

HOUSE BILL No. 2610

By Committee on Health and Human Services

2-2

9 AN ACT enacting the medical marijuana act; providing for the legal use
10 of marijuana for certain debilitating medical conditions; providing for
11 the registration and functions of compassion centers; authorizing the
12 issuance of identification cards; providing for administration of the act
13 by the department of health and environment.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. Sections 1 through 11 of this act shall be known as the
17 medical marijuana act.

18 Sec. 2. (a) Modern medical research has discovered beneficial uses
19 for marijuana in treating or alleviating the pain, nausea, and other symp-
20 toms associated with a variety of debilitating medical conditions, as found
21 by the national academy of sciences' institute of medicine in March, 1999.

22 (b) Subsequent studies since the 1999 national academy of sciences'
23 institute of medicine report continue to show the therapeutic value of
24 marijuana in treating a wide array of debilitating medical conditions, in-
25 cluding increasing the chances of patients finishing their treatments for
26 HIV/AIDS and hepatitis C.

27 (c) Data from the federal bureau of investigation's uniform crime
28 reports and the compendium of federal justice statistics show that ap-
29 proximately 99 out of every 100 marijuana arrests in the United States
30 are made under state law, rather than under federal law. Consequently,
31 changing state law will have the practical effect of protecting from arrest
32 the vast majority of seriously ill patients who have a medical need to use
33 marijuana.

34 (d) Although federal law currently prohibits any use of marijuana ex-
35 cept under very limited circumstances, Alaska, California, Colorado, Ha-
36 waii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Ver-
37 mont, Rhode Island and Washington have removed state-level criminal
38 penalties from the medical use and cultivation of marijuana. Under this
39 bill Kansas joins in this effort for the health and welfare of its citizens.

40 (e) States are not required to enforce federal law or prosecute people
41 for engaging in activities prohibited by federal law. Therefore, compliance
42 with this act does not put the state of Kansas in violation of federal law.

43 (f) State law should make a distinction between the medical and non-

1 medical uses of marijuana. Hence, the purpose of this act is to protect
2 patients with debilitating medical conditions, as well as their practitioners
3 and providers, from arrest and prosecution, criminal and other penalties,
4 and property forfeiture if such patients engage in the medical use of
5 marijuana.

6 (g) The legislature of the state of Kansas declares that this act is en-
7 acted pursuant to the police power of the state to protect the health of
8 its citizens that is reserved to the state of Kansas and its people under
9 the 10th Amendment to the United States Constitution.

10 Sec. 3. The following terms, as used in this act, shall have the mean-
11 ings set forth in this section:

12 (a) “Cardholder” means a qualifying patient, a designated caregiver,
13 or a principal officer, board member, employee, volunteer, or agent of a
14 compassion center who has been issued and possesses a valid registry
15 identification card.

16 (b) “Compassion center staffer” means a principal officer, board
17 member, employee, volunteer, or agent of a compassion center who has
18 been issued and possesses a valid registry identification card.

19 (c) “Debilitating medical condition” means one or more of the
20 following:

21 (1) Cancer, glaucoma, positive status for human immunodeficiency
22 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic
23 lateral sclerosis, Crohn’s disease, agitation of Alzheimer’s disease, nail
24 patella or the treatment of these conditions;

25 (2) a chronic or debilitating disease or medical condition or its treat-
26 ment that produces one or more of the following: cachexia or wasting
27 syndrome; severe pain; severe nausea; seizures, including, but not limited
28 to, those characteristic of epilepsy or severe and persistent muscle spasms,
29 including, but not limited to, those characteristic of multiple sclerosis; or

30 (3) any other medical condition or its treatment approved by the de-
31 partment, as provided for in subsection (a) of section 6, and amendments
32 thereto.

33 (d) “Department” means the department of health and environment.

34 (e) “Designated caregiver” means a person who is at least 21 years
35 of age, who has agreed to assist with a patient’s medical use of marijuana
36 and who has never been convicted of an excluded felony offense. A des-
37 ignated caregiver may assist no more than five qualifying patients with
38 their medical use of marijuana.

39 (f) “Enclosed, locked facility” means a closet, room, greenhouse or
40 other enclosed area equipped with locks or other security devices that
41 permit access only by a cardholder.

42 (g) “Excluded felony offense” means:

43 (1) A crime involving violence to the person of another that was clas-

- 1 sified as a felony in the jurisdiction where the person was convicted; or
2 (2) a violation of a state or federal controlled substance law that was
3 classified as a felony in the jurisdiction where the person was convicted.
4 An excluded felony offense does not include:
- 5 (A) An offense for which the sentence, including any term of proba-
6 tion, incarceration or supervised release, was completed 10 or more
7 years earlier; or
8 (B) an offense that consisted of conduct for which this act would likely
9 have prevented a conviction, but the conduct either occurred prior to the
10 enactment of this act or was prosecuted by an authority other than the
11 state of Kansas.
- 12 (h) “Marijuana” has the meaning given that term in K.S.A. 2009
13 Supp. 65-4101, and amendments thereto.
- 14 (i) “Medical use” means the acquisition, possession, cultivation, man-
15 ufacture, use, delivery, sale, transfer or transportation of marijuana or
16 paraphernalia relating to the administration of marijuana to treat or al-
17 leviate a registered qualifying patient’s debilitating medical condition or
18 symptoms associated with the patient’s debilitating medical condition.
- 19 (j) “Practitioner” means a person who is licensed to practice medicine
20 and surgery.
- 21 (k) “Qualifying patient” means a person who has been diagnosed by
22 a practitioner as having a debilitating medical condition.
- 23 (l) “Registered compassion center” means a not-for-profit entity reg-
24 istered pursuant to section 5, and amendments thereto, that acquires,
25 possesses, cultivates, manufactures, delivers, transfers, transports, sup-
26 plies or dispenses marijuana or related supplies and educational materials
27 to cardholders. A registered compassion center may receive compensa-
28 tion for all expenses incurred in its operation.
- 29 (m) “Registry identification card” means a document issued by the
30 department that identifies a person as a registered qualifying patient,
31 registered designated caregiver or a registered principal officer, board
32 member, employee, volunteer or agent of a registered compassion center.
- 33 (n) “Unusable marijuana” means marijuana seeds, stalks, seedlings
34 and unusable roots. “Seedling” means a marijuana plant that has no flow-
35 ers and is less than 12 inches in height and less than 12 inches in diameter.
36 A seedling must meet all three criteria set forth above.
- 37 (o) “Usable marijuana” means the dried leaves and flowers of the
38 marijuana plant and any mixture or preparation thereof, but does not
39 include the seeds, stalks and roots of the plant and does not include the
40 weight of any non-marijuana ingredients combined with marijuana and
41 prepared for consumption as food or drink.
- 42 (p) “Verification system” means a secure, password-protected, web-
43 based system that is operational 24 hours each day that law enforcement

1 personnel and compassion center staffers shall use to verify registry iden-
2 tification cards and that shall be established and maintained by the de-
3 partment pursuant to subsection (h)(4) of section 7.

4 (q) “Visiting qualifying patient” means a patient with a debilitating
5 medical condition who is not a resident of Kansas or who has been a
6 resident of Kansas less than 30 days.

7 (r) “Written certification” means a document signed by a practitioner,
8 stating that in the practitioner’s professional opinion the patient is likely
9 to receive therapeutic or palliative benefit from the medical use of ma-
10 rijuana to treat or alleviate the patient’s debilitating medical condition or
11 symptoms associated with the debilitating medical condition. A written
12 certification shall be made only in the course of a bona fide practition-
13 er-patient relationship after the practitioner has completed a full assessment
14 of the qualifying patient’s medical history. The written certification shall
15 specify the qualifying patient’s debilitating medical condition.

16 Sec. 4. (a) A qualifying patient who has been issued and possesses a
17 registry identification card shall not be subject to arrest, prosecution or
18 penalty in any manner, or denied any right or privilege, including, but
19 not limited to, civil penalty or disciplinary action by a court or occupa-
20 tional or professional licensing board or bureau, for the medical use of
21 marijuana in accordance with this act, provided that the qualifying patient
22 possesses an amount of marijuana that does not exceed 12 marijuana
23 plants and six ounces of usable marijuana. The plants shall be kept in an
24 enclosed, locked facility, unless they are being transported because the
25 qualifying patient is moving or if they are being transported to the qual-
26 ifying patient’s or designated caregiver’s property. This subsection shall
27 not apply to matters and entities that are covered by subsections (f) or
28 (g).

29 (b) A designated caregiver who has been issued and possesses a reg-
30 istry identification card shall not be subject to arrest, prosecution, or pen-
31 alty in any manner, or denied any right or privilege, including, but not
32 limited to, civil penalty or disciplinary action by a court or occupational
33 or professional licensing board or bureau, for assisting a qualifying patient
34 to whom he or she is connected through the department’s registration
35 process with the medical use of marijuana in accordance with this act,
36 provided that the designated caregiver possesses an amount of marijuana
37 that does not exceed 12 marijuana plants and six ounces of usable mari-
38 juana for each qualifying patient to whom he or she is connected through
39 the department’s registration process. Said plants shall be kept in an en-
40 closed, locked facility, unless they are being transported because the des-
41 ignated caregiver is moving or if they are being transported to a desig-
42 nated caregiver’s or a qualifying patient’s property. This subsection shall
43 not apply to matters and entities that are covered by subsections (f) or

- 1 (g).
- 2 (c) Registered designated caregivers and registered qualifying pa-
3 tients may possess a reasonable amount of unusable marijuana, including
4 up to 12 seedlings, which shall not be counted toward the limits in this
5 section.
- 6 (d) (1) There shall be a presumption that a qualifying patient or des-
7 igned caregiver is engaged in the medical use of marijuana in accord-
8 ance with this act if the qualifying patient or designated caregiver:
- 9 (A) Is in possession of a registry identification card; and
10 (B) is in possession of an amount of marijuana that does not exceed
11 the amount allowed under this act.
- 12 (2) The presumption may be rebutted by evidence that conduct re-
13 lated to marijuana was not for the purpose of treating or alleviating the
14 qualifying patient's debilitating medical condition or symptoms associated
15 with the debilitating medical condition, in accordance with this act.
- 16 (e) A registered qualifying patient or designated primary caregiver
17 shall not be subject to arrest, prosecution or penalty in any manner, or
18 denied any right or privilege, including, but not limited to, civil penalty
19 or disciplinary action by a court or occupational or professional licensing
20 board or bureau, for giving marijuana to a registered qualifying patient
21 or a registered designated caregiver for the registered qualifying patient's
22 medical use where nothing of value is transferred in return, or for offering
23 to do the same, provided that the person giving the marijuana does not
24 knowingly cause the recipient to possess more marijuana than is permit-
25 ted by section 4, and amendments thereto.
- 26 (f) (1) No school or landlord may refuse to enroll or lease to, or
27 otherwise penalize, a person solely for his or her status as a registered
28 qualifying patient or a registered designated caregiver, unless failing to
29 do so would put the school or landlord in violation of federal law or
30 regulations.
- 31 (2) For the purposes of medical care, including organ transplants, a
32 registered qualifying patient's authorized use of marijuana in accordance
33 with this act shall be considered the equivalent of the authorized use of
34 any other medication used at the direction of a physician, and shall not
35 constitute the use of an illicit substance.
- 36 (3) Unless a failure to do so would put an employer in violation of
37 federal law or federal regulations, an employer may not discriminate
38 against a person in hiring, termination or any term or condition of em-
39 ployment, or otherwise penalize a person, if the discrimination is based
40 upon either of the following:
- 41 (A) The person's status as a registered qualifying patient or registered
42 designated caregiver; or
43 (B) a registered qualifying patient's positive drug test for marijuana

1 components or metabolites, unless the patient used, possessed or was
2 impaired by marijuana on the premises of the place of employment or
3 during the hours of employment.

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

9 (h) A registered designated caregiver may receive compensation for
10 costs associated with assisting a registered qualifying patient's medical use
11 of marijuana, provided that registered designated caregiver is connected
12 to the registered qualifying patient through the department's registration
13 process. Any such compensation shall not constitute the sale of controlled
14 substances.

15 (i) A practitioner shall not be subject to arrest, prosecution, or penalty
16 in any manner, or denied any right or privilege, including, but not limited
17 to, civil penalty or disciplinary action by the state board of healing arts or
18 by any other occupational or professional licensing board or bureau, solely
19 for providing written certifications or for otherwise stating that, in the
20 practitioner's professional opinion, a patient is likely to receive therapeutic
21 benefit from the medical use of marijuana to treat or alleviate the
22 patient's serious or debilitating medical condition or symptoms associated
23 with the serious or debilitating medical condition. Nothing in this act shall
24 prevent a professional licensing board from sanctioning a practitioner for
25 failing to properly evaluate a patient's medical condition or otherwise
26 violating the standard of care for evaluating medical conditions.

27 (j) A person shall not be subject to arrest, prosecution or penalty in
28 any manner, or denied any right or privilege, including, but not limited
29 to, civil penalty or disciplinary action by a court or occupational or pro-
30 fessional licensing board or bureau, for providing a registered qualifying
31 patient or a registered designated caregiver with marijuana paraphernalia
32 for purposes of a qualifying patient's medical use of marijuana.

33 (k) Any marijuana, marijuana paraphernalia, licit property or interest
34 in licit property that is possessed, owned or used in connection with the
35 medical use of marijuana as allowed under this act, or acts incidental to
36 such use, shall not be seized or forfeited. This act shall not prevent the
37 seizure or forfeiture of marijuana exceeding the amounts allowed under
38 this act.

39 (l) A person shall not be subject to arrest, prosecution or penalty in
40 any manner, or denied any right or privilege, including, but not limited
41 to, civil penalty or disciplinary action by a court or occupational or pro-
42 fessional licensing board or bureau, simply for being in the presence or
43 vicinity of the medical use of marijuana as allowed under this act, or for

1 assisting a registered qualifying patient with using or administering
2 marijuana.

3 (m) A registry identification card, or its equivalent, that is issued un-
4 der the laws of another state, district, territory, commonwealth or insular
5 possession of the United States that allows, in the jurisdiction of issuance,
6 a visiting qualifying patient to possess marijuana for medical purposes,
7 shall have the same force and effect as a registry identification card issued
8 by the department.

9 Sec. 5. (a) The following provisions govern the registration of com-
10 passion centers:

11 (1) The department shall register a compassion center and issue a
12 registration certificate, with a random 20-digit alphanumeric identifica-
13 tion number, within 90 days of receiving an application for a compassion
14 center if the following conditions are met:

15 (A) The prospective compassion center provided the following, in ac-
16 cordance with the department's rules and regulations:

17 (i) An application or renewal fee;

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

19 (iii) the physical address of the compassion center and the physical
20 address of one additional location, if any, where marijuana will be culti-
21 vated, neither of which may be within 500 feet of a preexisting public or
22 private school;

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

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

27 (vi) operating regulations that include procedures for the oversight
28 of the compassion center and procedures to ensure accurate record-keep-
29 ing and security measures, that are in accordance with the rules and reg-
30 ulations issued by the department under subsection (c) of section 6, and
31 amendments thereto; and

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

36 (B) issuing the compassion center a registration would not be in vi-
37 olation of a reasonable limitation on the number of registered compassion
38 centers that can operate in the jurisdiction in which it would operate; and

39 (C) none of the principal officers or board members has been con-
40 victed of an offense that was classified as a felony in the jurisdiction where
41 the person was convicted, unless the offense consisted of conduct for
42 which this act would likely have prevented a conviction, but the conduct
43 either occurred prior to the enactment of this act or was prosecuted by

- 1 an authority other than the state of Kansas; and
- 2 (D) none of the prospective principal officers or board members has
3 served as a principal officer or board member for a registered compassion
4 center that has had its registration certificate revoked; and
- 5 (E) none of the principal officers or board members is younger than
6 21 years of age.
- 7 (2) Except as provided in subsection (a)(3), the department shall issue
8 each compassion center staffer a registry identification card and log-in
9 information for the verification system within 10 days of receipt of the
10 person's name, address, date of birth and a fee in an amount established
11 by the department. Each card shall specify that the cardholder is a prin-
12 cipal officer, board member, agent, volunteer or employee of a registered
13 compassion center and shall contain the following:
- 14 (A) the name, address and date of birth of the compassion center
15 staffer;
- 16 (B) the legal name of the registered compassion center with which
17 the compassion center staffer is affiliated;
- 18 (C) a random 20-digit alphanumeric identification number that is
19 unique to the cardholder;
- 20 (D) the date of issuance and expiration date of the registry identifi-
21 cation card;
- 22 (E) a photograph, if the department decides to require one; and
- 23 (F) a statement signed by the prospective principal officer, board
24 member, agent, volunteer or employee pledging not to divert marijuana
25 to anyone who is not allowed to possess marijuana pursuant to this act.
- 26 (3) (A) The department shall not issue a registry identification card
27 to any compassion center staffer who has been convicted of an offense
28 that was classified as a felony in the jurisdiction where the person was
29 convicted, unless the offense consisted of conduct for which this act would
30 likely have prevented a conviction, but the conduct either occurred prior
31 to the enactment of this act or was prosecuted by an authority other than
32 the state of Kansas. The department may conduct a background check of
33 each compassion center staffer in order to carry out this provision. The
34 department shall notify the registered compassion center in writing of the
35 reason for denying the registry identification card.
- 36 (B) The department shall not issue a registry identification card to
37 any principal officer, board member, agent, volunteer or employee of a
38 registered compassion center who is younger than 21 years of age.
- 39 (C) The department may refuse to issue a registry identification card
40 to a compassion center staffer who has had a card revoked for violating
41 this act.
- 42 (b) (1) A registered compassion center's registration certificate and
43 the registry identification card for each compassion center staffer shall

1 expire one year after the date of issuance. The department shall issue a
2 renewal compassion center registration certificate within 10 days to any
3 registered compassion center that submits a renewal fee, provided that
4 its registration is not suspended and has not been revoked. The depart-
5 ment shall issue a renewal registry identification card within 10 days to
6 any compassion center staffer who submits a renewal fee, except as pro-
7 vided by subsection (a)(3).

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

12 (c) Registered compassion centers are subject to reasonable inspec-
13 tion by the department. The department shall give at least 24 hours notice
14 of an inspection under this subsection.

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

17 (2) A registered compassion center shall be operated on a not-for-
18 profit basis for the mutual benefit of its members and patrons. The by-
19 laws of a registered compassion center or its contracts with patrons shall
20 contain such provisions relative to the disposition of revenues and receipts
21 as may be necessary and appropriate to establish and maintain its non-
22 profit character. A registered compassion center need not be recognized
23 as tax-exempt by the internal revenue service and is not required to be
24 incorporated.

25 (3) A registered compassion center shall notify the department within
26 10 days of when a compassion center staffer ceases to work at the regis-
27 tered compassion center.

28 (4) A registered compassion center shall notify the department in
29 writing of the name, address, and date of birth of any new compassion
30 center staffer and shall submit a fee in an amount established by the
31 department for a new registry identification card before a new compas-
32 sion center staffer begins working at the registered compassion center.

33 (5) A registered compassion center shall implement appropriate se-
34 curity measures to deter and prevent unauthorized entrance into areas
35 containing marijuana and the theft of marijuana.

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

39 (7) A registered compassion center is prohibited from acquiring, pos-
40 sessed, cultivating, manufacturing, delivering, transferring, transporting,
41 supplying or dispensing marijuana for any purpose except to assist reg-
42 istered qualifying patients with the medical use of marijuana directly or
43 through the qualifying patients' designated caregivers.

1 (8) All principal officers and board members of a registered compas-
2 sion center must be residents of the state of Kansas.

3 (9) All cultivation of marijuana must take place in an enclosed, locked
4 facility which can only be accessed by principal officers, board members,
5 agents, volunteers or employees of the registered compassion center who
6 are cardholders.

7 (10) County and city governments may enact reasonable limits on the
8 number of registered compassion centers that can operate in their juris-
9 dictions and may enact zoning regulations that reasonably limit registered
10 compassion centers to certain areas of their jurisdictions.

11 (e) (1) Before marijuana may be dispensed to a designated caregiver
12 or a registered qualifying patient, a compassion center staffer must look
13 up the registered qualifying patient for whom the marijuana is intended,
14 and the designated caregiver transporting the marijuana to the patient, if
15 any, in the verification system and must verify each of the following:

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

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

21 (C) that the amount to be dispensed would not cause the registered
22 qualifying patient to exceed such person's limit of obtaining six ounces of
23 marijuana during any 30-day period.

24 (2) After verifying the information in subsection (e)(1), but before
25 dispensing marijuana to a registered qualifying patient or a registered
26 designated caregiver on a registered qualifying patient's behalf, a com-
27 passion center staffer must make an entry in the verification system, spec-
28 ifying how much marijuana is being dispensed to the registered qualifying
29 patient and whether it was dispensed directly to the registered qualifying
30 patient or to the registered qualifying patient's registered designated car-
31 egiver. The entry must include the date and time the marijuana was
32 dispensed.

33 (f) (1) A registered compassion center shall not be subject to pros-
34 ecution; search, except by the department pursuant to subsection (c);
35 seizure; or penalty in any manner or be denied any right or privilege,
36 including, but not limited to, civil penalty or disciplinary action by a court
37 or business licensing board or entity, solely for acting in accordance with
38 this act and department rules and regulations to acquire, possess, culti-
39 vate, manufacture, deliver, transfer, transport, supply or dispense mari-
40 juana or related supplies and educational materials to registered quali-
41 fying patients, to registered designated caregivers on behalf of registered
42 qualifying patients or to other registered compassion centers.

43 (2) No compassion center staffers shall be subject to arrest, prose-

- 1 cution, search, seizure or penalty in any manner or denied any right or
2 privilege, including, but not limited to, civil penalty or disciplinary action
3 by a court or occupational or professional licensing board or entity, solely
4 for working for a registered compassion center in accordance with this
5 act and department rules and regulations to acquire, possess, cultivate,
6 manufacture, deliver, transfer, transport, supply or dispense marijuana or
7 related supplies and educational materials to registered qualifying pa-
8 tients, to registered designated caregivers on behalf of registered quali-
9 fying patients or to other registered compassion centers.
- 10 (g) (1) A registered qualifying patient shall not directly, or through a
11 designated caregiver, obtain more than six ounces of marijuana from reg-
12 istered compassion centers in any 30-day period.
- 13 (2) A registered compassion center may not dispense, deliver or oth-
14 erwise transfer marijuana to a person other than another registered com-
15 passion center, a registered qualifying patient or a registered qualifying
16 patient's registered designated caregiver.
- 17 (3) A registered compassion center may not obtain marijuana from
18 outside the state of Kansas.
- 19 (4) Except as provided in subsection (a)(3), no person who has been
20 convicted of an offense that was classified as a felony in the jurisdiction
21 where the person was convicted may be a compassion center staffer. A
22 person who works as an agent, volunteer, employee, principal officer, or
23 board member of a registered compassion center in violation of this sec-
24 tion is subject to a civil violation punishable by a penalty of not to exceed
25 \$1,000 levied by the department. A subsequent violation of this section
26 is a class C misdemeanor.
- 27 (5) A registered compassion center may not acquire usable marijuana
28 or mature marijuana plants from any person other than another registered
29 compassion center, a registered qualifying patient or a registered desig-
30 nated caregiver. A registered compassion center is only allowed to acquire
31 usable marijuana or marijuana plants from a registered qualifying patient
32 or a registered designated caregiver if the registered qualifying patient or
33 registered designated caregiver receives no compensation for the
34 marijuana.
- 35 (6) A person who violates paragraph (2) or (5) of this subsection may
36 not be a compassion center staffer, and such person's registry identifi-
37 cation card shall be immediately revoked. The department may suspend
38 or revoke a compassion center staffer's registry identification card for
39 violating this act.
- 40 (7) A registered compassion center that violates paragraph (2) or (5)
41 of this subsection shall immediately have its registration revoked, and its
42 board members and principal officers may not serve as the board mem-
43 bers or principal officers for any other registered compassion centers.

1 Sec. 6. (a) Not later than 120 days after the effective date of this act,
2 the department shall adopt rules and regulations governing the manner
3 in which the department shall consider petitions from the public to add
4 debilitating medical conditions or treatments to the list of debilitating
5 medical conditions set forth in subsection (c) of section 3, and amend-
6 ments thereto. In considering such petitions, the department shall include
7 public notice of, and an opportunity to comment in a public hearing upon,
8 the petitions. The department, after hearing, shall approve or deny a
9 petition within 180 days of its submission. The approval or denial of a
10 petition is a final department action, subject to judicial review. Jurisdic-
11 tion and venue for judicial review are vested in the district court.

12 (b) Not later than 120 days after the effective date of this act, the
13 department shall adopt rules and regulations governing the manner in
14 which it shall consider applications for and renewals of registry identifi-
15 cation cards.

16 (c) (1) Not later than 120 days after the effective date of this act, the
17 department shall adopt rules and regulations governing the manner in
18 which it shall consider applications for and renewals of registration cer-
19 tificates for registered compassion centers, including reasonable rules and
20 regulations governing:

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

22 (B) minimum oversight requirements for registered compassion
23 centers;

24 (C) minimum record keeping requirements for registered compas-
25 sion centers;

26 (D) minimum security requirements for registered compassion cen-
27 ters, which shall include that each registered compassion center location
28 must be protected by a fully operational security alarm system; and

29 (E) procedures for suspending or terminating the registration of reg-
30 istered compassion centers that violate the provisions of this act or the
31 rules and regulations promulgated pursuant to this section.

32 (2) The department shall design rules and regulations with the goal
33 of protecting against diversion and theft, without imposing an undue bur-
34 den on the registered compassion centers or compromising the confiden-
35 tiality of registered qualifying patients and their registered designated
36 caregivers. Any dispensing records that a registered compassion center is
37 required to keep shall track transactions according to registered qualifying
38 patients', registered designated caregivers', and registered compassion
39 centers' registry identification numbers, rather than their names, to pro-
40 tect their confidentiality.

41 (d) Not later than 120 days after the effective date of this act, the
42 department shall adopt rules and regulations establishing application and
43 renewal fees for registry identification cards and registered compassion

1 center registration certificates. The fees shall be in accordance with the
2 following parameters:

- 3 (1) The total fees collected must generate revenues sufficient to off-
4 set all expenses of implementing and administering this act;
- 5 (2) compassion center application fees may not exceed \$5,000;
- 6 (3) compassion center renewal fees may not exceed \$1,000;
- 7 (4) the total revenue from compassion center application and renewal
8 fees and registry identification card fees for compassion center staffers
9 must be sufficient to offset all expenses of implementing and administer-
10 ing the compassion center aspects of this act, including the verification
11 system;
- 12 (5) the department may establish a sliding scale of patient application
13 and renewal fees based upon a qualifying patient's family income; and
- 14 (6) the department may accept donations from private sources in or-
15 der to reduce the application and renewal fees.

16 Sec. 7. (a) The department shall issue registry identification cards to
17 qualifying patients who submit the following, in accordance with the de-
18 partment's rules and regulations:

- 19 (1) Written certification;
- 20 (2) application or renewal fee;
- 21 (3) name, address and date of birth of the qualifying patient, except
22 that if the applicant is homeless, no address is required;
- 23 (4) name, address and telephone number of the qualifying patient's
24 practitioner;
- 25 (5) name, address, and date of birth of the designated caregiver des-
26 ignated, if any, by the qualifying patient;
- 27 (6) a statement signed by the qualifying patient, pledging not to divert
28 marijuana to anyone who is not allowed to possess marijuana pursuant to
29 this act; and
- 30 (7) a signed statement from the designated caregiver, if any, agreeing
31 to be designated as the patient's designated caregiver and pledging not
32 to divert marijuana to anyone who is not allowed to possess marijuana
33 pursuant to this act.

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

- 36 (1) The qualifying patient's practitioner has explained the potential
37 risks and benefits of the medical use of marijuana to the custodial parent
38 or legal guardian with responsibility for health care decisions for the qual-
39 ifying patient; and
- 40 (2) The custodial parent or legal guardian with responsibility for
41 health care decisions for the qualifying patient consents in writing to:
 - 42 (A) Allow the qualifying patient's medical use of marijuana;
 - 43 (B) serve as the qualifying patient's designated caregiver; and

1 (C) control the acquisition of the marijuana, the dosage and the fre-
2 quency of the medical use of marijuana by the qualifying patient.

3 (c) The department shall verify the information contained in an ap-
4 plication or renewal submitted pursuant to this section and shall approve
5 or deny an application or renewal within 15 days of receiving it. The
6 department may deny an application or renewal only if the applicant did
7 not provide the information required pursuant to this section, the appli-
8 cant previously had a registry identification card revoked for violating this
9 act or if the department determines that the information provided was
10 falsified. Rejection of an application or renewal is considered a final de-
11 partment action, subject to judicial review. Jurisdiction and venue for
12 judicial review are vested in the district court.

13 (d) The department shall issue a registry identification card to the
14 designated caregiver, if any, who is named in a qualifying patient's ap-
15 proved application, up to a maximum of one designated caregiver per
16 qualifying patient, provided that the designated caregiver meets the
17 requirements of subsection (e) of section 3, and amendments thereto.
18 The department shall notify the qualifying patient who has designated
19 someone to serve as the patient's designated caregiver if a registry iden-
20 tification card will not be issued to the designated person. A designated
21 caregiver shall be issued a registry identification card each time the des-
22 ignated caregiver is designated by a qualifying patient.

23 (e) The department shall issue registry identification cards to quali-
24 fying patients and to designated caregivers within five days of approving
25 an application or renewal. Each registry identification card shall expire
26 one year after the date of issuance, unless the practitioner states in the
27 written certification that the practitioner believes the qualifying patient
28 would benefit from medical marijuana only until a specified earlier or
29 later date, then the registry identification card shall expire on that date.
30 Registry identification cards shall contain all of the following:

- 31 (1) Name, address and date of birth of the qualifying patient;
 - 32 (2) name, address and date of birth of the designated caregiver, if
33 any, of the qualifying patient;
 - 34 (3) the date of issuance and expiration date of the registry identifi-
35 cation card;
 - 36 (4) a random 20-digit alphanumeric identification number, contain-
37 ing at least four numbers and at least four letters, that is unique to the
38 cardholder;
 - 39 (5) if the cardholder is a designated caregiver, the random identifi-
40 cation number of the registered qualifying patient the designated care-
41 giver is assisting; and
 - 42 (6) a photograph, if the department decides to require one.
- 43 (f) The following notifications and department responses are

1 required:

2 (1) A registered qualifying patient shall notify the department of any
3 change of name, address or designated caregiver, or if the registered
4 qualifying patient ceases to have a debilitating medical condition, within
5 10 days of such change.

6 (2) A registered qualifying patient who fails to notify the department
7 of any of these changes is subject to a civil penalty of no more than \$150
8 levied by the department. If the registered qualifying patient's certifying
9 practitioner notifies the department in writing that either the registered
10 qualifying patient has ceased to suffer from a debilitating medical con-
11 dition or that the practitioner no longer believes the patient would receive
12 therapeutic or palliative benefit from the medical use of marijuana, the
13 card is null and void upon notification by the department to the qualifying
14 patient.

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

20 (4) When a cardholder notifies the department of any changes listed
21 in this subsection, the department shall issue the cardholder a new reg-
22 istry identification card with new random 20-digit alphanumeric identi-
23 fication numbers within 10 days of receiving the updated information and
24 a \$10 fee. If the person notifying the department is a registered qualifying
25 patient, the department shall also issue the patient's registered designated
26 caregiver, if any, a new registry identification card within 10 days of re-
27 ceiving the updated information.

28 (5) When a registered qualifying patient ceases to be a registered
29 qualifying patient or changes the registered designated caregiver, the de-
30 partment shall notify the designated caregiver within 10 days. The reg-
31 istry designated caregiver's protections under this act as to that quali-
32 fying patient shall expire 10 days after notification by the department.

33 (6) If a cardholder loses the registry identification card, the card-
34 holder shall notify the department and submit a \$10 fee within 10 days
35 of losing the card. Within five days after such notification, the department
36 shall issue a new registry identification card with a new random identi-
37 fication number to the cardholder and, if the cardholder is a registered
38 qualifying patient, to the registered qualifying patient's registered desig-
39 nated caregiver, if any.

40 (g) Mere possession of, or application for, a registry identification
41 card shall not constitute probable cause or reasonable suspicion, nor shall
42 it be used to support the search of the person or property of the person
43 possessing or applying for the registry identification card. The possession

1 of, or application for, a registry identification card shall not preclude the
2 existence of probable cause if probable cause exists on other grounds.

3 (h) The following confidentiality rules shall apply:

4 (1) Applications and supporting information submitted by qualifying
5 patients and designated caregivers, including information regarding their
6 designated caregivers and practitioners, are confidential.

7 (2) Applications and supporting information submitted by compas-
8 sion centers and compassion center personnel operating in compliance
9 with this act, including the physical addresses of compassion centers, are
10 confidential.

11 (3) The department shall maintain a confidential list of the persons
12 to whom the department has issued registry identification cards. Individ-
13 ual names and other identifying information on the list shall be confiden-
14 tial, exempt from the Kansas open records act, and not subject to disclo-
15 sure, except to authorized employees of the department as necessary to
16 perform official duties of the department and as provided in paragraph
17 (4) of this subsection.

18 (4) Within 120 days of the effective date of this act, the department
19 shall establish a secure, password-protected, web-based verification sys-
20 tem that is operational 24 hours each day, which law enforcement per-
21 sonnel and compassion center staffers can use to verify registry identifi-
22 cation cards. The verification system must allow law enforcement
23 personnel and compassion center staffers to enter in a registry identifi-
24 cation number to determine whether or not the number corresponds with
25 a current, valid ID card. The system shall disclose the name and photo-
26 graph of the cardholder but shall not disclose the cardholder's address.
27 The system shall also display the amount and quantity of marijuana that
28 each registered qualifying patient received from compassion centers dur-
29 ing the past 60 days. The system shall allow compassion center staffers
30 to add the amount of marijuana dispensed to registered qualifying pa-
31 tients, directly or through their designated caregivers, and the date and
32 time the marijuana was dispensed. The verification system must include
33 the following data security features:

34 (A) Any time an authorized user enters five invalid registry identifi-
35 cation numbers within five minutes, that user cannot log in to the system
36 again for 10 minutes; and

37 (B) the server must reject any log-in request that is not over an en-
38 crypted connection.

39 (5) Any hard drives containing cardholder information must be de-
40 stroyed once they are no longer in use, and the department shall retain
41 a signed statement from a department employee confirming the destruc-
42 tion.

43 (6) (A) It shall be a class B misdemeanor for any person, including

1 an employee or official of the department or another state agency or local
2 government, to breach the confidentiality of information obtained pur-
3 suant to this act.

4 (B) Notwithstanding this provision, this section shall not prevent the
5 following notifications:

6 (i) Department employees may notify law enforcement about falsi-
7 fied or fraudulent information submitted to the department, so long as
8 the employee who suspects that falsified or fraudulent information has
9 been submitted confers with such employee's supervisor and both agree
10 that circumstances exist that warrant reporting;

11 (ii) the department may notify state or local law enforcement about
12 apparent criminal violations of this act, if the employee who suspects the
13 offense confers with such employee's supervisor and both agree that cir-
14 cumstances exist that warrant reporting; and

15 (iii) compassion center staffers may notify the department of a sus-
16 pected violation or attempted violation of this act or the rules and regu-
17 lations issued pursuant to it.

18 (i) Any cardholder who sells marijuana to a person who is not allowed
19 to possess marijuana for medical purposes under this act shall have the
20 cardholder's identification card revoked and shall be subject to other pen-
21 alties for the unauthorized sale of marijuana. The department may revoke
22 the registry identification card of any cardholder who violates this act,
23 and the cardholder shall be subject to any other penalties for the violation.

24 (j) The department shall submit to the legislature an annual report
25 that does not disclose any identifying information about cardholders, com-
26 passion centers or practitioners but does contain, at a minimum, all of
27 the following information:

28 (1) The number of applications and renewals filed for registry iden-
29 tification cards;

30 (2) the number of qualifying patients and designated caregivers ap-
31 proved in each county;

32 (3) the nature of the debilitating medical conditions of the qualifying
33 patients;

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

35 (5) the number of practitioners providing written certifications for
36 qualifying patients;

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

38 (7) the number of compassion center staffers.

39 (k) Where a state-funded or locally funded law enforcement agency
40 encounters an individual who, during the course of the investigation,
41 credibly asserts that such individual is a registered cardholder or an entity
42 whose personnel credibly assert that it is a compassion center, the law
43 enforcement agency shall not provide any information from any mari-

1 juana-related investigation of the person to any law enforcement authority
2 that does not recognize the protection of this act, and any prosecution of
3 the individual, individuals or entity for a violation of this act shall be
4 conducted pursuant to the laws of this state. The application for qualifying
5 patients' registry identification cards shall include a question asking
6 whether the patient would like the department to notify the patient of
7 any clinical studies regarding marijuana's risk or efficacy that seek human
8 subjects. The department shall inform those patients who answer in the
9 affirmative of any such studies it is notified of that will be conducted in
10 the United States.

11 Sec. 8. (a) Except as provided in section 9, and amendments
12 thereto, a patient may assert the medical purpose for using marijuana as
13 a defense to any prosecution of an offense involving marijuana intended
14 for the patient's medical use, and this defense shall be presumed valid
15 where the evidence shows that:

16 (1) A practitioner has stated that, in the practitioner's professional
17 opinion, after having completed a full assessment of the patient's medical
18 history and current medical condition made in the course of a bona fide
19 practitioner-patient relationship, the patient is likely to receive therapeutic
20 or palliative benefit from the medical use of marijuana to treat or
21 alleviate the patient's serious or debilitating medical condition or symp-
22 toms associated with the patient's serious or debilitating medical condi-
23 tion; and

24 (2) the patient and the patient's designated caregiver, if any, were
25 collectively in possession of a quantity of marijuana that was not more
26 than was reasonably necessary to ensure the uninterrupted availability of
27 marijuana for the purpose of treating or alleviating the patient's serious
28 or debilitating medical condition or symptoms associated with the pa-
29 tient's serious or debilitating medical condition; and

30 (3) the patient was engaged in the acquisition, possession, cultivation,
31 manufacture, use or transportation of marijuana, paraphernalia, or both,
32 relating to the administration of marijuana solely to treat or alleviate the
33 patient's serious or debilitating medical condition or symptoms associated
34 with the patient's serious or debilitating medical condition.

35 (b) A person may assert the medical purpose for using marijuana in
36 a motion to dismiss, and the charges shall be dismissed following an ev-
37 identiary hearing where the person shows the elements listed in subsec-
38 tion (a).

39 (c) If a patient demonstrates the patient's medical purpose for using
40 marijuana pursuant to this section, except as provided in section 9, and
41 amendments thereto, the patient and the patient's designated caregiver
42 shall not be subject to the following for the patient's use of marijuana for
43 medical purposes: (1) Disciplinary action by an occupational or profes-

1 sional licensing board or bureau; or (2) forfeiture of any interest in or
2 right to non-marijuana, licit property.

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

6 (1) Undertake any task under the influence of marijuana, when doing
7 so would constitute negligence or professional malpractice.

8 (2) Possess marijuana, or otherwise engage in the medical use of mari-
9 juana: (A) In a school bus; or (B) on the grounds of any preschool or
10 primary or secondary school; or (C) in any correctional facility.

11 (3) Smoke marijuana: (A) On any form of public transportation; or
12 (B) in any public place.

13 (4) Operate, navigate or be in actual physical control of any motor
14 vehicle, aircraft or motorboat while under the influence of marijuana.
15 However, a registered qualifying patient shall not be considered to be
16 under the influence of marijuana solely because of the presence of me-
17 tabolites or components of marijuana that appear in insufficient concen-
18 tration to cause impairment.

19 (5) Use marijuana if that person does not have a serious or debilitating
20 medical condition.

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

22 (1) A government medical assistance program or private health in-
23 surer to reimburse a person for costs associated with the medical use of
24 marijuana;

25 (2) any person or establishment in lawful possession of property to
26 allow a guest, client, customer or other visitor to use marijuana on or in
27 that property. This act shall not limit a person or entity in lawful posses-
28 sion of property, or an agent of such person or entity, from expelling a
29 person who uses marijuana without permission from their property and
30 from seeking civil and criminal penalties for the unauthorized use of ma-
31 rijuana on their property; or

32 (3) an employer to accommodate the ingestion of marijuana in any
33 workplace or any employee working while under the influence of mari-
34 juana, provided that a qualifying patient shall not be considered to be
35 under influence of marijuana solely because of the presence of metabo-
36 lites or components of marijuana that appear in insufficient concentration
37 to cause impairment. This act shall in no way limit an employer's ability
38 to discipline an employee for ingesting marijuana in the workplace or
39 working while under the influence of marijuana.

40 (c) Fraudulent representation to a law enforcement official of any fact
41 or circumstance relating to the medical use of marijuana to avoid arrest
42 or prosecution shall be punishable by a fine of \$500, which shall be in
43 addition to any other penalties that may apply for making a false statement

1 or for the use of marijuana other than use undertaken pursuant to this
2 act.

3 Sec. 10. (a) If the department fails to adopt rules and regulations to
4 implement this act within 120 days of the effective date of this act, a
5 qualifying patient or a prospective board member or prospective principal
6 officer of a compassion center may commence an action in district court
7 to compel the department to perform the actions mandated pursuant to
8 the provisions of this act.

9 (b) If the department fails to issue a valid registry identification card
10 in response to a valid application or renewal submitted pursuant to this
11 act within 20 days of its submission, the registry identification card shall
12 be deemed granted, and a copy of the registry identification application
13 or renewal shall be deemed a valid registry identification card.

14 (c) If at any time after the 140 days following the effective date of
15 this act, the department is not accepting applications, including if it has
16 not created rules and regulations allowing qualifying patients to submit
17 applications, a notarized statement by a qualifying patient containing the
18 information required in an application, pursuant to subsection (a) of sec-
19 tion 7, and amendments thereto, together with a written certification shall
20 be deemed a valid registry identification card.

21 Sec. 11. Any section of this act being held invalid as to any person
22 or circumstances shall not affect the application of any other section of
23 this act that can be given full effect without the invalid section or
24 application.

25 Sec. 12. This act shall take effect and be in force from and after its
26 publication in the statute book.