

HOUSE BILL No. 2011

By Representative Finney

1-2

1 AN ACT enacting the cannabis compassion and care act; providing for the
2 legal use of cannabis for certain debilitating medical conditions;
3 providing for the registration and functions of compassion centers;
4 authorizing the issuance of identification cards; establishing the
5 compassion board; providing for administration of the act by the
6 department of health and environment; amending K.S.A. 79-5210 and
7 repealing the existing section.
8

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

10 New Section 1. Sections 1 through 11, and amendments thereto, shall
11 be known as the cannabis compassion and care act.

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

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

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

29 (d) Although federal law currently prohibits any use of cannabis
30 except under very limited circumstances, Alaska, Arizona, California,
31 Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois,
32 Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana,
33 Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon,
34 Rhode Island, Vermont and Washington have removed state-level criminal
35 penalties from the medical use of cannabis. Under the cannabis
36 compassion and care act, Kansas joins in this effort for the health and

1 welfare of its citizens.

2 (e) States are not required to enforce federal law or prosecute people
3 for engaging in activities prohibited by federal law. Therefore, compliance
4 with the cannabis compassion and care act does not put the state of Kansas
5 in violation of federal law.

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

12 (g) The legislature of the state of Kansas declares that the cannabis
13 compassion and care act is enacted pursuant to the police power of the
14 state to protect the health of its citizens that is reserved to the state of
15 Kansas and its people under the 10th amendment to the United States
16 constitution.

17 New Sec. 3. The following terms, as used in the cannabis compassion
18 and care act, shall have the meanings set forth in this section:

19 (a) "Bona fide practitioner-patient relationship" means that a patient
20 has visited or consulted with the same practitioner at least three times
21 within the past 90 days.

22 (b) "Cardholder" means a qualifying patient, a designated caregiver,
23 or a principal officer, board member, employee, volunteer or agent of a
24 compassion center who has been issued and possesses a valid registry
25 identification card.

26 (c) "Compassion board" means the board created under section 11,
27 and amendments thereto.

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

37 (e) "Compassion center staffer" means a principal officer, board
38 member, employee, volunteer or agent of a compassion center who has
39 been issued and possesses a valid registry identification card.

40 (f) "Debilitating medical condition" means one or more of the
41 following:

42 (1) Cancer, glaucoma, positive status for human immunodeficiency
43 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic

1 lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail
2 patella or the treatment of these conditions;

3 (2) a chronic or debilitating disease or medical condition or its
4 treatment that produces one or more of the following: Cachexia or wasting
5 syndrome; severe pain; severe nausea; seizures, including, but not limited to,
6 those characteristic of epilepsy or severe and persistent muscle spasms,
7 including, but not limited to, those characteristic of multiple sclerosis; or

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

10 (g) "Department" means the department of health and environment.

11 (h) "Designated caregiver" means a person who is at least 21 years of
12 age, who has agreed to assist with a patient's medical use of cannabis and
13 who has never been convicted of an excluded felony offense. A designated
14 caregiver may assist no more than five qualifying patients with their
15 medical use of cannabis.

16 (i) "Enclosed, locked facility" means a closet, room, greenhouse or
17 other enclosed area equipped with locks or other security devices that
18 permit access only by a cardholder.

19 (j) (1) Except as provided in subsection (i)(2), "excluded felony
20 offense" means:

21 (A) A crime involving violence against another person that was
22 classified as a felony in the jurisdiction where the conviction occurred; or

23 (B) a violation of a state or federal controlled substance law that was
24 classified as a felony in the jurisdiction where the conviction occurred.

25 (2) An "excluded felony offense" does not include:

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

29 (B) an offense that consisted of conduct for which the cannabis
30 compassion and care act would likely have prevented a conviction, but the
31 conduct either occurred prior to the enactment of the cannabis compassion
32 and care act or was prosecuted by an authority other than the state of
33 Kansas.

34 (k) "Medical use" means the acquisition, possession, cultivation,
35 manufacture, use, delivery, sale, transfer or transportation of cannabis or
36 paraphernalia relating to the administration of cannabis to treat or alleviate
37 a registered qualifying patient's debilitating medical condition or
38 symptoms associated with the patient's debilitating medical condition.

39 (l) "Practitioner" means a person who is licensed to practice medicine
40 and surgery.

41 (m) "Qualifying patient" means a person who has been diagnosed by
42 a practitioner as having a debilitating medical condition.

43 (n) "Registered compassion center" means a not-for-profit entity

1 registered pursuant to section 5, and amendments thereto, that acquires,
2 possesses, cultivates, manufactures, delivers, transfers, transports, supplies
3 or dispenses cannabis or related supplies and educational materials to
4 cardholders. A registered compassion center may receive compensation for
5 all expenses incurred in its operation.

6 (o) "Registry identification card" means a document issued by the
7 department that identifies a person as a registered qualifying patient,
8 registered designated caregiver or a registered principal officer, board
9 member, employee, volunteer or agent of a registered compassion center.

10 (p) "Unusable cannabis" means cannabis seeds, stalks, seedlings and
11 unusable roots. "Seedling" means a cannabis plant that has no flowers and
12 is less than 12 inches in height and less than 12 inches in diameter. A
13 seedling must meet all three criteria set forth above.

14 (q) "Usable cannabis" means the dried leaves and flowers of the
15 cannabis plant and any mixture or preparation thereof, but does not include
16 the seeds, stalks and roots of the plant and does not include the weight of
17 any noncannabis ingredients combined with cannabis and prepared for
18 consumption as food or drink.

19 (r) "Verification system" means a secure, password-protected, web-
20 based system that is operational 24 hours each day that law enforcement
21 personnel and compassion center staffers shall use to verify registry
22 identification cards and that shall be established and maintained by the
23 department pursuant to section 7(h)(4), and amendments thereto.

24 (s) "Visiting qualifying patient" means a patient with a debilitating
25 medical condition who is not a resident of Kansas or who has been a
26 resident of Kansas less than 30 days.

27 (t) "Written certification" means a document signed by a practitioner,
28 stating that in the practitioner's professional opinion the patient is likely to
29 receive therapeutic or palliative benefit from the medical use of cannabis
30 to treat or alleviate the patient's debilitating medical condition or
31 symptoms associated with the debilitating medical condition. A written
32 certification shall be made only in the course of a bona fide practitioner-
33 patient relationship after the practitioner has completed a full assessment
34 of the qualifying patient's medical history. The written certification shall
35 specify the qualifying patient's debilitating medical condition.

36 New Sec. 4. (a) A qualifying patient who has been issued and
37 possesses a registry identification card shall not be subject to arrest,
38 prosecution or penalty in any manner, or denied any right or privilege,
39 including, but not limited to, civil penalty or disciplinary action by a court
40 or occupational or professional licensing board or bureau, for the medical
41 use of cannabis in accordance with the cannabis compassion and care act,
42 provided that the qualifying patient possesses an amount of cannabis that
43 does not exceed 12 cannabis plants and six ounces of usable cannabis. The

1 plants shall be kept in an enclosed, locked facility, unless they are being
2 transported because the qualifying patient is moving or if they are being
3 transported to the qualifying patient's or designated caregiver's property.
4 This subsection shall not apply to matters and entities that are covered by
5 subsection (f) or (g).

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

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

26 (d) (1) There shall be a presumption that a qualifying patient or
27 designated caregiver is engaged in the medical use of cannabis in
28 accordance with the cannabis compassion and care act if the qualifying
29 patient or designated caregiver:

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

31 (B) is in possession of an amount of cannabis that does not exceed the
32 amount allowed under the cannabis compassion and care act.

33 (2) The presumption may be rebutted by evidence that conduct
34 related to cannabis was not for the purpose of treating or alleviating the
35 qualifying patient's debilitating medical condition or symptoms associated
36 with the debilitating medical condition, in accordance with the cannabis
37 compassion and care act.

38 (e) A registered qualifying patient or designated primary caregiver
39 shall not be subject to arrest, prosecution or penalty in any manner, or
40 denied any right or privilege, including, but not limited to, civil penalty or
41 disciplinary action by a court or occupational or professional licensing
42 board or bureau, for giving cannabis to a registered qualifying patient or a
43 registered designated caregiver for the registered qualifying patient's

1 medical use where nothing of value is transferred in return, or for offering
2 to do the same, provided that the person giving the cannabis does not
3 knowingly cause the recipient to possess more cannabis than is permitted
4 by section 4, and amendments thereto.

5 (f) (1) No school or landlord may refuse to enroll or lease to, or
6 otherwise penalize, a person solely for such person's status as a registered
7 qualifying patient or a registered designated caregiver, unless failing to do
8 so would put the school or landlord in violation of federal law or
9 regulations.

10 (2) For the purposes of medical care, including organ transplants, a
11 registered qualifying patient's authorized use of cannabis in accordance
12 with the cannabis compassion and care act shall be considered the
13 equivalent of the authorized use of any other medication used at the
14 direction of a physician, and shall not constitute the use of an illicit
15 substance.

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

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

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

27 (g) A person shall not be denied custody of, visitation or parenting
28 time with a minor and there shall be no presumption of neglect or child
29 endangerment for conduct allowed under the cannabis compassion and
30 care act, unless the person's behavior is such that it creates an
31 unreasonable danger to the safety of the minor as established by clear and
32 convincing evidence.

33 (h) A registered designated caregiver may receive compensation for
34 costs associated with assisting a registered qualifying patient's medical use
35 of cannabis, provided that registered designated caregiver is connected to
36 the registered qualifying patient through the department's registration
37 process. Any such compensation shall not constitute the sale of controlled
38 substances.

39 (i) A practitioner shall not be subject to arrest, prosecution or penalty
40 in any manner, or denied any right or privilege, including, but not limited
41 to, civil penalty or disciplinary action by the state board of healing arts or
42 by any other occupational or professional licensing board or bureau, solely
43 for providing written certifications or for otherwise stating that, in the

1 practitioner's professional opinion, a patient is likely to receive therapeutic
2 benefit from the medical use of cannabis to treat or alleviate the patient's
3 serious or debilitating medical condition or symptoms associated with the
4 serious or debilitating medical condition. Nothing in the cannabis
5 compassion and care act shall prevent a professional licensing board from
6 sanctioning a practitioner for failing to properly evaluate a patient's
7 medical condition or otherwise violating the standard of care for
8 evaluating medical conditions.

9 (j) A person shall not be subject to arrest, prosecution or penalty in
10 any manner, or denied any right or privilege, including, but not limited to,
11 civil penalty or disciplinary action by a court or occupational or
12 professional licensing board or bureau, for providing a registered
13 qualifying patient or a registered designated caregiver with cannabis
14 paraphernalia for purposes of a qualifying patient's medical use of
15 cannabis.

16 (k) Any cannabis, cannabis paraphernalia, licit property or interest in
17 licit property that is possessed, owned or used in connection with the
18 medical use of cannabis as allowed under the cannabis compassion and
19 care act, or acts incidental to such use, shall not be seized or forfeited. The
20 cannabis compassion and care act shall not prevent the seizure or forfeiture
21 of cannabis exceeding the amounts allowed under such act.

22 (l) A person shall not be subject to arrest, prosecution or penalty in
23 any manner, or denied any right or privilege, including, but not limited to,
24 civil penalty or disciplinary action by a court or occupational or
25 professional licensing board or bureau, simply for being in the presence or
26 vicinity of the medical use of cannabis as allowed under the cannabis
27 compassion and care act, or for assisting a registered qualifying patient
28 with using or administering cannabis.

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

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

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

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

43 (i) An application or renewal fee;

- 1 (ii) the legal name of the compassion center;
- 2 (iii) the physical address of the compassion center and the physical
3 address of one additional location, if any, where cannabis will be
4 cultivated, neither of which may be within 500 feet of a preexisting public
5 or private school;
- 6 (iv) the name, address and date of birth of each principal officer and
7 board member of the compassion center;
- 8 (v) the name, address and date of birth of any person who is an agent
9 of or employed by the compassion center;
- 10 (vi) operating regulations that include procedures for the oversight of
11 the compassion center and procedures to ensure accurate record-keeping
12 and security measures, that are in accordance with the rules and
13 regulations issued by the department under section 6(c), and amendments
14 thereto; and
- 15 (vii) if the city or county in which the compassion center would be
16 located has enacted reasonable zoning restrictions, a sworn and truthful
17 statement that the registered compassion center would be in compliance
18 with those restrictions;
- 19 (B) issuing the compassion center a registration would not be in
20 violation of a reasonable limitation on the number of registered
21 compassion centers that can operate in the jurisdiction in which it would
22 operate;
- 23 (C) none of the principal officers or board members have been
24 convicted of an offense that was classified as a felony in the jurisdiction
25 where the person was convicted, unless the offense consisted of conduct
26 for which the cannabis compassion and care act would likely have
27 prevented a conviction, but the conduct either occurred prior to the
28 enactment of the cannabis compassion and care act or was prosecuted by
29 an authority other than the state of Kansas;
- 30 (D) none of the prospective principal officers or board members have
31 served as a principal officer or board member for a registered compassion
32 center that has had its registration certificate revoked;
- 33 (E) none of the principal officers or board members are younger than
34 21 years of age; and
- 35 (F) the compassion center has been approved for registration by the
36 compassion board.
- 37 (2) Except as provided in subsection (a)(3), the department shall issue
38 each compassion center staffer a registry identification card and log-in
39 information for the verification system within 10 days of receipt of the
40 person's name, address, date of birth and a fee in an amount established by
41 the department. Each card shall specify that the cardholder is a principal
42 officer, board member, agent, volunteer or employee of a registered
43 compassion center and shall contain the following:

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

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

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

7 (D) the date of issuance and expiration date of the registry
8 identification card;

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

10 (F) a statement signed by the prospective principal officer, board
11 member, agent, volunteer or employee pledging not to divert cannabis to
12 anyone who is not allowed to possess cannabis pursuant to the cannabis
13 compassion and care act.

14 (3) (A) The department shall not issue a registry identification card to
15 any compassion center staffer who has been convicted of an offense that
16 was classified as a felony in the jurisdiction where the person was
17 convicted, unless the offense consisted of conduct for which the cannabis
18 compassion and care act would likely have prevented a conviction, but the
19 conduct either occurred prior to the enactment of the cannabis compassion
20 and care act or was prosecuted by an authority other than the state of
21 Kansas. The department may conduct a background check of each
22 compassion center staffer in order to carry out this provision. The
23 department shall notify the registered compassion center in writing of the
24 reason for denying the registry identification card.

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

28 (C) The department may refuse to issue a registry identification card
29 to a compassion center staffer who has had a card revoked for violating the
30 cannabis compassion and care act.

31 (b) (1) A registered compassion center's registration certificate and
32 the registry identification card for each compassion center staffer shall
33 expire one year after the date of issuance. The department shall issue a
34 renewal compassion center registration certificate within 10 days to any
35 registered compassion center that submits a renewal fee, provided that its
36 registration is not suspended and has not been revoked. The department
37 shall issue a renewal registry identification card within 10 days to any
38 compassion center staffer who submits a renewal fee, except as provided
39 by subsection (a)(3).

40 (2) A registry identification card of a compassion center staffer shall
41 expire and the person's login information to the verification system shall
42 be deactivated upon notification by a registered compassion center that
43 such person ceased to work at the registered compassion center.

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

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

6 (2) A registered compassion center shall be operated on a not-for-
7 profit basis for the mutual benefit of its members and patrons. The bylaws
8 of a registered compassion center or its contracts with patrons shall contain
9 such provisions relative to the disposition of revenues and receipts as may
10 be necessary and appropriate to establish and maintain its nonprofit
11 character. A registered compassion center need not be recognized as tax
12 exempt by the internal revenue service and is not required to be
13 incorporated.

14 (3) A registered compassion center shall notify the department within
15 10 days of when a compassion center staffer ceases to work at the
16 registered compassion center.

17 (4) A registered compassion center shall notify the department in
18 writing of the name, address and date of birth of any new compassion
19 center staffer and shall submit a fee in an amount established by the
20 department for a new registry identification card before a new compassion
21 center staffer begins working at the registered compassion center.

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

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

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

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

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

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

43 (e) (1) Before cannabis may be dispensed to a designated caregiver or

1 a registered qualifying patient, a compassion center staffer must look up
2 the registered qualifying patient for whom the cannabis is intended, and
3 the designated caregiver transporting the cannabis to the patient, if any, in
4 the verification system and must verify each of the following:

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

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

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

12 (2) After verifying the information in subsection (e)(1), but before
13 dispensing cannabis to a registered qualifying patient or a registered
14 designated caregiver on a registered qualifying patient's behalf, a
15 compassion center staffer must make an entry in the verification system,
16 specifying how much cannabis is being dispensed to the registered
17 qualifying patient and whether it was dispensed directly to the registered
18 qualifying patient or to the registered qualifying patient's registered
19 designated caregiver. The entry must include the date and time the
20 cannabis was dispensed.

21 (f) (1) A registered compassion center shall not be subject to
22 prosecution; search, except by the department pursuant to subsection (c);
23 seizure; or penalty in any manner or be denied any right or privilege,
24 including, but not limited to, civil penalty or disciplinary action by a court
25 or business licensing board or entity, solely for acting in accordance with
26 the cannabis compassion and care act and department rules and regulations
27 to acquire, possess, cultivate, manufacture, deliver, transfer, transport,
28 supply or dispense cannabis or related supplies and educational materials
29 to registered qualifying patients, to registered designated caregivers on
30 behalf of registered qualifying patients or to other registered compassion
31 centers.

32 (2) No compassion center staffers shall be subject to arrest,
33 prosecution, search, seizure or penalty in any manner or denied any right
34 or privilege, including, but not limited to, civil penalty or disciplinary
35 action by a court or occupational or professional licensing board or entity,
36 solely for working for a registered compassion center in accordance with
37 the cannabis compassion and care act and department rules and regulations
38 to acquire, possess, cultivate, manufacture, deliver, transfer, transport,
39 supply or dispense cannabis or related supplies and educational materials
40 to registered qualifying patients, to registered designated caregivers on
41 behalf of registered qualifying patients or to other registered compassion
42 centers.

43 (g) (1) A registered qualifying patient shall not directly, or through a

1 designated caregiver, obtain more than six ounces of cannabis from
2 registered compassion centers in any 30-day period.

3 (2) A registered compassion center may not dispense, deliver or
4 otherwise transfer cannabis to a person other than another registered
5 compassion center, a registered qualifying patient or a registered
6 qualifying patient's registered designated caregiver.

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

9 (4) Except as provided in subsection (a)(3), no person who has been
10 convicted of an offense that was classified as a felony in the jurisdiction
11 where the person was convicted may be a compassion center staffer. A
12 person who works as an agent, volunteer, employee, principal officer, or
13 board member of a registered compassion center in violation of this
14 section is subject to a civil violation punishable by a penalty of not to
15 exceed \$1,000 levied by the department. A subsequent violation of this
16 section is a class C misdemeanor.

17 (5) A registered compassion center may not acquire usable cannabis
18 or mature cannabis plants from any person other than another registered
19 compassion center, a registered qualifying patient or a registered
20 designated caregiver. A registered compassion center is only allowed to
21 acquire usable cannabis or cannabis plants from a registered qualifying
22 patient or a registered designated caregiver if the registered qualifying
23 patient or registered designated caregiver receives no compensation for the
24 cannabis.

25 (6) A person who violates paragraph (2) or (5) of this subsection may
26 not be a compassion center staffer, and such person's registry identification
27 card shall be immediately revoked. The department may suspend or revoke
28 a compassion center staffer's registry identification card for violating the
29 cannabis compassion and care act.

30 (7) A registered compassion center that violates paragraph (2) or (5)
31 of this subsection shall immediately have its registration revoked, and its
32 board members and principal officers may not serve as the board members
33 or principal officers for any other registered compassion center.

34 New Sec. 6. (a) Not later than 90 days after the effective date of the
35 cannabis compassion and care act, the department, in consultation with the
36 compassion board, shall adopt rules and regulations governing the manner
37 in which the department shall consider petitions from the public to add
38 debilitating medical conditions or treatments to the list of debilitating
39 medical conditions set forth in section 3(e), and amendments thereto. In
40 considering such petitions, the department shall include public notice of,
41 and an opportunity to comment in a public hearing upon, the petitions. The
42 department, after hearing, shall approve or deny a petition within 90 days
43 of its submission. The approval or denial of a petition is a final department

1 action, subject to judicial review. Jurisdiction and venue for judicial
2 review are vested in the district court.

3 (b) Not later than 90 days after the effective date of the cannabis
4 compassion and care act, the department, in consultation with the
5 compassion board, shall adopt rules and regulations governing the manner
6 in which it shall consider applications for and renewals of registry
7 identification cards.

8 (c) (1) Not later than 90 days after the effective date of the cannabis
9 compassion and care act, the department, in consultation with the
10 compassion board, shall adopt rules and regulations governing the manner
11 in which it shall consider applications for and renewals of registration
12 certificates for registered compassion centers, including reasonable rules
13 and regulations governing:

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

15 (B) minimum oversight requirements for registered compassion
16 centers;

17 (C) minimum record keeping requirements for registered compassion
18 centers;

19 (D) minimum security requirements for registered compassion
20 centers, which shall include that each registered compassion center
21 location must be protected by a fully operational security alarm system;
22 and

23 (E) procedures for suspending or terminating the registration of
24 registered compassion centers that violate the provisions of the cannabis
25 compassion and care act or the rules and regulations promulgated pursuant
26 to this section.

27 (2) The department, in consultation with the compassion board, shall
28 design rules and regulations with the goal of protecting against diversion
29 and theft, without imposing an undue burden on the registered compassion
30 centers or compromising the confidentiality of registered qualifying
31 patients and their registered designated caregivers. Any dispensing records
32 that a registered compassion center is required to keep shall track
33 transactions according to registered qualifying patients', registered
34 designated caregivers' and registered compassion centers' registry
35 identification numbers, rather than their names, to protect their
36 confidentiality.

37 (d) Not later than 90 days after the effective date of the cannabis
38 compassion and care act, the department, in consultation with the
39 compassion board, shall adopt rules and regulations establishing
40 application and renewal fees for registry identification cards and registered
41 compassion center registration certificates. The fees shall be in accordance
42 with the following parameters:

43 (1) The total fees collected must generate revenues sufficient to offset

1 all expenses of implementing and administering the cannabis compassion
2 and care act;

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

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

5 (4) the total revenue from compassion center application and renewal
6 fees and registry identification card fees for compassion center staffers
7 must be sufficient to offset all expenses of implementing and
8 administering the compassion center aspects of the cannabis compassion
9 and care act, including the verification system;

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

12 (6) the department may accept donations from private sources in
13 order to reduce the application and renewal fees.

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

17 (1) Written certification;

18 (2) application or renewal fee;

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

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

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

25 (6) a statement signed by the qualifying patient, pledging not to divert
26 cannabis to anyone who is not allowed to possess cannabis pursuant to the
27 cannabis compassion and care act; and

28 (7) a signed statement from the designated caregiver, if any, agreeing
29 to be designated as the patient's designated caregiver and pledging not to
30 divert cannabis to anyone who is not allowed to possess cannabis pursuant
31 to the cannabis compassion and care act.

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

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

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

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

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

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

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

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

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

- 29 (1) Name, address and date of birth of the qualifying patient;
- 30 (2) name, address and date of birth of the designated caregiver, if any,
31 of the qualifying patient;
- 32 (3) the date of issuance and expiration date of the registry
33 identification card;
- 34 (4) a random 20-digit alphanumeric identification number, containing
35 at least four numbers and at least four letters, that is unique to the
36 cardholder;
- 37 (5) if the cardholder is a designated caregiver, the random
38 identification number of the registered qualifying patient the designated
39 caregiver is assisting; and
- 40 (6) a photograph, if the department decides to require one.

41 (f) The following notifications and department responses are
42 required:

- 43 (1) A registered qualifying patient shall notify the department of any

1 change of name, address or designated caregiver, or if the registered
2 qualifying patient ceases to have a debilitating medical condition, within
3 10 days of such change.

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

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

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

26 (5) When a registered qualifying patient ceases to be a registered
27 qualifying patient or changes the registered designated caregiver, the
28 department shall notify the designated caregiver within 10 days. The
29 registered designated caregiver's protections under the cannabis
30 compassion and care act as to that qualifying patient shall expire 10 days
31 after notification by the department.

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

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

1 existence of probable cause if probable cause exists on other grounds.

2 (h) The following confidentiality rules shall apply:

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

6 (2) Applications and supporting information submitted by
7 compassion centers and compassion center personnel operating in
8 compliance with the cannabis compassion and care act, including the
9 physical addresses of compassion centers, are confidential.

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

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

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

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

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

41 (6) (A) It shall be a class B misdemeanor for any person, including an
42 employee or official of the department or another state agency or local
43 government, to breach the confidentiality of information obtained pursuant

1 to the cannabis compassion and care act.

2 (B) Notwithstanding this provision, this section shall not prevent the
3 following notifications:

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

9 (ii) the department may notify state or local law enforcement about
10 apparent criminal violations of the cannabis compassion and care act, if
11 the employee who suspects the offense confers with such employee's
12 supervisor and both agree that circumstances exist that warrant reporting;
13 and

14 (iii) compassion center staffers may notify the department of a
15 suspected violation or attempted violation of the cannabis compassion and
16 care act or the rules and regulations issued pursuant to it.

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

24 (j) The department shall submit to the legislature an annual report that
25 does not disclose any identifying information about cardholders,
26 compassion 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
29 identification cards;

30 (2) the number of qualifying patients and designated caregivers
31 approved 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 cannabis-

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

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

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

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

30 (3) the patient was engaged in the acquisition, possession, cultivation,
31 manufacture, use or transportation of cannabis, paraphernalia, or both,
32 relating to the administration of cannabis 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 cannabis in a
36 motion to dismiss, and the charges shall be dismissed following an
37 evidentiary hearing where the person shows the elements listed in
38 subsection (a).

39 (c) If a patient demonstrates the patient's medical purpose for using
40 cannabis 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 cannabis for
43 medical purposes: (1) Disciplinary action by an occupational or

1 professional licensing board or bureau; or (2) forfeiture of any interest in
2 or right to noncannabis, licit property.

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

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

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

11 (3) Smoke cannabis: (A) On any form of public transportation; or (B)
12 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 cannabis.
15 However, a registered qualifying patient shall not be considered to be
16 under the influence of cannabis solely because of the presence of
17 metabolites or components of cannabis that appear in insufficient
18 concentration to cause impairment.

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

21 (b) Nothing in the cannabis compassion and care act shall be
22 construed to require:

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

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

33 (3) an employer to accommodate the ingestion of cannabis in any
34 workplace or any employee working while under the influence of
35 cannabis, provided that a qualifying patient shall not be considered to be
36 under the influence of cannabis solely because of the presence of
37 metabolites or components of cannabis that appear in insufficient
38 concentration to cause impairment. The cannabis compassion and care act
39 shall in no way limit an employer's ability to discipline an employee for
40 ingesting cannabis in the workplace or working while under the influence
41 of cannabis.

42 (c) Fraudulent representation to a law enforcement official of any fact
43 or circumstance relating to the medical use of cannabis to avoid arrest or

1 prosecution shall be punishable by a fine of \$500, which shall be in
2 addition to any other penalties that may apply for making a false statement
3 or for the use of cannabis other than use undertaken pursuant to the
4 cannabis compassion and care act.

5 New Sec. 10. (a) If the department fails to adopt rules and regulations
6 to implement the cannabis compassion and care act within 90 days of the
7 effective date of the cannabis compassion and care act, a qualifying patient
8 or a prospective board member or prospective principal officer of a
9 compassion center may commence an action in district court to compel the
10 department to perform the actions mandated pursuant to the provisions of
11 the cannabis compassion and care act.

12 (b) If the department fails to issue a valid registry identification card
13 in response to a valid application or renewal submitted pursuant to the
14 cannabis compassion and care act within 20 days of its submission, the
15 registry identification card shall be deemed granted, and a copy of the
16 registry identification application or renewal shall be deemed a valid
17 registry identification card.

18 (c) If at any time after the 110 days following the effective date of the
19 cannabis compassion and care act, the department is not accepting
20 applications, including if it has not created rules and regulations allowing
21 qualifying patients to submit applications, a notarized statement by a
22 qualifying patient containing the information required in an application,
23 pursuant to section 7(a), and amendments thereto, together with a written
24 certification shall be deemed a valid registry identification card.

25 New Sec. 11. (a) There is established within the department of health
26 and environment a compassion board. The board shall consist of 11
27 members appointed by the secretary of health and environment. The
28 secretary, insofar as possible, shall appoint persons from different
29 geographical areas and persons who represent various economic interests.
30 If a vacancy occurs on the board, the secretary shall appoint a person to fill
31 the vacant position for the unexpired term, if any. Members of the board
32 shall be appointed for terms of three years and until their successors are
33 appointed and qualified, except that of the members first appointed by the
34 secretary on or after the effective date of the cannabis compassion and care
35 act, three shall be appointed for a term of one year, three shall be
36 appointed for a term of two years and five shall be appointed for a term of
37 three years, as designated by the secretary. The board shall advise the
38 secretary about the administration of the cannabis compassion and care act
39 and shall perform such duties as are required by such act.

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

1 Sec. 12. K.S.A. 79-5210 is hereby amended to read as follows: 79-
2 5210. Nothing in this act requires persons registered under article 16 of
3 chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*, or
4 otherwise lawfully in possession of marijuana or a controlled substance to
5 pay the tax required under this act, *except that persons lawfully in*
6 *possession of cannabis under the cannabis compassion and care act shall*
7 *pay the tax required by K.S.A. 79-5201 et seq., and amendments thereto.*

8 New Sec. 13. Any section of this act being held invalid as to any
9 person or circumstances shall not affect the application of any other
10 section of this act that can be given full effect without the invalid section
11 or application.

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

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