amount not to exceed
15 \$175.

16 (2) Renewal of a certificate to recommend shall be conditioned upon
17 the holder's certification of having met the requirements in subsection (a)
18 and having completed at least two hours of continuing medical education
19 in medical marijuana annually in accordance with subsection (g).

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

23 (1) The patient has been diagnosed with a qualifying medical
24 condition;

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

27 (3) a review of all old medical records, particularly relating to the
28 medical indication for the tetrahydrocannabinol recommendation, and a
29 physical exam have been performed;

30 (4) the recommending physician has a certification to recommend
31 pursuant to section 18, and amendments thereto;

32 (5) the recommending physician, or physician's designee, reports all
33 medical marijuana recommendations for all patients to the prescription
34 monitoring program in accordance with K.S.A. 65-1683, and amendments
35 thereto; and

36 (6) for a patient who has previously had medical marijuana
37 recommended for use by another physician, the patient:

38 (A) Has maintained a physician-patient relationship with the new
39 recommending physician for at least six months with either inpatient visits
40 or via telephonic or electronic means; or

41 (B) no longer has the previous physician-patient relationship on
42 account of death or discontinuance of care by the physician.

43 (d) In the case of a patient who is a minor, the physician may

1 recommend treatment with medical marijuana only after obtaining the
2 consent of the patient's parent or other person responsible for providing
3 consent to treatment.

4 (e) When issuing a written recommendation to a patient, the
5 physician shall specify any information required by rules and regulations
6 adopted by the board of healing arts. A written recommendation issued to a
7 patient under this section is valid for a period of not more than 90 days.
8 The physician may renew the recommendation for not more than three
9 additional periods of not more than 90 days each. Thereafter, the physician
10 may issue another recommendation to the patient only upon a physical
11 examination of the patient.

12 (f) Each year a physician holding a certificate to recommend
13 treatment with medical marijuana shall submit to the board of healing arts
14 a report that describes the physician's observations regarding the
15 effectiveness of medical marijuana in treating the physician's patients
16 during the year covered by the report. When submitting reports, a
17 physician shall not include any information that identifies or would tend to
18 identify any specific patient.

19 (g) Annually, each physician who holds a certificate to recommend
20 treatment with medical marijuana shall complete at least two hours of
21 continuing medical education in the treatment with and use of medical
22 marijuana as approved by the board of healing arts.

23 (h) A physician shall not issue a recommendation for treatment with
24 medical marijuana for a family member or the physician's self, or
25 personally furnish or otherwise dispense medical marijuana.

26 (i) A physician who holds a certificate to recommend treatment with
27 medical marijuana shall be immune from civil liability, shall not be subject
28 to professional disciplinary action by the board of healing arts and shall
29 not be subject to criminal prosecution for any of the following actions:

30 (1) Advising a patient, patient representative or caregiver about the
31 benefits and risks of medical marijuana to treat a qualifying medical
32 condition;

33 (2) recommending that a patient use medical marijuana to treat or
34 alleviate a qualifying medical condition; and

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

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

42 (1) A research protocol;

43 (2) a clinical trial;

1 (3) an investigational new drug application; or

2 (4) an expanded access submission.

3 New Sec. 18. (a) On or before July 1, 2022, the board of healing arts
4 shall adopt rules and regulations to implement and enforce the provisions
5 of section 17, and amendments thereto. Such rules and regulations shall
6 include:

7 (1) The procedures and fees for applying for a certificate to
8 recommend treatment with medical marijuana;

9 (2) the conditions for eligibility for a certificate to recommend
10 treatment with medical marijuana;

11 (3) the schedule, fees and procedures for renewing such a certificate;

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

13 (5) the standards under which a certificate suspension may be lifted;
14 and

15 (6) the minimum standards of care when recommending treatment
16 with medical marijuana.

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

21 New Sec. 19. (a) There shall be no direct or indirect cooperative
22 advertising between or among two or more cultivators, dispensaries or
23 physicians, or any combination thereof, where such advertising has the
24 purpose or effect of steering or influencing patient or caregiver choice with
25 regard to their selection of a physician, retail dispensary or medical
26 marijuana.

27 (b) No advertisement may be disseminated if the submitter of the
28 advertisement has received information that has not been widely
29 publicized in medical literature that the use of the medical marijuana
30 product may cause fatalities or serious harm.

31 (c) All advertisements for medical marijuana or medical marijuana
32 products that make a statement relating to side effects, contraindications
33 and effectiveness shall present a true statement of such information. When
34 applicable, advertisements broadcast through media such as radio,
35 television or other electronic media shall include such information in the
36 audio or audio and visual parts of the presentation. False or misleading
37 information in any part of the advertisement shall not be corrected by the
38 inclusion of a true statement in another, distinct part of the advertisement.

39 (d) An advertisement is false or otherwise misleading if such
40 advertisement:

41 (1) Contains a representation or suggestion that a medical marijuana
42 brand or product is better, more effective, useful in a broader range of
43 conditions or patients or safer than other drugs or treatments, including

1 other medical marijuana products, unless such a claim has been
2 demonstrated by substantial evidence or substantial clinical experience;

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

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

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

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

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

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

22 (e) An advertisement for medical marijuana or medical marijuana
23 products shall not contain any:

24 (1) Statement that is false or misleading in any material particular or
25 is otherwise in violation of the Kansas consumer protection act;

26 (2) statement that falsely disparages a competitor's products;

27 (3) statement, design or representation, picture or illustration that:

28 (A) Is obscene or indecent;

29 (B) encourages or represents the recreational use of marijuana or the
30 use of medical marijuana for a condition other than a qualifying medical
31 condition;

32 (C) relates to the safety or efficacy of medical marijuana unless
33 supported by substantial evidence or substantial clinical data; or

34 (D) portrays anyone under 18 years of age or contains the use of a
35 figure, symbol or language that is customarily associated with anyone
36 under 18 years of age;

37 (4) offer of a prize or award to a registered patient, caregiver or
38 physician related to the purchase of medical marijuana; or

39 (5) statement that indicates or implies that the product or entity in the
40 advertisement has been approved or endorsed by the secretary of health
41 and environment, director of alcoholic beverage control, the state of
42 Kansas or any person or entity associated with the state.

43 (f) (1) Any advertisement for medical marijuana shall be submitted to

1 the secretary of health and environment at the same time as, or prior to, the
2 dissemination of the advertisement and shall include the following
3 additional information:

4 (A) A cover letter that provides:

5 (i) A subject line stating: "Medical marijuana advertisement review
6 package for a proposed advertisement for [brand name].";

7 (ii) a brief description of the format and expected distribution of the
8 proposed advertisement; and

9 (iii) the submitter's name, title, address, telephone number, fax
10 number and email address;

11 (B) an annotated summary of the proposed advertisement showing
12 every claim being made in the advertisement and the references that
13 support each claim that includes disease or epidemiology information;

14 (C) verification that a person identified in an advertisement as a
15 registered patient or healthcare practitioner is an actual registered patient
16 or healthcare practitioner and not a model or actor;

17 (D) verification that an official translation of a foreign language
18 advertisement is accurate; and

19 (E) a final copy of the advertisement, including a video where
20 applicable, in an acceptable format.

21 (2) Any incomplete advertising packages, or packages that fail to
22 follow the specific details for submissions, shall be considered incomplete.
23 If the secretary receives an incomplete package, the secretary shall notify
24 the submitter.

25 (g) The secretary may:

26 (1) Require a specific disclosure be made in the advertisement in a
27 clear and conspicuous manner, if the secretary determines that the
28 advertisement would be false or misleading without such a disclosure; or

29 (2) make recommendations with respect to changes that are:

30 (A) Necessary to protect the public health, safety and welfare; or

31 (B) consistent with dispensing information for the product under
32 review.

33 (h) A retail dispensary shall:

34 (1) Restrict external signage to a single sign not larger than 16 inches
35 by 18 inches;

36 (2) not illuminate a dispensary sign advertising a medical marijuana
37 product at any time;

38 (3) not advertise medical marijuana brand names or utilize graphics
39 related to marijuana or paraphernalia on the exterior of the dispensary or
40 the building in which the dispensary is located; and

41 (4) not display any medical marijuana or paraphernalia so as to be
42 clearly visible from the exterior of the dispensary.

43 (i) Medical marijuana shall not be advertised:

1 (1) For sale by a cultivator, processor or distributor, except that such
2 entities may make a price list available to a dispensary; and

3 (2) on any billboard that is located along a state highway.

4 New Sec. 20. (a) All licenses issued pursuant to the medical
5 marijuana regulation act shall:

6 (1) Not be issued to a person:

7 (A) Who is not a citizen of the United States;

8 (B) who has been convicted of a felony under the laws of this state,
9 any other state or the United States;

10 (C) who has had a license revoked for cause under the provisions of
11 the act or who has had any license issued under the medical marijuana
12 laws of any state revoked for cause, except that a license may be issued to
13 a person whose license was revoked for the conviction of a misdemeanor
14 at any time after the lapse of 10 years following the date of the revocation;

15 (D) who has been convicted of being the keeper of or is keeping any
16 property, whether real or personal, where sexual relations are being sold or
17 offered for sale by a person who is 18 years of age or older or has forfeited
18 bond to appear in court to answer charges of being a keeper of any
19 property, whether real or personal, where sexual relations are being sold or
20 offered for sale by a person who is 18 years of age or older;

21 (E) who has been convicted of being a proprietor of a gambling
22 house, pandering or any other crime opposed to decency and morality or
23 has forfeited bond to appear in court to answer charges for any of those
24 crimes;

25 (F) who is not at least 18 years of age;

26 (G) who, other than as a member of the governing body of a city or
27 county, appoints or supervises any law enforcement officer, who is a law
28 enforcement officer or who is an employee of the director of alcoholic
29 beverage control;

30 (H) who intends to carry on the business authorized by the license as
31 an agent of another;

32 (I) who at the time of application for renewal of any license issued
33 under this act would not be eligible for the license upon a first application,
34 except as provided by subparagraph (L);

35 (J) who is the holder of a valid and existing license issued under this
36 act unless the person agrees to and does surrender the license to the officer
37 issuing the same;

38 (K) who does not own the premises for which a license is sought or
39 does not, at the time of application, have a written lease thereon;

40 (L) whose spouse would be ineligible to receive a license under this
41 act for any reason other than citizenship, residence requirements or age,
42 except that this paragraph shall not apply in determining eligibility for a
43 renewal license;

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

- 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

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

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;

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.

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

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 other state and local laws and rules and regulations adopted thereunder;

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

4 (3) a history of compliance with the Kansas medical marijuana
5 regulation act and all rules and regulations adopted thereunder, including a
6 history of enforcement actions and sanctions issued by the department or
7 any law enforcement agency against the licensee.

8 (c) (1) Unless authorized by this act, a cultivator shall not transfer or
9 sell medical marijuana and a processor shall not transfer, sell or process
10 into a concentrate or product any medical marijuana, medical marijuana
11 concentrate or medical marijuana product unless samples from each
12 harvest batch or production batch from which that medical marijuana,
13 medical marijuana concentrate or medical marijuana product was derived
14 has been tested by a licensed laboratory for contaminants and has passed
15 all contaminant tests required by this act.

16 (2) A licensed cultivator may transfer medical marijuana that has
17 failed testing for quality control to a licensed processor only for the
18 purposes of decontamination or remediation and only in accordance with
19 the provisions of this act.

20 (d) A licensed cultivator shall not cultivate medical marijuana for
21 personal, family or household use or on any public land.

22 New Sec. 23. (a) Prior to January 1, 2022, the director of alcoholic
23 beverage control shall contract with an operational private laboratory for
24 the purpose of conducting compliance and quality assurance testing of
25 medical marijuana laboratories, processors and cultivators licensed in this
26 state in an effort to provide public safety and ensure quality medical
27 marijuana product is available to registered patients.

28 (b) Any laboratory under contract with the director for compliance
29 and quality assurance testing shall:

30 (1) Be prohibited from conducting any other commercial medical
31 marijuana testing in this state;

32 (2) have a minimum of one year of medical marijuana testing
33 licensure in another state and have contracted for quality assurance testing
34 with another state;

35 (3) not employ, or be owned by any individual:

36 (A) That has a direct or indirect financial interest in any licensee in
37 this state;

38 (B) whose spouse, parent, child, spouse of a child, sibling or spouse
39 of a sibling has an active application for a license from the director; or

40 (C) that is a member of the board of directors of a licensee.

41 (c) The laboratory under contract with the director for compliance
42 and quality assurance shall be accessible and utilized for any medical
43 marijuana testing needs by any regulatory agency within the state,

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;

- 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

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;

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,
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

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;

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 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).

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.

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.

- 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

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.

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

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

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

1 package as Kansas medical marijuana and ensure the packaging is tamper-
2 proof; and

3 (6) establish training requirements for employees of retail
4 dispensaries.

5 (b) The director of alcoholic beverage control shall propose such
6 rules and regulations as necessary to carry out the intent and purposes of
7 this act. After the hearing on a proposed rule and regulation has been held
8 as required by law, the director shall submit the proposed rule and
9 regulation to the secretary of revenue who, if the secretary approves it,
10 shall adopt the rule and regulation.

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

14 New Sec. 43. (a) On or before July 1, 2022, the board of pharmacy
15 shall adopt rules and regulations establishing the requirements for a:

16 (1) Retail dispensary to report to the prescription monitoring program
17 database, including, but not limited to, the:

18 (A) Methods of transmission;

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

20 (C) frequency of such reports; and

21 (D) procedures for the maintenance of information submitted to or
22 received from the prescription monitoring program database to ensure such
23 information is treated as confidential and is subject to the requirements of
24 K.S.A. 65-1685 and 65-1687, and amendments thereto; and

25 (2) pharmacist to register as a pharmacist consultant for a retail
26 dispensary.

27 (b) Every September 15, December 15, March 15 and June 15, the
28 board of pharmacy shall certify to the director of accounts and reports the
29 amount of moneys expended for operation and maintenance of the Kansas
30 prescription drug monitoring program that is attributable to this act. Upon
31 receipt of each such certification, or as soon thereafter as moneys are
32 available, the director of accounts and reports shall transfer the amount
33 certified from the medical marijuana business entity regulation fund to the
34 state board of pharmacy fee fund.

35 New Sec. 44. (a) Any pharmacist that seeks to operate as a
36 pharmacist consultant for a retail dispensary shall register with the board
37 of pharmacy in accordance with rules and regulations adopted by the
38 board.

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

41 (1) Not charge a fee for the pharmacist's services that exceeds 1% of
42 the gross receipts of the retail dispensary;

43 (2) audit each recommendation for use of medical marijuana and

- 1 ensure that each such recommendation is reported to the prescription
2 monitoring system in accordance with K.S.A. 65-1683, and amendments
3 thereto, and rules and regulations adopted by the board of pharmacy;
- 4 (3) develop and provide training to other retail dispensary employees
5 at least once every 12 months that:
- 6 (A) Establishes guidelines for providing information to registered
7 patients related to risks, benefits and side effects associated with medical
8 marijuana;
- 9 (B) explains how to identify the signs and symptoms of substance
10 abuse;
- 11 (C) establishes guidelines for refusing to provide medical marijuana
12 to an individual who appears to be impaired or abusing medical marijuana;
13 and
- 14 (D) assists in the development and implementation of review and
15 improvement processes for patient education and support provided by the
16 retail dispensary;
- 17 (4) provide oversight for the development and dissemination of:
- 18 (A) Education materials for qualifying patients and designated
19 caregivers that include:
- 20 (i) Information about possible side effects and contraindications of
21 medical marijuana;
- 22 (ii) guidelines for notifying the physician who provided the written
23 certification for medical marijuana if side effects or contraindications
24 occur;
- 25 (iii) a description of the potential effects of differing strengths of
26 medical marijuana strains and products;
- 27 (iv) information about potential drug-to-drug interactions, including
28 interactions with alcohol, prescription drugs, nonprescription drugs and
29 supplements;
- 30 (v) techniques for the use of medical marijuana and marijuana
31 paraphernalia; and
- 32 (vi) information about different methods, forms and routes of medical
33 marijuana administration;
- 34 (B) systems for documentation by a registered patient or designated
35 caregiver of the symptoms of a registered patient that includes a logbook,
36 rating scale for pain and symptoms and guidelines for a patient's self-
37 assessment; and
- 38 (C) policies and procedures for refusing to provide medical marijuana
39 to an individual who appears to be impaired or abusing medical marijuana;
40 and
- 41 (5) be accessible by the retail dispensary or dispensary agent through:
- 42 (A) Telephonic means at all times during operating hours; and
- 43 (B) telephone or video conference for a patient consultation during

1 operating hours.

2 New Sec. 45. (a) The director of alcoholic beverage control shall
3 establish and maintain an electronic database to monitor medical
4 marijuana from its seed source through its cultivation, testing, processing,
5 distribution and dispensing. The director may contract with a separate
6 entity to establish and maintain all or any portion of the electronic
7 database on behalf of the division of alcoholic beverage control.

8 (b) The electronic database shall allow for information regarding
9 medical marijuana to be updated instantaneously. Any licensed cultivator,
10 laboratory, processor, distributor or retail dispensary shall submit such
11 information to the director as the director determines is necessary for
12 maintaining the electronic database.

13 (c) The director, any employee of the division, any entity under
14 contract with the director and any employee or agent thereof shall not
15 make public any information reported to or collected by the director under
16 this section that identifies or would tend to identify any specific patient.
17 Such information shall be kept confidential to protect the privacy of the
18 patient. The provisions of this subsection shall expire on July 1, 2026,
19 unless the legislature reviews and reenacts such provisions in accordance
20 with K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

21 New Sec. 46. (a) The director of alcoholic beverage control may, in
22 cooperation with the state treasurer, establish a closed-loop payment
23 processing system whereby the state treasurer creates accounts to be used
24 only by registered patients and caregivers at licensed retail dispensaries
25 and all licensed cultivators, laboratories, processors and distributors. The
26 system may include record-keeping and accounting functions that identify
27 all parties in transactions involving the purchase and sale of medical
28 marijuana. If established, such system shall be designed to prevent:

29 (1) Revenue from the sale of marijuana going to criminal enterprises,
30 gangs and cartels;

31 (2) the diversion of marijuana from a state where it is legal in some
32 form under that state's law to another state;

33 (3) the distribution of marijuana to minors; and

34 (4) the use of state-authorized marijuana activity as a cover or pretext
35 for the trafficking of other illegal drugs or for other illegal activity.

36 (b) The information recorded by the system shall be fully accessible
37 to the department of health and environment, the director and all state and
38 federal law enforcement agencies, including the United States department
39 of the treasury's financial crimes enforcement network.

40 New Sec. 47. (a) Except as provided in subsections (b) and (c), no
41 licensed cultivator, laboratory, processor, distributor or retail dispensary
42 shall be located within 1,000 feet of the boundaries of a parcel of real
43 estate having situated on it a school, religious organization, public library

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

7 (b) (1) The director may, in the director's discretion, not revoke the
8 license of a cultivator, laboratory, processor, distributor or retail dispensary
9 if such licensee existed at a location prior to the establishment of a school,
10 religious organization, public library or public park within 1,000 feet of
11 such licensee.

12 (2) Any licensee may petition for and receive an exemption from the
13 provisions of this section upon approval by the secretary of health and
14 environment and the director of alcoholic beverage control.

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

20 (d) As used in this section:

21 (1) "Public library" means any library established pursuant to article
22 12 of chapter 12 of the Kansas Statutes Annotated, and amendments
23 thereto, and any other library that serves the general public and is funded
24 in whole, or in part, from moneys derived from tax levies;

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

29 (3) "religious organization" means any organization, church, body of
30 communicants or group, gathered in common membership for mutual
31 support and edification in piety, worship and religious observances, or a
32 society of individuals united for religious purposes at a definite place and
33 such religious organization maintains an established place of worship
34 within this state and has a regular schedule of services or meetings at least
35 on a weekly basis and has been determined to be organized and created as
36 a bona fide religious organization; and

37 (4) "school" means any public or private educational institution,
38 including, but not limited to, any college, university, community college,
39 technical college, high school, middle school, elementary school, trade
40 school, vocational school or other professional school providing training
41 or education.

42 New Sec. 48. Each applicant for a cultivator license, laboratory
43 license, processor license, distributor license or retail dispensary license

1 shall require any owner, director, officer and any employee or agent of
2 such applicant to be fingerprinted and to submit to a state and national
3 criminal history record check. The director of alcoholic beverage control is
4 authorized to submit the fingerprints to the Kansas bureau of investigation
5 and the federal bureau of investigation for a state and national criminal
6 history record check. The director shall use the information obtained from
7 fingerprinting and the state and national criminal history record check for
8 purposes of verifying the identification of the applicant and for making a
9 determination of the qualifications of the applicant for licensure. The
10 Kansas bureau of investigation may charge a reasonable fee to the
11 applicant for fingerprinting and conducting a criminal history record
12 check.

13 New Sec. 49. (a) A financial institution that provides financial
14 services to any licensed cultivator, laboratory, processor, distributor or
15 retail dispensary shall be exempt from any criminal law of this state an
16 element of which may be proven by substantiating that a person provides
17 financial services to a person who possesses, delivers or manufactures
18 medical marijuana or medical marijuana-derived products, including any
19 of the offenses specified in article 57 of chapter 21 of the Kansas Statutes
20 Annotated, and amendments thereto, or any attempt, conspiracy or
21 solicitation specified in article 53 of chapter 21 of the Kansas Statutes
22 Annotated, and amendments thereto, if the cultivator, laboratory,
23 processor, distributor or retail dispensary is in compliance with the
24 provisions of this act and all applicable tax laws of this state.

25 (b) (1) Upon the request of a financial institution, the director of
26 alcoholic beverage control shall provide to the financial institution the
27 following information:

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

31 (B) the name of any other business or individual affiliated with the
32 person;

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

35 (D) if applicable, information relating to sales and volume of product
36 sold by the person;

37 (E) whether the person is in compliance with the provisions of this
38 act; and

39 (F) any past or pending violations of the Kansas medical marijuana
40 regulation act or any rules and regulations adopted thereunder committed
41 by such person, and any penalty imposed on the person for such violation.

42 (2) The director may charge a financial institution a reasonable fee to
43 cover the administrative cost of providing information requested under this

1 section.

2 (c) Information received by a financial institution under subsection
3 (b) is confidential. Except as otherwise permitted by any other state or
4 federal law, a financial institution shall not make the information available
5 to any person other than the customer to whom the information applies and
6 any trustee, conservator, guardian, personal representative or agent of that
7 customer.

8 (d) As used in this section:

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

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

16 New Sec. 50. Nothing in this act authorizes the director of alcoholic
17 beverage control to oversee or limit research conducted at a postsecondary
18 educational institution, academic medical center or private research and
19 development organization that is related to marijuana and is approved by
20 an agency, board, center, department or institute of the United States
21 government, including any of the following:

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

23 (b) the national institutes of health;

24 (c) the national academy of sciences;

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

26 (e) the United States department of defense;

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

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

29 (h) the drug enforcement administration;

30 (i) the food and drug administration; and

31 (j) any board recognized by the national institutes of health for the
32 purpose of evaluating the medical value of health care services.

33 New Sec. 51. No provisions of the medical marijuana regulation act
34 shall be construed to:

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

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

43 (c) require any government medical assistance program, a private

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

1 thereto, or a bus, as defined by K.S.A. 8-1406, and amendments thereto,
2 who is not in the driving compartment of such vehicle or who is in a
3 portion of such vehicle from which the driver is not directly accessible.

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

5 New Sec. 54. (a) Subject to the provisions of K.S.A. 44-1018, and
6 amendments thereto, it shall be unlawful for any person:

7 (1) To refuse to sell or rent after the making of a bona fide offer, to
8 fail to transmit a bona fide offer or refuse to negotiate in good faith for the
9 sale or rental of, or otherwise make unavailable or deny, real property to
10 any person because such person consumes medical marijuana in
11 accordance with section 10, and amendments thereto;

12 (2) to discriminate against any person in the terms, conditions or
13 privileges of sale or rental of real property, or in the provision of services
14 or facilities in connection therewith, because such person consumes
15 medical marijuana in accordance with section 10, and amendments
16 thereto; and

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

21 (b) (1) It shall be unlawful for any person or other entity whose
22 business includes engaging in real estate related transactions to
23 discriminate against any person in making available such a transaction, or
24 in the terms or conditions of such a transaction, because such person or
25 any person associated with such person in connection with any real estate
26 related transaction consumes medical marijuana in accordance with
27 section 10, and amendments thereto.

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

32 (3) As used in this subsection, "real estate related transaction" means
33 the same as that term is defined in K.S.A. 44-1017, and amendments
34 thereto.

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

40 (d) Nothing in this section shall be construed to prohibit a person
41 from taking any action necessary to procure or retain any monetary benefit
42 provided under federal law, or any rules and regulations adopted
43 thereunder, or to obtain or maintain any license, certificate, registration or

1 other legal status issued or bestowed under federal law, or any rules and
2 regulations adopted thereunder.

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

5 New Sec. 55. (a) A covered entity, solely on the basis that an
6 individual consumes medical marijuana in accordance with section 10, and
7 amendments thereto, shall not:

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

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

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

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

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

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

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

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

33 New Sec. 56. (a) No order shall be issued pursuant to K.S.A. 2020
34 Supp. 38-2242, 38-2243 or 38-2244, and amendments thereto, if the sole
35 basis for the threat to the child's safety or welfare is that the child resides
36 with an individual who consumes medical marijuana in accordance with
37 section 10, and amendments thereto, or the child consumes medical
38 marijuana in accordance with section 10, and amendments thereto.

39 (b) The provisions of this section shall be a part of and supplemental
40 to the revised Kansas code for care of children.

41 New Sec. 57. Notwithstanding the provisions of K.S.A. 65-2836, and
42 amendments thereto, the board shall not revoke, suspend or limit a
43 physician's license, publicly censure a physician or place a physician's

1 license under probationary conditions upon any of the following:

2 (a) The physician has:

3 (1) Advised a patient about the possible benefits and risks of using
4 medical marijuana;

5 (2) advised the patient that using medical marijuana may mitigate the
6 patient's symptoms; or

7 (3) submitted an application on behalf of a patient or caregiver for
8 registration as a patient or caregiver under section 8, and amendments
9 thereto; or

10 (b) the physician is a registered patient or caregiver pursuant to
11 section 8, and amendments thereto, possesses or has possessed or uses or
12 has used medical marijuana in accordance with the Kansas medical
13 marijuana regulation act, section 1 et seq., and amendments thereto.

14 New Sec. 58. Notwithstanding the provisions of K.S.A. 65-28a05,
15 and amendments thereto, the board shall not revoke, suspend or limit a
16 physician assistant's license, publicly or privately censure a physician
17 assistant or deny an application for a license or for reinstatement of a
18 license upon any of the following:

19 (a) The physician assistant has:

20 (1) Advised a patient about the possible benefits and risks of using
21 medical marijuana; or

22 (2) advised the patient that using medical marijuana may mitigate the
23 patient's symptoms; or

24 (b) the physician assistant is a registered patient or caregiver pursuant
25 to section 8, and amendments thereto, possesses or has possessed or uses
26 or has used medical marijuana in accordance with the Kansas medical
27 marijuana regulation act, section 1 et seq., and amendments thereto.

28 New Sec. 59. (a) Notwithstanding any other provision of law, any
29 person, board, commission or similar body that determines the
30 qualifications of individuals for licensure, certification or registration shall
31 not disqualify an individual from licensure, certification or registration
32 solely because such individual consumes medical marijuana in
33 accordance with section 10, and amendments thereto.

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

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

36 (2) Kansas highway patrol;

37 (3) office of the attorney general;

38 (4) department of health and environment; or

39 (5) division of alcoholic beverage control.

40 Sec. 60. K.S.A. 2020 Supp. 21-5703 is hereby amended to read as
41 follows: 21-5703. (a) It shall be unlawful for any person to manufacture
42 any controlled substance or controlled substance analog.

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

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.*

1 Sec. 61. K.S.A. 2020 Supp. 21-5705 is hereby amended to read as
2 follows: 21-5705. (a) It shall be unlawful for any person to distribute or
3 possess with the intent to distribute any of the following controlled
4 substances or controlled substance analogs thereof:

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

8 (2) any depressant designated in ~~subsection (e) of K.S.A. 65-4105(e),~~
9 ~~subsection (e) of K.S.A. 65-4107(e), subsection (b) or (c) of K.S.A. 65-~~
10 ~~4109(b) or (c) or subsection (b) of K.S.A. 65-4111(b),~~ and amendments
11 thereto;

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

16 (4) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~
17 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~
18 ~~K.S.A. 65-4109(g),~~ and amendments thereto;

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

22 (6) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~
23 ~~4109(f),~~ and amendments thereto; or

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

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

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

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

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

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

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

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

40 (2) Violation of subsection (a) with respect to material containing any
41 quantity of marijuana, or an analog thereof, is a:

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

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

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

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

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

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

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

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

18 (D) drug severity level 1 felony if the quantity of the material was
19 100 grams or more.

20 (4) Violation of subsection (a) with respect to material containing any
21 quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107,
22 65-4109 or 65-4111, and amendments thereto, or an analog thereof,
23 distributed by dosage unit, is a:

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

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

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

30 (D) drug severity level 1 felony if the number of dosage units was
31 1,000 or more.

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

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

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

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

41 (7) Violation of subsection (c) is a:

42 (A) Drug severity level 3 felony if the number of plants cultivated
43 was more than 4 but fewer than 50;

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

1 compound or a mixture, ~~which~~ *that* contains any quantity of a controlled
2 substance or controlled substance analog.

3 (2) "Dosage unit" means a controlled substance or controlled
4 substance analog distributed or possessed with the intent to distribute as a
5 discrete unit, including, but not limited to, one pill, one capsule or one
6 microdot, and not distributed by weight.

7 (A) For steroids, or controlled substances in liquid solution legally
8 manufactured for prescription use, or an analog thereof, "dosage unit"
9 means the smallest medically approved dosage unit, as determined by the
10 label, materials provided by the manufacturer, a prescribing authority,
11 licensed health care professional or other qualified health authority.

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

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

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

22 Sec. 62. K.S.A. 2020 Supp. 21-5706 is hereby amended to read as
23 follows: 21-5706. (a) It shall be unlawful for any person to possess any
24 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-
25 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled
26 substance analog thereof.

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

29 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-
30 4109(b) or (c) or 65-4111(b), and amendments thereto;

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

33 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-
34 4107(g) or 65-4109(g), and amendments thereto;

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

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

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

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

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

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

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

4 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug
5 severity level 5 felony if that person has a prior conviction under such
6 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially
7 similar offense from another jurisdiction, or under any city ordinance or
8 county resolution for a substantially similar offense if the substance
9 involved was 3, 4-methylenedioxyamphetamine (MDMA), marijuana
10 as designated in K.S.A. 65-4105(d), and amendments thereto, or any
11 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an
12 analog thereof.

13 (3) If the substance involved is marijuana, as designated in K.S.A.
14 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
15 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
16 subsection (b) is a:

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

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

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

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

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

38 (1) ~~Has a debilitating medical condition, as defined in K.S.A.2020-~~
39 ~~Supp. 65-6235, and amendments thereto, or is the parent or guardian of a~~
40 ~~minor child who has such debilitating medical condition;~~

41 (2) ~~is possessing a cannabidiol treatment preparation, as defined in~~
42 ~~K.S.A. 2020 Supp. 65-6235, and amendments thereto, that is being used to~~
43 ~~treat such debilitating medical condition; and~~

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

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

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

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

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

11 ~~condition~~ *If the substance involved is medical marijuana, as defined in*
12 *section 2, and amendments thereto, the provisions of subsections (b) and*
13 *(c) shall not apply to any person who is registered or licensed pursuant to*
14 *the Kansas medical marijuana regulation act, section 1 et seq., and*
15 *amendments thereto, whose possession is authorized by such act.*

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

20 Sec. 63. K.S.A. 2020 Supp. 21-5707 is hereby amended to read as
21 follows: 21-5707. (a) It shall be unlawful for any person to knowingly or
22 intentionally use any communication facility:

23 (1) In committing, causing, or facilitating the commission of any
24 felony under K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5706, and
25 amendments thereto; or

26 (2) in any attempt to commit, any conspiracy to commit, or any
27 criminal solicitation of any felony under K.S.A. 2020 Supp. 21-5703, 21-
28 5705 or 21-5706, and amendments thereto. Each separate use of a
29 communication facility may be charged as a separate offense under this
30 subsection.

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

33 (c) *The provisions of this section shall not apply to any person using*
34 *communication facilities for those activities authorized by the Kansas*
35 *medical marijuana regulation act, section 1 et seq., and amendments*
36 *thereto.*

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

42 Sec. 64. K.S.A. 2020 Supp. 21-5709 is hereby amended to read as
43 follows: 21-5709. (a) It shall be unlawful for any person to possess

1 ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal,
2 iodine, anhydrous ammonia, pressurized ammonia or
3 phenylpropanolamine, or their salts, isomers or salts of isomers with an
4 intent to use the product to manufacture a controlled substance.

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

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

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

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

14 (d) It shall be unlawful for any person to purchase, receive or
15 otherwise acquire at retail any compound, mixture or preparation
16 containing more than 3.6 grams of pseudoephedrine base or ephedrine
17 base in any single transaction or any compound, mixture or preparation
18 containing more than nine grams of pseudoephedrine base or ephedrine
19 base within any 30-day period.

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

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

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

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

26 (3) violation of subsection (b)(2) is a class B nonperson
27 misdemeanor;

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

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

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

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

1 Sec. 65. K.S.A. 2020 Supp. 21-5710 is hereby amended to read as
2 follows: 21-5710. (a) It shall be unlawful for any person to advertise,
3 market, label, distribute or possess with the intent to distribute:

4 (1) Any product containing ephedrine, pseudoephedrine, red
5 phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia,
6 pressurized ammonia or phenylpropanolamine or their salts, isomers or
7 salts of isomers if the person knows or reasonably should know that the
8 purchaser will use the product to manufacture a controlled substance or
9 controlled substance analog; or

10 (2) any product containing ephedrine, pseudoephedrine or
11 phenylpropanolamine, or their salts, isomers or salts of isomers for
12 indication of stimulation, mental alertness, weight loss, appetite control,
13 energy or other indications not approved pursuant to the pertinent federal
14 over-the-counter drug final monograph or tentative final monograph or
15 approved new drug application.

16 (b) It shall be unlawful for any person to distribute, possess with the
17 intent to distribute or manufacture with intent to distribute any drug
18 paraphernalia, knowing or under circumstances where one reasonably
19 should know that it will be used to manufacture or distribute a controlled
20 substance or controlled substance analog in violation of K.S.A. 2020 Supp.
21 21-5701 through 21-5717, and amendments thereto.

22 (c) It shall be unlawful for any person to distribute, possess with
23 intent to distribute or manufacture with intent to distribute any drug
24 paraphernalia, knowing or under circumstances where one reasonably
25 should know, that it will be used as such in violation of K.S.A. 2020 Supp.
26 21-5701 through 21-5717, and amendments thereto, except ~~subsection (b)~~
27 ~~of K.S.A. 2020 Supp. 21-5706(b)~~, and amendments thereto.

28 (d) It shall be unlawful for any person to distribute, possess with
29 intent to distribute or manufacture with intent to distribute any drug
30 paraphernalia, knowing, or under circumstances where one reasonably
31 should know, that it will be used as such in violation of ~~subsection (b)~~ of
32 K.S.A. 2020 Supp. 21-5706(b), and amendments thereto.

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

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

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

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

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

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

43 (B) drug severity level 5 felony if the trier of fact makes a finding that

1 the offender distributed or caused drug paraphernalia to be distributed to a
2 minor or on or within 1,000 feet of any school property; and

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

4 (A) Class A nonperson misdemeanor, except as provided in
5 ~~subsection (c)(4)(B)~~ *subparagraph (B)*; and

6 (B) nondrug severity level 9, nonperson felony if the trier of fact
7 makes a finding that the offender distributed or caused drug paraphernalia
8 to be distributed to a minor or on or within 1,000 feet of any school
9 property.

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

17 (g) *The provisions of subsection (c) shall not apply to any person*
18 *licensed pursuant to the Kansas medical marijuana regulation act, section*
19 *1 et seq., and amendments thereto, whose distribution or manufacture is*
20 *used solely to distribute or produce medical marijuana, as defined in*
21 *section 2, and amendments thereto, in a manner authorized by the Kansas*
22 *medical marijuana regulation act, section 1 et seq., and amendments*
23 *thereto.*

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

27 (1) Actual knowledge from prior experience or statements by
28 customers;

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

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

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

37 Sec. 66. K.S.A. 2020 Supp. 23-3201 is hereby amended to read as
38 follows: 23-3201. (a) The court shall determine legal custody, residency
39 and parenting time of a child in accordance with the best interests of the
40 child.

41 (b) *The court shall not consider the fact that a parent or a child*
42 *consumes medical marijuana in accordance with section 10, and*
43 *amendments thereto, when determining the legal custody, residency or*

1 *parenting time of a child.*

2 Sec. 67. K.S.A. 2020 Supp. 38-2269 is hereby amended to read as
3 follows: 38-2269. (a) When the child has been adjudicated to be a child in
4 need of care, the court may terminate parental rights or appoint a
5 permanent custodian when the court finds by clear and convincing
6 evidence that the parent is unfit by reason of conduct or condition which
7 renders the parent unable to care properly for a child and the conduct or
8 condition is unlikely to change in the foreseeable future.

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

11 (1) Emotional illness, mental illness, mental deficiency or physical
12 disability of the parent, of such duration or nature as to render the parent
13 unable to care for the ongoing physical, mental and emotional needs of the
14 child;

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

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

23 (4) physical, mental or emotional abuse or neglect or sexual abuse of
24 a child;

25 (5) conviction of a felony and imprisonment;

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

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

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

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

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

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

43 (2) failure to maintain regular visitation, contact or communication

1 with the child or with the custodian of the child;

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

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

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

8 (d) A finding of unfitness may be made as provided in this section if
9 the court finds that the parents have abandoned the child, the custody of
10 the child was surrendered pursuant to K.S.A. 2020 Supp. 38-2282, and
11 amendments thereto, or the child was left under such circumstances that
12 the identity of the parents is unknown and cannot be ascertained, despite
13 diligent searching, and the parents have not come forward to claim the
14 child within three months after the child is found.

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

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

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

33 (2) If the court terminates parental rights, the court may authorize
34 adoption pursuant to K.S.A. 2020 Supp. 38-2270, and amendments
35 thereto, appointment of a permanent custodian pursuant to K.S.A. 2020
36 Supp. 38-2272, and amendments thereto, or continued permanency
37 planning.

38 (3) If the court does not terminate parental rights, the court may
39 authorize appointment of a permanent custodian pursuant to K.S.A. 2020
40 Supp. 38-2272, and amendments thereto, or continued permanency
41 planning.

42 (h) If a parent is convicted of an offense as provided in K.S.A. 2020
43 Supp. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile

1 offender because of an act which if committed by an adult would be an
2 offense as provided in K.S.A. 2020 Supp. 38-2271(a)(7), and amendments
3 thereto, and if the victim was the other parent of a child, the court may
4 disregard such convicted or adjudicated parent's opinions or wishes in
5 regard to the placement of such child.

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

7 (j) When adoption, proceedings to appoint a permanent custodian or
8 continued permanency planning has been authorized, the person or agency
9 awarded custody of the child shall within 30 days submit a written plan for
10 permanent placement which shall include measurable objectives and time
11 schedules.

12 Sec. 68. K.S.A. 2020 Supp. 44-501 is hereby amended to read as
13 follows: 44-501. (a) (1) Compensation for an injury shall be disallowed if
14 such injury to the employee results from:

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

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

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

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

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

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

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

38 (B) (i) In the case of drugs or medications which are available to the
39 public without a prescription from a health care provider and prescription
40 drugs or medications, compensation shall not be denied if the employee
41 can show that such drugs or medications were being taken or used in
42 therapeutic doses and there have been no prior incidences of the
43 employee's impairment on the job as the result of the use of such drugs or

1 medications within the previous 24 months.

2 (ii) *In the case of marijuana or any other form of cannabis, including*
3 *any cannabis derivatives, compensation shall not be denied if the*
4 *employee is registered as a patient pursuant to section 8, and amendments*
5 *thereto, such cannabis or cannabis derivative was used in accordance*
6 *with the Kansas medical marijuana regulation act, section 1 et seq., and*
7 *amendments thereto, and there has been no prior incidence of the*
8 *employee's impairment on the job as a result of the use of such cannabis*
9 *or cannabis derivative within the previous 24 months.*

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

	Confirmatory test cutoff levels (ng/ml)
18 Marijuana metabolite ¹	15
19 Cocaine metabolite ²	150
20 Opiates:	
21 Morphine	2000
22 Codeine	2000
23 6-Acetylmorphine ⁴	10 ng/ml
24 Phencyclidine	25
25 Amphetamines:	
26 Amphetamine	500
27 Methamphetamine ³	500

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

29 ² Benzoylcegonine.

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

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

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

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

43 (2) The results of a chemical test shall be admissible evidence to

1 prove impairment if the employer establishes that the testing was done
2 under any of the following circumstances:

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

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

9 (C) the worker, prior to the date and time of the accident or injury,
10 gave written consent to the employer that the worker would voluntarily
11 submit to a chemical test for drugs or alcohol following any accident or
12 injury;

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

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

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

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

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

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

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

34 (E) the foundation evidence must establish, beyond a reasonable
35 doubt, that the test results were from the sample taken from the employee;
36 and

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

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

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

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

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

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

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

24 (e) An award of compensation for permanent partial impairment,
25 work disability, or permanent total disability shall be reduced by the
26 amount of functional impairment determined to be preexisting. Any such
27 reduction shall not apply to temporary total disability, nor shall it apply to
28 compensation for medical treatment.

29 (1) Where workers compensation benefits have previously been
30 awarded through settlement or judicial or administrative determination in
31 Kansas, the percentage basis of the prior settlement or award shall
32 conclusively establish the amount of functional impairment determined to
33 be preexisting. Where workers compensation benefits have not previously
34 been awarded through settlement or judicial or administrative
35 determination in Kansas, the amount of preexisting functional impairment
36 shall be established by competent evidence.

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

39 (A) If the preexisting impairment is the result of injury sustained
40 while working for the employer against whom workers compensation
41 benefits are currently being sought, any award of compensation shall be
42 reduced by the current dollar value attributable under the workers
43 compensation act to the percentage of functional impairment determined to

1 be preexisting. The "current dollar value" shall be calculated by
2 multiplying the percentage of preexisting impairment by the compensation
3 rate in effect on the date of the accident or injury against which the
4 reduction will be applied.

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

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

24 Sec. 69. K.S.A. 2020 Supp. 44-706 is hereby amended to read as
25 follows: 44-706. The secretary shall examine whether an individual has
26 separated from employment for each week claimed. The secretary shall
27 apply the provisions of this section to the individual's most recent
28 employment prior to the week claimed. An individual shall be disqualified
29 for benefits:

30 (a) If the individual left work voluntarily without good cause
31 attributable to the work or the employer, subject to the other provisions of
32 this subsection. For purposes of this subsection, "good cause" is cause of
33 such gravity that would impel a reasonable, not supersensitive, individual
34 exercising ordinary common sense to leave employment. Good cause
35 requires a showing of good faith of the individual leaving work, including
36 the presence of a genuine desire to work. Failure to return to work after
37 expiration of approved personal or medical leave, or both, shall be
38 considered a voluntary resignation. After a temporary job assignment,
39 failure of an individual to affirmatively request an additional assignment
40 on the next succeeding workday, if required by the employment
41 agreement, after completion of a given work assignment, shall constitute
42 leaving work voluntarily. The disqualification shall begin the day
43 following the separation and shall continue until after the individual has

1 become reemployed and has had earnings from insured work of at least
2 three times the individual's weekly benefit amount. An individual shall not
3 be disqualified under this subsection if:

4 (1) The individual was forced to leave work because of illness or
5 injury upon the advice of a licensed and practicing health care provider
6 and, upon learning of the necessity for absence, immediately notified the
7 employer thereof, or the employer consented to the absence, and after
8 recovery from the illness or injury, when recovery was certified by a
9 practicing health care provider, the individual returned to the employer and
10 offered to perform services and the individual's regular work or
11 comparable and suitable work was not available. As used in this paragraph
12 "health care provider" means any person licensed by the proper licensing
13 authority of any state to engage in the practice of medicine and surgery,
14 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

15 (2) the individual left temporary work to return to the regular
16 employer;

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

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

27 (5) the individual left work because of hazardous working conditions;
28 in determining whether or not working conditions are hazardous for an
29 individual, the degree of risk involved to the individual's health, safety and
30 morals, the individual's physical fitness and prior training and the working
31 conditions of workers engaged in the same or similar work for the same
32 and other employers in the locality shall be considered; as used in this
33 paragraph, "hazardous working conditions" means working conditions that
34 could result in a danger to the physical or mental well-being of the
35 individual; each determination as to whether hazardous working
36 conditions exist shall include, but shall not be limited to, a consideration
37 of: (A) The safety measures used or the lack thereof; and (B) the condition
38 of equipment or lack of proper equipment; no work shall be considered
39 hazardous if the working conditions surrounding the individual's work are
40 the same or substantially the same as the working conditions generally
41 prevailing among individuals performing the same or similar work for
42 other employers engaged in the same or similar type of activity;

43 (6) the individual left work to enter training approved under section

1 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
2 substantially equal or higher skill level than the individual's past adversely
3 affected employment, as defined for purposes of the federal trade act of
4 1974, and wages for such work are not less than 80% of the individual's
5 average weekly wage as determined for the purposes of the federal trade
6 act of 1974;

7 (7) the individual left work because of unwelcome harassment of the
8 individual by the employer or another employee of which the employing
9 unit had knowledge and that would impel the average worker to give up
10 such worker's employment;

11 (8) the individual left work to accept better work; each determination
12 as to whether or not the work accepted is better work shall include, but
13 shall not be limited to, consideration of: (A) The rate of pay, the hours of
14 work and the probable permanency of the work left as compared to the
15 work accepted; (B) the cost to the individual of getting to the work left in
16 comparison to the cost of getting to the work accepted; and (C) the
17 distance from the individual's place of residence to the work accepted in
18 comparison to the distance from the individual's residence to the work left;

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

23 (10) the individual left work because of a substantial violation of the
24 work agreement by the employing unit and, before the individual left, the
25 individual had exhausted all remedies provided in such agreement for the
26 settlement of disputes before terminating. For the purposes of this
27 paragraph, a demotion based on performance does not constitute a
28 violation of the work agreement;

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

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

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

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

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

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

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

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

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

9 (ii) a police record documenting the abuse;

10 (iii) documentation that the abuser has been convicted of one or more
11 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
12 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
13 chapter 21 of the Kansas Statutes Annotated, *and amendments thereto*, or
14 K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-
15 6422, and amendments thereto, where the victim was a family or
16 household member;

17 (iv) medical documentation of the abuse;

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

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

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

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

43 (1) (A) For the purposes of this subsection, "misconduct" is defined as

1 a violation of a duty or obligation reasonably owed the employer as a
2 condition of employment including, but not limited to, a violation of a
3 company rule, including a safety rule, if:

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

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

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

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

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

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

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

16 (i) *includes any violation of a duty, obligation or company rule if the*
17 *individual ingested marijuana in the workplace, worked while under the*
18 *influence of marijuana or tested positive for a controlled substance.*

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

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

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

28 (ii) the individual had knowledge of the employer's attendance
29 expectation; and

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

32 (C) For the purposes of this subsection, if an employee disputes being
33 absent or tardy without good cause, the employee shall present evidence
34 that a majority of the employee's absences or tardiness were for good
35 cause. If the employee alleges that the employee's repeated absences or
36 tardiness were the result of health related issues, such evidence shall
37 include documentation from a licensed and practicing health care provider
38 as defined in subsection (a)(1).

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

43 ~~(i)~~(a) Theft;

- 1 ~~(ii)~~(b) fraud;
- 2 ~~(iii)~~(c) intentional damage to property;
- 3 ~~(iv)~~(d) intentional infliction of personal injury; or
- 4 ~~(v)~~(e) any conduct that constitutes a felony.
- 5 (ii) *The term "gross misconduct":*
- 6 (a) *Does not include any conduct of an individual, if:*
- 7 (1) *The individual is a registered patient pursuant to section 8, and*
- 8 *amendments thereto; and*
- 9 (2) *the basis for such conduct is the possession of an identification*
- 10 *card issued under section 8, and amendments thereto, or the possession or*
- 11 *use of medical marijuana in accordance with the Kansas medical*
- 12 *marijuana regulation act, section 1 et seq., and amendments thereto; and*
- 13 (b) *includes any conduct of an individual if the individual ingested*
- 14 *marijuana in the workplace, worked while under the influence of*
- 15 *marijuana or tested positive for a controlled substance.*
- 16 (B) For the purposes of this subsection, the following shall be
- 17 conclusive evidence of gross misconduct:
- 18 (i) The use of alcoholic liquor, cereal malt beverage or a
- 19 nonprescribed controlled substance by an individual while working;
- 20 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
- 21 or a nonprescribed controlled substance by an individual while working;
- 22 (iii) a positive breath alcohol test or a positive chemical test,
- 23 provided:
- 24 (a) The test was either:
- 25 (1) Required by law and was administered pursuant to the drug free
- 26 workplace act, 41 U.S.C. § 701 et seq.;
- 27 (2) administered as part of an employee assistance program or other
- 28 drug or alcohol treatment program in which the employee was
- 29 participating voluntarily or as a condition of further employment;
- 30 (3) requested pursuant to a written policy of the employer of which
- 31 the employee had knowledge and was a required condition of
- 32 employment;
- 33 (4) required by law and the test constituted a required condition of
- 34 employment for the individual's job; or
- 35 (5) there was reasonable suspicion to believe that the individual used,
- 36 had possession of, or was impaired by alcoholic liquor, cereal malt
- 37 beverage or a nonprescribed controlled substance while working;
- 38 (b) the test sample was collected either:
- 39 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
- 40 seq.;
- 41 (2) as prescribed by an employee assistance program or other drug or
- 42 alcohol treatment program in which the employee was participating
- 43 voluntarily or as a condition of further employment;

1 (3) as prescribed by the written policy of the employer of which the
2 employee had knowledge and which constituted a required condition of
3 employment;

4 (4) as prescribed by a test which was required by law and which
5 constituted a required condition of employment for the individual's job; or

6 (5) at a time contemporaneous with the events establishing probable
7 cause;

8 (c) the collecting and labeling of a chemical test sample was
9 performed by a licensed health care professional or any other individual
10 certified pursuant to ~~paragraph (b)(3)(A)(iii)(f)~~ *subsection (b)(3)(B)(iii)(f)*
11 or authorized to collect or label test samples by federal or state law, or a
12 federal or state rule or regulation having the force or effect of law,
13 including law enforcement personnel;

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

19 (e) the chemical test was confirmed by gas chromatography, gas
20 chromatography-mass spectroscopy or other comparably reliable
21 analytical method, except that no such confirmation is required for a blood
22 alcohol sample or a breath alcohol test;

23 (f) the breath alcohol test was administered by an individual trained
24 to perform breath tests, the breath testing instrument used was certified
25 and operated strictly according to a description provided by the
26 manufacturers and the reliability of the instrument performance was
27 assured by testing with alcohol standards; and

28 (g) the foundation evidence establishes, beyond a reasonable doubt,
29 that the test results were from the sample taken from the individual;

30 (iv) an individual's refusal to submit to a chemical test or breath
31 alcohol test, provided:

32 (a) The test meets the standards of the drug free workplace act, 41
33 U.S.C. § 701 et seq.;

34 (b) the test was administered as part of an employee assistance
35 program or other drug or alcohol treatment program in which the
36 employee was participating voluntarily or as a condition of further
37 employment;

38 (c) the test was otherwise required by law and the test constituted a
39 required condition of employment for the individual's job;

40 (d) the test was requested pursuant to a written policy of the employer
41 of which the employee had knowledge and was a required condition of
42 employment; or

43 (e) there was reasonable suspicion to believe that the individual used,

1 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
2 nonprescribed controlled substance while working;

3 (v) an individual's dilution or other tampering of a chemical test.

4 (C) For purposes of this subsection:

5 (i) "Alcohol concentration" means the number of grams of alcohol
6 per 210 liters of breath;

7 (ii) "alcoholic liquor"~~shall be defined~~ *means the same* as provided in
8 K.S.A. 41-102, and amendments thereto;

9 (iii) "cereal malt beverage"~~shall be defined~~ *means the same* as
10 provided in K.S.A. 41-2701, and amendments thereto;

11 (iv) "chemical test"~~shall include~~ *includes*, but is not limited to, tests
12 of urine, blood or saliva;

13 (v) "controlled substance"~~shall be defined~~ *means the same* as
14 provided in K.S.A. 2020 Supp. 21-5701, and amendments thereto;

15 (vi) "required by law" means required by a federal or state law, a
16 federal or state rule or regulation having the force and effect of law, a
17 county resolution or municipal ordinance, or a policy relating to public
18 safety adopted in an open meeting by the governing body of any special
19 district or other local governmental entity;

20 (vii) "positive breath test"~~shall mean~~ *means* a test result showing an
21 alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R.
22 part 40, if applicable, unless the test was administered as part of an
23 employee assistance program or other drug or alcohol treatment program
24 in which the employee was participating voluntarily or as a condition of
25 further employment, in which case "positive chemical test"~~shall mean~~
26 *means* a test result showing an alcohol concentration at or above the levels
27 provided for in the assistance or treatment program;

28 (viii) "positive chemical test"~~shall mean~~ *means* a chemical result
29 showing a concentration at or above the levels listed in K.S.A. 44-501, and
30 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
31 abuse listed therein, unless the test was administered as part of an
32 employee assistance program or other drug or alcohol treatment program
33 in which the employee was participating voluntarily or as a condition of
34 further employment, in which case "positive chemical test"~~shall mean~~
35 *means* a chemical result showing a concentration at or above the levels
36 provided for in the assistance or treatment program.

37 (4) An individual shall not be disqualified under this subsection if the
38 individual is discharged under the following circumstances:

39 (A) The employer discharged the individual after learning the
40 individual was seeking other work or when the individual gave notice of
41 future intent to quit, except that the individual shall be disqualified after
42 the time at which such individual intended to quit and any individual who
43 commits misconduct after such individual gives notice to such individual's

1 intent to quit shall be disqualified;

2 (B) the individual was making a good-faith effort to do the assigned
3 work but was discharged due to:

4 (i) Inefficiency;

5 (ii) unsatisfactory performance due to inability, incapacity or lack of
6 training or experience;

7 (iii) isolated instances of ordinary negligence or inadvertence;

8 (iv) good-faith errors in judgment or discretion; or

9 (v) unsatisfactory work or conduct due to circumstances beyond the
10 individual's control; or

11 (C) the individual's refusal to perform work in excess of the contract
12 of hire.

13 (c) If the individual has failed, without good cause, to either apply for
14 suitable work when so directed by the employment office of the secretary
15 of labor, or to accept suitable work when offered to the individual by the
16 employment office, the secretary of labor, or an employer, such
17 disqualification shall begin with the week in which such failure occurred
18 and shall continue until the individual becomes reemployed and has had
19 earnings from insured work of at least three times such individual's
20 determined weekly benefit amount. In determining whether or not any
21 work is suitable for an individual, the secretary of labor, or a person or
22 persons designated by the secretary, shall consider the degree of risk
23 involved to health, safety and morals, physical fitness and prior training,
24 experience and prior earnings, length of unemployment and prospects for
25 securing local work in the individual's customary occupation or work for
26 which the individual is reasonably fitted by training or experience, and the
27 distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible
28 individual shall not be disqualified for refusing an offer of suitable
29 employment, or failing to apply for suitable employment when notified by
30 an employment office, or for leaving the individual's most recent work
31 accepted during approved training, including training approved under
32 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
33 for suitable employment or continuing such work would require the
34 individual to terminate approved training and no work shall be deemed
35 suitable and benefits shall not be denied under this act to any otherwise
36 eligible individual for refusing to accept new work under any of the
37 following conditions: (1) If the position offered is vacant due directly to a
38 strike, lockout or other labor dispute; (2) if the remuneration, hours or
39 other conditions of the work offered are substantially less favorable to the
40 individual than those prevailing for similar work in the locality; (3) if as a
41 condition of being employed, the individual would be required to join or to
42 resign from or refrain from joining any labor organization; and (4) if the
43

1 individual left employment as a result of domestic violence, and the
2 position offered does not reasonably accommodate the individual's
3 physical, psychological, safety, or legal needs relating to such domestic
4 violence.

5 (d) For any week with respect to which the secretary of labor, or a
6 person or persons designated by the secretary, finds that the individual's
7 unemployment is due to a stoppage of work which exists because of a
8 labor dispute or there would have been a work stoppage had normal
9 operations not been maintained with other personnel previously and
10 currently employed by the same employer at the factory, establishment or
11 other premises at which the individual is or was last employed, except that
12 this subsection (d) shall not apply if it is shown to the satisfaction of the
13 secretary of labor, or a person or persons designated by the secretary, that:

14 (1) The individual is not participating in or financing or directly interested
15 in the labor dispute which caused the stoppage of work; and (2) the
16 individual does not belong to a grade or class of workers of which,
17 immediately before the commencement of the stoppage, there were
18 members employed at the premises at which the stoppage occurs any of
19 whom are participating in or financing or directly interested in the dispute.
20 If in any case separate branches of work which are commonly conducted
21 as separate businesses in separate premises are conducted in separate
22 departments of the same premises, each such department shall, for the
23 purpose of this subsection be deemed to be a separate factory,
24 establishment or other premises. For the purposes of this subsection,
25 failure or refusal to cross a picket line or refusal for any reason during the
26 continuance of such labor dispute to accept the individual's available and
27 customary work at the factory, establishment or other premises where the
28 individual is or was last employed shall be considered as participation and
29 interest in the labor dispute.

30 (e) For any week with respect to which or a part of which the
31 individual has received or is seeking unemployment benefits under the
32 unemployment compensation law of any other state or of the United
33 States, except that if the appropriate agency of such other state or the
34 United States finally determines that the individual is not entitled to such
35 unemployment benefits, this disqualification shall not apply.

36 (f) For any week with respect to which the individual is entitled to
37 receive any unemployment allowance or compensation granted by the
38 United States under an act of congress to ex-service men and women in
39 recognition of former service with the military or naval services of the
40 United States.

41 (g) For the period of five years beginning with the first day following
42 the last week of unemployment for which the individual received benefits,
43 or for five years from the date the act was committed, whichever is the

1 later, if the individual, or another in such individual's behalf with the
2 knowledge of the individual, has knowingly made a false statement or
3 representation, or has knowingly failed to disclose a material fact to obtain
4 or increase benefits under this act or any other unemployment
5 compensation law administered by the secretary of labor. In addition to the
6 penalties set forth in K.S.A. 44-719, and amendments thereto, an
7 individual who has knowingly made a false statement or representation or
8 who has knowingly failed to disclose a material fact to obtain or increase
9 benefits under this act or any other unemployment compensation law
10 administered by the secretary of labor shall be liable for a penalty in the
11 amount equal to 25% of the amount of benefits unlawfully received.
12 Notwithstanding any other provision of law, such penalty shall be
13 deposited into the employment security trust fund.

14 (h) For any week with respect to which the individual is receiving
15 compensation for temporary total disability or permanent total disability
16 under the workmen's compensation law of any state or under a similar law
17 of the United States.

18 (i) For any week of unemployment on the basis of service in an
19 instructional, research or principal administrative capacity for an
20 educational institution as defined in K.S.A. 44-703(v), and amendments
21 thereto, if such week begins during the period between two successive
22 academic years or terms or, when an agreement provides instead for a
23 similar period between two regular but not successive terms during such
24 period or during a period of paid sabbatical leave provided for in the
25 individual's contract, if the individual performs such services in the first of
26 such academic years or terms and there is a contract or a reasonable
27 assurance that such individual will perform services in any such capacity
28 for any educational institution in the second of such academic years or
29 terms.

30 (j) For any week of unemployment on the basis of service in any
31 capacity other than service in an instructional, research, or administrative
32 capacity in an educational institution, as defined in K.S.A. 44-703(v), and
33 amendments thereto, if such week begins during the period between two
34 successive academic years or terms if the individual performs such
35 services in the first of such academic years or terms and there is a
36 reasonable assurance that the individual will perform such services in the
37 second of such academic years or terms, except that if benefits are denied
38 to the individual under this subsection and the individual was not offered
39 an opportunity to perform such services for the educational institution for
40 the second of such academic years or terms, such individual shall be
41 entitled to a retroactive payment of benefits for each week for which the
42 individual filed a timely claim for benefits and for which benefits were
43 denied solely by reason of this subsection.

1 (k) For any week of unemployment on the basis of service in any
2 capacity for an educational institution as defined in K.S.A. 44-703(v), and
3 amendments thereto, if such week begins during an established and
4 customary vacation period or holiday recess, if the individual performs
5 services in the period immediately before such vacation period or holiday
6 recess and there is a reasonable assurance that such individual will perform
7 such services in the period immediately following such vacation period or
8 holiday recess.

9 (l) For any week of unemployment on the basis of any services,
10 substantially all of which consist of participating in sports or athletic
11 events or training or preparing to so participate, if such week begins during
12 the period between two successive sport seasons or similar period if such
13 individual performed services in the first of such seasons or similar periods
14 and there is a reasonable assurance that such individual will perform such
15 services in the later of such seasons or similar periods.

16 (m) For any week on the basis of services performed by an alien
17 unless such alien is an individual who was lawfully admitted for
18 permanent residence at the time such services were performed, was
19 lawfully present for purposes of performing such services, or was
20 permanently residing in the United States under color of law at the time
21 such services were performed, including an alien who was lawfully present
22 in the United States as a result of the application of the provisions of
23 section 212(d)(5) of the federal immigration and nationality act. Any data
24 or information required of individuals applying for benefits to determine
25 whether benefits are not payable to them because of their alien status shall
26 be uniformly required from all applicants for benefits. In the case of an
27 individual whose application for benefits would otherwise be approved, no
28 determination that benefits to such individual are not payable because of
29 such individual's alien status shall be made except upon a preponderance
30 of the evidence.

31 (n) For any week in which an individual is receiving a governmental
32 or other pension, retirement or retired pay, annuity or other similar
33 periodic payment under a plan maintained by a base period employer and
34 to which the entire contributions were provided by such employer, except
35 that: (1) If the entire contributions to such plan were provided by the base
36 period employer but such individual's weekly benefit amount exceeds such
37 governmental or other pension, retirement or retired pay, annuity or other
38 similar periodic payment attributable to such week, the weekly benefit
39 amount payable to the individual shall be reduced, but not below zero, by
40 an amount equal to the amount of such pension, retirement or retired pay,
41 annuity or other similar periodic payment which is attributable to such
42 week; ~~or~~ (2) if only a portion of contributions to such plan were provided
43 by the base period employer, the weekly benefit amount payable to such

1 individual for such week shall be reduced, but not below zero, by the
2 prorated weekly amount of the pension, retirement or retired pay, annuity
3 or other similar periodic payment after deduction of that portion of the
4 pension, retirement or retired pay, annuity or other similar periodic
5 payment that is directly attributable to the percentage of the contributions
6 made to the plan by such individual; ~~or~~ (3) if the entire contributions to the
7 plan were provided by such individual, or by the individual and an
8 employer, or any person or organization, who is not a base period
9 employer, no reduction in the weekly benefit amount payable to the
10 individual for such week shall be made under this subsection; or (4)
11 whatever portion of contributions to such plan were provided by the base
12 period employer, if the services performed for the employer by such
13 individual during the base period, or remuneration received for the
14 services, did not affect the individual's eligibility for, or increased the
15 amount of, such pension, retirement or retired pay, annuity or other similar
16 periodic payment, no reduction in the weekly benefit amount payable to
17 the individual for such week shall be made under this subsection. No
18 reduction shall be made for payments made under the social security act or
19 railroad retirement act of 1974.

20 (o) For any week of unemployment on the basis of services
21 performed in any capacity and under any of the circumstances described in
22 subsection (i), (j) or (k) ~~which~~ that an individual performed in an
23 educational institution while in the employ of an educational service
24 agency. For the purposes of this subsection, the term "educational service
25 agency" means a governmental agency or entity which is established and
26 operated exclusively for the purpose of providing such services to one or
27 more educational institutions.

28 (p) For any week of unemployment on the basis of service as a school
29 bus or other motor vehicle driver employed by a private contractor to
30 transport pupils, students and school personnel to or from school-related
31 functions or activities for an educational institution, as defined in K.S.A.
32 44-703(v), and amendments thereto, if such week begins during the period
33 between two successive academic years or during a similar period between
34 two regular terms, whether or not successive, if the individual has a
35 contract or contracts, or a reasonable assurance thereof, to perform
36 services in any such capacity with a private contractor for any educational
37 institution for both such academic years or both such terms. An individual
38 shall not be disqualified for benefits as provided in this subsection for any
39 week of unemployment on the basis of service as a bus or other motor
40 vehicle driver employed by a private contractor to transport persons to or
41 from nonschool-related functions or activities.

42 (q) For any week of unemployment on the basis of services
43 performed by the individual in any capacity and under any of the

1 circumstances described in subsection (i), (j), (k) or (o) ~~which~~ *that* are
2 provided to or on behalf of an educational institution, as defined in K.S.A.
3 44-703(v), and amendments thereto, while the individual is in the employ
4 of an employer which is a governmental entity, Indian tribe or any
5 employer described in section 501(c)(3) of the federal internal revenue
6 code of 1986 which is exempt from income under section 501(a) of the
7 code.

8 (r) For any week in which an individual is registered at and attending
9 an established school, training facility or other educational institution, or is
10 on vacation during or between two successive academic years or terms. An
11 individual shall not be disqualified for benefits as provided in this
12 subsection provided:

13 (1) The individual was engaged in full-time employment concurrent
14 with the individual's school attendance;

15 (2) the individual is attending approved training as defined in K.S.A.
16 44-703(s), and amendments thereto; or

17 (3) the individual is attending evening, weekend or limited day time
18 classes, which would not affect availability for work, and is otherwise
19 eligible under K.S.A. 44-705(c), and amendments thereto.

20 (s) For any week with respect to which an individual is receiving or
21 has received remuneration in the form of a back pay award or settlement.
22 The remuneration shall be allocated to the week or weeks in the manner as
23 specified in the award or agreement, or in the absence of such specificity
24 in the award or agreement, such remuneration shall be allocated to the
25 week or weeks in which such remuneration, in the judgment of the
26 secretary, would have been paid.

27 (1) For any such weeks that an individual receives remuneration in
28 the form of a back pay award or settlement, an overpayment will be
29 established in the amount of unemployment benefits paid and shall be
30 collected from the claimant.

31 (2) If an employer chooses to withhold from a back pay award or
32 settlement, amounts paid to a claimant while they claimed unemployment
33 benefits, such employer shall pay the department the amount withheld.
34 With respect to such amount, the secretary shall have available all of the
35 collection remedies authorized or provided in K.S.A. 44-717, and
36 amendments thereto.

37 (t) (1) Any applicant for or recipient of unemployment benefits who
38 tests positive for unlawful use of a controlled substance or controlled
39 substance analog shall be required to complete a substance abuse treatment
40 program approved by the secretary of labor, secretary of commerce or
41 secretary for children and families, and a job skills program approved by
42 the secretary of labor, secretary of commerce or the secretary for children
43 and families. Subject to applicable federal laws, any applicant for or

1 recipient of unemployment benefits who fails to complete or refuses to
2 participate in the substance abuse treatment program or job skills program
3 as required under this subsection shall be ineligible to receive
4 unemployment benefits until completion of such substance abuse
5 treatment and job skills programs. Upon completion of both substance
6 abuse treatment and job skills programs, such applicant for or recipient of
7 unemployment benefits may be subject to periodic drug screening, as
8 determined by the secretary of labor. Upon a second positive test for
9 unlawful use of a controlled substance or controlled substance analog, an
10 applicant for or recipient of unemployment benefits shall be ordered to
11 complete again a substance abuse treatment program and job skills
12 program, and shall be terminated from unemployment benefits for a period
13 of 12 months, or until such applicant for or recipient of unemployment
14 benefits completes both substance abuse treatment and job skills programs,
15 whichever is later. Upon a third positive test for unlawful use of a
16 controlled substance or controlled substance analog, an applicant for or a
17 recipient of unemployment benefits shall be terminated from receiving
18 unemployment benefits, subject to applicable federal law.

19 (2) Any individual who has been discharged or refused employment
20 for failing a preemployment drug screen required by an employer may
21 request that the drug screening specimen be sent to a different drug testing
22 facility for an additional drug screening. Any such individual who requests
23 an additional drug screening at a different drug testing facility shall be
24 required to pay the cost of drug screening.

25 (3) *The provisions of this subsection shall not apply to any individual*
26 *who is a registered patient pursuant to section 8, and amendments thereto,*
27 *for activities authorized by the Kansas medical marijuana regulation act,*
28 *section 1 et seq., and amendments thereto.*

29 (u) If the individual was found not to have a disqualifying
30 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
31 amendments thereto, was hired and then was subsequently convicted of a
32 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
33 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and
34 amendments thereto. The disqualification shall begin the day following the
35 separation and shall continue until after the individual becomes
36 reemployed and has had earnings from insured work of at least three times
37 the individual's determined weekly benefit amount.

38 (v) Notwithstanding the provisions of any subsection, an individual
39 shall not be disqualified for such week of part-time employment in a
40 substitute capacity for an educational institution if such individual's most
41 recent employment prior to the individual's benefit year begin date was for
42 a non-educational institution and such individual demonstrates application
43 for work in such individual's customary occupation or for work for which

1 the individual is reasonably fitted by training or experience.

2 Sec. 70. K.S.A. 44-1009 is hereby amended to read as follows: 44-
3 1009. (a) It shall be an unlawful employment practice:

4 (1) For an employer, because of the race, religion, color, sex,
5 disability, national origin or ancestry of any person to refuse to hire or
6 employ such person to bar or discharge such person from employment or
7 to otherwise discriminate against such person in compensation or in terms,
8 conditions or privileges of employment; to limit, segregate, separate,
9 classify or make any distinction in regards to employees; or to follow any
10 employment procedure or practice which, in fact, results in discrimination,
11 segregation or separation without a valid business necessity.

12 (2) For a labor organization, because of the race, religion, color, sex,
13 disability, national origin or ancestry of any person, to exclude or to expel
14 from its membership such person or to discriminate in any way against any
15 of its members or against any employer or any person employed by an
16 employer.

17 (3) For any employer, employment agency or labor organization to
18 print or circulate or cause to be printed or circulated any statement,
19 advertisement or publication, or to use any form of application for
20 employment or membership or to make any inquiry in connection with
21 prospective employment or membership, which expresses, directly or
22 indirectly, any limitation, specification or discrimination as to race,
23 religion, color, sex, disability, national origin or ancestry, or any intent to
24 make any such limitation, specification or discrimination, unless based on
25 a bona fide occupational qualification.

26 (4) For any employer, employment agency or labor organization to
27 discharge, expel or otherwise discriminate against any person because such
28 person has opposed any practices or acts forbidden under this act or
29 because such person has filed a complaint, testified or assisted in any
30 proceeding under this act.

31 (5) For an employment agency to refuse to list and properly classify
32 for employment or to refuse to refer any person for employment or
33 otherwise discriminate against any person because of such person's race,
34 religion, color, sex, disability, national origin or ancestry; or to comply
35 with a request from an employer for a referral of applicants for
36 employment if the request expresses, either directly or indirectly, any
37 limitation, specification or discrimination as to race, religion, color, sex,
38 disability, national origin or ancestry.

39 (6) For an employer, labor organization, employment agency, or
40 school which provides, coordinates or controls apprenticeship, on-the-job,
41 or other training or retraining program, to maintain a practice of
42 discrimination, segregation or separation because of race, religion, color,
43 sex, disability, national origin or ancestry, in admission, hiring,

1 assignments, upgrading, transfers, promotion, layoff, dismissal,
2 apprenticeship or other training or retraining program, or in any other
3 terms, conditions or privileges of employment, membership,
4 apprenticeship or training; or to follow any policy or procedure which, in
5 fact, results in such practices without a valid business motive.

6 (7) For any person, whether an employer or an employee or not, to
7 aid, abet, incite, compel or coerce the doing of any of the acts forbidden
8 under this act, or attempt to do so.

9 (8) For an employer, labor organization, employment agency or joint
10 labor-management committee to:

11 (A) Limit, segregate or classify a job applicant or employee in a way
12 that adversely affects the opportunities or status of such applicant or
13 employee because of the disability of such applicant or employee;

14 (B) participate in a contractual or other arrangement or relationship,
15 including a relationship with an employment or referral agency, labor
16 union, an organization providing fringe benefits to an employee or an
17 organization providing training and apprenticeship programs that has the
18 effect of subjecting a qualified applicant or employee with a disability to
19 the discrimination prohibited by this act;

20 (C) utilize standards criteria, or methods of administration that have
21 the effect of discrimination on the basis of disability or that perpetuate the
22 discrimination of others who are subject to common administrative
23 control;

24 (D) exclude or otherwise deny equal jobs or benefits to a qualified
25 individual because of the known disability of an individual with whom the
26 qualified individual is known to have a relationship or association;

27 (E) not make reasonable accommodations to the known physical or
28 mental limitations of an otherwise qualified individual with a disability
29 who is an applicant or employee, unless such employer, labor organization,
30 employment agency or joint labor-management committee can
31 demonstrate that the accommodation would impose an undue hardship on
32 the operation of the business thereof;

33 (F) deny employment opportunities to a job applicant or employee
34 who is an otherwise qualified individual with a disability, if such denial is
35 based on the need to make reasonable accommodation to the physical or
36 mental impairments of the employee or applicant;

37 (G) use qualification standards, employment tests or other selection
38 criteria that screen out or tend to screen out an individual with a disability
39 or a class of individuals with disabilities unless the standard, test or other
40 selection criteria, as used, is shown to be job-related for the position in
41 question and is consistent with business necessity; or

42 (H) fail to select and administer tests concerning employment in the
43 most effective manner to ensure that, when such test is administered to a

1 job applicant or employee who has a disability that impairs sensory,
2 manual or speaking skills, the test results accurately reflect the skills,
3 aptitude or whatever other factor of such applicant or employee that such
4 test purports to measure, rather than reflecting the impaired sensory,
5 manual or speaking skills of such employee or applicant—(, except where
6 such skills are the factors that the test purports to measure).

7 (9) For any employer to:

8 (A) Seek to obtain, to obtain or to use genetic screening or testing
9 information of an employee or a prospective employee to distinguish
10 between or discriminate against or restrict any right or benefit otherwise
11 due or available to an employee or a prospective employee; or

12 (B) subject, directly or indirectly, any employee or prospective
13 employee to any genetic screening or test.

14 (10) (A) *For an employer, because a person is a registered patient or*
15 *caregiver pursuant to section 8, and amendments thereto, or possesses or*
16 *uses medical marijuana in accordance with the Kansas medical marijuana*
17 *regulation act, section 1 et seq., and amendments thereto, to:*

18 (i) *Refuse to hire or employ a person;*

19 (ii) *bar or discharge such person from employment; or*

20 (iii) *otherwise discriminate against such person in compensation or*
21 *in terms, conditions or privileges of employment without a valid business*
22 *necessity.*

23 (B) *For a labor organization, because a person is a registered patient*
24 *or caregiver pursuant to section 8, and amendments thereto, or possesses*
25 *or uses medical marijuana in accordance with the Kansas medical*
26 *marijuana regulation act, section 1 et seq., and amendments thereto, to*
27 *exclude or expel such person from its membership.*

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

34 (D) *Nothing in this paragraph shall be construed to provide a cause*
35 *of action against an employer for wrongful discharge or discrimination for*
36 *the unlawful use of marijuana.*

37 (b) It shall not be an unlawful employment practice to fill vacancies
38 in such way as to eliminate or reduce imbalance with respect to race,
39 religion, color, sex, disability, national origin or ancestry.

40 (c) It shall be an unlawful discriminatory practice:

41 (1) For any person, as defined herein being the owner, operator,
42 lessee, manager, agent or employee of any place of public accommodation
43 to refuse, deny or make a distinction, directly or indirectly, in offering its

1 goods, services, facilities, and accommodations to any person as covered
2 by this act because of race, religion, color, sex, disability, national origin or
3 ancestry, except where a distinction because of sex is necessary because of
4 the intrinsic nature of such accommodation.

5 (2) For any person, whether or not specifically enjoined from
6 discriminating under any provisions of this act, to aid, abet, incite, compel
7 or coerce the doing of any of the acts forbidden under this act, or to
8 attempt to do so.

9 (3) For any person, to refuse, deny, make a distinction, directly or
10 indirectly, or discriminate in any way against persons because of the race,
11 religion, color, sex, disability, national origin or ancestry of such persons
12 in the full and equal use and enjoyment of the services, facilities,
13 privileges and advantages of any institution, department or agency of the
14 state of Kansas or any political subdivision or municipality thereof.

15 Sec. 71. K.S.A. 44-1015 is hereby amended to read as follows: 44-
16 1015. As used in this act, unless the context otherwise requires:

17 (a) "Commission" means the Kansas human rights commission.

18 (b) "Real property" means and includes:

19 (1) All vacant or unimproved land; and

20 (2) any building or structure ~~which~~ that is occupied or designed or
21 intended for occupancy, or any building or structure having a portion
22 thereof ~~which~~ that is occupied or designed or intended for occupancy.

23 (c) "Family" includes a single individual.

24 (d) "Person" means an individual, corporation, partnership,
25 association, labor organization, legal representative, mutual company,
26 joint-stock company, trust, unincorporated organization, trustee, trustee in
27 bankruptcy, receiver and fiduciary.

28 (e) "To rent" means to lease, to sublease, to let and otherwise to grant
29 for a consideration the right to occupy premises not owned by the
30 occupant.

31 (f) "Discriminatory housing practice" means any act that is unlawful
32 under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto, *or*
33 *section 54, and amendments thereto.*

34 (g) "Person aggrieved" means any person who claims to have been
35 injured by a discriminatory housing practice or believes that such person
36 will be injured by a discriminatory housing practice that is about to occur.

37 (h) "Disability" ~~has the meaning provided by~~ *means the same as*
38 *defined in* K.S.A. 44-1002, and amendments thereto.

39 (i) "Familial status" means having one or more individuals less than
40 18 years of age domiciled with:

41 (1) A parent or another person having legal custody of such
42 individual or individuals; or

43 (2) the designee of such parent or other person having such custody,

1 with the written permission of such parent or other person.

2 Sec. 72. K.S.A. 2020 Supp. 65-1120 is hereby amended to read as
3 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
4 deny, revoke, limit or suspend any license or authorization to practice
5 nursing as a registered professional nurse, as a licensed practical nurse, as
6 an advanced practice registered nurse or as a registered nurse anesthetist
7 that is issued by the board or applied for under this act, or may require the
8 licensee to attend a specific number of hours of continuing education in
9 addition to any hours the licensee may already be required to attend or
10 may publicly or privately censure a licensee or holder of a temporary
11 permit or authorization, if the applicant, licensee or holder of a temporary
12 permit or authorization is found after hearing:

13 (1) To be guilty of fraud or deceit in practicing nursing or in
14 procuring or attempting to procure a license to practice nursing;

15 (2) to have been guilty of a felony or to have been guilty of a
16 misdemeanor involving an illegal drug offense unless the applicant or
17 licensee establishes sufficient rehabilitation to warrant the public trust,
18 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
19 license or authorization to practice nursing as a licensed professional
20 nurse, as a licensed practical nurse, as an advanced practice registered
21 nurse or registered nurse anesthetist shall be granted to a person with a
22 felony conviction for a crime against persons as specified in article 34 of
23 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
24 54 of chapter 21 of the Kansas Statutes Annotated, *and amendments*
25 *thereto*, or K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and
26 amendments thereto;

27 (3) has been convicted or found guilty or has entered into an agreed
28 disposition of a misdemeanor offense related to the practice of nursing as
29 determined on a case-by-case basis;

30 (4) to have committed an act of professional incompetency as defined
31 in subsection (e);

32 (5) to be unable to practice with skill and safety due to current abuse
33 of drugs or alcohol;

34 (6) to be a person who has been adjudged in need of a guardian or
35 conservator, or both, under the act for obtaining a guardian or conservator,
36 or both, and who has not been restored to capacity under that act;

37 (7) to be guilty of unprofessional conduct as defined by rules and
38 regulations of the board;

39 (8) to have willfully or repeatedly violated the provisions of the
40 Kansas nurse practice act or any rules and regulations adopted pursuant to
41 that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

42 (9) to have a license to practice nursing as a registered nurse or as a
43 practical nurse denied, revoked, limited or suspended, or to be publicly or

1 privately censured, by a licensing authority of another state, agency of the
2 United States government, territory of the United States or country or to
3 have other disciplinary action taken against the applicant or licensee by a
4 licensing authority of another state, agency of the United States
5 government, territory of the United States or country. A certified copy of
6 the record or order of public or private censure, denial, suspension,
7 limitation, revocation or other disciplinary action of the licensing authority
8 of another state, agency of the United States government, territory of the
9 United States or country shall constitute prima facie evidence of such a
10 fact for purposes of this paragraph~~(9)~~; or

11 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
12 its repeal, or K.S.A. 2020 Supp. 21-5407, and amendments thereto, as
13 established by any of the following:

14 (A) A copy of the record of criminal conviction or plea of guilty for a
15 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2020
16 Supp. 21-5407, and amendments thereto.

17 (B) A copy of the record of a judgment of contempt of court for
18 violating an injunction issued under K.S.A. 2020 Supp. 60-4404, and
19 amendments thereto.

20 (C) A copy of the record of a judgment assessing damages under
21 K.S.A. 2020 Supp. 60-4405, and amendments thereto.

22 (b) *Proceedings.* Upon filing of a sworn complaint with the board
23 charging a person with having been guilty of any of the unlawful practices
24 specified in subsection (a), two or more members of the board shall
25 investigate the charges, or the board may designate and authorize an
26 employee or employees of the board to conduct an investigation. After
27 investigation, the board may institute charges. If an investigation, in the
28 opinion of the board, reveals reasonable grounds for believing the
29 applicant or licensee is guilty of the charges, the board shall fix a time and
30 place for proceedings, which shall be conducted in accordance with the
31 provisions of the Kansas administrative procedure act.

32 (c) *Witnesses.* No person shall be excused from testifying in any
33 proceedings before the board under this act or in any civil proceedings
34 under this act before a court of competent jurisdiction on the ground that
35 such testimony may incriminate the person testifying, but such testimony
36 shall not be used against the person for the prosecution of any crime under
37 the laws of this state except the crime of perjury as defined in K.S.A. 2020
38 Supp. 21-5903, and amendments thereto.

39 (d) *Costs.* If final agency action of the board in a proceeding under
40 this section is adverse to the applicant or licensee, the costs of the board's
41 proceedings shall be charged to the applicant or licensee as in ordinary
42 civil actions in the district court, but if the board is the unsuccessful party,
43 the costs shall be paid by the board. Witness fees and costs may be taxed

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 licensure by the 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.*

1 Sec. 73. K.S.A. 65-28b08 is hereby amended to read as follows: 65-
2 28b08. (a) The board may deny, revoke, limit or suspend any license or
3 authorization issued to a certified nurse-midwife to engage in the
4 independent practice of midwifery that is issued by the board or applied
5 for under this act, or may publicly censure a licensee or holder of a
6 temporary permit or authorization, if the applicant or licensee is found
7 after a hearing:

8 (1) To be guilty of fraud or deceit while engaging in the independent
9 practice of midwifery or in procuring or attempting to procure a license to
10 engage in the independent practice of midwifery;

11 (2) to have been found guilty of a felony or to have been found guilty
12 of a misdemeanor involving an illegal drug offense unless the applicant or
13 licensee establishes sufficient rehabilitation to warrant the public trust,
14 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
15 license or authorization to practice and engage in the independent practice
16 of midwifery shall be granted to a person with a felony conviction for a
17 crime against persons as specified in article 34 of chapter 21 of the Kansas
18 Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the
19 Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2020 Supp.
20 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

21 (3) to have committed an act of professional incompetence as defined
22 in subsection (c);

23 (4) to be unable to practice the healing arts with reasonable skill and
24 safety by reason of impairment due to physical or mental illness or
25 condition or use of alcohol, drugs or controlled substances. All
26 information, reports, findings and other records relating to impairment
27 shall be confidential and not subject to discovery or release to any person
28 or entity outside of a board proceeding. The provisions of this paragraph
29 providing confidentiality of records shall expire on July 1, 2022, unless the
30 legislature reviews and reenacts such provisions pursuant to K.S.A. 45-
31 229, and amendments thereto, prior to July 1, 2022;

32 (5) to be a person who has been adjudged in need of a guardian or
33 conservator, or both, under the act for obtaining a guardian or conservator,
34 or both, and who has not been restored to capacity under that act;

35 (6) to be guilty of unprofessional conduct as defined by rules and
36 regulations of the board;

37 (7) to have willfully or repeatedly violated the provisions of the
38 Kansas nurse practice act or any rules and regulations adopted pursuant to
39 that act;

40 (8) to have a license to practice nursing as a registered nurse or as a
41 practical nurse denied, revoked, limited or suspended, or to have been
42 publicly or privately censured, by a licensing authority of another state,
43 agency of the United States government, territory of the United States or

1 country, or to have other disciplinary action taken against the applicant or
2 licensee by a licensing authority of another state, agency of the United
3 States government, territory of the United States or country. A certified
4 copy of the record or order of public or private censure, denial, suspension,
5 limitation, revocation or other disciplinary action of the licensing authority
6 of another state, agency of the United States government, territory of the
7 United States or country shall constitute prima facie evidence of such a
8 fact for purposes of this paragraph; or

9 (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its
10 repeal, or K.S.A. 2020 Supp. 21-5407, and amendments thereto, as
11 established by any of the following:

12 (A) A copy of the record of criminal conviction or plea of guilty to a
13 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2020
14 Supp. 21-5407, and amendments thereto;

15 (B) a copy of the record of a judgment of contempt of court for
16 violating an injunction issued under K.S.A. 60-4404, and amendments
17 thereto; or

18 (C) a copy of the record of a judgment assessing damages under
19 K.S.A. 60-4405, and amendments thereto.

20 (b) No person shall be excused from testifying in any proceedings
21 before the board under this act or in any civil proceedings under this act
22 before a court of competent jurisdiction on the ground that such testimony
23 may incriminate the person testifying, but such testimony shall not be used
24 against the person for the prosecution of any crime under the laws of this
25 state, except the crime of perjury as defined in K.S.A. 2020 Supp. 21-
26 5903, and amendments thereto.

27 (c) *The board shall not deny, revoke, limit or suspend any license or*
28 *authorization issued to a certified nurse-midwife or publicly censure a*
29 *certified nurse-midwife upon any of the following:*

30 (1) *The certified nurse-midwife has:*

31 (A) *Advised a patient about the possible benefits and risks of using*
32 *medical marijuana; or*

33 (B) *advised the patient that using medical marijuana may mitigate*
34 *the patient's symptoms; or*

35 (2) *the certified nurse-midwife is a registered patient or caregiver*
36 *pursuant to section 8, and amendments thereto, possesses or has*
37 *possessed, or uses or has used medical marijuana in accordance with the*
38 *Kansas medical marijuana regulation act, section 1 et seq., and*
39 *amendments thereto.*

40 (d) As used in this section, "professional incompetency" means:

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

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

4 (3) a pattern of practice or other behavior ~~which~~ *that* demonstrates a
5 manifest incapacity or incompetence to engage in the independent practice
6 of midwifery.

7 ~~(d)~~(e) The board, upon request, shall receive from the Kansas bureau
8 of investigation such criminal history record information relating to arrests
9 and criminal convictions, as necessary, for the purpose of determining
10 initial and continuing qualifications of licensees and applicants for
11 licensure by the board.

12 ~~(e) The provisions of this section shall become effective on January 1,
13 2017.~~

14 Sec. 74. K.S.A. 79-5201 is hereby amended to read as follows: 79-
15 5201. As used in ~~this act~~ *article 52 of chapter 79 of the Kansas Statutes*
16 *Annotated, and amendments thereto:*

17 (a) ~~"Marijuana" means any marijuana, whether real or counterfeit, as~~
18 ~~defined by K.S.A. 2020 Supp. 21-5701, and amendments thereto, which is~~
19 ~~held, possessed, transported, transferred, sold or offered to be sold in~~
20 ~~violation of the laws of Kansas;~~

21 ~~(b)~~"Controlled substance" means any drug or substance, whether real
22 or counterfeit, as defined by K.S.A. 2020 Supp. 21-5701, and amendments
23 thereto, ~~which~~ *that* is held, possessed, transported, transferred, sold or
24 offered to be sold in violation of the laws of Kansas. Such term shall not
25 include marijuana;

26 ~~(e)~~(b) "dealer" means any person who, in violation of Kansas law,
27 manufactures, produces, ships, transports or imports into Kansas or in any
28 manner acquires or possesses more than 28 grams of marijuana, or more
29 than one gram of any controlled substance, or 10 or more dosage units of
30 any controlled substance ~~which~~ *that* is not sold by weight;

31 ~~(d)~~(c) "domestic marijuana plant" means any cannabis plant at any
32 level of growth ~~which~~ *that* is harvested or tended, manicured, irrigated,
33 fertilized or where there is other evidence that it has been treated in any
34 other way in an effort to enhance growth;

35 (d) *"marijuana" means any marijuana, whether real or counterfeit,*
36 *as defined in K.S.A. 2020 Supp. 21-5701, and amendments thereto, that is*
37 *held, possessed, transported, transferred, sold or offered for sale in*
38 *violation of the laws of Kansas; and*

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

41 Sec. 75. K.S.A. 79-5210 is hereby amended to read as follows: 79-
42 5210. Nothing in this act requires persons registered under article 16 of
43 chapter 65 of the Kansas Statutes Annotated, *and amendments thereto, or*

1 otherwise lawfully in possession of marijuana, *medical marijuana* or a
2 controlled substance to pay the tax required under this act.

3 Sec. 76. K.S.A. 44-1009, 44-1015, 65-28b08, 79-5201 and 79-5210
4 and K.S.A. 2020 Supp. 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-
5 5710, 23-3201, 38-2269, 44-501, 44-706 and 65-1120 are hereby repealed.

6 Sec. 77. This act shall take effect and be in force from and after its
7 publication in the statute book.