

HOUSE BILL No. 2413

By Committee on Federal and State Affairs

4-3

AN ACT concerning health and healthcare; enacting the human solution for Kansas act; relating to medical cannabis; providing for the licensure and regulation of the manufacture, transportation and sale of medical cannabis; imposing a privilege tax on medical cannabis; amending K.S.A. 2017 Supp. 65-1120, as amended by section 5 of chapter 42 of the 2018 Session Laws of Kansas, K.S.A. 44-1009, 44-1015, 65-2836, 65-28a05, 65-28b08 and 79-5210 and K.S.A. 2018 Supp. 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 23-3201, 38-2269, 44-501, 44-706, 79-3606 and 79-5201 and repealing the existing sections.

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

New Section 1. (a) The provisions of sections 1 through 31, and amendments thereto, shall be known and may be cited as the human solution for Kansas act.

(b) The legislature hereby declares that the human solution for Kansas act is enacted pursuant to the police power of the state to protect the health of its citizens, which is reserved to the state of Kansas and its people under the 10th amendment to the constitution of the United States.

New Sec. 2. As used in the human solution for Kansas act:

(a) "Adequate supply" means an amount of cannabis possessed by a medical cannabis license holder that is no more than reasonably necessary to ensure the uninterrupted availability of cannabis to such license holder for a period of three months, as specified in rules and regulations adopted by the secretary.

(b) (1) "Cannabis" means all parts of all varieties of the plant cannabis sativa L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

(2) The term "cannabis" does not include:

(A) The mature stalks of the plant;

(B) fiber produced from the stalks;

(C) oil or cake made from the seeds of the plant;

(D) any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom; or

(E) fiber, oil, cake or the sterilized seed of the plant that is incapable of germination and contains more than 0.03% tetrahydrocannabinol.

1 (c) "Cannabis derivative" means any extract from the plant cannabis
2 sativa, including, but not limited to, any oil or tincture.

3 (d) "Concentrated cannabis" means any type of cannabis product that
4 is refined from flowering plants that produces a more purified, potent form
5 of cannabis product, including, but not limited to, hashish, kief, hash oil
6 and resin.

7 (e) "Director" means the director of the office of medical cannabis
8 regulation.

9 (f) "Edible cannabis" means any food product containing cannabis or
10 cannabis derivatives.

11 (g) "Homegrown medical cannabis license holder" means an
12 individual who holds a license issued under section 12, and amendments
13 thereto, and who may possess and grow cannabis in accordance with
14 section 4(d), and amendments thereto.

15 (h) "Medical cannabis caregiver" means an individual who holds a
16 license issued to such individual under section 12, and amendments
17 thereto, and who may purchase and possess cannabis in accordance with
18 section 5, and amendments thereto.

19 (i) "Medical cannabis dispensary" means a person who holds a
20 license issued to such person under section 12, and amendments thereto,
21 and who may purchase and sell cannabis and cannabis derivatives in
22 accordance with section 6, and amendments thereto.

23 (j) "Medical cannabis license holder" means an individual who holds
24 a license issued to such individual under section 12, and amendments
25 thereto, and who may purchase and possess cannabis in accordance with
26 section 4(a), and amendments thereto.

27 (k) "Medical cannabis grower" means a person who holds a license
28 issued to such person under section 12, and amendments thereto, and who
29 may grow and sell cannabis in accordance with section 7, and amendments
30 thereto.

31 (l) "Medical cannabis processor" means a person who holds a license
32 issued to such person under section 12, and amendments thereto, and who
33 may purchase, process and sell cannabis and cannabis derivatives in
34 accordance with section 8, and amendments thereto.

35 (m) "Medical cannabis researcher" means a person who holds a
36 license issued to such person under section 12, and amendments thereto,
37 and who may purchase and process cannabis in accordance with section 9,
38 and amendments thereto.

39 (n) "Person" means any individual, corporation, partnership, trust,
40 association or other business entity.

41 (o) "Physician" means a person licensed to practice medicine and
42 surgery in this state.

43 (p) "Secretary" means the secretary of the department of health and

1 environment.

2 (q) "Temporary medical cannabis license holder" means an individual
3 who holds a license issued under section 12, and amendments thereto, and
4 who may purchase and possess cannabis in accordance with section 4(c),
5 and amendments thereto.

6 New Sec. 3. No person shall grow, harvest, process, sell, barter,
7 transport, deliver, furnish or otherwise possess any form of cannabis,
8 except as specifically provided in the human solution for Kansas act.

9 New Sec. 4. (a) A medical cannabis license holder may:

10 (1) Consume cannabis;

11 (2) possess up to three ounces of cannabis on such license holder's
12 person; and

13 (3) possess up to eight ounces of cannabis, one ounce of concentrated
14 cannabis, and 72 ounces of edible cannabis on the premises of such license
15 holder's residence.

16 The limitation set forth in paragraph (2) shall not apply to any medical
17 cannabis license holder who is transporting cannabis from a medical
18 cannabis dispensary to the license holder's residence.

19 (b) (1) An applicant for a medical cannabis license shall be at least 18
20 years of age. The secretary may waive the requirement of this paragraph
21 upon application by an individual who is less than 18 years of age, if such
22 application includes the signature of two physicians who recommend the
23 issuance of a medical cannabis license based on the accepted standards
24 that a reasonable and prudent physician would follow when recommending
25 or approving any medication and the signature of the applicant's parent or
26 legal guardian approving the issuance of a medical cannabis license to
27 such applicant.

28 (2) Each application for a medical cannabis license shall include:

29 (A) Proof of the applicant's age;

30 (B) proof that the applicant is a resident of Kansas; and

31 (C) the signature of a physician who recommends the issuance of a
32 medical cannabis license based on the accepted standards that a reasonable
33 and prudent physician would follow when recommending or approving
34 any medication.

35 (3) An application for a medical cannabis license shall only be denied
36 for failure to satisfy the qualifications for licensure or for failure to
37 properly complete the application.

38 (c) The director may issue a temporary medical cannabis license to an
39 applicant who demonstrates that such applicant is not a resident of this
40 state and holds a medical cannabis license issued by another jurisdiction
41 that provides a state-regulated medical cannabis licensure program.
42 Applications for a temporary medical cannabis license shall include a copy
43 of the applicant's license issued by another jurisdiction and such other

1 information as required by the director. A temporary medical cannabis
2 license holder may purchase and possess cannabis to the same extent as a
3 medical cannabis license holder.

4 (d) The director may issue a homegrown medical cannabis license to
5 an applicant who qualifies for a medical cannabis license and who
6 demonstrates that such applicant is a resident of this state, but resides more
7 than 75 miles from the closest medical cannabis dispensary to such
8 applicant's residence. Applications for a homegrown medical cannabis
9 license shall include the information required under subsection (b)(2). A
10 homegrown medical cannabis license holder may possess and grow up to
11 six mature cannabis plants or six seedling plants, or possess an adequate
12 supply of cannabis on the premises of such license holder's residence.

13 New Sec. 5. (a) A medical cannabis caregiver may possess cannabis
14 to the same extent as a medical cannabis license holder under section 4(a),
15 and amendments thereto.

16 (b) An applicant for a medical cannabis caregiver license shall be at
17 least 18 years of age. Each application for a medical cannabis caregiver
18 license shall include proof:

- 19 (1) Of the applicant's age;
20 (2) that the applicant is a resident of Kansas;
21 (3) that the applicant is the designated caregiver for a medical
22 cannabis license holder; and

23 (4) that the medical cannabis license holder named in the application
24 is unable to access a medical cannabis dispensary.

25 (c) An application for a medical cannabis caregiver license shall only
26 be denied for failure to satisfy the qualifications for licensure or for failure
27 to properly complete the application.

28 New Sec. 6. (a) (1) A medical cannabis dispensary may conduct retail
29 sales of cannabis or cannabis derivatives in such forms as may be provided
30 by a medical cannabis processor. Retail sales shall be made only to
31 medical cannabis license holders, medical cannabis caregivers or medical
32 cannabis researchers.

33 (2) A medical cannabis dispensary also may transport cannabis from
34 a medical cannabis grower's business premises or a medical cannabis
35 processor's business premises to such medical cannabis dispensary's
36 business premises. All cannabis or cannabis products shall be transported
37 in a locked container and clearly labeled "medical cannabis."

38 (b) On the 15th day of each month, each medical cannabis dispensary
39 shall submit a report to the office of medical cannabis regulation. Each
40 report shall contain the following information for the immediately
41 preceding month:

- 42 (1) The aggregate weight of cannabis purchased by the licensee from
43 a medical cannabis processor;

1 (2) the aggregate weight of cannabis and cannabis derivatives sold at
2 retail;

3 (3) the aggregate amount of sales of cannabis and cannabis
4 derivatives; and

5 (4) the aggregate weight of any cannabis that was purchased by the
6 licensee but not sold at retail.

7 The director may inspect the records of a medical cannabis dispensary
8 and audit any reports submitted by such licensee pursuant to this section.

9 (c) No medical cannabis dispensary shall be located within 1,000 feet
10 from the entrance to any public or private elementary or secondary school.

11 New Sec. 7. (a) (1) A medical cannabis grower may grow cannabis
12 and sell such cannabis to a medical cannabis processor, medical cannabis
13 dispensary or medical cannabis researcher. To the extent permitted by
14 federal law, a medical cannabis grower may sell cannabis to and purchase
15 cannabis from any wholesale cannabis provider located outside this state.

16 (2) A medical cannabis grower also may transport cannabis to a
17 medical cannabis processor's business premises or a medical cannabis
18 dispensary's business premises from such medical cannabis grower's
19 business premises, and to the extent permitted by federal law, to and from
20 the business premises of any cannabis provider located outside this state.
21 All cannabis or cannabis products shall be transported in a locked
22 container and clearly labeled "medical cannabis."

23 (3) A medical cannabis grower shall not sell, furnish or otherwise
24 provide cannabis directly to a medical cannabis license holder or medical
25 cannabis caregiver.

26 (b) On the 15th day of each month, each medical cannabis grower
27 licensee shall submit a report to the office of medical cannabis regulation.
28 Each report shall contain the following information for the immediately
29 preceding month:

30 (1) The aggregate weight of cannabis harvested, expressed in pounds;

31 (2) the aggregate weight of drying or dried cannabis being stored by
32 the licensee, expressed in pounds;

33 (3) the aggregate weight of cannabis sold to medical cannabis
34 processors, expressed in pounds;

35 (4) the aggregate weight of cannabis sold to medical cannabis
36 dispensaries, expressed in pounds;

37 (5) the aggregate amount of sales; and

38 (6) the aggregate weight of any cannabis that was harvested by the
39 licensee but not sold, expressed in pounds.

40 The director may inspect the records of a medical cannabis grower and
41 audit any reports submitted by such licensee pursuant to this section.

42 New Sec. 8. (a) (1) A medical cannabis processor may:

43 (A) Purchase cannabis plants and distill or process such plants into

1 concentrates, edibles and other forms of cannabis for consumption;

2 (B) purchase cannabis products produced by a medical cannabis
3 processor for further processing into concentrates, edible cannabis and
4 other forms of cannabis for consumption;

5 (C) sell any cannabis products produced by such licensee to medical
6 cannabis dispensaries, other medical cannabis processors or medical
7 cannabis researchers; and

8 (D) process cannabis provided by a medical cannabis license holder
9 into a concentrated form.

10 (2) A medical cannabis processor also may transport cannabis from a
11 medical cannabis grower's business premises to such medical cannabis
12 processor's business premises, and from such medical cannabis processor's
13 business premises to the business premises of any medical cannabis
14 dispensary or other medical cannabis processor. All cannabis or cannabis
15 products shall be transported in a locked container and clearly labeled
16 "medical cannabis or cannabis derivative."

17 (3) A medical cannabis processor shall not sell, furnish or otherwise
18 provide cannabis, or any cannabis product, directly to a medical cannabis
19 license holder or a medical cannabis caregiver.

20 (b) On the 15th day of each month, each medical cannabis processor
21 shall submit a report to the office of medical cannabis regulation. Each
22 report shall contain the following information for the immediately
23 preceding month:

24 (1) The aggregate weight of cannabis purchased by the licensee,
25 expressed in pounds;

26 (2) the aggregate weight of cannabis processed by the licensee for
27 wholesale to medical cannabis dispensaries or other medical cannabis
28 processors, expressed in pounds;

29 (3) the aggregate amount of cannabis processed by the licensee for
30 medical cannabis license holders, expressed in pounds;

31 (4) the aggregate sales of processed cannabis; and

32 (5) the aggregate weight of any cannabis that was processed by the
33 licensee but not sold to medical cannabis dispensaries or medical cannabis
34 processors, or otherwise provided to a medical cannabis license holder,
35 expressed in pounds.

36 The director may inspect the records of a medical cannabis processor
37 and audit any reports submitted by such licensee pursuant to this section.

38 New Sec. 9. (a) The secretary shall develop a medical cannabis
39 research program to study the effects of short-term and long-term
40 medicinal use of cannabis, including, but not limited to, positive and
41 negative effects on the user's physical, social and economic well-being.

42 (b) A medical cannabis researcher may purchase and possess
43 cannabis solely for purposes of research approved and conducted in

1 accordance with the medical cannabis research program.

2 (c) On the 15th day of each month, each medical cannabis researcher
3 shall submit a report to the office of medical cannabis regulation. Each
4 report shall contain the following information for the immediately
5 preceding month:

6 (1) The aggregate weight of cannabis purchased by the licensee,
7 expressed in pounds; and

8 (2) the aggregate weight of cannabis consumed through approved
9 research projects conducted by the licensee, expressed in pounds.

10 The director may inspect the records of a medical cannabis researcher
11 and audit any reports submitted by such licensee pursuant to this section.

12 New Sec. 10. (a) Applications for a license issued under the human
13 solution for Kansas act shall be submitted to the office of medical cannabis
14 regulation in such form and manner as prescribed by the secretary. All
15 applications shall be reviewed by the office of medical cannabis
16 regulation. Within 14 days after receipt of the application, the director
17 shall notify the applicant that the application has been approved or denied,
18 including the specific reasons for any denial.

19 (b) Each application for a medical cannabis dispensary license,
20 medical cannabis grower license or medical cannabis processor license
21 shall include:

22 (1) The names of all owners of the applicant;

23 (2) (A) if the applicant is an individual, proof that the applicant is:

24 (i) At least 25 years of age; and

25 (ii) a resident of Kansas; or

26 (B) if the applicant is a person other than an individual, proof that:

27 (i) All officers and directors of the applicant are residents of this
28 state; and

29 (ii) at least 75% of the applicant is owned by residents of this state;
30 and

31 (3) that the applicant is registered to do business in this state.

32 (c) Each application for a medical cannabis researcher license shall
33 include:

34 (1) The names of all owners of the applicant;

35 (2) (A) if the applicant is an individual, proof that the applicant is:

36 (i) At least 25 years of age; and

37 (ii) a resident of Kansas; or

38 (B) if the applicant is a person other than an individual, proof that:

39 (i) All officers and directors of the applicant are residents of this
40 state; and

41 (ii) at least 75% of the applicant is owned by residents of this state.

42 (d) No medical cannabis dispensary license, medical cannabis grower
43 license, medical cannabis processor license or medical cannabis researcher

1 license shall be issued to any applicant if any owner, officer, director or
2 employee of the applicant:

3 (1) Has been convicted of any nonperson felony in the two years
4 immediately preceding the date the application is submitted;

5 (2) has been convicted of any person felony in the 10 years
6 immediately preceding the date the application is submitted; or

7 (3) is currently serving a sentence for any conviction of a criminal
8 offense.

9 (e) All applications and any information included with any
10 application shall be kept confidential to protect the privacy of the
11 applicant. The provisions of this subsection shall expire on July 1, 2024,
12 unless the legislature reviews and reenacts such provisions in accordance
13 with K.S.A. 45-229, and amendments thereto, prior to July 1, 2024.

14 New Sec. 11. (a) At the time an application is submitted for a license
15 issued by the director, or a license renewal application is submitted, the
16 applicant shall submit the fee specified in this section.

17 (b) (1) Except as provided in paragraph (2), the fee for a medical
18 cannabis license, temporary medical cannabis license or homegrown
19 medical cannabis license shall be \$100.

20 (2) If the applicant receives benefits under the federal medicare
21 program, the state medicaid program or temporary assistance for needy
22 families, the fee shall be \$20.

23 (c) The fee for a medical cannabis caregiver license shall be \$100.

24 (d) The fee for a medical cannabis dispensary license, medical
25 cannabis grower license, medical cannabis processor license or medical
26 cannabis researcher license shall be \$2,500.

27 New Sec. 12. (a) The director shall issue the license requested in the
28 application to each approved applicant.

29 (b) (1) Except as provided in paragraph (2), all licenses issued by the
30 director shall be valid for a period of two years from the date of issuance.

31 (2) A temporary medical cannabis license shall be valid for a period
32 of 30 days from the date of issuance.

33 (c) A licensee may request renewal of such licensee's license by
34 submitting an application for renewal not more than 30 days prior to the
35 expiration of such license and paying the required fee. A license shall be
36 renewed if the licensee is qualified to receive a license. Any renewed
37 license shall be valid for the period specified in subsection (b).

38 New Sec. 13. The director may refuse to issue or renew a license, or
39 may revoke or suspend a license for any of the following reasons:

40 (a) The applicant has failed to comply with any provision of the
41 human solution for Kansas act, any rules and regulations adopted by the
42 secretary thereunder or any order of the director;

43 (b) the applicant has falsified or misrepresented any information

1 submitted to the office of medical cannabis regulation in order to obtain a
2 license;

3 (c) the applicant has failed to adhere to any acknowledgment,
4 verification or other representation made to the office of medical cannabis
5 regulation when applying for a license; or

6 (d) the applicant has failed to submit or disclose information
7 requested by the director.

8 New Sec. 14. (a) In addition to or in lieu of any other civil or criminal
9 penalty as provided by law, the director may impose a civil penalty or
10 revoke a license upon a finding that the licensee committed a violation as
11 provided in this section.

12 (b) Upon a finding that a medical cannabis dispensary, medical
13 cannabis grower, medical cannabis processor or medical cannabis
14 researcher has submitted a fraudulent report or otherwise falsified or
15 misrepresented information in any report required to be submitted by such
16 licensee under this act, the director may impose a civil fine not to exceed
17 \$5,000 for a first offense and may revoke the licensee's license for a
18 second or subsequent offense.

19 (c) Upon a finding that a medical cannabis dispensary, medical
20 cannabis grower, medical cannabis processor or medical cannabis
21 researcher has sold, transferred or otherwise distributed cannabis or
22 cannabis derivatives in violation of this act, the director may impose a civil
23 fine not to exceed \$5,000 for a first offense and may revoke the licensee's
24 license for a second or subsequent offense.

25 (d) The director shall not take any action against a licensee under this
26 section, unless the director has determined that a gross discrepancy exists
27 in the report submitted by the licensee and the licensee cannot provide
28 reasonable explanation for such discrepancy.

29 New Sec. 15. Each applicant for a medical cannabis dispensary
30 license, medical cannabis grower license, medical cannabis processor
31 license or medical cannabis researcher license shall require any owner,
32 director, officer and any employee or agent of such applicant to be
33 fingerprinted and to submit to a state and national criminal history record
34 check. The office of medical cannabis regulation is authorized to submit
35 the fingerprints to the Kansas bureau of investigation and the federal
36 bureau of investigation for a state and national criminal history record
37 check. The office of medical cannabis regulation shall use the information
38 obtained from fingerprinting and the state and national criminal history
39 record check for purposes of verifying the identification of the person and
40 for making a determination of the qualifications of the applicant for
41 licensure. The Kansas bureau of investigation may charge a reasonable fee
42 to the applicant for fingerprinting and conducting a criminal history record
43 check.

1 New Sec. 16. (a) There is hereby established the medical cannabis
2 regulation fund in the state treasury. The secretary shall administer the
3 medical cannabis regulation fund and shall remit all moneys collected
4 from the payment of all fees and fines imposed pursuant to the human
5 solution for Kansas act and any other moneys received by or on behalf of
6 the office of medical cannabis regulation to the state treasurer in
7 accordance with the provisions of K.S.A. 75-4215, and amendments
8 thereto. Upon receipt of each such remittance, the state treasurer shall
9 deposit the entire amount in the state treasury to the credit of the medical
10 cannabis regulation fund. Moneys credited to the medical cannabis
11 regulation fund shall only be expended or transferred as provided in the
12 human solution for Kansas act. Expenditures from such fund shall be made
13 in accordance with appropriation acts upon warrants of the director of
14 accounts and reports issued pursuant to vouchers approved by the
15 secretary, or the secretary's designee.

16 (b) Moneys in the medical cannabis regulation fund shall be used for:

17 (1) Costs related to the regulation, taxation and enforcement of
18 medical cannabis possession, production, processing, sale, transportation
19 and research by the office of medical cannabis regulation;

20 (2) transfers to the state school district finance fund pursuant to
21 subsection (c); and

22 (3) transfers to the alcohol and drug rehabilitation fund pursuant to
23 subsection (c).

24 (c) On or before the 15th day of each month, the director shall certify
25 to the director of accounts and reports an amount equal to the moneys in
26 the medical cannabis regulation fund in excess of those needed for the
27 purposes described in subsection (b)(1). Upon receipt of such certification,
28 the director of accounts and reports shall transfer an amount equal to 75%
29 of such certified amount from the medical cannabis regulation fund to the
30 state school district finance fund of the state department of education, and
31 an amount equal to 25% of such certified amount from the medical
32 cannabis regulation fund to the alcohol and drug rehabilitation fund of the
33 Kansas department for aging and disability services.

34 New Sec. 17. (a) There is hereby established the office of medical
35 cannabis regulation within the department of health and environment. The
36 office of medical cannabis regulation shall be administered under the
37 direction of a director of the office of medical cannabis regulation, who
38 shall be appointed by and serve at the pleasure of the secretary. The
39 director shall be in the unclassified service under the Kansas civil service
40 act and shall receive an annual salary fixed by the secretary and approved
41 by the governor.

42 (b) The director of the office of medical cannabis regulation shall be
43 responsible for all powers, duties and functions of the office of medical

1 cannabis regulation under the human solution for Kansas act.

2 (c) The director shall appoint a deputy director and such other
3 employees of the office of medical cannabis regulation as authorized by
4 the secretary and shall fix the compensation of such employees subject to
5 the approval of the secretary.

6 (d) Any person appointed as director and all employees of the office
7 of medical cannabis regulation shall be citizens of the United States and
8 residents of the state of Kansas. No person shall be appointed director or
9 deputy director if such person has been convicted of a felony or of any
10 violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and
11 amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior
12 to their transfer, any violation of any provision of the uniform controlled
13 substances act prior to July 1, 2009, or a crime under a law of another
14 jurisdiction that is substantially the same as such felony or violation, has
15 paid a fine or penalty in settlement in any prosecution against such person
16 for any such felony or violation or has forfeited bond to appear in court to
17 answer charges for any such felony or violation.

18 (e) No person appointed director or any employee of the office of
19 medical cannabis regulation may have, directly or indirectly, individually
20 or as a member of a partnership, or as a shareholder of a corporation, any
21 interest in the manufacture, sale or distribution of cannabis, nor receive
22 any compensation or profit therefrom, nor have any interest in the
23 activities of licensees as authorized by the human solution for Kansas act.

24 New Sec. 18. (a) Except as permitted under subsection (b), neither
25 the director nor any employee in the office of medical cannabis regulation
26 shall solicit or accept, directly or indirectly, any gift, gratuity, emolument
27 or employment from any grower, processor, distributor, wholesaler or
28 retailer of cannabis or cannabis derivatives, from any person who is an
29 applicant for any license or is a licensee under the provisions of the human
30 solution for Kansas act, or from any officer, agent or employee thereof, or
31 solicit requests from or recommend, directly or indirectly, to any such
32 person, or to any officer, agent or employee thereof, the appointment of
33 any person to any place or position. Any such person, officer, agent or
34 employee thereof, is hereby forbidden to offer to the director or any
35 employee in the office of medical cannabis regulation, any gift, gratuity,
36 emolument or employment, except as permitted under subsection (b).

37 (b) The secretary may adopt rules and regulations allowing the
38 acceptance of official hospitality by the director and employees in the
39 office of medical cannabis regulation, subject to such limits as prescribed
40 by the secretary.

41 (c) If any person who is the director or an employee in the office of
42 medical cannabis regulation violates any provision of this section, such
43 person shall be removed from such person's office or employment.

1 (d) Violation of any provision of this section is a misdemeanor
2 punishable by a fine not to exceed \$500 or imprisonment of not less than
3 60 days nor more than six months, or both such fine and imprisonment.

4 (e) Nothing contained in this section shall be construed as preventing
5 the prosecution and punishment of any person for bribery as defined in the
6 Kansas criminal code.

7 New Sec. 19. The director of the office of medical cannabis
8 regulation shall have the following powers, functions and duties:

9 (a) To receive applications for and to issue and revoke licenses to in
10 accordance with the provisions of the human solution for Kansas act;

11 (b) to call upon other administrative departments of the state, county
12 and city governments, sheriffs, city police departments, city marshals, law
13 enforcement officers and upon prosecuting officers for such information
14 and assistance as the director deems necessary in the performance of the
15 duties imposed upon the director by the human solution for Kansas act;

16 (c) to inspect or cause to be inspected any premises where cannabis
17 and cannabis derivatives are grown, processed, distributed or sold;

18 (d) in the conduct of any hearing authorized to be held by the director
19 to examine, or cause to be examined, under oath, any person and to
20 examine or cause to be examined books and records of any licensee; to
21 hear testimony and take proof material for the information of the director
22 in the discharge of such duties hereunder; to administer or cause to be
23 administered oaths; and for any such purposes, to issue subpoenas to
24 require the attendance of witnesses and the production of books that shall
25 be effective in any part of this state, and any district court or any judge of
26 the district court, may by order duly entered, require the attendance of
27 witnesses and the production of relevant books subpoenaed by the director,
28 and the court or judge may compel obedience to the order by proceedings
29 for contempt;

30 (e) to collect, receive, account for and remit to the secretary all
31 license fees and taxes provided for in the human solution for Kansas act
32 and all other moneys received by the director by virtue of the director's
33 office; and

34 (f) such other powers, functions and duties as are or may be imposed
35 or conferred upon the director by law.

36 New Sec. 20. On or before September 1, 2019, the secretary shall
37 adopt rules and regulations necessary to implement and administer the
38 provisions of the human solution for Kansas act and may advise and
39 consult with the state board of pharmacy and the state board of healing arts
40 regarding such rules and regulations.

41 New Sec. 21. All actions by the director under the human solution for
42 Kansas act shall be in accordance with the Kansas administrative
43 procedure act and reviewable in accordance with the Kansas judicial

1 review act.

2 New Sec. 22. On or before August 1, 2019, the office of medical
3 cannabis regulation shall make a website available for the public to access
4 information regarding licensure under the human solution for Kansas act.
5 The website shall include an easily identifiable link on the homepage to
6 the application for a medical cannabis license.

7 New Sec. 23. The office of medical cannabis regulation shall assign a
8 unique 24-character identification number to each license issued by the
9 director. The director shall make available, both on the website for the
10 office of medical cannabis regulation and through a telephone verification
11 system, a method to validate the license of a medical cannabis license
12 holder by the unique 24-character identifier assigned to such license.

13 New Sec. 24. (a) On or before September 1, 2019, the secretary shall
14 adopt rules and regulations establishing preparation standards for handling
15 and processing cannabis and edible cannabis products by medical cannabis
16 processors that are in accordance with the standards promulgated by the
17 cannabis consumable products safety board. Such rules and regulations
18 shall not substantially deviate from food preparation standards in effect as
19 of July 1, 2019, and shall not include any rules or regulations for the
20 preparation of such cannabis products that are excessive or punitive in
21 nature.

22 (b) Each year, the department of health and environment shall inspect
23 the premises of a medical cannabis processor to determine the licensee's
24 compliance with preparation standards adopted pursuant to this section. If
25 deficiencies are found, a written report of such deficiencies will be issued
26 to the medical cannabis processor. The medical cannabis processor shall
27 correct any such deficiencies within one month after receipt of such
28 written report. The secretary may impose a civil fine not to exceed \$500 on
29 any licensee that fails to correct reported deficiencies. Such fine may be
30 imposed separately for each deficiency that is not corrected by the licensee
31 within the required period of time.

32 New Sec. 25. (a) There is hereby established the cannabis
33 consumable products safety board. The cannabis consumable products
34 safety board shall adopt safety standards for handling and processing
35 cannabis and products made for human consumption that contain cannabis.

36 (b) The cannabis consumable products safety board shall consist of
37 12 members appointed by the secretary. Members of the board shall be
38 residents of this state and shall have knowledge and expertise in the
39 industry of cannabis production and processing.

40 (c) On or before August 1, 2019, the secretary shall appoint the initial
41 12 members of the cannabis consumable products safety board. Members
42 of the board shall elect a chairperson, a vice-chairperson and a secretary
43 from among the membership. The board may meet on call of the

1 chairperson. No action shall be taken except upon a majority vote of the
2 board. The board shall complete the work assigned to the board under this
3 section on or before January 1, 2020.

4 (d) The secretary shall review the preparation standards annually.
5 Prior to proposing any amendments to adopted preparation standards, the
6 secretary shall appoint new members to the cannabis consumable products
7 safety board and shall submit any proposed amendments to the board.
8 Upon receipt of a letter requesting the appointment of new members to the
9 cannabis consumable products safety board signed by not fewer than 20
10 medical cannabis processors, the secretary shall appoint new members to
11 the board for the purpose of reviewing and recommending any
12 amendments to existing preparation standards. The members of the board
13 appointed pursuant to this subsection shall act in accordance with the
14 provisions of this subsection and shall complete the work assigned to the
15 board within 90 days after being appointed.

16 New Sec. 26. (a) A tax is hereby imposed upon the privilege of
17 growing and harvesting medical cannabis in the state of Kansas at a rate of
18 \$115 per pound or each portion of a pound. For purposes of calculating the
19 tax, the weight shall be measured by the weight of all medical cannabis
20 plant material harvested after drying and processing.

21 (b) The secretary shall adopt rules and regulations to uniformly and
22 efficiently administer the weighing of harvested cannabis for the purposes
23 of this section.

24 (c) On or before the 20th day of each calendar month, every medical
25 cannabis grower shall file a return with the director of taxation showing
26 the quantity of medical cannabis harvested by the medical cannabis grower
27 in this state during the preceding calendar month. Each return shall be
28 accompanied by a remittance for the full tax liability shown.

29 (d) The tax imposed by this section shall be in addition to the tax
30 imposed upon the privilege of selling medical cannabis pursuant to section
31 27, and amendments thereto.

32 (f) All moneys received by the director of taxation, or the director's
33 designee, from taxes imposed by this section shall be remitted to the state
34 treasurer in accordance with the provisions of K.S.A. 75-4215, and
35 amendments thereto. Upon receipt of each such remittance, the state
36 treasurer shall deposit the entire amount in the state treasury to the credit
37 of the medical cannabis regulation fund, established by section 16, and
38 amendments thereto.

39 New Sec. 27. (a) A tax is hereby imposed upon the privilege of
40 selling medical cannabis in this state by any medical cannabis dispensary,
41 at the rate of 7% on the gross receipts received from the sale of medical
42 cannabis to medical cannabis license holders, medical cannabis caregivers
43 and medical cannabis researchers. The tax imposed by this section shall be

1 paid by the medical cannabis license holder, medical cannabis caregiver or
2 medical cannabis researcher at the time of purchase.

3 (b) On or before the 20th day of each calendar month, every medical
4 cannabis dispensary shall file a return with the director of taxation
5 showing the quantity of medical cannabis consumer product sold to
6 medical cannabis license holders, medical cannabis caregivers and medical
7 cannabis researchers within this state during the preceding calendar month.
8 Each return shall be accompanied by a remittance for the full tax liability
9 shown.

10 (c) All moneys received by the director of taxation, or the director's
11 designee, from taxes imposed by this section shall be remitted to the state
12 treasurer in accordance with the provisions of K.S.A. 75-4215, and
13 amendments thereto. Upon receipt of each such remittance, the state
14 treasurer shall deposit the entire amount in the state treasury to the credit
15 of the medical cannabis regulation fund, established by section 16, and
16 amendments thereto.

17 New Sec. 28. The director of taxation shall have the power to require
18 any medical cannabis grower or medical cannabis dispensary to furnish
19 additional information deemed necessary for the purpose of computing the
20 amount of the taxes due pursuant to the human solution for Kansas act,
21 and for such purpose to examine all books, records and files of such
22 persons or entities, and for such purpose, the director shall have the power
23 to issue subpoenas and examine witnesses under oath, and if any witness
24 shall fail or refuse to appear at the request of the director, or refuse access
25 to books, records and files, the district court of the proper county, or the
26 judge thereof, on application of the director, shall compel obedience by
27 proceedings for contempt, as in the case of disobedience of the
28 requirements of a subpoena issued from such court or a refusal to testify
29 therein.

30 New Sec. 29. The provisions of K.S.A. 75-5133, 79-3610, 79-3611,
31 79-3612, 79-3613, 79-3615 and 79-3617, and amendments thereto,
32 relating to the assessment, collection, appeal and administration of the
33 retailers' sales tax, insofar as practical, shall have full force and effect with
34 respect to taxes, penalties and fines imposed by sections 26 and 27, and
35 amendments thereto.

36 New Sec. 30. (a) Each medical cannabis grower, medical cannabis
37 processor and medical cannabis dispensary shall track each cannabis plant
38 and any derivatives produced from such plant from the initial planting to
39 the retail sale of the medical cannabis using a computer tracking system
40 that maintains and records each transaction involving such cannabis plant
41 through batch numbers and individual identification numbers for each
42 medical cannabis product sold.

43 (b) Each computer tracking system shall be utilized in accordance

1 with this section, and shall be accessible by the office of medical cannabis
2 regulation upon request.

3 (c) The secretary shall adopt rules and regulations necessary to ensure
4 that computer tracking systems can be readily accessible and understood
5 by the director and any employees of the office of medical cannabis
6 regulation.

7 New Sec. 31. The provisions of the human solution for Kansas act,
8 section 1 et seq., and amendments thereto, are hereby declared to be
9 severable. If any part or provision of the human solution for Kansas act,
10 section 1 et seq., and amendments thereto, is held to be void, invalid or
11 unconstitutional, such decision shall not affect or impair any of the
12 remaining parts or provisions of the human solution for Kansas act, section
13 1 et seq., and amendments thereto, and any such remaining provisions
14 shall continue in full force and effect.

15 New Sec. 32. There is hereby established the alcohol and drug
16 rehabilitation fund in the state treasury. The secretary for aging and
17 disability services shall administer the alcohol and drug rehabilitation
18 fund. Moneys credited to the alcohol and drug rehabilitation fund shall be
19 expended or transferred only for the purposes of providing rehabilitation
20 treatment and services to individuals with alcohol or substance abuse
21 problems. Expenditures from such fund shall be made in accordance with
22 appropriation acts upon warrants of the director of accounts and reports
23 issued pursuant to vouchers approved by the secretary, or the secretary's
24 designee.

25 New Sec. 33. (a) Subject to the provisions of K.S.A. 44-1018, and
26 amendments thereto, it shall be unlawful for any person:

27 (1) To refuse to sell or rent after the making of a bona fide offer, to
28 fail to transmit a bona fide offer or refuse to negotiate in good faith for the
29 sale or rental of, or otherwise make unavailable or deny, real property to
30 any person because such person consumes medical cannabis in accordance
31 with section 4, and amendments thereto;

32 (2) to discriminate against any person in the terms, conditions or
33 privileges of sale or rental of real property, or in the provision of services
34 or facilities in connection therewith, because such person consumes
35 medical cannabis in accordance with section 4, and amendments thereto;
36 and

37 (3) to discriminate against any person in such person's use or
38 occupancy of real property because such person associates with another
39 person who consumes medical cannabis in accordance with section 4, and
40 amendments thereto.

41 (b) (1) It shall be unlawful for any person or other entity whose
42 business includes engaging in real estate related transactions to
43 discriminate against any person in making available such a transaction, or

1 in the terms or conditions of such a transaction, because such person or
2 any person associated with such person in connection with any real estate
3 related transaction consumes medical cannabis in accordance with section
4 4, and amendments thereto.

5 (2) Nothing in this subsection prohibits a person engaged in the
6 business of furnishing appraisals of real property to take into consideration
7 factors other than an individual's consumption of medical cannabis in
8 accordance with section 4, and amendments thereto.

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

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

17 (d) Nothing in this section shall be construed to prohibit a person
18 from taking any action necessary to procure or retain any monetary benefit
19 provided under federal law, or any rules or regulations adopted thereunder,
20 or to obtain or maintain any license, certificate, registration or other legal
21 status issued or bestowed under federal law, or any rules or regulations
22 adopted thereunder.

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

25 New Sec. 34. (a) A covered entity, solely on the basis that an
26 individual consumes medical cannabis in accordance with section 4, and
27 amendments thereto, may not:

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

30 (2) deny medical and other services related to organ transplantation,
31 including evaluation, surgery, counseling and post-transplantation
32 treatment and services;

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

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

37 (5) place such individual at a lower-priority position on an organ
38 transplant waiting list than the position at which such individual would
39 have been placed if not for such individual's consumption of medical
40 cannabis.

41 (b) A covered entity may take into account an individual's
42 consumption of medical cannabis when making treatment or coverage
43 recommendations or decisions, solely to the extent that such consumption

1 has been found by a physician, following an individualized evaluation of
2 the individual, to be medically significant to the provision of the
3 anatomical gift.

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

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

10 New Sec. 35. (a) No order shall be issued pursuant to K.S.A. 2018
11 Supp. 38-2242, 38-2243 or 38-2244, and amendments thereto, if the only
12 basis for the threat to the child's safety or welfare is that the child resides
13 with an individual who consumes medical cannabis in accordance with
14 section 4, and amendments thereto, or the child consumes medical
15 cannabis in accordance with section 4, and amendments thereto.

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

18 New Sec. 36. (a) Notwithstanding any other provision of law, any
19 person, board, commission or similar body that determines the
20 qualifications of individuals for licensure, certification or registration shall
21 not disqualify an individual from licensure, certification or registration
22 solely because such individual consumes medical cannabis in accordance
23 with section 4, and amendments thereto.

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

- 25 (1) Kansas commission on peace officers' standards and training;
- 26 (2) Kansas highway patrol;
- 27 (3) the office of the attorney general; or
- 28 (4) the office of medical cannabis regulation.

29 Sec. 37. K.S.A. 2018 Supp. 21-5703 is hereby amended to read as
30 follows: 21-5703. (a) It shall be unlawful for any person to manufacture
31 any controlled substance or controlled substance analog.

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

- 33 (1) Drug severity level 2 felony, except as provided in subsections (b)
- 34 (2) and (b)(3);
- 35 (2) drug severity level 1 felony if:

36 (A) The controlled substance is not methamphetamine, as defined by
37 ~~subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1),~~ and
38 amendments thereto, or an analog thereof; and

39 (B) the offender has a prior conviction for unlawful manufacturing of
40 a controlled substance under this section, K.S.A. 65-4159, prior to its
41 repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially
42 similar offense from another jurisdiction and the substance was not
43 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of K.S.A. 65-~~

1 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any
2 such prior conviction; and

3 (3) drug severity level 1 felony if the controlled substance is
4 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1)~~ of K.S.A. 65-
5 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof.

6 (c) The provisions of ~~subsection (d)~~ of K.S.A. 2018 Supp. 21-
7 5301(d), and amendments thereto, shall not apply to a violation of
8 attempting to unlawfully manufacture any controlled substance or
9 controlled substance analog pursuant to this section.

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

17 (e) The sentence of a person who violates this section shall not be
18 subject to statutory provisions for suspended sentence, community service
19 work or probation.

20 (f) The sentence of a person who violates this section, K.S.A. 65-
21 4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its
22 transfer, shall not be reduced because these sections prohibit conduct
23 identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their
24 repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2018
25 Supp. 21-5705, and amendments thereto.

26 *(g) The provisions of this section shall not apply to a homegrown*
27 *medical cannabis license holder, medical cannabis grower or medical*
28 *cannabis processor licensed by the office of medical cannabis regulation*
29 *under section 12, and amendments thereto, that is producing cannabis or*
30 *cannabis derivatives, as defined in section 2, and amendments thereto,*
31 *when used for acts authorized by the human solution for Kansas act,*
32 *section 1 et seq., and amendments thereto.*

33 Sec. 38. K.S.A. 2018 Supp. 21-5705 is hereby amended to read as
34 follows: 21-5705. (a) It shall be unlawful for any person to distribute or
35 possess with the intent to distribute any of the following controlled
36 substances or controlled substance analogs thereof:

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

40 (2) any depressant designated in ~~subsection (e)~~ of K.S.A. 65-4105(e),
41 ~~subsection (e)~~ of K.S.A. 65-4107(e), ~~subsection (b) or (c)~~ of K.S.A. 65-
42 4109(b) or (c) or ~~subsection (b)~~ of K.S.A. 65-4111(b), and amendments
43 thereto;

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

5 (4) any hallucinogenic drug designated in ~~subsection (d) of K.S.A.~~
6 ~~65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of~~
7 ~~K.S.A. 65-4109(g),~~ and amendments thereto;

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

11 (6) any anabolic steroids as defined in ~~subsection (f) of K.S.A. 65-~~
12 ~~4109(f),~~ and amendments thereto; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (D) drug severity level 1 felony if the quantity of the material was
8 100 grams or more.

9 (4) Violation of subsection (a) with respect to material containing any
10 quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107,
11 65-4109 or 65-4111, and amendments thereto, or an analog thereof,
12 distributed by dosage unit, is a:

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

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

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

19 (D) drug severity level 1 felony if the number of dosage units was
20 1,000 or more.

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

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

26 (A) Class A person misdemeanor, except as provided in ~~subsection~~
27 ~~(4)(6)(B)~~ *subparagraph (B)*; and

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

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

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

33 (B) drug severity level 2 felony if the number of plants cultivated was
34 at least 50 but fewer than 100; and

35 (C) drug severity level 1 felony if the number of plants cultivated was
36 100 or more.

37 (e) In any prosecution under this section, there shall be a rebuttable
38 presumption of an intent to distribute if any person possesses the following
39 quantities of controlled substances or analogs thereof:

40 (1) 450 grams or more of marijuana;

41 (2) 3.5 grams or more of heroin or methamphetamine;

42 (3) 100 dosage units or more containing a controlled substance; or

43 (4) 100 grams or more of any other controlled substance.

1 (f) It shall not be a defense to charges arising under this section that
2 the defendant:

3 (1) Was acting in an agency relationship on behalf of any other party
4 in a transaction involving a controlled substance or controlled substance
5 analog;

6 (2) did not know the quantity of the controlled substance or
7 controlled substance analog; or

8 (3) did not know the specific controlled substance or controlled
9 substance analog contained in the material that was distributed or
10 possessed with the intent to distribute.

11 (g) *The provisions of subsections (a)(4) and (5) shall not apply to:*

12 (1) *Any medical cannabis grower licensed by the office of medical*
13 *cannabis regulation under section 12, and amendments thereto, or any*
14 *employee or agent thereof, that is growing cannabis for the purpose of*
15 *sale to a medical cannabis processor as authorized by section 7, and*
16 *amendments thereto;*

17 (2) *any medical cannabis processor licensed by the office of medical*
18 *cannabis regulation under section 12, and amendments thereto, or any*
19 *employee or agent thereof, that is processing cannabis for the purpose of*
20 *sale or distribution to a medical cannabis dispensary, medical cannabis*
21 *processor or medical cannabis license holder as authorized by section 8,*
22 *and amendments thereto; or*

23 (3) *any medical cannabis dispensary licensed by the office of medical*
24 *cannabis regulation under section 12, and amendments thereto, or any*
25 *employee or agent thereof, that is engaging in the sale of cannabis or*
26 *cannabis derivatives in a manner authorized by section 6, and*
27 *amendments thereto.*

28 ~~(g)~~(h) As used in this section:

29 (1) "Material" means the total amount of any substance, including a
30 compound or a mixture, ~~which~~ *that* contains any quantity of a controlled
31 substance or controlled substance analog.

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

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

41 (B) For illegally manufactured controlled substances in liquid
42 solution, or controlled substances in liquid products not intended for
43 ingestion by human beings, or an analog thereof, "dosage unit" means 10

1 milligrams, including the liquid carrier medium, except as provided in
2 ~~subsection (g)(2)~~ *subparagraph (C)*.

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

6 (3) *"Cannabis" means the same as that term is defined in section 2,*
7 *and amendments thereto.*

8 Sec. 39. K.S.A. 2018 Supp. 21-5706 is hereby amended to read as
9 follows: 21-5706. (a) It shall be unlawful for any person to possess any
10 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-
11 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled
12 substance analog thereof.

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

15 (1) Any depressant designated in K.S.A. 65-4105(e), K.S.A. 65-
16 4107(e), K.S.A. 65-4109(b) or (c) or K.S.A. 65-4111(b), and amendments
17 thereto;

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

20 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), K.S.A.
21 65-4107(g) or K.S.A. 65-4109(g), and amendments thereto;

22 (4) any substance designated in K.S.A. 65-4105(g) and K.S.A. 65-
23 4111(c), (d), (e), (f) or (g), and amendments thereto;

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

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

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

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

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

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

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

43 (3) If the substance involved is marijuana, as designated in K.S.A.

1 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as
2 designated in K.S.A. 65-4105(h), and amendments thereto, violation of
3 subsection (b) is a:

4 (A) Class B nonperson misdemeanor, except as provided in (c)(3)(B)
5 ~~and, (c)(3)(C) and (c)(3)(D);~~

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

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

16 (D) *nonperson misdemeanor punishable by a fine not to exceed \$400,*
17 *if that person has not been issued a medical cannabis license under the*
18 *human solution for Kansas act, section 1 et seq., and amendments thereto,*
19 *is found in possession of not more than 1.5 ounces of marijuana and*
20 *provides a statement from such person's physician recommending the use*
21 *of cannabis to treat such person's symptoms.*

22 (d) It shall not be a defense to charges arising under this section that
23 the defendant was acting in an agency relationship on behalf of any other
24 party in a transaction involving a controlled substance or controlled
25 substance analog.

26 (e) *If the substance involved is cannabis or a cannabis derivative, as*
27 *defined in section 2, and amendments thereto, the provisions of*
28 *subsections (b) and (c) shall not apply to any person who is:*

29 (1) *A medical cannabis grower, medical cannabis processor, medical*
30 *cannabis dispensary or medical cannabis researcher licensed by the office*
31 *of medical cannabis regulation under section 12, and amendments thereto,*
32 *or any employee or agent thereof, whose possession is authorized by the*
33 *human solution for Kansas act, section 1 et seq., and amendments thereto;*
34 *or*

35 (2) *an individual issued a medical cannabis license, medical*
36 *cannabis caregiver license, temporary medical cannabis license or*
37 *homegrown medical cannabis license under section 12, and amendments*
38 *thereto, whose possession is authorized by the human solution for Kansas*
39 *act, section 1 et seq., and amendments thereto.*

40 Sec. 40. K.S.A. 2018 Supp. 21-5707 is hereby amended to read as
41 follows: 21-5707. (a) It shall be unlawful for any person to knowingly or
42 intentionally use any communication facility:

43 (1) In committing, causing, or facilitating the commission of any

1 felony under K.S.A. 2018 Supp. 21-5703, 21-5705 or 21-5706, and
2 amendments thereto; or

3 (2) in any attempt to commit, any conspiracy to commit, or any
4 criminal solicitation of any felony under K.S.A. 2018 Supp. 21-5703, 21-
5 5705 or 21-5706, and amendments thereto. Each separate use of a
6 communication facility may be charged as a separate offense under this
7 subsection.

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

10 (c) *The provisions of this section shall not apply to any person using*
11 *communication facilities solely within the scope of activities authorized by*
12 *the human solution for Kansas act, section 1 et seq., and amendments*
13 *thereto.*

14 ~~(e)~~(d) As used in this section, "communication facility" means any
15 and all public and private instrumentalities used or useful in the
16 transmission of writing, signs, signals, pictures or sounds of all kinds and
17 includes telephone, wire, radio, computer, computer networks, beepers,
18 pagers and all other means of communication.

19 Sec. 41. K.S.A. 2018 Supp. 21-5709 is hereby amended to read as
20 follows: 21-5709. (a) It shall be unlawful for any person to possess
21 ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal,
22 iodine, anhydrous ammonia, pressurized ammonia or
23 phenylpropanolamine, or their salts, isomers or salts of isomers with an
24 intent to use the product to manufacture a controlled substance.

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

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

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

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

34 (d) It shall be unlawful for any person to purchase, receive or
35 otherwise acquire at retail any compound, mixture or preparation
36 containing more than 3.6 grams of pseudoephedrine base or ephedrine
37 base in any single transaction or any compound, mixture or preparation
38 containing more than nine grams of pseudoephedrine base or ephedrine
39 base within any 30-day period.

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

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

42 (A) Drug severity level 5 felony, except as provided in subsection (e)

43 (2)(B); and

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

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

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

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

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

14 (g) *The provisions of subsection (b) shall not apply to any person*
15 *licensed or authorized by the human solution for Kansas act, section 1 et*
16 *seq., and amendments thereto, whose possession of such equipment or*
17 *material is used solely to produce or for the administration of cannabis*
18 *and cannabis derivatives in a manner authorized by the human solution*
19 *for Kansas act, section 1 et seq., and amendments thereto.*

20 Sec. 42. K.S.A. 2018 Supp. 21-5710 is hereby amended to read as
21 follows: 21-5710. (a) It shall be unlawful for any person to advertise,
22 market, label, distribute or possess with the intent to distribute:

23 (1) Any product containing ephedrine, pseudoephedrine, red
24 phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia,
25 pressurized ammonia or phenylpropanolamine or their salts, isomers or
26 salts of isomers if the person knows or reasonably should know that the
27 purchaser will use the product to manufacture a controlled substance or
28 controlled substance analog; or

29 (2) any product containing ephedrine, pseudoephedrine or
30 phenylpropanolamine, or their salts, isomers or salts of isomers for
31 indication of stimulation, mental alertness, weight loss, appetite control,
32 energy or other indications not approved pursuant to the pertinent federal
33 over-the-counter drug final monograph or tentative final monograph or
34 approved new drug application.

35 (b) It shall be unlawful for any person to distribute, possess with the
36 intent to distribute or manufacture with intent to distribute any drug
37 paraphernalia, knowing or under circumstances where one reasonably
38 should know that it will be used to manufacture or distribute a controlled
39 substance or controlled substance analog in violation of K.S.A. 2018 Supp.
40 21-5701 through 21-5717, and amendments thereto.

41 (c) It shall be unlawful for any person to distribute, possess with
42 intent to distribute or manufacture with intent to distribute any drug
43 paraphernalia, knowing or under circumstances where one reasonably

1 should know, that it will be used as such in violation of K.S.A. 2018 Supp.
2 21-5701 through 21-5717, and amendments thereto, except ~~subsection (b)~~
3 ~~of K.S.A. 2018 Supp. 21-5706(b)~~, and amendments thereto.

4 (d) It shall be unlawful for any person to distribute, possess with
5 intent to distribute or manufacture with intent to distribute any drug
6 paraphernalia, knowing, or under circumstances where one reasonably
7 should know, that it will be used as such in violation of ~~subsection (b)~~ of
8 K.S.A. 2018 Supp. 21-5706(b), and amendments thereto.

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

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

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

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

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

17 (A) Nondrug severity level 9, nonperson felony, except as provided in
18 subsection (e)(3)(B); and

19 (B) drug severity level 5 felony if the trier of fact makes a finding that
20 the offender distributed or caused drug paraphernalia to be distributed to a
21 minor or on or within 1,000 feet of any school property; and

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

23 (A) Class A nonperson misdemeanor, except as provided in
24 subsection (e)(4)(B); and

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

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

36 (g) *The provisions of subsection (c) shall not apply to any person*
37 *licensed or authorized by the human solution for Kansas act, section 1 et*
38 *seq., and amendments thereto, whose distribution or manufacture is used*
39 *solely for cannabis and cannabis derivatives in a manner authorized by*
40 *the human solution for Kansas act, section 1 et seq., and amendments*
41 *thereto.*

42 (h) As used in this section, "or under circumstances where one
43 reasonably should know" that an item will be used in violation of this

1 section, shall include, but not be limited to, the following:

2 (1) Actual knowledge from prior experience or statements by
3 customers;

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

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

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

12 Sec. 43. K.S.A. 2018 Supp. 23-3201 is hereby amended to read as
13 follows: 23-3201. (a) The court shall determine legal custody, residency
14 and parenting time of a child in accordance with the best interests of the
15 child.

16 (b) *The court shall not consider the fact that a parent or a child*
17 *consumes medical cannabis in accordance with section 4, and*
18 *amendments thereto, when determining the legal custody, residency or*
19 *parenting time of a child.*

20 Sec. 44. K.S.A. 2018 Supp. 38-2269 is hereby amended to read as
21 follows: 38-2269. (a) When the child has been adjudicated to be a child in
22 need of care, the court may terminate parental rights or appoint a
23 permanent custodian when the court finds by clear and convincing
24 evidence that the parent is unfit by reason of conduct or condition which
25 renders the parent unable to care properly for a child and the conduct or
26 condition is unlikely to change in the foreseeable future.

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

29 (1) Emotional illness, mental illness, mental deficiency or physical
30 disability of the parent, of such duration or nature as to render the parent
31 unable to care for the ongoing physical, mental and emotional needs of the
32 child;

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

35 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
36 such duration or nature as to render the parent unable to care for the
37 ongoing physical, mental or emotional needs of the child, *except the use of*
38 *medical cannabis in accordance with section 4, and amendments thereto,*
39 *shall not be considered to render the parent unable to care for the ongoing*
40 *physical, mental or emotional needs of the child;*

41 (4) physical, mental or emotional abuse or neglect or sexual abuse of
42 a child;

43 (5) conviction of a felony and imprisonment;

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

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

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

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

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

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

18 (2) failure to maintain regular visitation, contact or communication
19 with the child or with the custodian of the child;

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

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

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

26 (d) A finding of unfitness may be made as provided in this section if
27 the court finds that the parents have abandoned the child, the custody of
28 the child was surrendered pursuant to K.S.A. 2018 Supp. 38-2282, and
29 amendments thereto, or the child was left under such circumstances that
30 the identity of the parents is unknown and cannot be ascertained, despite
31 diligent searching, and the parents have not come forward to claim the
32 child within three months after the child is found.

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

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

41 (g) (1) If the court makes a finding of unfitness, the court shall
42 consider whether termination of parental rights as requested in the petition
43 or motion is in the best interests of the child. In making the determination,

1 the court shall give primary consideration to the physical, mental and
2 emotional health of the child. If the physical, mental or emotional needs of
3 the child would best be served by termination of parental rights, the court
4 shall so order. A termination of parental rights under the code shall not
5 terminate the right of a child to inherit from or through a parent. Upon
6 such termination all rights of the parent to such child, including, such
7 parent's right to inherit from or through such child, shall cease.

8 (2) If the court terminates parental rights, the court may authorize
9 adoption pursuant to K.S.A. 2018 Supp. 38-2270, and amendments
10 thereto, appointment of a permanent custodian pursuant to K.S.A. 2018
11 Supp. 38-2272, and amendments thereto, or continued permanency
12 planning.

13 (3) If the court does not terminate parental rights, the court may
14 authorize appointment of a permanent custodian pursuant to K.S.A. 2018
15 Supp. 38-2272, and amendments thereto, or continued permanency
16 planning.

17 (h) If a parent is convicted of an offense as provided in K.S.A. 2018
18 Supp. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile
19 offender because of an act which if committed by an adult would be an
20 offense as provided in K.S.A. 2018 Supp. 38-2271(a)(7), and amendments
21 thereto, and if the victim was the other parent of a child, the court may
22 disregard such convicted or adjudicated parent's opinions or wishes in
23 regard to the placement of such child.

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

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

30 Sec. 45. K.S.A. 2018 Supp. 44-501 is hereby amended to read as
31 follows: 44-501. (a) (1) Compensation for an injury shall be disallowed
32 if such injury to the employee results from:

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

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

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

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

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

43 (2) ~~Subparagraphs (B) and (C) of paragraph (1) of subsection~~

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

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

(B) (i) In the case of drugs or medications which are available to the public without a prescription from a health care provider and prescription drugs or medications, compensation shall not be denied if the employee can show that such drugs or medications were being taken or used in therapeutic doses and there have been no prior incidences of the employee's impairment on the job as the result of the use of such drugs or medications within the previous 24 months.

(ii) *In the case of marijuana or any other form of cannabis, including any cannabis derivatives, compensation shall not be denied if the employee holds a medical cannabis license issued under section 12, and amendments thereto, and such cannabis or cannabis derivative was being taken or used in therapeutic doses and there have been no prior incidences of the employee's impairment on the job as a result of the use of such cannabis or cannabis derivative within the previous 24 months.*

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

	Confirmatory test cutoff levels (ng/ml)
Marijuana metabolite ¹	15
Cocaine metabolite ²	150
Opiates:	
Morphine	2000
Codeine	2000
6-Acetylmorphine ⁴	10 ng/ml
Phencyclidine	25
Amphetamines:	
Amphetamine	500

1 Methamphetamine³500

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

3 ² Benzoyllecgonine.

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

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

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

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

17 (2) The results of a chemical test shall be admissible evidence to
18 prove impairment if the employer establishes that the testing was done
19 under any of the following circumstances:

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

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

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

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

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

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

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

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

43 (C) the test was performed by a laboratory approved by the United

1 States department of health and human services or licensed by the
2 department of health and environment, except that a blood sample may be
3 tested for alcohol content by a laboratory commonly used for that purpose
4 by state law enforcement agencies;

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

8 (E) the foundation evidence must establish, beyond a reasonable
9 doubt, that the test results were from the sample taken from the employee;
10 and

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

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

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

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

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

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

29 (d) Except as provided in the workers compensation act, no
30 construction design professional who is retained to perform professional
31 services on a construction project or any employee of a construction
32 design professional who is assisting or representing the construction
33 design professional in the performance of professional services on the site
34 of the construction project, shall be liable for any injury resulting from the
35 employer's failure to comply with safety standards on the construction
36 project for which compensation is recoverable under the workers
37 compensation act, unless responsibility for safety practices is specifically
38 assumed by contract. The immunity provided by this subsection to any
39 construction design professional shall not apply to the negligent
40 preparation of design plans or specifications.

41 (e) An award of compensation for permanent partial impairment,
42 work disability, or permanent total disability shall be reduced by the
43 amount of functional impairment determined to be preexisting. Any such

1 reduction shall not apply to temporary total disability, nor shall it apply to
2 compensation for medical treatment.

3 (1) Where workers compensation benefits have previously been
4 awarded through settlement or judicial or administrative determination in
5 Kansas, the percentage basis of the prior settlement or award shall
6 conclusively establish the amount of functional impairment determined to
7 be preexisting. Where workers compensation benefits have not previously
8 been awarded through settlement or judicial or administrative
9 determination in Kansas, the amount of preexisting functional impairment
10 shall be established by competent evidence.

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

13 (A) If the preexisting impairment is the result of injury sustained
14 while working for the employer against whom workers compensation
15 benefits are currently being sought, any award of compensation shall be
16 reduced by the current dollar value attributable under the workers
17 compensation act to the percentage of functional impairment determined to
18 be preexisting. The "current dollar value" shall be calculated by
19 multiplying the percentage of preexisting impairment by the compensation
20 rate in effect on the date of the accident or injury against which the
21 reduction will be applied.

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

25 (f) If the employee receives, whether periodically or by lump sum,
26 retirement benefits under the federal social security act or retirement
27 benefits from any other retirement system, program, policy or plan which
28 is provided by the employer against which the claim is being made, any
29 compensation benefit payments which the employee is eligible to receive
30 under the workers compensation act for such claim shall be reduced by the
31 weekly equivalent amount of the total amount of all such retirement
32 benefits, less any portion of any such retirement benefit, other than
33 retirement benefits under the federal social security act, that is attributable
34 to payments or contributions made by the employee, but in no event shall
35 the workers compensation benefit be less than the workers compensation
36 benefit payable for the employee's percentage of functional impairment.
37 Where the employee elects to take retirement benefits in a lump sum, the
38 lump sum payment shall be amortized at the rate of 4% per year over the
39 employee's life expectancy to determine the weekly equivalent value of the
40 benefits.

41 Sec. 46. K.S.A. 2018 Supp. 44-706 is hereby amended to read as
42 follows: 44-706. The secretary shall examine whether an individual has
43 separated from employment for each week claimed. The secretary shall

1 apply the provisions of this section to the individual's most recent
2 employment prior to the week claimed. An individual shall be disqualified
3 for benefits;

4 (a) If the individual left work voluntarily without good cause
5 attributable to the work or the employer, subject to the other provisions of
6 this subsection. For purposes of this subsection, "good cause" is cause of
7 such gravity that would impel a reasonable, not supersensitive, individual
8 exercising ordinary common sense to leave employment. Good cause
9 requires a showing of good faith of the individual leaving work, including
10 the presence of a genuine desire to work. Failure to return to work after
11 expiration of approved personal or medical leave, or both, shall be
12 considered a voluntary resignation. After a temporary job assignment,
13 failure of an individual to affirmatively request an additional assignment
14 on the next succeeding workday, if required by the employment
15 agreement, after completion of a given work assignment, shall constitute
16 leaving work voluntarily. The disqualification shall begin the day
17 following the separation and shall continue until after the individual has
18 become reemployed and has had earnings from insured work of at least
19 three times the individual's weekly benefit amount. An individual shall not
20 be disqualified under this subsection if:

21 (1) The individual was forced to leave work because of illness or
22 injury upon the advice of a licensed and practicing health care provider
23 and, upon learning of the necessity for absence, immediately notified the
24 employer thereof, or the employer consented to the absence, and after
25 recovery from the illness or injury, when recovery was certified by a
26 practicing health care provider, the individual returned to the employer and
27 offered to perform services and the individual's regular work or
28 comparable and suitable work was not available. As used in this paragraph
29 "health care provider" means any person licensed by the proper licensing
30 authority of any state to engage in the practice of medicine and surgery,
31 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

32 (2) the individual left temporary work to return to the regular
33 employer;

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

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

1 (5) the individual left work because of hazardous working conditions;
2 in determining whether or not working conditions are hazardous for an
3 individual, the degree of risk involved to the individual's health, safety and
4 morals, the individual's physical fitness and prior training and the working
5 conditions of workers engaged in the same or similar work for the same
6 and other employers in the locality shall be considered; as used in this
7 paragraph, "hazardous working conditions" means working conditions that
8 could result in a danger to the physical or mental well-being of the
9 individual; each determination as to whether hazardous working
10 conditions exist shall include, but shall not be limited to, a consideration
11 of: (A) The safety measures used or the lack thereof; and (B) the condition
12 of equipment or lack of proper equipment; no work shall be considered
13 hazardous if the working conditions surrounding the individual's work are
14 the same or substantially the same as the working conditions generally
15 prevailing among individuals performing the same or similar work for
16 other employers engaged in the same or similar type of activity;

17 (6) the individual left work to enter training approved under section
18 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
19 substantially equal or higher skill level than the individual's past adversely
20 affected employment, as defined for purposes of the federal trade act of
21 1974, and wages for such work are not less than 80% of the individual's
22 average weekly wage as determined for the purposes of the federal trade
23 act of 1974;

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

28 (8) the individual left work to accept better work; each determination
29 as to whether or not the work accepted is better work shall include, but
30 shall not be limited to, consideration of: (A) The rate of pay, the hours of
31 work and the probable permanency of the work left as compared to the
32 work accepted; (B) the cost to the individual of getting to the work left in
33 comparison to the cost of getting to the work accepted; and (C) the
34 distance from the individual's place of residence to the work accepted in
35 comparison to the distance from the individual's residence to the work left;

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

40 (10) the individual left work because of a substantial violation of the
41 work agreement by the employing unit and, before the individual left, the
42 individual had exhausted all remedies provided in such agreement for the
43 settlement of disputes before terminating. For the purposes of this

1 paragraph, a demotion based on performance does not constitute a
2 violation of the work agreement;

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

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

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

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

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

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

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

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

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

26 (ii) a police record documenting the abuse;

27 (iii) documentation that the abuser has been convicted of one or more
28 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
29 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
30 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2018 Supp. 21-
31 6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments
32 thereto, where the victim was a family or household member;

33 (iv) medical documentation of the abuse;

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

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

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

1 (b) If the individual has been discharged or suspended for misconduct
2 connected with the individual's work. The disqualification shall begin the
3 day following the separation and shall continue until after the individual
4 becomes reemployed and in cases where the disqualification is due to
5 discharge for misconduct has had earnings from insured work of at least
6 three times the individual's determined weekly benefit amount, except that
7 if an individual is discharged for gross misconduct connected with the
8 individual's work, such individual shall be disqualified for benefits until
9 such individual again becomes employed and has had earnings from
10 insured work of at least eight times such individual's determined weekly
11 benefit amount. In addition, all wage credits attributable to the
12 employment from which the individual was discharged for gross
13 misconduct connected with the individual's work shall be canceled. No
14 such cancellation of wage credits shall affect prior payments made as a
15 result of a prior separation.

16 (1) For the purposes of this subsection, "misconduct" is defined as a
17 violation of a duty or obligation reasonably owed the employer as a
18 condition of employment including, but not limited to, a violation of a
19 company rule, including a safety rule, if: (A) The individual knew or
20 should have known about the rule; (B) the rule was lawful and reasonably
21 related to the job; and (C) the rule was fairly and consistently enforced.
22 *The term "misconduct" does not include any violation of a duty, obligation*
23 *or company rule, if the individual holds a medical cannabis license issued*
24 *under section 12, and amendments thereto, and the possession of such*
25 *license or the possession or use of cannabis in accordance with the human*
26 *solution for Kansas act, section 1 et seq., and amendments thereto, is the*
27 *basis for the violation.*

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

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

- 36 (i) The individual was absent or tardy without good cause;
37 (ii) the individual had knowledge of the employer's attendance
38 expectation; and
39 (iii) the employer gave notice to the individual that future absence or
40 tardiness may or will result in discharge.

41 (C) For the purposes of this subsection, if an employee disputes being
42 absent or tardy without good cause, the employee shall present evidence
43 that a majority of the employee's absences or tardiness were for good

1 cause. If the employee alleges that the employee's repeated absences or
2 tardiness were the result of health related issues, such evidence shall
3 include documentation from a licensed and practicing health care provider
4 as defined in subsection (a)(1).

5 (3) (A) The term "gross misconduct" as used in this subsection shall
6 be construed to mean conduct evincing extreme, willful or wanton
7 misconduct as defined by this subsection. Gross misconduct shall include,
8 but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to
9 property; (iv) intentional infliction of personal injury; or (v) any conduct
10 that constitutes a felony. *The term "gross misconduct" does not include*
11 *any conduct of an individual, if such individual holds a medical cannabis*
12 *license issued under section 12, and amendments thereto, and the*
13 *possession of such license or the possession or use of cannabis in*
14 *accordance with the human solution for Kansas act, section 1 et seq., and*
15 *amendments thereto, is the basis for such conduct.*

16 (B) For the purposes of this subsection, the following shall be
17 conclusive evidence of gross misconduct:

18 (i) The use of alcoholic liquor, cereal malt beverage or a
19 nonprescribed controlled substance by an individual while working;

20 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
21 or a nonprescribed controlled substance by an individual while working;

22 (iii) a positive breath alcohol test or a positive chemical test,
23 provided:

24 (a) The test was either:

25 (1) Required by law and was administered pursuant to the drug free
26 workplace act, 41 U.S.C. § 701 et seq.;

27 (2) administered as part of an employee assistance program or other
28 drug or alcohol treatment program in which the employee was
29 participating voluntarily or as a condition of further employment;

30 (3) requested pursuant to a written policy of the employer of which
31 the employee had knowledge and was a required condition of
32 employment;

33 (4) required by law and the test constituted a required condition of
34 employment for the individual's job; or

35 (5) there was reasonable suspicion to believe that the individual used,
36 had possession of, or was impaired by alcoholic liquor, cereal malt
37 beverage or a nonprescribed controlled substance while working;

38 (b) the test sample was collected either:

39 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
40 seq.;

41 (2) as prescribed by an employee assistance program or other drug or
42 alcohol treatment program in which the employee was participating
43 voluntarily or as a condition of further employment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (C) For purposes of this subsection:

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

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

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

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

13 (v) "controlled substance" shall be defined as provided in K.S.A.
14 2018 Supp. 21-5701, and amendments thereto;

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

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

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

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

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

1 intent to quit shall be disqualified;

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

4 (i) Inefficiency;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (3) *The provisions of this subsection shall not apply to any individual*
25 *who holds a medical cannabis license issued under section 12, and*
26 *amendments thereto.*

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

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

43 Sec. 47. K.S.A. 44-1009 is hereby amended to read as follows: 44-

1 1009. (a) It shall be an unlawful employment practice:

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

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

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

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

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

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

1 terms, conditions or privileges of employment, membership,
2 apprenticeship or training; or to follow any policy or procedure which, in
3 fact, results in such practices without a valid business motive.

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

7 (8) For an employer, labor organization, employment agency or joint
8 labor-management committee to: (A) Limit, segregate or classify a job
9 applicant or employee in a way that adversely affects the opportunities or
10 status of such applicant or employee because of the disability of such
11 applicant or employee; (B) participate in a contractual or other
12 arrangement or relationship, including a relationship with an employment
13 or referral agency, labor union, an organization providing fringe benefits to
14 an employee or an organization providing training and apprenticeship
15 programs that has the effect of subjecting a qualified applicant or
16 employee with a disability to the discrimination prohibited by this act; (C)
17 utilize standards criteria, or methods of administration that have the effect
18 of discrimination on the basis of disability or that perpetuate the
19 discrimination of others who are subject to common administrative
20 control; (D) exclude or otherwise deny equal jobs or benefits to a qualified
21 individual because of the known disability of an individual with whom the
22 qualified individual is known to have a relationship or association; (E) not
23 make reasonable accommodations to the known physical or mental
24 limitations of an otherwise qualified individual with a disability who is an
25 applicant or employee, unless such employer, labor organization,
26 employment agency or joint labor-management committee can
27 demonstrate that the accommodation would impose an undue hardship on
28 the operation of the business thereof; (F) deny employment opportunities
29 to a job applicant or employee who is an otherwise qualified individual
30 with a disability, if such denial is based on the need to make reasonable
31 accommodation to the physical or mental impairments of the employee or
32 applicant; (G) use qualification standards, employment tests or other
33 selection criteria that screen out or tend to screen out an individual with a
34 disability or a class of individuals with disabilities unless the standard, test
35 or other selection criteria, as used, is shown to be job-related for the
36 position in question and is consistent with business necessity; or (H) fail to
37 select and administer tests concerning employment in the most effective
38 manner to ensure that, when such test is administered to a job applicant or
39 employee who has a disability that impairs sensory, manual or speaking
40 skills, the test results accurately reflect the skills, aptitude or whatever
41 other factor of such applicant or employee that such test purports to
42 measure, rather than reflecting the impaired sensory, manual or speaking
43 skills of such employee or applicant (except where such skills are the

1 factors that the test purports to measure).

2 (9) For any employer to:

3 (A) Seek to obtain, to obtain or to use genetic screening or testing
4 information of an employee or a prospective employee to distinguish
5 between or discriminate against or restrict any right or benefit otherwise
6 due or available to an employee or a prospective employee; or

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

9 (10) (A) *For an employer, because a person holds a medical cannabis*
10 *license issued under section 12, and amendments thereto, or possesses or*
11 *uses cannabis or cannabis derivatives in accordance with the human*
12 *solution for Kansas act, section 1 et seq., and amendments thereto, to: (i)*
13 *Refuse to hire or employ a person; (ii) bar or discharge such person from*
14 *employment; or (iii) otherwise discriminate against such person in*
15 *compensation or in terms, conditions or privileges of employment without*
16 *a valid business necessity.*

17 (B) *For a labor organization, because a person holds a medical*
18 *cannabis license issued under section 12, and amendments thereto, or*
19 *possesses or uses cannabis or cannabis derivatives in accordance with the*
20 *human solution for Kansas act, section 1 et seq., and amendments thereto,*
21 *to exclude or expel from its membership such person.*

22 (C) *Nothing in this paragraph shall be construed to prohibit a person*
23 *from taking any action necessary to procure or retain any monetary*
24 *benefit provided under federal law, or any rules or regulations adopted*
25 *thereunder; or to obtain or maintain any license, certificate, registration*
26 *or other legal status issued or bestowed under federal law, or any rules or*
27 *regulations adopted thereunder.*

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

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

32 (1) For any person, as defined herein being the owner, operator,
33 lessee, manager, agent or employee of any place of public accommodation
34 to refuse, deny or make a distinction, directly or indirectly, in offering its
35 goods, services, facilities, and accommodations to any person as covered
36 by this act because of race, religion, color, sex, disability, national origin or
37 ancestry, except where a distinction because of sex is necessary because of
38 the intrinsic nature of such accommodation.

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

43 (3) For any person, to refuse, deny, make a distinction, directly or

1 indirectly, or discriminate in any way against persons because of the race,
2 religion, color, sex, disability, national origin or ancestry of such persons
3 in the full and equal use and enjoyment of the services, facilities,
4 privileges and advantages of any institution, department or agency of the
5 state of Kansas or any political subdivision or municipality thereof.

6 Sec. 48. K.S.A. 44-1015 is hereby amended to read as follows: 44-
7 1015. As used in this act, unless the context otherwise requires:

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

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

10 (1) All vacant or unimproved land; and

11 (2) any building or structure which is occupied or designed or
12 intended for occupancy, or any building or structure having a portion
13 thereof which is occupied or designed or intended for occupancy.

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

15 (d) "Person" means an individual, corporation, partnership,
16 association, labor organization, legal representative, mutual company,
17 joint-stock company, trust, unincorporated organization, trustee, trustee in
18 bankruptcy, receiver and fiduciary.

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

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

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

28 (h) "Disability" has the meaning provided by K.S.A. 44-1002 and
29 amendments thereto.

30 (i) "Familial status" means having one or more individuals less than
31 18 years of age domiciled with:

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

34 (2) the designee of such parent or other person having such custody,
35 with the written permission of such parent or other person.

36 Sec. 49. K.S.A. 2017 Supp. 65-1120, as amended by section 5 of
37 chapter of the 2018 Session Laws of Kansas, is hereby amended to read as
38 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
39 deny, revoke, limit or suspend any license or authorization to practice
40 nursing as a registered professional nurse, as a licensed practical nurse, as
41 an advanced practice registered nurse or as a registered nurse anesthetist
42 that is issued by the board or applied for under this act, or may require the
43 licensee to attend a specific number of hours of continuing education in

1 addition to any hours the licensee may already be required to attend or
2 may publicly or privately censure a licensee or holder of a temporary
3 permit or authorization, if the applicant, licensee or holder of a temporary
4 permit or authorization is found after hearing:

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

7 (2) to have been guilty of a felony or to have been guilty of a
8 misdemeanor involving an illegal drug offense unless the applicant or
9 licensee establishes sufficient rehabilitation to warrant the public trust,
10 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
11 license or authorization to practice nursing as a licensed professional
12 nurse, as a licensed practical nurse, as an advanced practice registered
13 nurse or registered nurse anesthetist shall be granted to a person with a
14 felony conviction for a crime against persons as specified in article 34 of
15 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
16 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. ~~2017~~ 2018
17 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

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

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

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

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

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

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

33 (9) to have a license to practice nursing as a registered nurse or as a
34 practical nurse denied, revoked, limited or suspended, or to be publicly or
35 privately censured, by a licensing authority of another state, agency of the
36 United States government, territory of the United States or country or to
37 have other disciplinary action taken against the applicant or licensee by a
38 licensing authority of another state, agency of the United States
39 government, territory of the United States or country. A certified copy of
40 the record or order of public or private censure, denial, suspension,
41 limitation, revocation or other disciplinary action of the licensing authority
42 of another state, agency of the United States government, territory of the
43 United States or country shall constitute prima facie evidence of such a

1 fact for purposes of this paragraph (9); or

2 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
3 its repeal, or K.S.A. ~~2017~~ 2018 Supp. 21-5407, and amendments thereto,
4 as established by any of the following:

5 (A) A copy of the record of criminal conviction or plea of guilty for a
6 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. ~~2017~~
7 2018 Supp. 21-5407, and amendments thereto.

8 (B) A copy of the record of a judgment of contempt of court for
9 violating an injunction issued under K.S.A. ~~2017~~ 2018 Supp. 60-4404, and
10 amendments thereto.

11 (C) A copy of the record of a judgment assessing damages under
12 K.S.A. ~~2017~~ 2018 Supp. 60-4405, and amendments thereto.

13 (b) *Proceedings*. Upon filing of a sworn complaint with the board
14 charging a person with having been guilty of any of the unlawful practices
15 specified in subsection (a), two or more members of the board shall
16 investigate the charges, or the board may designate and authorize an
17 employee or employees of the board to conduct an investigation. After
18 investigation, the board may institute charges. If an investigation, in the
19 opinion of the board, reveals reasonable grounds for believing the
20 applicant or licensee is guilty of the charges, the board shall fix a time and
21 place for proceedings, ~~which~~ *that* shall be conducted in accordance with
22 the provisions of the Kansas administrative procedure act.

23 (c) *Witnesses*. No person shall be excused from testifying in any
24 proceedings before the board under this act or in any civil proceedings
25 under this act before a court of competent jurisdiction on the ground that
26 such testimony may incriminate the person testifying, but such testimony
27 shall not be used against the person for the prosecution of any crime under
28 the laws of this state except the crime of perjury as defined in K.S.A. ~~2017~~
29 2018 Supp. 21-5903, and amendments thereto.

30 (d) *Costs*. If final agency action of the board in a proceeding under
31 this section is adverse to the applicant or licensee, the costs of the board's
32 proceedings shall be charged to the applicant or licensee as in ordinary
33 civil actions in the district court, but if the board is the unsuccessful party,
34 the costs shall be paid by the board. Witness fees and costs may be taxed
35 by the board according to the statutes relating to procedure in the district
36 court. All costs accrued by the board, when it is the successful party, and
37 ~~which~~ *that* the attorney general certifies cannot be collected from the
38 applicant or licensee shall be paid from the board of nursing fee fund. All
39 moneys collected following board proceedings shall be credited in full to
40 the board of nursing fee fund.

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

43 (1) One or more instances involving failure to adhere to the

1 applicable standard of care to a degree ~~which~~ *that* constitutes gross
2 negligence, as determined by the board;

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

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

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

13 (g) *The board shall not deny, revoke, limit or suspend an advanced*
14 *practice registered nurse's license or publicly or privately censure an*
15 *advanced practice registered nurse upon any of the following:*

16 (1) *The advanced practice registered nurse has:*

17 (A) *Advised a patient about the possible benefits and risks of using*
18 *medical cannabis or cannabis derivatives; or*

19 (B) *advised a patient that using medical cannabis or cannabis*
20 *derivatives may mitigate the patient's symptoms; or*

21 (2) *the advanced practice registered nurse holds a medical cannabis*
22 *license or medical cannabis caregiver license issued under section 12, and*
23 *amendments thereto, possesses or has possessed, or uses or has used*
24 *cannabis or cannabis derivatives in accordance with the human solution*
25 *for Kansas act, section 1 et seq., and amendments thereto.*

26 Sec. 50. K.S.A. 65-2836 is hereby amended to read as follows: 65-
27 2836. (a) A licensee's license may be revoked, suspended or limited, or the
28 licensee may be publicly censured or placed under probationary
29 conditions, or an application for a license or for reinstatement of a license
30 may be denied upon a finding of the existence of any of the following
31 grounds:

32 (a)(1) The licensee has committed fraud or misrepresentation in
33 applying for or securing an original, renewal or reinstated license.

34 (b)(2) The licensee has committed an act of unprofessional or
35 dishonorable conduct or professional incompetency, except that the board
36 may take appropriate disciplinary action or enter into a non-disciplinary
37 resolution when a licensee has engaged in any conduct or professional
38 practice on a single occasion that, if continued, would reasonably be
39 expected to constitute an inability to practice the healing arts with
40 reasonable skill and safety to patients or unprofessional conduct as defined
41 in K.S.A. 65-2837, and amendments thereto.

42 (c)(3) The licensee has been convicted of a felony or class A
43 misdemeanor, or substantially similar offense in another jurisdiction,

1 whether or not related to the practice of the healing arts. The licensee has
2 been convicted in a special or general court-martial, whether or not related
3 to the practice of the healing arts. The board shall revoke a licensee's
4 license following conviction of a felony or substantially similar offense in
5 another jurisdiction, or following conviction in a general court-martial
6 occurring after July 1, 2000, unless a $\frac{2}{3}$ majority of the board members
7 present and voting determine by clear and convincing evidence that such
8 licensee will not pose a threat to the public in such person's capacity as a
9 licensee and that such person has been sufficiently rehabilitated to warrant
10 the public trust. In the case of a person who has been convicted of a felony
11 or convicted in a general court-martial and who applies for an original
12 license or to reinstate a canceled license, the application for a license shall
13 be denied unless a $\frac{2}{3}$ majority of the board members present and voting on
14 such application determine by clear and convincing evidence that such
15 person will not pose a threat to the public in such person's capacity as a
16 licensee and that such person has been sufficiently rehabilitated to warrant
17 the public trust.

18 ~~(d)~~(4) The licensee has used fraudulent or false advertisements.

19 ~~(e)~~(5) The licensee is addicted to or has distributed intoxicating
20 liquors or drugs for any other than lawful purposes.

21 ~~(f)~~(6) The licensee has willfully or repeatedly violated this act, the
22 pharmacy act of the state of Kansas or the uniform controlled substances
23 act, or any rules and regulations adopted pursuant thereto, or any rules and
24 regulations of the secretary of health and environment—~~which~~ *that* are
25 relevant to the practice of the healing arts.

26 ~~(g)~~(7) The licensee has unlawfully invaded the field of practice of any
27 branch of the healing arts in which the licensee is not licensed to practice.

28 ~~(h)~~(8) The licensee has engaged in the practice of the healing arts
29 under a false or assumed name, or the impersonation of another
30 practitioner. The provisions of this subsection relating to an assumed name
31 shall not apply to licensees practicing under a professional corporation or
32 other legal entity duly authorized to provide such professional services in
33 the state of Kansas.

34 ~~(i)~~(9) The licensee's ability to practice the healing arts with
35 reasonable skill and safety to patients is impaired by reason of physical or
36 mental illness, or condition or use of alcohol, drugs or controlled
37 substances. All information, reports, findings and other records relating to
38 impairment shall be confidential and not subject to discovery by or release
39 to any person or entity outside of a board proceeding.

40 ~~(j)~~(10) The licensee has had a license to practice the healing arts
41 revoked, suspended or limited, has been censured or has had other
42 disciplinary action taken, or an application for a license denied, by the
43 proper licensing authority of another state, territory, District of Columbia,

1 or other country.

2 ~~(k)~~(11) The licensee has violated any lawful rule and regulation
3 promulgated by the board or violated any lawful order or directive of the
4 board previously entered by the board.

5 ~~(h)~~(12) The licensee has failed to report or reveal the knowledge
6 required to be reported or revealed under K.S.A. 65-28,122, and
7 amendments thereto.

8 ~~(m)~~(13) The licensee, if licensed to practice medicine and surgery,
9 has failed to inform in writing a patient suffering from any form of
10 abnormality of the breast tissue for which surgery is a recommended form
11 of treatment, of alternative methods of treatment recognized by licensees
12 of the same profession in the same or similar communities as being
13 acceptable under like conditions and circumstances.

14 ~~(n)~~(14) The licensee has cheated on or attempted to subvert the
15 validity of the examination for a license.

16 ~~(o)~~(15) The licensee has been found to be mentally ill, disabled, not
17 guilty by reason of insanity, not guilty because the licensee suffers from a
18 mental disease or defect or incompetent to stand trial by a court of
19 competent jurisdiction.

20 ~~(p)~~(16) The licensee has prescribed, sold, administered, distributed or
21 given a controlled substance to any person for other than medically
22 accepted or lawful purposes.

23 ~~(q)~~(17) The licensee has violated a federal law or regulation relating
24 to controlled substances.

25 ~~(r)~~(18) The licensee has failed to furnish the board, or its investigators
26 or representatives, any information legally requested by the board.

27 ~~(s)~~(19) Sanctions or disciplinary actions have been taken against the
28 licensee by a peer review committee, health care facility, a governmental
29 agency or department or a professional association or society for acts or
30 conduct similar to acts or conduct ~~which~~ that would constitute grounds for
31 disciplinary action under this section.

32 ~~(t)~~(20) The licensee has failed to report to the board any adverse
33 action taken against the licensee by another state or licensing jurisdiction,
34 a peer review body, a health care facility, a professional association or
35 society, a governmental agency, by a law enforcement agency or a court
36 for acts or conduct similar to acts or conduct ~~which~~ that would constitute
37 grounds for disciplinary action under this section.

38 ~~(u)~~(21) The licensee has surrendered a license or authorization to
39 practice the healing arts in another state or jurisdiction, has surrendered the
40 authority to utilize controlled substances issued by any state or federal
41 agency, has agreed to a limitation to or restriction of privileges at any
42 medical care facility or has surrendered the licensee's membership on any
43 professional staff or in any professional association or society while under

1 investigation for acts or conduct similar to acts or conduct ~~which that~~
2 would constitute grounds for disciplinary action under this section.

3 ~~(v)~~(22) The licensee has failed to report to the board surrender of the
4 licensee's license or authorization to practice the healing arts in another
5 state or jurisdiction or surrender of the licensee's membership on any
6 professional staff or in any professional association or society while under
7 investigation for acts or conduct similar to acts or conduct ~~which that~~
8 would constitute grounds for disciplinary action under this section.

9 ~~(w)~~(23) The licensee has an adverse judgment, award or settlement
10 against the licensee resulting from a medical liability claim related to acts
11 or conduct similar to acts or conduct ~~which that~~ would constitute grounds
12 for disciplinary action under this section.

13 ~~(x)~~(24) The licensee has failed to report to the board any adverse
14 judgment, settlement or award against the licensee resulting from a
15 medical malpractice liability claim related to acts or conduct similar to acts
16 or conduct ~~which that~~ would constitute grounds for disciplinary action
17 under this section.

18 ~~(y)~~(25) The licensee has failed to maintain a policy of professional
19 liability insurance as required by K.S.A. 40-3402 or 40-3403a, and
20 amendments thereto.

21 ~~(z)~~(26) The licensee has failed to pay the premium surcharges as
22 required by K.S.A. 40-3404, and amendments thereto.

23 ~~(aa)~~(27) The licensee has knowingly submitted any misleading,
24 deceptive, untrue or fraudulent representation on a claim form, bill or
25 statement.

26 ~~(bb)~~(28) The licensee as the supervising physician for a physician
27 assistant has failed to adequately direct and supervise the physician
28 assistant in accordance with the physician assistant licensure act or rules
29 and regulations adopted under such act.

30 ~~(ee)~~(29) The licensee has assisted suicide in violation of K.S.A. 21-
31 3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments
32 thereto, as established by any of the following:

33 ~~(1)~~(A) A copy of the record of criminal conviction or plea of guilty
34 for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A.
35 2018 Supp. 21-5407, and amendments thereto.

36 ~~(2)~~(B) A copy of the record of a judgment of contempt of court for
37 violating an injunction issued under K.S.A. 60-4404, and amendments
38 thereto.

39 ~~(3)~~(C) A copy of the record of a judgment assessing damages under
40 K.S.A. 60-4405, and amendments thereto.

41 ~~(dd)~~(30) The licensee has given a worthless check or stopped
42 payment on a debit or credit card for fees or moneys legally due to the
43 board.

1 ~~(ee)~~(31) The licensee has knowingly or negligently abandoned
2 medical records.

3 (b) *The board shall not revoke, suspend or limit a physician's license,*
4 *publicly censure a physician or place a physician's license under*
5 *probationary conditions upon any of the following:*

6 (1) *The physician has:*

7 (A) *Advised a patient about the possible benefits and risks of using*
8 *medical cannabis or cannabis derivatives;*

9 (B) *advised the patient that using medical cannabis or cannabis*
10 *derivatives may mitigate the patient's symptoms; or*

11 (C) *signed a patient's application for a medical cannabis license in*
12 *accordance with section 4, and amendments thereto; or*

13 (2) *the physician holds a medical cannabis license or medical*
14 *cannabis caregiver license issued under section 12, and amendments*
15 *thereto, possess or has possessed, or uses or has used cannabis or*
16 *cannabis derivatives in accordance with the human solution for Kansas*
17 *act, section 1 et seq., and amendments thereto.*

18 Sec. 51. K.S.A. 65-28a05 is hereby amended to read as follows: 65-
19 28a05. (a) A licensee's license may be revoked, suspended or limited, or
20 the licensee may be publicly or privately censured, or an application for a
21 license or for reinstatement of a license may be denied upon a finding of
22 the existence of any of the following grounds:

23 ~~(a)~~(1) The licensee has committed an act of unprofessional conduct as
24 defined by rules and regulations adopted by the board;

25 ~~(b)~~(2) the licensee has obtained a license by means of fraud,
26 misrepresentations or concealment of material facts;

27 ~~(c)~~(3) the licensee has committed an act of professional incompetency
28 as defined by rules and regulations adopted by the board;

29 ~~(d)~~(4) the licensee has been convicted of a felony;

30 ~~(e)~~(5) the licensee has violated any provision of this act, and
31 amendments thereto;

32 ~~(f)~~(6) the licensee has violated any lawful order or rule and regulation
33 of the board;

34 ~~(g)~~(7) the licensee has been found to be mentally ill, disabled, not
35 guilty by reason of insanity, not guilty because the licensee suffers from a
36 mental disease or defect or is incompetent to stand trial by a court of
37 competent jurisdiction;

38 ~~(h)~~(8) the licensee has violated a federal law or regulation relating to
39 controlled substances;

40 ~~(i)~~(9) the licensee has failed to report to the board any adverse action
41 taken against the licensee by another state or licensing jurisdiction, a peer
42 review body, a health care facility, a professional association or society, a
43 governmental agency, by a law enforcement agency or a court for acts or

1 conduct similar to acts or conduct ~~which~~ *that* would constitute grounds for
2 disciplinary action under this section;

3 ~~(j)~~(10) the licensee has surrendered a license or authorization to
4 practice as a physician assistant in another state or jurisdiction, has
5 surrendered the authority to utilize controlled substances issued by any
6 state or federal agency, has agreed to a limitation to or restriction of
7 privileges at any medical care facility or has surrendered the licensee's
8 membership on any professional staff or in any professional association or
9 society while under investigation for acts or conduct similar to acts or
10 conduct ~~which~~ *that* would constitute grounds for disciplinary action under
11 this section;

12 ~~(k)~~(11) the licensee has failed to report to the board the surrender of
13 the licensee's license or authorization to practice as a physician assistant in
14 another state or jurisdiction or the surrender of the licensee's membership
15 on any professional staff or in any professional association or society
16 while under investigation for acts or conduct similar to acts or conduct
17 ~~which~~ *that* would constitute grounds for disciplinary action under this
18 section;

19 ~~(l)~~(12) the licensee has an adverse judgment, award or settlement
20 against the licensee resulting from a medical liability claim related to acts
21 or conduct similar to acts or conduct ~~which~~ *that* would constitute grounds
22 for disciplinary action under this section;

23 ~~(m)~~(13) the licensee has failed to report to the board any adverse
24 judgment, settlement or award against the licensee resulting from a
25 medical malpractice liability claim related to acts or conduct similar to acts
26 or conduct ~~which~~ *that* would constitute grounds for disciplinary action
27 under this section;

28 ~~(n)~~(14) the licensee's ability to practice with reasonable skill and
29 safety to patients is impaired by reason of physical or mental illness, or
30 condition or use of alcohol, drugs or controlled substances. All
31 information, reports, findings and other records relating to impairment
32 shall be confidential and not subject to discovery by or release to any
33 person or entity outside of a board proceeding;

34 ~~(o)~~(15) the licensee has exceeded or has acted outside the scope of
35 authority given the physician assistant by the supervising physician or by
36 this act; or

37 ~~(p)~~(16) the licensee has assisted suicide in violation of K.S.A. 21-
38 3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments
39 thereto, as established by any of the following:

40 ~~(+)~~(A) A copy of the record of criminal conviction or plea of guilty
41 for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A.
42 2018 Supp. 21-5407, and amendments thereto.

43 ~~(2)~~(B) A copy of the record of a judgment of contempt of court for

1 violating an injunction issued under K.S.A. 60-4404, and amendments
2 thereto.

3 ~~(B)~~(C) A copy of the record of a judgment assessing damages under
4 K.S.A. 60-4405, and amendments thereto.

5 (b) *The board shall not revoke, suspend or limit a physician*
6 *assistant's license, publicly or privately censure a physician assistant or*
7 *deny an application for a license or for reinstatement of a license upon*
8 *any of the following:*

9 (1) *The physician assistant has:*

10 (A) *Advised a patient about the possible benefits and risks of using*
11 *medical cannabis or cannabis derivatives; or*

12 (B) *advised the patient that using medical cannabis or cannabis*
13 *derivatives may mitigate the patient's symptoms; or*

14 (2) *the physician assistant holds a medical cannabis license or*
15 *medical cannabis caregiver license issued under section 12, and*
16 *amendments thereto, possess or has possessed, or uses or has used*
17 *cannabis or cannabis derivatives in accordance with the human solution*
18 *for Kansas act, section 1 et seq., and amendments thereto.*

19 Sec. 52. K.S.A. 65-28b08 is hereby amended to read as follows: 65-
20 28b08. (a) The board may deny, revoke, limit or suspend any license or
21 authorization issued to a certified nurse-midwife to engage in the
22 independent practice of midwifery that is issued by the board or applied
23 for under this act, or may publicly censure a licensee or holder of a
24 temporary permit or authorization, if the applicant or licensee is found
25 after a hearing:

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

29 (2) to have been found guilty of a felony or to have been found guilty
30 of a misdemeanor involving an illegal drug offense unless the applicant or
31 licensee establishes sufficient rehabilitation to warrant the public trust,
32 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
33 license or authorization to practice and engage in the independent practice
34 of midwifery shall be granted to a person with a felony conviction for a
35 crime against persons as specified in article 34 of chapter 21 of the Kansas
36 Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the
37 Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2018 Supp.
38 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

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

41 (4) to be unable to practice the healing arts with reasonable skill and
42 safety by reason of impairment due to physical or mental illness or
43 condition or use of alcohol, drugs or controlled substances. All

1 information, reports, findings and other records relating to impairment
2 shall be confidential and not subject to discovery or release to any person
3 or entity outside of a board proceeding. The provisions of this paragraph
4 providing confidentiality of records shall expire on July 1, 2022, unless the
5 legislature reviews and reenacts such provisions pursuant to K.S.A. 45-
6 229, and amendments thereto, prior to July 1, 2022;

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

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

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

15 (8) to have a license to practice nursing as a registered nurse or as a
16 practical nurse denied, revoked, limited or suspended, or to have been
17 publicly or privately censured, by a licensing authority of another state,
18 agency of the United States government, territory of the United States or
19 country, or to have other disciplinary action taken against the applicant or
20 licensee by a licensing authority of another state, agency of the United
21 States government, territory of the United States or country. A certified
22 copy of the record or order of public or private censure, denial, suspension,
23 limitation, revocation or other disciplinary action of the licensing authority
24 of another state, agency of the United States government, territory of the
25 United States or country shall constitute prima facie evidence of such a
26 fact for purposes of this paragraph; or

27 (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its
28 repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto, as
29 established by any of the following:

30 (A) A copy of the record of criminal conviction or plea of guilty to a
31 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018
32 Supp. 21-5407, and amendments thereto;

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

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

38 (b) No person shall be excused from testifying in any proceedings
39 before the board under this act or in any civil proceedings under this act
40 before a court of competent jurisdiction on the ground that such testimony
41 may incriminate the person testifying, but such testimony shall not be used
42 against the person for the prosecution of any crime under the laws of this
43 state, except the crime of perjury as defined in K.S.A. 2018 Supp. 21-

1 5903, and amendments thereto.

2 (c) As used in this section, "professional incompetency" means:

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

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

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

12 (d) The board, upon request, shall receive from the Kansas bureau of
13 investigation such criminal history record information relating to arrests
14 and criminal convictions, as necessary, for the purpose of determining
15 initial and continuing qualifications of licensees and applicants for
16 licensure by the board.

17 (e) ~~The provisions of this section shall become effective on January 1,~~
18 ~~2017~~ *The board shall not deny, revoke, limit or suspend any license or*
19 *authorization issued to a certified nurse-midwife or publicly censure a*
20 *certified nurse-midwife upon any of the following:*

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

22 (A) *Advised a patient about the possible benefits and risks of using*
23 *medical cannabis or cannabis derivatives; or*

24 (B) *advised the patient that using medical cannabis or cannabis*
25 *derivatives may mitigate the patient's symptoms; or*

26 (2) *the certified nurse-midwife holds a medical cannabis license or*
27 *medical cannabis caregiver license issued under section 12, and*
28 *amendments thereto, possess or has possessed, or uses or has used*
29 *cannabis or cannabis derivatives in accordance with the human solution*
30 *for Kansas act, section 1 et seq., and amendments thereto.*

31 Sec. 53. K.S.A. 2018 Supp. 79-3606 is hereby amended to read as
32 follows: 79-3606. The following shall be exempt from the tax imposed by
33 this act:

34 (a) All sales of motor-vehicle fuel, *cannabis and cannabis derivatives*
35 *in accordance with the human solution for Kansas act, section 1 et seq.,*
36 *and amendments thereto, or other articles upon which a sales or excise tax*
37 *has been paid, not subject to refund, under the laws of this state except*
38 *cigarettes and electronic cigarettes as defined by K.S.A. 79-3301, and*
39 *amendments thereto, including consumable material for such electronic*
40 *cigarettes, cereal malt beverages and malt products as defined by K.S.A.*
41 *79-3817, and amendments thereto, including wort, liquid malt, malt syrup*
42 *and malt extract, that is not subject to taxation under the provisions of*
43 *K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant*

1 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A.
2 65-3424d, and amendments thereto, drycleaning and laundry services
3 taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross
4 receipts from regulated sports contests taxed pursuant to the Kansas
5 professional regulated sports act, and amendments thereto;

6 (b) all sales of tangible personal property or service, including the
7 renting and leasing of tangible personal property, purchased directly by the
8 state of Kansas, a political subdivision thereof, other than a school or
9 educational institution, or purchased by a public or private nonprofit
10 hospital or public hospital authority or nonprofit blood, tissue or organ
11 bank and used exclusively for state, political subdivision, hospital or
12 public hospital authority or nonprofit blood, tissue or organ bank purposes,
13 except when: (1) Such state, hospital or public hospital authority is
14 engaged or proposes to engage in any business specifically taxable under
15 the provisions of this act and such items of tangible personal property or
16 service are used or proposed to be used in such business; or (2) such
17 political subdivision is engaged or proposes to engage in the business of
18 furnishing gas, electricity or heat to others and such items of personal
19 property or service are used or proposed to be used in such business;

20 (c) all sales of tangible personal property or services, including the
21 renting and leasing of tangible personal property, purchased directly by a
22 public or private elementary or secondary school or public or private
23 nonprofit educational institution and used primarily by such school or
24 institution for nonsectarian programs and activities provided or sponsored
25 by such school or institution or in the erection, repair or enlargement of
26 buildings to be used for such purposes. The exemption herein provided
27 shall not apply to erection, construction, repair, enlargement or equipment
28 of buildings used primarily for human habitation;

29 (d) all sales of tangible personal property or services purchased by a
30 contractor for the purpose of constructing, equipping, reconstructing,
31 maintaining, repairing, enlarging, furnishing or remodeling facilities for
32 any public or private nonprofit hospital or public hospital authority, public
33 or private elementary or secondary school, a public or private nonprofit
34 educational institution, state correctional institution including a privately
35 constructed correctional institution contracted for state use and ownership,
36 that would be exempt from taxation under the provisions of this act if
37 purchased directly by such hospital or public hospital authority, school,
38 educational institution or a state correctional institution; and all sales of
39 tangible personal property or services purchased by a contractor for the
40 purpose of constructing, equipping, reconstructing, maintaining, repairing,
41 enlarging, furnishing or remodeling facilities for any political subdivision
42 of the state or district described in subsection (s), the total cost of which is
43 paid from funds of such political subdivision or district and that would be

1 exempt from taxation under the provisions of this act if purchased directly
2 by such political subdivision or district. Nothing in this subsection or in
3 the provisions of K.S.A. 12-3418, and amendments thereto, shall be
4 deemed to exempt the purchase of any construction machinery, equipment
5 or tools used in the constructing, equipping, reconstructing, maintaining,
6 repairing, enlarging, furnishing or remodeling facilities for any political
7 subdivision of the state or any such district. As used in this subsection,
8 K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
9 political subdivision" shall mean general tax revenues, the proceeds of any
10 bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the
11 purpose of constructing, equipping, reconstructing, repairing, enlarging,
12 furnishing or remodeling facilities that are to be leased to the donor. When
13 any political subdivision of the state, district described in subsection (s),
14 public or private nonprofit hospital or public hospital authority, public or
15 private elementary or secondary school, public or private nonprofit
16 educational institution, state correctional institution including a privately
17 constructed correctional institution contracted for state use and ownership
18 shall contract for the purpose of constructing, equipping, reconstructing,
19 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
20 shall obtain from the state and furnish to the contractor an exemption
21 certificate for the project involved, and the contractor may purchase
22 materials for incorporation in such project. The contractor shall furnish the
23 number of such certificate to all suppliers from whom such purchases are
24 made, and such suppliers shall execute invoices covering the same bearing
25 the number of such certificate. Upon completion of the project the
26 contractor shall furnish to the political subdivision, district described in
27 subsection (s), hospital or public hospital authority, school, educational
28 institution or department of corrections concerned a sworn statement, on a
29 form to be provided by the director of taxation, that all purchases so made
30 were entitled to exemption under this subsection. As an alternative to the
31 foregoing procedure, any such contracting entity may apply to the
32 secretary of revenue for agent status for the sole purpose of issuing and
33 furnishing project exemption certificates to contractors pursuant to rules
34 and regulations adopted by the secretary establishing conditions and
35 standards for the granting and maintaining of such status. All invoices
36 shall be held by the contractor for a period of five years and shall be
37 subject to audit by the director of taxation. If any materials purchased
38 under such a certificate are found not to have been incorporated in the
39 building or other project or not to have been returned for credit or the sales
40 or compensating tax otherwise imposed upon such materials that will not
41 be so incorporated in the building or other project reported and paid by
42 such contractor to the director of taxation not later than the 20th day of the
43 month following the close of the month in which it shall be determined

1 that such materials will not be used for the purpose for which such
2 certificate was issued, the political subdivision, district described in
3 subsection (s), hospital or public hospital authority, school, educational
4 institution or the contractor contracting with the department of corrections
5 for a correctional institution concerned shall be liable for tax on all
6 materials purchased for the project, and upon payment thereof it may
7 recover the same from the contractor together with reasonable attorney
8 fees. Any contractor or any agent, employee or subcontractor thereof, who
9 shall use or otherwise dispose of any materials purchased under such a
10 certificate for any purpose other than that for which such a certificate is
11 issued without the payment of the sales or compensating tax otherwise
12 imposed upon such materials, shall be guilty of a misdemeanor and, upon
13 conviction therefor, shall be subject to the penalties provided for in K.S.A.
14 79-3615(h), and amendments thereto;

15 (e) all sales of tangible personal property or services purchased by a
16 contractor for the erection, repair or enlargement of buildings or other
17 projects for the government of the United States, its agencies or
18 instrumentalities, that would be exempt from taxation if purchased directly
19 by the government of the United States, its agencies or instrumentalities.
20 When the government of the United States, its agencies or
21 instrumentalities shall contract for the erection, repair, or enlargement of
22 any building or other project, it shall obtain from the state and furnish to
23 the contractor an exemption certificate for the project involved, and the
24 contractor may purchase materials for incorporation in such project. The
25 contractor shall furnish the number of such certificates to all suppliers
26 from whom such purchases are made, and such suppliers shall execute
27 invoices covering the same bearing the number of such certificate. Upon
28 completion of the project the contractor shall furnish to the government of
29 the United States, its agencies or instrumentalities concerned a sworn
30 statement, on a form to be provided by the director of taxation, that all
31 purchases so made were entitled to exemption under this subsection. As an
32 alternative to the foregoing procedure, any such contracting entity may
33 apply to the secretary of revenue for agent status for the sole purpose of
34 issuing and furnishing project exemption certificates to contractors
35 pursuant to rules and regulations adopted by the secretary establishing
36 conditions and standards for the granting and maintaining of such status.
37 All invoices shall be held by the contractor for a period of five years and
38 shall be subject to audit by the director of taxation. Any contractor or any
39 agent, employee or subcontractor thereof, who shall use or otherwise
40 dispose of any materials purchased under such a certificate for any purpose
41 other than that for which such a certificate is issued without the payment
42 of the sales or compensating tax otherwise imposed upon such materials,
43 shall be guilty of a misdemeanor and, upon conviction therefor, shall be

1 subject to the penalties provided for in K.S.A. 79-3615(h), and
2 amendments thereto;

3 (f) tangible personal property purchased by a railroad or public utility
4 for consumption or movement directly and immediately in interstate
5 commerce;

6 (g) sales of aircraft including remanufactured and modified aircraft
7 sold to persons using directly or through an authorized agent such aircraft
8 as certified or licensed carriers of persons or property in interstate or
9 foreign commerce under authority of the laws of the United States or any
10 foreign government or sold to any foreign government or agency or
11 instrumentality of such foreign government and all sales of aircraft for use
12 outside of the United States and sales of aircraft repair, modification and
13 replacement parts and sales of services employed in the remanufacture,
14 modification and repair of aircraft;

15 (h) all rentals of nonsectarian textbooks by public or private
16 elementary or secondary schools;

17 (i) the lease or rental of all films, records, tapes, or any type of sound
18 or picture transcriptions used by motion picture exhibitors;

19 (j) meals served without charge or food used in the preparation of
20 such meals to employees of any restaurant, eating house, dining car, hotel,
21 drugstore or other place where meals or drinks are regularly sold to the
22 public if such employees' duties are related to the furnishing or sale of
23 such meals or drinks;

24 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
25 defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and
26 delivered in this state to a bona fide resident of another state, which motor
27 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
28 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
29 remain in this state more than 10 days;

30 (l) all isolated or occasional sales of tangible personal property,
31 services, substances or things, except isolated or occasional sale of motor
32 vehicles specifically taxed under the provisions of K.S.A. 79-3603(o), and
33 amendments thereto;

34 (m) all sales of tangible personal property that become an ingredient
35 or component part of tangible personal property or services produced,
36 manufactured or compounded for ultimate sale at retail within or without
37 the state of Kansas; and any such producer, manufacturer or compounder
38 may obtain from the director of taxation and furnish to the supplier an
39 exemption certificate number for tangible personal property for use as an
40 ingredient or component part of the property or services produced,
41 manufactured or compounded;

42 (n) all sales of tangible personal property that is consumed in the
43 production, manufacture, processing, mining, drilling, refining or

1 compounding of tangible personal property, the treating of by-products or
2 wastes derived from any such production process, the providing of
3 services or the irrigation of crops for ultimate sale at retail within or
4 without the state of Kansas; and any purchaser of such property may
5 obtain from the director of taxation and furnish to the supplier an
6 exemption certificate number for tangible personal property for
7 consumption in such production, manufacture, processing, mining,
8 drilling, refining, compounding, treating, irrigation and in providing such
9 services;

10 (o) all sales of animals, fowl and aquatic plants and animals, the
11 primary purpose of which is use in agriculture or aquaculture, as defined in
12 K.S.A. 47-1901, and amendments thereto, the production of food for
13 human consumption, the production of animal, dairy, poultry or aquatic
14 plant and animal products, fiber or fur, or the production of offspring for
15 use for any such purpose or purposes;

16 (p) all sales of drugs dispensed pursuant to a prescription order by a
17 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
18 1626, and amendments thereto. As used in this subsection, "drug" means a
19 compound, substance or preparation and any component of a compound,
20 substance or preparation, other than food and food ingredients, dietary
21 supplements or alcoholic beverages, recognized in the official United
22 States pharmacopeia, official homeopathic pharmacopoeia of the United
23 States or official national formulary, and supplement to any of them,
24 intended for use in the diagnosis, cure, mitigation, treatment or prevention
25 of disease or intended to affect the structure or any function of the body,
26 except that for taxable years commencing after December 31, 2013, this
27 subsection shall not apply to any sales of drugs used in the performance or
28 induction of an abortion, as defined in K.S.A. 65-6701, and amendments
29 thereto;

30 (q) all sales of insulin dispensed by a person licensed by the state
31 board of pharmacy to a person for treatment of diabetes at the direction of
32 a person licensed to practice medicine by the state board of healing arts;

33 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
34 enteral feeding systems, prosthetic devices and mobility enhancing
35 equipment prescribed in writing by a person licensed to practice the
36 healing arts, dentistry or optometry, and in addition to such sales, all sales
37 of hearing aids, as defined by K.S.A. 74-5807(c), and amendments thereto,
38 and repair and replacement parts therefor, including batteries, by a person
39 licensed in the practice of dispensing and fitting hearing aids pursuant to
40 the provisions of K.S.A. 74-5808, and amendments thereto. For the
41 purposes of this subsection: (1) "Mobility enhancing equipment" means
42 equipment including repair and replacement parts to same, but does not
43 include durable medical equipment, which is primarily and customarily

1 used to provide or increase the ability to move from one place to another
2 and which is appropriate for use either in a home or a motor vehicle; is not
3 generally used by persons with normal mobility; and does not include any
4 motor vehicle or equipment on a motor vehicle normally provided by a
5 motor vehicle manufacturer; and (2) "prosthetic device" means a
6 replacement, corrective or supportive device including repair and
7 replacement parts for same worn on or in the body to artificially replace a
8 missing portion of the body, prevent or correct physical deformity or
9 malfunction or support a weak or deformed portion of the body;

10 (s) except as provided in K.S.A. 2018 Supp. 82a-2101, and
11 amendments thereto, all sales of tangible personal property or services
12 purchased directly or indirectly by a groundwater management district
13 organized or operating under the authority of K.S.A. 82a-1020 et seq., and
14 amendments thereto, by a rural water district organized or operating under
15 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
16 supply district organized or operating under the authority of K.S.A. 19-
17 3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto, which
18 property or services are used in the construction activities, operation or
19 maintenance of the district;

20 (t) all sales of farm machinery and equipment or aquaculture
21 machinery and equipment, repair and replacement parts therefor and
22 services performed in the repair and maintenance of such machinery and
23 equipment. For the purposes of this subsection the term "farm machinery
24 and equipment or aquaculture machinery and equipment" shall include a
25 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
26 thereto, and is equipped with a bed or cargo box for hauling materials, and
27 shall also include machinery and equipment used in the operation of
28 Christmas tree farming but shall not include any passenger vehicle, truck,
29 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
30 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
31 machinery and equipment" includes precision farming equipment that is
32 portable or is installed or purchased to be installed on farm machinery and
33 equipment. "Precision farming equipment" includes the following items
34 used only in computer-assisted farming, ranching or aquaculture
35 production operations: Soil testing sensors, yield monitors, computers,
36 monitors, software, global positioning and mapping systems, guiding
37 systems, modems, data communications equipment and any necessary
38 mounting hardware, wiring and antennas. Each purchaser of farm
39 machinery and equipment or aquaculture machinery and equipment
40 exempted herein must certify in writing on the copy of the invoice or sales
41 ticket to be retained by the seller that the farm machinery and equipment
42 or aquaculture machinery and equipment purchased will be used only in
43 farming, ranching or aquaculture production. Farming or ranching shall

1 include the operation of a feedlot and farm and ranch work for hire and the
2 operation of a nursery;

3 (u) all leases or rentals of tangible personal property used as a
4 dwelling if such tangible personal property is leased or rented for a period
5 of more than 28 consecutive days;

6 (v) all sales of tangible personal property to any contractor for use in
7 preparing meals for delivery to homebound elderly persons over 60 years
8 of age and to homebound disabled persons or to be served at a group-
9 sitting at a location outside of the home to otherwise homebound elderly
10 persons over 60 years of age and to otherwise homebound disabled
11 persons, as all or part of any food service project funded in whole or in
12 part by government or as part of a private nonprofit food service project
13 available to all such elderly or disabled persons residing within an area of
14 service designated by the private nonprofit organization, and all sales of
15 tangible personal property for use in preparing meals for consumption by
16 indigent or homeless individuals whether or not such meals are consumed
17 at a place designated for such purpose, and all sales of food products by or
18 on behalf of any such contractor or organization for any such purpose;

19 (w) all sales of natural gas, electricity, heat and water delivered
20 through mains, lines or pipes: (1) To residential premises for
21 noncommercial use by the occupant of such premises; (2) for agricultural
22 use and also, for such use, all sales of propane gas; (3) for use in the
23 severing of oil; and (4) to any property which is exempt from property
24 taxation pursuant to K.S.A. 79-201b, *Second* through *Sixth*. As used in this
25 paragraph, "severing" means the same as defined in K.S.A. 79-4216(k),
26 and amendments thereto. For all sales of natural gas, electricity and heat
27 delivered through mains, lines or pipes pursuant to the provisions of
28 subsection (w)(1) and (w)(2), the provisions of this subsection shall expire
29 on December 31, 2005;

30 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
31 for the production of heat or lighting for noncommercial use of an
32 occupant of residential premises occurring prior to January 1, 2006;

33 (y) all sales of materials and services used in the repairing, servicing,
34 altering, maintaining, manufacturing, remanufacturing, or modification of
35 railroad rolling stock for use in interstate or foreign commerce under
36 authority of the laws of the United States;

37 (z) all sales of tangible personal property and services purchased
38 directly by a port authority or by a contractor therefor as provided by the
39 provisions of K.S.A. 12-3418, and amendments thereto;

40 (aa) all sales of materials and services applied to equipment that is
41 transported into the state from without the state for repair, service,
42 alteration, maintenance, remanufacture or modification and that is
43 subsequently transported outside the state for use in the transmission of

1 liquids or natural gas by means of pipeline in interstate or foreign
2 commerce under authority of the laws of the United States;

3 (bb) all sales of used mobile homes or manufactured homes. As used
4 in this subsection: (1) "Mobile homes" and "manufactured homes" mean
5 the same as defined in K.S.A. 58-4202, and amendments thereto; and (2)
6 "sales of used mobile homes or manufactured homes" means sales other
7 than the original retail sale thereof;

8 (cc) all sales of tangible personal property or services purchased prior
9 to January 1, 2012, except as otherwise provided, for the purpose of and in
10 conjunction with constructing, reconstructing, enlarging or remodeling a
11 business or retail business that meets the requirements established in
12 K.S.A. 74-50,115, and amendments thereto, and the sale and installation of
13 machinery and equipment purchased for installation at any such business
14 or retail business, and all sales of tangible personal property or services
15 purchased on or after January 1, 2012, for the purpose of and in
16 conjunction with constructing, reconstructing, enlarging or remodeling a
17 business that meets the requirements established in K.S.A. 74-50,115(e),
18 and amendments thereto, and the sale and installation of machinery and
19 equipment purchased for installation at any such business. When a person
20 shall contract for the construction, reconstruction, enlargement or
21 remodeling of any such business or retail business, such person shall
22 obtain from the state and furnish to the contractor an exemption certificate
23 for the project involved, and the contractor may purchase materials,
24 machinery and equipment for incorporation in such project. The contractor
25 shall furnish the number of such certificates to all suppliers from whom
26 such purchases are made, and such suppliers shall execute invoices
27 covering the same bearing the number of such certificate. Upon
28 completion of the project the contractor shall furnish to the owner of the
29 business or retail business a sworn statement, on a form to be provided by
30 the director of taxation, that all purchases so made were entitled to
31 exemption under this subsection. All invoices shall be held by the
32 contractor for a period of five years and shall be subject to audit by the
33 director of taxation. Any contractor or any agent, employee or
34 subcontractor thereof, who shall use or otherwise dispose of any materials,
35 machinery or equipment purchased under such a certificate for any
36 purpose other than that for which such a certificate is issued without the
37 payment of the sales or compensating tax otherwise imposed thereon, shall
38 be guilty of a misdemeanor and, upon conviction therefor, shall be subject
39 to the penalties provided for in K.S.A. 79-3615(h), and amendments
40 thereto. As used in this subsection, "business" and "retail business" mean
41 the same as defined in K.S.A. 74-50,114, and amendments thereto. Project
42 exemption certificates that have been previously issued under this
43 subsection by the department of revenue pursuant to K.S.A. 74-50,115,

1 and amendments thereto, but not including K.S.A. 74-50,115(e), and
2 amendments thereto, prior to January 1, 2012, and have not expired will be
3 effective for the term of the project or two years from the effective date of
4 the certificate, whichever occurs earlier. Project exemption certificates that
5 are submitted to the department of revenue prior to January 1, 2012, and
6 are found to qualify will be issued a project exemption certificate that will
7 be effective for a two-year period or for the term of the project, whichever
8 occurs earlier;

9 (dd) all sales of tangible personal property purchased with food
10 stamps issued by the United States department of agriculture;

11 (ee) all sales of lottery tickets and shares made as part of a lottery
12 operated by the state of Kansas;

13 (ff) on and after July 1, 1988, all sales of new mobile homes or
14 manufactured homes to the extent of 40% of the gross receipts, determined
15 without regard to any trade-in allowance, received from such sale. As used
16 in this subsection, "mobile homes" and "manufactured homes" mean the
17 same as defined in K.S.A. 58-4202, and amendments thereto;

18 (gg) all sales of tangible personal property purchased in accordance
19 with vouchers issued pursuant to the federal special supplemental food
20 program for women, infants and children;

21 (hh) all sales of medical supplies and equipment, including durable
22 medical equipment, purchased directly by a nonprofit skilled nursing home
23 or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923,
24 and amendments thereto, for the purpose of providing medical services to
25 residents thereof. This exemption shall not apply to tangible personal
26 property customarily used for human habitation purposes. As used in this
27 subsection, "durable medical equipment" means equipment including
28 repair and replacement parts for such equipment, that can withstand
29 repeated use, is primarily and customarily used to serve a medical purpose,
30 generally is not useful to a person in the absence of illness or injury and is
31 not worn in or on the body, but does not include mobility enhancing
32 equipment as defined in subsection (r), oxygen delivery equipment, kidney
33 dialysis equipment or enteral feeding systems;

34 (ii) all sales of tangible personal property purchased directly by a
35 nonprofit organization for nonsectarian comprehensive multidiscipline
36 youth development programs and activities provided or sponsored by such
37 organization, and all sales of tangible personal property by or on behalf of
38 any such organization. This exemption shall not apply to tangible personal
39 property customarily used for human habitation purposes;

40 (jj) all sales of tangible personal property or services, including the
41 renting and leasing of tangible personal property, purchased directly on
42 behalf of a community-based facility for people with intellectual disability
43 or mental health center organized pursuant to K.S.A. 19-4001 et seq., and

1 amendments thereto, and licensed in accordance with the provisions of
2 K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, and all sales
3 of tangible personal property or services purchased by contractors during
4 the time period from July, 2003, through June, 2006, for the purpose of
5 constructing, equipping, maintaining or furnishing a new facility for a
6 community-based facility for people with intellectual disability or mental
7 health center located in Riverton, Cherokee County, Kansas, that would
8 have been eligible for sales tax exemption pursuant to this subsection if
9 purchased directly by such facility or center. This exemption shall not
10 apply to tangible personal property customarily used for human habitation
11 purposes;

12 (kk) (1) (A) all sales of machinery and equipment that are used in this
13 state as an integral or essential part of an integrated production operation
14 by a manufacturing or processing plant or facility;

15 (B) all sales of installation, repair and maintenance services
16 performed on such machinery and equipment; and

17 (C) all sales of repair and replacement parts and accessories
18 purchased for such machinery and equipment.

19 (2) For purposes of this subsection:

20 (A) "Integrated production operation" means an integrated series of
21 operations engaged in at a manufacturing or processing plant or facility to
22 process, transform or convert tangible personal property by physical,
23 chemical or other means into a different form, composition or character
24 from that in which it originally existed. Integrated production operations
25 shall include: (i) Production line operations, including packaging
26 operations; (ii) preproduction operations to handle, store and treat raw
27 materials; (iii) post production handling, storage, warehousing and
28 distribution operations; and (iv) waste, pollution and environmental
29 control operations, if any;

30 (B) "production line" means the assemblage of machinery and
31 equipment at a manufacturing or processing plant or facility where the
32 actual transformation or processing of tangible personal property occurs;

33 (C) "manufacturing or processing plant or facility" means a single,
34 fixed location owned or controlled by a manufacturing or processing
35 business that consists of one or more structures or buildings in a
36 contiguous area where integrated production operations are conducted to
37 manufacture or process tangible personal property to be ultimately sold at
38 retail. Such term shall not include any facility primarily operated for the
39 purpose of conveying or assisting in the conveyance of natural gas,
40 electricity, oil or water. A business may operate one or more manufacturing
41 or processing plants or facilities at different locations to manufacture or
42 process a single product of tangible personal property to be ultimately sold
43 at retail;

1 (D) "manufacturing or processing business" means a business that
2 utilizes an integrated production operation to manufacture, process,
3 fabricate, finish or assemble items for wholesale and retail distribution as
4 part of what is commonly regarded by the general public as an industrial
5 manufacturing or processing operation or an agricultural commodity
6 processing operation. (i) Industrial manufacturing or processing operations
7 include, by way of illustration but not of limitation, the fabrication of
8 automobiles, airplanes, machinery or transportation equipment, the
9 fabrication of metal, plastic, wood or paper products, electricity power
10 generation, water treatment, petroleum refining, chemical production,
11 wholesale bottling, newspaper printing, ready mixed concrete production,
12 and the remanufacturing of used parts for wholesale or retail sale. Such
13 processing operations shall include operations at an oil well, gas well,
14 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
15 sand or gravel that has been extracted from the earth is cleaned, separated,
16 crushed, ground, milled, screened, washed or otherwise treated or prepared
17 before its transmission to a refinery or before any other wholesale or retail
18 distribution. (ii) Agricultural commodity processing operations include, by
19 way of illustration but not of limitation, meat packing, poultry slaughtering
20 and dressing, processing and packaging farm and dairy products in sealed
21 containers for wholesale and retail distribution, feed grinding, grain
22 milling, frozen food processing, and grain handling, cleaning, blending,
23 fumigation, drying and aeration operations engaged in by grain elevators
24 or other grain storage facilities. (iii) Manufacturing or processing
25 businesses do not include, by way of illustration but not of limitation,
26 nonindustrial businesses whose operations are primarily retail and that
27 produce or process tangible personal property as an incidental part of
28 conducting the retail business, such as retailers who bake, cook or prepare
29 food products in the regular course of their retail trade, grocery stores,
30 meat lockers and meat markets that butcher or dress livestock or poultry in
31 the regular course of their retail trade, contractors who alter, service, repair
32 or improve real property, and retail businesses that clean, service or
33 refurbish and repair tangible personal property for its owner;

34 (E) "repair and replacement parts and accessories" means all parts
35 and accessories for exempt machinery and equipment, including, but not
36 limited to, dies, jigs, molds, patterns and safety devices that are attached to
37 exempt machinery or that are otherwise used in production, and parts and
38 accessories that require periodic replacement such as belts, drill bits,
39 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
40 other refractory items for exempt kiln equipment used in production
41 operations;

42 (F) "primary" or "primarily" mean more than 50% of the time.

43 (3) For purposes of this subsection, machinery and equipment shall

1 be deemed to be used as an integral or essential part of an integrated
2 production operation when used:

3 (A) To receive, transport, convey, handle, treat or store raw materials
4 in preparation of its placement on the production line;

5 (B) to transport, convey, handle or store the property undergoing
6 manufacturing or processing at any point from the beginning of the
7 production line through any warehousing or distribution operation of the
8 final product that occurs at the plant or facility;

9 (C) to act upon, effect, promote or otherwise facilitate a physical
10 change to the property undergoing manufacturing or processing;

11 (D) to guide, control or direct the movement of property undergoing
12 manufacturing or processing;

13 (E) to test or measure raw materials, the property undergoing
14 manufacturing or processing or the finished product, as a necessary part of
15 the manufacturer's integrated production operations;

16 (F) to plan, manage, control or record the receipt and flow of
17 inventories of raw materials, consumables and component parts, the flow
18 of the property undergoing manufacturing or processing and the
19 management of inventories of the finished product;

20 (G) to produce energy for, lubricate, control the operating of or
21 otherwise enable the functioning of other production machinery and
22 equipment and the continuation of production operations;

23 (H) to package the property being manufactured or processed in a
24 container or wrapping in which such property is normally sold or
25 transported;

26 (I) to transmit or transport electricity, coke, gas, water, steam or
27 similar substances used in production operations from the point of
28 generation, if produced by the manufacturer or processor at the plant site,
29 to that manufacturer's production operation; or, if purchased or delivered
30 from off-site, from the point where the substance enters the site of the
31 plant or facility to that manufacturer's production operations;

32 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil,
33 solvents or other substances that are used in production operations;

34 (K) to provide and control an environment required to maintain
35 certain levels of air quality, humidity or temperature in special and limited
36 areas of the plant or facility, where such regulation of temperature or
37 humidity is part of and essential to the production process;

38 (L) to treat, transport or store waste or other byproducts of production
39 operations at the plant or facility; or

40 (M) to control pollution at the plant or facility where the pollution is
41 produced by the manufacturing or processing operation.

42 (4) The following machinery, equipment and materials shall be
43 deemed to be exempt even though it may not otherwise qualify as

1 machinery and equipment used as an integral or essential part of an
2 integrated production operation: (A) Computers and related peripheral
3 equipment that are utilized by a manufacturing or processing business for
4 engineering of the finished product or for research and development or
5 product design; (B) machinery and equipment that is utilized by a
6 manufacturing or processing business to manufacture or rebuild tangible
7 personal property that is used in manufacturing or processing operations,
8 including tools, dies, molds, forms and other parts of qualifying machinery
9 and equipment; (C) portable plants for aggregate concrete, bulk cement
10 and asphalt including cement mixing drums to be attached to a motor
11 vehicle; (D) industrial fixtures, devices, support facilities and special
12 foundations necessary for manufacturing and production operations, and
13 materials and other tangible personal property sold for the purpose of
14 fabricating such fixtures, devices, facilities and foundations. An exemption
15 certificate for such purchases shall be signed by the manufacturer or
16 processor. If the fabricator purchases such material, the fabricator shall
17 also sign the exemption certificate; (E) a manufacturing or processing
18 business' laboratory equipment that is not located at the plant or facility,
19 but that would otherwise qualify for exemption under subsection (3)(E);
20 (F) all machinery and equipment used in surface mining activities as
21 described in K.S.A. 49-601 et seq., and amendments thereto, beginning
22 from the time a reclamation plan is filed to the acceptance of the
23 completed final site reclamation.

24 (5) "Machinery and equipment used as an integral or essential part of
25 an integrated production operation" shall not include:

26 (A) Machinery and equipment used for nonproduction purposes,
27 including, but not limited to, machinery and equipment used for plant
28 security, fire prevention, first aid, accounting, administration, record
29 keeping, advertising, marketing, sales or other related activities, plant
30 cleaning, plant communications and employee work scheduling;

31 (B) machinery, equipment and tools used primarily in maintaining
32 and repairing any type of machinery and equipment or the building and
33 plant;

34 (C) transportation, transmission and distribution equipment not
35 primarily used in a production, warehousing or material handling
36 operation at the plant or facility, including the means of conveyance of
37 natural gas, electricity, oil or water, and equipment related thereto, located
38 outside the plant or facility;

39 (D) office machines and equipment including computers and related
40 peripheral equipment not used directly and primarily to control or measure
41 the manufacturing process;

42 (E) furniture and other furnishings;

43 (F) buildings, other than exempt machinery and equipment that is

1 permanently affixed to or becomes a physical part of the building, and any
2 other part of real estate that is not otherwise exempt;

3 (G) building fixtures that are not integral to the manufacturing
4 operation, such as utility systems for heating, ventilation, air conditioning,
5 communications, plumbing or electrical;

6 (H) machinery and equipment used for general plant heating, cooling
7 and lighting;

8 (I) motor vehicles that are registered for operation on public
9 highways; or

10 (J) employee apparel, except safety and protective apparel that is
11 purchased by an employer and furnished gratuitously to employees who
12 are involved in production or research activities.

13 (6) Subsections (3) and (5) shall not be construed as exclusive listings
14 of the machinery and equipment that qualify or do not qualify as an
15 integral or essential part of an integrated production operation. When
16 machinery or equipment is used as an integral or essential part of
17 production operations part of the time and for nonproduction purposes at
18 other times, the primary use of the machinery or equipment shall
19 determine whether or not such machinery or equipment qualifies for
20 exemption.

21 (7) The secretary of revenue shall adopt rules and regulations
22 necessary to administer the provisions of this subsection;

23 (ll) all sales of educational materials purchased for distribution to the
24 public at no charge by a nonprofit corporation organized for the purpose of
25 encouraging, fostering and conducting programs for the improvement of
26 public health, except that for taxable years commencing after December
27 31, 2013, this subsection shall not apply to any sales of such materials
28 purchased by a nonprofit corporation which performs any abortion, as
29 defined in K.S.A. 65-6701, and amendments thereto;

30 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
31 herbicides, germicides, pesticides and fungicides; and services, purchased
32 and used for the purpose of producing plants in order to prevent soil
33 erosion on land devoted to agricultural use;

34 (nn) except as otherwise provided in this act, all sales of services
35 rendered by an advertising agency or licensed broadcast station or any
36 member, agent or employee thereof;

37 (oo) all sales of tangible personal property purchased by a community
38 action group or agency for the exclusive purpose of repairing or
39 weatherizing housing occupied by low-income individuals;

40 (pp) all sales of drill bits and explosives actually utilized in the
41 exploration and production of oil or gas;

42 (qq) all sales of tangible personal property and services purchased by
43 a nonprofit museum or historical society or any combination thereof,

1 including a nonprofit organization that is organized for the purpose of
2 stimulating public interest in the exploration of space by providing
3 educational information, exhibits and experiences, that is exempt from
4 federal income taxation pursuant to section 501(c)(3) of the federal
5 internal revenue code of 1986;

6 (rr) all sales of tangible personal property that will admit the
7 purchaser thereof to any annual event sponsored by a nonprofit
8 organization that is exempt from federal income taxation pursuant to
9 section 501(c)(3) of the federal internal revenue code of 1986, except that
10 for taxable years commencing after December 31, 2013, this subsection
11 shall not apply to any sales of such tangible personal property purchased
12 by a nonprofit organization which performs any abortion, as defined in
13 K.S.A. 65-6701, and amendments thereto;

14 (ss) all sales of tangible personal property and services purchased by
15 a public broadcasting station licensed by the federal communications
16 commission as a noncommercial educational television or radio station;

17 (tt) all sales of tangible personal property and services purchased by
18 or on behalf of a not-for-profit corporation that is exempt from federal
19 income taxation pursuant to section 501(c)(3) of the federal internal
20 revenue code of 1986, for the sole purpose of constructing a Kansas
21 Korean War memorial;

22 (uu) all sales of tangible personal property and services purchased by
23 or on behalf of any rural volunteer fire-fighting organization for use
24 exclusively in the performance of its duties and functions;

25 (vv) all sales of tangible personal property purchased by any of the
26 following organizations that are exempt from federal income taxation
27 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
28 for the following purposes, and all sales of any such property by or on
29 behalf of any such organization for any such purpose:

30 (1) The American heart association, Kansas affiliate, inc. for the
31 purposes of providing education, training, certification in emergency
32 cardiac care, research and other related services to reduce disability and
33 death from cardiovascular diseases and stroke;

34 (2) the Kansas alliance for the mentally ill, inc. for the purpose of
35 advocacy for persons with mental illness and to education, research and
36 support for their families;

37 (3) the Kansas mental illness awareness council for the purposes of
38 advocacy for persons who are mentally ill and for education, research and
39 support for them and their families;

40 (4) the American diabetes association Kansas affiliate, inc. for the
41 purpose of eliminating diabetes through medical research, public education
42 focusing on disease prevention and education, patient education including
43 information on coping with diabetes, and professional education and

1 training;

2 (5) the American lung association of Kansas, inc. for the purpose of
3 eliminating all lung diseases through medical research, public education
4 including information on coping with lung diseases, professional education
5 and training related to lung disease and other related services to reduce the
6 incidence of disability and death due to lung disease;

7 (6) the Kansas chapters of the Alzheimer's disease and related
8 disorders association, inc. for the purpose of providing assistance and
9 support to persons in Kansas with Alzheimer's disease, and their families
10 and caregivers;

11 (7) the Kansas chapters of the Parkinson's disease association for the
12 purpose of eliminating Parkinson's disease through medical research and
13 public and professional education related to such disease;

14 (8) the national kidney foundation of Kansas and western Missouri
15 for the purpose of eliminating kidney disease through medical research
16 and public and private education related to such disease;

17 (9) the heartstrings community foundation for the purpose of
18 providing training, employment and activities for adults with
19 developmental disabilities;

20 (10) the cystic fibrosis foundation, heart of America chapter, for the
21 purposes of assuring the development of the means to cure and control
22 cystic fibrosis and improving the quality of life for those with the disease;

23 (11) the spina bifida association of Kansas for the purpose of
24 providing financial, educational and practical aid to families and
25 individuals with spina bifida. Such aid includes, but is not limited to,
26 funding for medical devices, counseling and medical educational
27 opportunities;

28 (12) the CHWC, Inc., for the purpose of rebuilding urban core
29 neighborhoods through the construction of new homes, acquiring and
30 renovating existing homes and other related activities, and promoting
31 economic development in such neighborhoods;

32 (13) the cross-lines cooperative council for the purpose of providing
33 social services to low income individuals and families;

34 (14) the dreams work, inc., for the purpose of providing young adult
35 day services to individuals with developmental disabilities and assisting
36 families in avoiding institutional or nursing home care for a
37 developmentally disabled member of their family;

38 (15) the KSDS, Inc., for the purpose of promoting the independence
39 and inclusion of people with disabilities as fully participating and
40 contributing members of their communities and society through the
41 training and providing of guide and service dogs to people with
42 disabilities, and providing disability education and awareness to the
43 general public;

1 (16) the lyme association of greater Kansas City, Inc., for the purpose
2 of providing support to persons with lyme disease and public education
3 relating to the prevention, treatment and cure of lyme disease;

4 (17) the dream factory, inc., for the purpose of granting the dreams of
5 children with critical and chronic illnesses;

6 (18) the Ottawa Suzuki strings, inc., for the purpose of providing
7 students and families with education and resources necessary to enable
8 each child to develop fine character and musical ability to the fullest
9 potential;

10 (19) the international association of lions clubs for the purpose of
11 creating and fostering a spirit of understanding among all people for
12 humanitarian needs by providing voluntary services through community
13 involvement and international cooperation;

14 (20) the Johnson county young matrons, inc., for the purpose of
15 promoting a positive future for members of the community through
16 volunteerism, financial support and education through the efforts of an all
17 volunteer organization;

18 (21) the American cancer society, inc., for the purpose of eliminating
19 cancer as a major health problem by preventing cancer, saving lives and
20 diminishing suffering from cancer, through research, education, advocacy
21 and service;

22 (22) the community services of Shawnee, inc., for the purpose of
23 providing food and clothing to those in need;

24 (23) the angel babies association, for the purpose of providing
25 assistance, support and items of necessity to teenage mothers and their
26 babies; and

27 (24) the Kansas fairgrounds foundation for the purpose of the
28 preservation, renovation and beautification of the Kansas state fairgrounds;

29 (ww) all sales of tangible personal property purchased by the habitat
30 for humanity for the exclusive use of being incorporated within a housing
31 project constructed by such organization;

32 (xx) all sales of tangible personal property and services purchased by
33 a nonprofit zoo that is exempt from federal income taxation pursuant to
34 section 501(c)(3) of the federal internal revenue code of 1986, or on behalf
35 of such zoo by an entity itself exempt from federal income taxation
36 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
37 contracted with to operate such zoo and all sales of tangible personal
38 property or services purchased by a contractor for the purpose of
39 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
40 furnishing or remodeling facilities for any nonprofit zoo that would be
41 exempt from taxation under the provisions of this section if purchased
42 directly by such nonprofit zoo or the entity operating such zoo. Nothing in
43 this subsection shall be deemed to exempt the purchase of any construction

1 machinery, equipment or tools used in the constructing, equipping,
2 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
3 facilities for any nonprofit zoo. When any nonprofit zoo shall contract for
4 the purpose of constructing, equipping, reconstructing, maintaining,
5 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
6 from the state and furnish to the contractor an exemption certificate for the
7 project involved, and the contractor may purchase materials for
8 incorporation in such project. The contractor shall furnish the number of
9 such certificate to all suppliers from whom such purchases are made, and
10 such suppliers shall execute invoices covering the same bearing the
11 number of such certificate. Upon completion of the project the contractor
12 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
13 to be provided by the director of taxation, that all purchases so made were
14 entitled to exemption under this subsection. All invoices shall be held by
15 the contractor for a period of five years and shall be subject to audit by the
16 director of taxation. If any materials purchased under such a certificate are
17 found not to have been incorporated in the building or other project or not
18 to have been returned for credit or the sales or compensating tax otherwise
19 imposed upon such materials that will not be so incorporated in the
20 building or other project reported and paid by such contractor to the
21 director of taxation not later than the 20th day of the month following the
22 close of the month in which it shall be determined that such materials will
23 not be used for the purpose for which such certificate was issued, the
24 nonprofit zoo concerned shall be liable for tax on all materials purchased
25 for the project, and upon payment thereof it may recover the same from
26 the contractor together with reasonable attorney fees. Any contractor or
27 any agent, employee or subcontractor thereof, who shall use or otherwise
28 dispose of any materials purchased under such a certificate for any purpose
29 other than that for which such a certificate is issued without the payment
30 of the sales or compensating tax otherwise imposed upon such materials,
31 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
32 subject to the penalties provided for in K.S.A. 79-3615(h), and
33 amendments thereto;

34 (yy) all sales of tangible personal property and services purchased by
35 a parent-teacher association or organization, and all sales of tangible
36 personal property by or on behalf of such association or organization;

37 (zz) all sales of machinery and equipment purchased by over-the-air,
38 free access radio or television station that is used directly and primarily for
39 the purpose of producing a broadcast signal or is such that the failure of
40 the machinery or equipment to operate would cause broadcasting to cease.
41 For purposes of this subsection, machinery and equipment shall include,
42 but not be limited to, that required by rules and regulations of the federal
43 communications commission, and all sales of electricity which are

1 essential or necessary for the purpose of producing a broadcast signal or is
2 such that the failure of the electricity would cause broadcasting to cease;

3 (aaa) all sales of tangible personal property and services purchased by
4 a religious organization that is exempt from federal income taxation
5 pursuant to section 501(c)(3) of the federal internal revenue code, and used
6 exclusively for religious purposes, and all sales of tangible personal
7 property or services purchased by a contractor for the purpose of
8 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
9 furnishing or remodeling facilities for any such organization that would be
10 exempt from taxation under the provisions of this section if purchased
11 directly by such organization. Nothing in this subsection shall be deemed
12 to exempt the purchase of any construction machinery, equipment or tools
13 used in the constructing, equipping, reconstructing, maintaining, repairing,
14 enlarging, furnishing or remodeling facilities for any such organization.
15 When any such organization shall contract for the purpose of constructing,
16 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
17 remodeling facilities, it shall obtain from the state and furnish to the
18 contractor an exemption certificate for the project involved, and the
19 contractor may purchase materials for incorporation in such project. The
20 contractor shall furnish the number of such certificate to all suppliers from
21 whom such purchases are made, and such suppliers shall execute invoices
22 covering the same bearing the number of such certificate. Upon
23 completion of the project the contractor shall furnish to such organization
24 concerned a sworn statement, on a form to be provided by the director of
25 taxation, that all purchases so made were entitled to exemption under this
26 subsection. All invoices shall be held by the contractor for a period of five
27 years and shall be subject to audit by the director of taxation. If any
28 materials purchased under such a certificate are found not to have been
29 incorporated in the building or other project or not to have been returned
30 for credit or the sales or compensating tax otherwise imposed upon such
31 materials that will not be so incorporated in the building or other project
32 reported and paid by such contractor to the director of taxation not later
33 than the 20th day of the month following the close of the month in which it
34 shall be determined that such materials will not be used for the purpose for
35 which such certificate was issued, such organization concerned shall be
36 liable for tax on all materials purchased for the project, and upon payment
37 thereof it may recover the same from the contractor together with
38 reasonable attorney fees. Any contractor or any agent, employee or
39 subcontractor thereof, who shall use or otherwise dispose of any materials
40 purchased under such a certificate for any purpose other than that for
41 which such a certificate is issued without the payment of the sales or
42 compensating tax otherwise imposed upon such materials, shall be guilty
43 of a misdemeanor and, upon conviction therefor, shall be subject to the

1 penalties provided for in K.S.A. 79-3615(h), and amendments thereto.
2 Sales tax paid on and after July 1, 1998, but prior to the effective date of
3 this act upon the gross receipts received from any sale exempted by the
4 amendatory provisions of this subsection shall be refunded. Each claim for
5 a sales tax refund shall be verified and submitted to the director of taxation
6 upon forms furnished by the director and shall be accompanied by any
7 additional documentation required by the director. The director shall
8 review each claim and shall refund that amount of sales tax paid as
9 determined under the provisions of this subsection. All refunds shall be
10 paid from the sales tax refund fund upon warrants of the director of
11 accounts and reports pursuant to vouchers approved by the director or the
12 director's designee;

13 (bbb) all sales of food for human consumption by an organization that
14 is exempt from federal income taxation pursuant to section 501(c)(3) of
15 the federal internal revenue code of 1986, pursuant to a food distribution
16 program that offers such food at a price below cost in exchange for the
17 performance of community service by the purchaser thereof;

18 (ccc) on and after July 1, 1999, all sales of tangible personal property
19 and services purchased by a primary care clinic or health center the
20 primary purpose of which is to provide services to medically underserved
21 individuals and families, and that is exempt from federal income taxation
22 pursuant to section 501(c)(3) of the federal internal revenue code, and all
23 sales of tangible personal property or services purchased by a contractor
24 for the purpose of constructing, equipping, reconstructing, maintaining,
25 repairing, enlarging, furnishing or remodeling facilities for any such clinic
26 or center that would be exempt from taxation under the provisions of this
27 section if purchased directly by such clinic or center, except that for
28 taxable years commencing after December 31, 2013, this subsection shall
29 not apply to any sales of such tangible personal property and services
30 purchased by a primary care clinic or health center which performs any
31 abortion, as defined in K.S.A. 65-6701, and amendments thereto. Nothing
32 in this subsection shall be deemed to exempt the purchase of any
33 construction machinery, equipment or tools used in the constructing,
34 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
35 remodeling facilities for any such clinic or center. When any such clinic or
36 center shall contract for the purpose of constructing, equipping,
37 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
38 facilities, it shall obtain from the state and furnish to the contractor an
39 exemption certificate for the project involved, and the contractor may
40 purchase materials for incorporation in such project. The contractor shall
41 furnish the number of such certificate to all suppliers from whom such
42 purchases are made, and such suppliers shall execute invoices covering the
43 same bearing the number of such certificate. Upon completion of the

1 project the contractor shall furnish to such clinic or center concerned a
2 sworn statement, on a form to be provided by the director of taxation, that
3 all purchases so made were entitled to exemption under this subsection.
4 All invoices shall be held by the contractor for a period of five years and
5 shall be subject to audit by the director of taxation. If any materials
6 purchased under such a certificate are found not to have been incorporated
7 in the building or other project or not to have been returned for credit or
8 the sales or compensating tax otherwise imposed upon such materials that
9 will not be so incorporated in the building or other project reported and
10 paid by such contractor to the director of taxation not later than the 20th
11 day of the month following the close of the month in which it shall be
12 determined that such materials will not be used for the purpose for which
13 such certificate was issued, such clinic or center concerned shall be liable
14 for tax on all materials purchased for the project, and upon payment
15 thereof it may recover the same from the contractor together with
16 reasonable attorney fees. Any contractor or any agent, employee or
17 subcontractor thereof, who shall use or otherwise dispose of any materials
18 purchased under such a certificate for any purpose other than that for
19 which such a certificate is issued without the payment of the sales or
20 compensating tax otherwise imposed upon such materials, shall be guilty
21 of a misdemeanor and, upon conviction therefor, shall be subject to the
22 penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

23 (ddd) on and after January 1, 1999, and before January 1, 2000, all
24 sales of materials and services purchased by any class II or III railroad as
25 classified by the federal surface transportation board for the construction,
26 renovation, repair or replacement of class II or III railroad track and
27 facilities used directly in interstate commerce. In the event any such track
28 or facility for which materials and services were purchased sales tax
29 exempt is not operational for five years succeeding the allowance of such
30 exemption, the total amount of sales tax that would have been payable
31 except for the operation of this subsection shall be recouped in accordance
32 with rules and regulations adopted for such purpose by the secretary of
33 revenue;

34 (eee) on and after January 1, 1999, and before January 1, 2001, all
35 sales of materials and services purchased for the original construction,
36 reconstruction, repair or replacement of grain storage facilities, including
37 railroad sidings providing access thereto;

38 (fff) all sales of material handling equipment, racking systems and
39 other related machinery and equipment that is used for the handling,
40 movement or storage of tangible personal property in a warehouse or
41 distribution facility in this state; all sales of installation, repair and
42 maintenance services performed on such machinery and equipment; and
43 all sales of repair and replacement parts for such machinery and

1 equipment. For purposes of this subsection, a warehouse or distribution
2 facility means a single, fixed location that consists of buildings or
3 structures in a contiguous area where storage or distribution operations are
4 conducted that are separate and apart from the business' retail operations,
5 if any, and that do not otherwise qualify for exemption as occurring at a
6 manufacturing or processing plant or facility. Material handling and
7 storage equipment shall include aeration, dust control, cleaning, handling
8 and other such equipment that is used in a public grain warehouse or other
9 commercial grain storage facility, whether used for grain handling, grain
10 storage, grain refining or processing, or other grain treatment operation;

11 (ggg) all sales of tangible personal property and services purchased
12 by or on behalf of the Kansas academy of science, which is exempt from
13 federal income taxation pursuant to section 501(c)(3) of the federal
14 internal revenue code of 1986, and used solely by such academy for the
15 preparation, publication and dissemination of education materials;

16 (hhh) all sales of tangible personal property and services purchased
17 by or on behalf of all domestic violence shelters that are member agencies
18 of the Kansas coalition against sexual and domestic violence;

19 (iii) all sales of personal property and services purchased by an
20 organization that is exempt from federal income taxation pursuant to
21 section 501(c)(3) of the federal internal revenue code of 1986, and such
22 personal property and services are used by any such organization in the
23 collection, storage and distribution of food products to nonprofit
24 organizations that distribute such food products to persons pursuant to a
25 food distribution program on a charitable basis without fee or charge, and
26 all sales of tangible personal property or services purchased by a
27 contractor for the purpose of constructing, equipping, reconstructing,
28 maintaining, repairing, enlarging, furnishing or remodeling facilities used
29 for the collection and storage of such food products for any such
30 organization which is exempt from federal income taxation pursuant to
31 section 501(c)(3) of the federal internal revenue code of 1986, that would
32 be exempt from taxation under the provisions of this section if purchased
33 directly by such organization. Nothing in this subsection shall be deemed
34 to exempt the purchase of any construction machinery, equipment or tools
35 used in the constructing, equipping, reconstructing, maintaining, repairing,
36 enlarging, furnishing or remodeling facilities for any such organization.
37 When any such organization shall contract for the purpose of constructing,
38 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
39 remodeling facilities, it shall obtain from the state and furnish to the
40 contractor an exemption certificate for the project involved, and the
41 contractor may purchase materials for incorporation in such project. The
42 contractor shall furnish the number of such certificate to all suppliers from
43 whom such purchases are made, and such suppliers shall execute invoices

1 covering the same bearing the number of such certificate. Upon
2 completion of the project the contractor shall furnish to such organization
3 concerned a sworn statement, on a form to be provided by the director of
4 taxation, that all purchases so made were entitled to exemption under this
5 subsection. All invoices shall be held by the contractor for a period of five
6 years and shall be subject to audit by the director of taxation. If any
7 materials purchased under such a certificate are found not to have been
8 incorporated in such facilities or not to have been returned for credit or the
9 sales or compensating tax otherwise imposed upon such materials that will
10 not be so incorporated in such facilities reported and paid by such
11 contractor to the director of taxation not later than the 20th day of the
12 month following the close of the month in which it shall be determined
13 that such materials will not be used for the purpose for which such
14 certificate was issued, such organization concerned shall be liable for tax
15 on all materials purchased for the project, and upon payment thereof it
16 may recover the same from the contractor together with reasonable
17 attorney fees. Any contractor or any agent, employee or subcontractor
18 thereof, who shall use or otherwise dispose of any materials purchased
19 under such a certificate for any purpose other than that for which such a
20 certificate is issued without the payment of the sales or compensating tax
21 otherwise imposed upon such materials, shall be guilty of a misdemeanor
22 and, upon conviction therefor, shall be subject to the penalties provided for
23 in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after
24 July 1, 2005, but prior to the effective date of this act upon the gross
25 receipts received from any sale exempted by the amendatory provisions of
26 this subsection shall be refunded. Each claim for a sales tax refund shall be
27 verified and submitted to the director of taxation upon forms furnished by
28 the director and shall be accompanied by any additional documentation
29 required by the director. The director shall review each claim and shall
30 refund that amount of sales tax paid as determined under the provisions of
31 this subsection. All refunds shall be paid from the sales tax refund fund
32 upon warrants of the director of accounts and reports pursuant to vouchers
33 approved by the director or the director's designee;

34 (jjj) all sales of dietary supplements dispensed pursuant to a
35 prescription order by a licensed practitioner or a mid-level practitioner as
36 defined by K.S.A. 65-1626, and amendments thereto. As used in this
37 subsection, "dietary supplement" means any product, other than tobacco,
38 intended to supplement the diet that: (1) Contains one or more of the
39 following dietary ingredients: A vitamin, a mineral, an herb or other
40 botanical, an amino acid, a dietary substance for use by humans to
41 supplement the diet by increasing the total dietary intake or a concentrate,
42 metabolite, constituent, extract or combination of any such ingredient; (2)
43 is intended for ingestion in tablet, capsule, powder, softgel, gelcap or

1 liquid form, or if not intended for ingestion, in such a form, is not
2 represented as conventional food and is not represented for use as a sole
3 item of a meal or of the diet; and (3) is required to be labeled as a dietary
4 supplement, identifiable by the supplemental facts box found on the label
5 and as required pursuant to 21 C.F.R. § 101.36;

6 (lll) all sales of tangible personal property and services purchased by
7 special olympics Kansas, inc. for the purpose of providing year-round
8 sports training and athletic competition in a variety of olympic-type sports
9 for individuals with intellectual disabilities by giving them continuing
10 opportunities to develop physical fitness, demonstrate courage, experience
11 joy and participate in a sharing of gifts, skills and friendship with their
12 families, other special olympics athletes and the community, and activities
13 provided or sponsored by such organization, and all sales of tangible
14 personal property by or on behalf of any such organization;

15 (mmm) all sales of tangible personal property purchased by or on
16 behalf of the Marillac center, inc., which is exempt from federal income
17 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
18 for the purpose of providing psycho-social-biological and special
19 education services to children, and all sales of any such property by or on
20 behalf of such organization for such purpose;

21 (nnn) all sales of tangible personal property and services purchased
22 by the west Sedgwick county-sunrise rotary club and sunrise charitable
23 fund for the purpose of constructing a boundless playground which is an
24 integrated, barrier free and developmentally advantageous play
25 environment for children of all abilities and disabilities;

26 (ooo) all sales of tangible personal property by or on behalf of a
27 public library serving the general public and supported in whole or in part
28 with tax money or a not-for-profit organization whose purpose is to raise
29 funds for or provide services or other benefits to any such public library;

30 (ppp) all sales of tangible personal property and services purchased
31 by or on behalf of a homeless shelter that is exempt from federal income
32 taxation pursuant to section 501(c)(3) of the federal income tax code of
33 1986, and used by any such homeless shelter to provide emergency and
34 transitional housing for individuals and families experiencing
35 homelessness, and all sales of any such property by or on behalf of any
36 such homeless shelter for any such purpose;

37 (qqq) all sales of tangible personal property and services purchased
38 by TLC for children and families, inc., hereinafter referred to as TLC,
39 which is exempt from federal income taxation pursuant to section 501(c)
40 (3) of the federal internal revenue code of 1986, and such property and
41 services are used for the purpose of providing emergency shelter and
42 treatment for abused and neglected children as well as meeting additional
43 critical needs for children, juveniles and family, and all sales of any such

1 property by or on behalf of TLC for any such purpose; and all sales of
2 tangible personal property or services purchased by a contractor for the
3 purpose of constructing, maintaining, repairing, enlarging, furnishing or
4 remodeling facilities for the operation of services for TLC for any such
5 purpose that would be exempt from taxation under the provisions of this
6 section if purchased directly by TLC. Nothing in this subsection shall be
7 deemed to exempt the purchase of any construction machinery, equipment
8 or tools used in the constructing, maintaining, repairing, enlarging,
9 furnishing or remodeling such facilities for TLC. When TLC contracts for
10 the purpose of constructing, maintaining, repairing, enlarging, furnishing
11 or remodeling such facilities, it shall obtain from the state and furnish to
12 the contractor an exemption certificate for the project involved, and the
13 contractor may purchase materials for incorporation in such project. The
14 contractor shall furnish the number of such certificate to all suppliers from
15 whom such purchases are made, and such suppliers shall execute invoices
16 covering the same bearing the number of such certificate. Upon
17 completion of the project the contractor shall furnish to TLC a sworn
18 statement, on a form to be provided by the director of taxation, that all
19 purchases so made were entitled to exemption under this subsection. All
20 invoices shall be held by the contractor for a period of five years and shall
21 be subject to audit by the director of taxation. If any materials purchased
22 under such a certificate are found not to have been incorporated in the
23 building or other project or not to have been returned for credit or the sales
24 or compensating tax otherwise imposed upon such materials that will not
25 be so incorporated in the building or other project reported and paid by
26 such contractor to the director of taxation not later than the 20th day of the
27 month following the close of the month in which it shall be determined
28 that such materials will not be used for the purpose for which such
29 certificate was issued, TLC shall be liable for tax on all materials
30 purchased for the project, and upon payment thereof it may recover the
31 same from the contractor together with reasonable attorney fees. Any
32 contractor or any agent, employee or subcontractor thereof, who shall use
33 or otherwise dispose of any materials purchased under such a certificate
34 for any purpose other than that for which such a certificate is issued
35 without the payment of the sales or compensating tax otherwise imposed
36 upon such materials, shall be guilty of a misdemeanor and, upon
37 conviction therefor, shall be subject to the penalties provided for in K.S.A.
38 79-3615(h), and amendments thereto;

39 (rrr) all sales of tangible personal property and services purchased by
40 any county law library maintained pursuant to law and sales of tangible
41 personal property and services purchased by an organization that would
42 have been exempt from taxation under the provisions of this subsection if
43 purchased directly by the county law library for the purpose of providing

1 legal resources to attorneys, judges, students and the general public, and
2 all sales of any such property by or on behalf of any such county law
3 library;

4 (sss) all sales of tangible personal property and services purchased by
5 catholic charities or youthville, hereinafter referred to as charitable family
6 providers, which is exempt from federal income taxation pursuant to
7 section 501(c)(3) of the federal internal revenue code of 1986, and which
8 such property and services are used for the purpose of providing
9 emergency shelter and treatment for abused and neglected children as well
10 as meeting additional critical needs for children, juveniles and family, and
11 all sales of any such property by or on behalf of charitable family
12 providers for any such purpose; and all sales of tangible personal property
13 or services purchased by a contractor for the purpose of constructing,
14 maintaining, repairing, enlarging, furnishing or remodeling facilities for
15 the operation of services for charitable family providers for any such
16 purpose which would be exempt from taxation under the provisions of this
17 section if purchased directly by charitable family providers. Nothing in
18 this subsection shall be deemed to exempt the purchase of any construction
19 machinery, equipment or tools used in the constructing, maintaining,
20 repairing, enlarging, furnishing or remodeling such facilities for charitable
21 family providers. When charitable family providers contracts for the
22 purpose of constructing, maintaining, repairing, enlarging, furnishing or
23 remodeling such facilities, it shall obtain from the state and furnish to the
24 contractor an exemption certificate for the project involved, and the
25 contractor may purchase materials for incorporation in such project. The
26 contractor shall furnish the number of such certificate to all suppliers from
27 whom such purchases are made, and such suppliers shall execute invoices
28 covering the same bearing the number of such certificate. Upon
29 completion of the project the contractor shall furnish to charitable family
30 providers a sworn statement, on a form to be provided by the director of
31 taxation, that all purchases so made were entitled to exemption under this
32 subsection. All invoices shall be held by the contractor for a period of five
33 years and shall be subject to audit by the director of taxation. If any
34 materials purchased under such a certificate are found not to have been
35 incorporated in the building or other project or not to have been returned
36 for credit or the sales or compensating tax otherwise imposed upon such
37 materials that will not be so incorporated in the building or other project
38 reported and paid by such contractor to the director of taxation not later
39 than the 20th day of the month following the close of the month in which it
40 shall be determined that such materials will not be used for the purpose for
41 which such certificate was issued, charitable family providers shall be
42 liable for tax on all materials purchased for the project, and upon payment
43 thereof it may recover the same from the contractor together with

1 reasonable attorney fees. Any contractor or any agent, employee or
2 subcontractor thereof, who shall use or otherwise dispose of any materials
3 purchased under such a certificate for any purpose other than that for
4 which such a certificate is issued without the payment of the sales or
5 compensating tax otherwise imposed upon such materials, shall be guilty
6 of a misdemeanor and, upon conviction therefor, shall be subject to the
7 penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

8 (ttt) all sales of tangible personal property or services purchased by a
9 contractor for a project for the purpose of restoring, constructing,
10 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
11 remodeling a home or facility owned by a nonprofit museum that has been
12 granted an exemption pursuant to subsection (qq), which such home or
13 facility is located in a city that has been designated as a qualified
14 hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and
15 amendments thereto, and which such project is related to the purposes of
16 K.S.A. 75-5071 et seq., and amendments thereto, and that would be
17 exempt from taxation under the provisions of this section if purchased
18 directly by such nonprofit museum. Nothing in this subsection shall be
19 deemed to exempt the purchase of any construction machinery, equipment
20 or tools used in the restoring, constructing, equipping, reconstructing,
21 maintaining, repairing, enlarging, furnishing or remodeling a home or
22 facility for any such nonprofit museum. When any such nonprofit museum
23 shall contract for the purpose of restoring, constructing, equipping,
24 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
25 a home or facility, it shall obtain from the state and furnish to the
26 contractor an exemption certificate for the project involved, and the
27 contractor may purchase materials for incorporation in such project. The
28 contractor shall furnish the number of such certificates to all suppliers
29 from whom such purchases are made, and such suppliers shall execute
30 invoices covering the same bearing the number of such certificate. Upon
31 completion of the project, the contractor shall furnish to such nonprofit
32 museum a sworn statement on a form to be provided by the director of
33 taxation that all purchases so made were entitled to exemption under this
34 subsection. All invoices shall be held by the contractor for a period of five
35 years and shall be subject to audit by the director of taxation. If any
36 materials purchased under such a certificate are found not to have been
37 incorporated in the building or other project or not to have been returned
38 for credit or the sales or compensating tax otherwise imposed upon such
39 materials that will not be so incorporated in a home or facility or other
40 project reported and paid by such contractor to the director of taxation not
41 later than the 20th day of the month following the close of the month in
42 which it shall be determined that such materials will not be used for the
43 purpose for which such certificate was issued, such nonprofit museum

1 shall be liable for tax on all materials purchased for the project, and upon
2 payment thereof it may recover the same from the contractor together with
3 reasonable attorney fees. Any contractor or any agent, employee or
4 subcontractor thereof, who shall use or otherwise dispose of any materials
5 purchased under such a certificate for any purpose other than that for
6 which such a certificate is issued without the payment of the sales or
7 compensating tax otherwise imposed upon such materials, shall be guilty
8 of a misdemeanor and, upon conviction therefor, shall be subject to the
9 penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

10 (uuu) all sales of tangible personal property and services purchased
11 by Kansas children's service league, hereinafter referred to as KCSL,
12 which is exempt from federal income taxation pursuant to section 501(c)
13 (3) of the federal internal revenue code of 1986, and which such property
14 and services are used for the purpose of providing for the prevention and
15 treatment of child abuse and maltreatment as well as meeting additional
16 critical needs for children, juveniles and family, and all sales of any such
17 property by or on behalf of KCSL for any such purpose; and all sales of
18 tangible personal property or services purchased by a contractor for the
19 purpose of constructing, maintaining, repairing, enlarging, furnishing or
20 remodeling facilities for the operation of services for KCSL for any such
21 purpose that would be exempt from taxation under the provisions of this
22 section if purchased directly by KCSL. Nothing in this subsection shall be
23 deemed to exempt the purchase of any construction machinery, equipment
24 or tools used in the constructing, maintaining, repairing, enlarging,
25 furnishing or remodeling such facilities for KCSL. When KCSL contracts
26 for the purpose of constructing, maintaining, repairing, enlarging,
27 furnishing or remodeling such facilities, it shall obtain from the state and
28 furnish to the contractor an exemption certificate for the project involved,
29 and the contractor may purchase materials for incorporation in such
30 project. The contractor shall furnish the number of such certificate to all
31 suppliers from whom such purchases are made, and such suppliers shall
32 execute invoices covering the same bearing the number of such certificate.
33 Upon completion of the project the contractor shall furnish to KCSL a
34 sworn statement, on a form to be provided by the director of taxation, that
35 all purchases so made were entitled to exemption under this subsection.
36 All invoices shall be held by the contractor for a period of five years and
37 shall be subject to audit by the director of taxation. If any materials
38 purchased under such a certificate are found not to have been incorporated
39 in the building or other project or not to have been returned for credit or
40 the sales or compensating tax otherwise imposed upon such materials that
41 will not be so incorporated in the building or other project reported and
42 paid by such contractor to the director of taxation not later than the 20th
43 day of the month following the close of the month in which it shall be

1 determined that such materials will not be used for the purpose for which
2 such certificate was issued, KCSL shall be liable for tax on all materials
3 purchased for the project, and upon payment thereof it may recover the
4 same from the contractor together with reasonable attorney fees. Any
5 contractor or any agent, employee or subcontractor thereof, who shall use
6 or otherwise dispose of any materials purchased under such a certificate
7 for any purpose other than that for which such a certificate is issued
8 without the payment of the sales or compensating tax otherwise imposed
9 upon such materials, shall be guilty of a misdemeanor and, upon
10 conviction therefor, shall be subject to the penalties provided for in K.S.A.
11 79-3615(h), and amendments thereto;

12 (vvv) all sales of tangible personal property or services, including the
13 renting and leasing of tangible personal property or services, purchased by
14 jazz in the woods, inc., a Kansas corporation that is exempt from federal
15 income taxation pursuant to section 501(c)(3) of the federal internal
16 revenue code, for the purpose of providing jazz in the woods, an event
17 benefiting children-in-need and other nonprofit charities assisting such
18 children, and all sales of any such property by or on behalf of such
19 organization for such purpose;

20 (www) all sales of tangible personal property purchased by or on
21 behalf of the Frontenac education foundation, which is exempt from
22 federal income taxation pursuant to section 501(c)(3) of the federal
23 internal revenue code, for the purpose of providing education support for
24 students, and all sales of any such property by or on behalf of such
25 organization for such purpose;

26 (xxx) all sales of personal property and services purchased by the
27 booth theatre foundation, inc., an organization, which is exempt from
28 federal income taxation pursuant to section 501(c)(3) of the federal
29 internal revenue code of 1986, and which such personal property and
30 services are used by any such organization in the constructing, equipping,
31 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
32 of the booth theatre, and all sales of tangible personal property or services
33 purchased by a contractor for the purpose of constructing, equipping,
34 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
35 the booth theatre for such organization, that would be exempt from
36 taxation under the provisions of this section if purchased directly by such
37 organization. Nothing in this subsection shall be deemed to exempt the
38 purchase of any construction machinery, equipment or tools used in the
39 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
40 furnishing or remodeling facilities for any such organization. When any
41 such organization shall contract for the purpose of constructing, equipping,
42 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
43 facilities, it shall obtain from the state and furnish to the contractor an

1 exemption certificate for the project involved, and the contractor may
2 purchase materials for incorporation in such project. The contractor shall
3 furnish the number of such certificate to all suppliers from whom such
4 purchases are made, and such suppliers shall execute invoices covering the
5 same bearing the number of such certificate. Upon completion of the
6 project the contractor shall furnish to such organization concerned a sworn
7 statement, on a form to be provided by the director of taxation, that all
8 purchases so made were entitled to exemption under this subsection. All
9 invoices shall be held by the contractor for a period of five years and shall
10 be subject to audit by the director of taxation. If any materials purchased
11 under such a certificate are found not to have been incorporated in such
12 facilities or not to have been returned for credit or the sales or
13 compensating tax otherwise imposed upon such materials that will not be
14 so incorporated in such facilities reported and paid by such contractor to
15 the director of taxation not later than the 20th day of the month following
16 the close of the month in which it shall be determined that such materials
17 will not be used for the purpose for which such certificate was issued, such
18 organization concerned shall be liable for tax on all materials purchased
19 for the project, and upon payment thereof it may recover the same from
20 the contractor together with reasonable attorney fees. Any contractor or
21 any agent, employee or subcontractor thereof, who shall use or otherwise
22 dispose of any materials purchased under such a certificate for any purpose
23 other than that for which such a certificate is issued without the payment
24 of the sales or compensating tax otherwise imposed upon such materials,
25 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
26 subject to the penalties provided for in K.S.A. 79-3615(h), and
27 amendments thereto. Sales tax paid on and after January 1, 2007, but prior
28 to the effective date of this act upon the gross receipts received from any
29 sale which would have been exempted by the provisions of this subsection
30 had such sale occurred after the effective date of this act shall be refunded.
31 Each claim for a sales tax refund shall be verified and submitted to the
32 director of taxation upon forms furnished by the director and shall be
33 accompanied by any additional documentation required by the director.
34 The director shall review each claim and shall refund that amount of sales
35 tax paid as determined under the provisions of this subsection. All refunds
36 shall be paid from the sales tax refund fund upon warrants of the director
37 of accounts and reports pursuant to vouchers approved by the director or
38 the director's designee;

39 (yyy) all sales of tangible personal property and services purchased
40 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
41 which is exempt from federal income taxation pursuant to section 501(c)
42 (3) of the federal internal revenue code of 1986, and which such property
43 and services are used for the purpose of encouraging private philanthropy

1 to further the vision, values, and goals of TLC for children and families,
2 inc.; and all sales of such property and services by or on behalf of TLC
3 charities for any such purpose and all sales of tangible personal property or
4 services purchased by a contractor for the purpose of constructing,
5 maintaining, repairing, enlarging, furnishing or remodeling facilities for
6 the operation of services for TLC charities for any such purpose that would
7 be exempt from taxation under the provisions of this section if purchased
8 directly by TLC charities. Nothing in this subsection shall be deemed to
9 exempt the purchase of any construction machinery, equipment or tools
10 used in the constructing, maintaining, repairing, enlarging, furnishing or
11 remodeling such facilities for TLC charities. When TLC charities contracts
12 for the purpose of constructing, maintaining, repairing, enlarging,
13 furnishing or remodeling such facilities, it shall obtain from the state and
14 furnish to the contractor an exemption certificate for the project involved,
15 and the contractor may purchase materials for incorporation in such
16 project. The contractor shall furnish the number of such certificate to all
17 suppliers from whom such purchases are made, and such suppliers shall
18 execute invoices covering the same bearing the number of such certificate.
19 Upon completion of the project the contractor shall furnish to TLC
20 charities a sworn statement, on a form to be provided by the director of
21 taxation, that all purchases so made were entitled to exemption under this
22 subsection. All invoices shall be held by the contractor for a period of five
23 years and shall be subject to audit by the director of taxation. If any
24 materials purchased under such a certificate are found not to have been
25 incorporated in the building or other project or not to have been returned
26 for credit or the sales or compensating tax otherwise imposed upon such
27 materials that will not be incorporated into the building or other project
28 reported and paid by such contractor to the director of taxation not later
29 than the 20th day of the month following the close of the month in which it
30 shall be determined that such materials will not be used for the purpose for
31 which such certificate was issued, TLC charities shall be liable for tax on
32 all materials purchased for the project, and upon payment thereof it may
33 recover the same from the contractor together with reasonable attorney
34 fees. Any contractor or any agent, employee or subcontractor thereof, who
35 shall use or otherwise dispose of any materials purchased under such a
36 certificate for any purpose other than that for which such a certificate is
37 issued without the payment of the sales or compensating tax otherwise
38 imposed upon such materials, shall be guilty of a misdemeanor and, upon
39 conviction therefor, shall be subject to the penalties provided for in K.S.A.
40 79-3615(h), and amendments thereto;

41 (zzz) all sales of tangible personal property purchased by the rotary
42 club of shawnee foundation, which is exempt from federal income taxation
43 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,

1 as amended, used for the purpose of providing contributions to community
2 service organizations and scholarships;

3 (aaaa) all sales of personal property and services purchased by or on
4 behalf of victory in the valley, inc., which is exempt from federal income
5 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
6 for the purpose of providing a cancer support group and services for
7 persons with cancer, and all sales of any such property by or on behalf of
8 any such organization for any such purpose;

9 (bbbb) all sales of entry or participation fees, charges or tickets by
10 Guadalupe health foundation, which is exempt from federal income
11 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
12 for such organization's annual fundraising event which purpose is to
13 provide health care services for uninsured workers;

14 (cccc) all sales of tangible personal property or services purchased by
15 or on behalf of wayside waifs, inc., which is exempt from federal income
16 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
17 for the purpose of providing such organization's annual fundraiser, an
18 event whose purpose is to support the care of homeless and abandoned
19 animals, animal adoption efforts, education programs for children and
20 efforts to reduce animal over-population and animal welfare services, and
21 all sales of any such property, including entry or participation fees or
22 charges, by or on behalf of such organization for such purpose;

23 (dddd) all sales of tangible personal property or services purchased
24 by or on behalf of goodwill industries or Easter seals of Kansas, inc., both
25 of which are exempt from federal income taxation pursuant to section
26 501(c)(3) of the federal internal revenue code, for the purpose of providing
27 education, training and employment opportunities for people with
28 disabilities and other barriers to employment;

29 (eeee) all sales of tangible personal property or services purchased by
30 or on behalf of all American beef battalion, inc., which is exempt from
31 federal income taxation pursuant to section 501(c)(3) of the federal
32 internal revenue code, for the purpose of educating, promoting and
33 participating as a contact group through the beef cattle industry in order to
34 carry out such projects that provide support and morale to members of the
35 United States armed forces and military services;

36 (ffff) all sales of tangible personal property and services purchased by
37 sheltered living, inc., which is exempt from federal income taxation
38 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
39 and which such property and services are used for the purpose of
40 providing residential and day services for people with developmental
41 disabilities or intellectual disability, or both, and all sales of any such
42 property by or on behalf of sheltered living, inc., for any such purpose; and
43 all sales of tangible personal property or services purchased by a

1 contractor for the purpose of rehabilitating, constructing, maintaining,
2 repairing, enlarging, furnishing or remodeling homes and facilities for
3 sheltered living, inc., for any such purpose that would be exempt from
4 taxation under the provisions of this section if purchased directly by
5 sheltered living, inc. Nothing in this subsection shall be deemed to exempt
6 the purchase of any construction machinery, equipment or tools used in the
7 constructing, maintaining, repairing, enlarging, furnishing or remodeling
8 such homes and facilities for sheltered living, inc. When sheltered living,
9 inc., contracts for the purpose of rehabilitating, constructing, maintaining,
10 repairing, enlarging, furnishing or remodeling such homes and facilities, it
11 shall obtain from the state and furnish to the contractor an exemption
12 certificate for the project involved, and the contractor may purchase
13 materials for incorporation in such project. The contractor shall furnish the
14 number of such certificate to all suppliers from whom such purchases are
15 made, and such suppliers shall execute invoices covering the same bearing
16 the number of such certificate. Upon completion of the project the
17 contractor shall furnish to sheltered living, inc., a sworn statement, on a
18 form to be provided by the director of taxation, that all purchases so made
19 were entitled to exemption under this subsection. All invoices shall be held
20 by the contractor for a period of five years and shall be subject to audit by
21 the director of taxation. If any materials purchased under such a certificate
22 are found not to have been incorporated in the building or other project or
23 not to have been returned for credit or the sales or compensating tax
24 otherwise imposed upon such materials that will not be so incorporated in
25 the building or other project reported and paid by such contractor to the
26 director of taxation not later than the 20th day of the month following the
27 close of the month in which it shall be determined that such materials will
28 not be used for the purpose for which such certificate was issued, sheltered
29 living, inc., shall be liable for tax on all materials purchased for the
30 project, and upon payment thereof it may recover the same from the
31 contractor together with reasonable attorney fees. Any contractor or any
32 agent, employee or subcontractor thereof, who shall use or otherwise
33 dispose of any materials purchased under such a certificate for any purpose
34 other than that for which such a certificate is issued without the payment
35 of the sales or compensating tax otherwise imposed upon such materials,
36 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
37 subject to the penalties provided for in K.S.A. 79-3615(h), and
38 amendments thereto;

39 (gggg) all sales of game birds for which the primary purpose is use in
40 hunting;

41 (hhhh) all sales of tangible personal property or services purchased
42 on or after July 1, 2014, for the purpose of and in conjunction with
43 constructing, reconstructing, enlarging or remodeling a business identified

1 under the North American industry classification system (NAICS)
2 subsectors 1123, 1124, 112112, 112120 or 112210, and the sale and
3 installation of machinery and equipment purchased for installation at any
4 such business. The exemption provided in this subsection shall not apply
5 to projects that have actual total costs less than \$50,000. When a person
6 contracts for the construction, reconstruction, enlargement or remodeling
7 of any such business, such person shall obtain from the state and furnish to
8 the contractor an exemption certificate for the project involved, and the
9 contractor may purchase materials, machinery and equipment for
10 incorporation in such project. The contractor shall furnish the number of
11 such certificates to all suppliers from whom such purchases are made, and
12 such suppliers shall execute invoices covering the same bearing the
13 number of such certificate. Upon completion of the project, the contractor
14 shall furnish to the owner of the business a sworn statement, on a form to
15 be provided by the director of taxation, that all purchases so made were
16 entitled to exemption under this subsection. All invoices shall be held by
17 the contractor for a period of five years and shall be subject to audit by the
18 director of taxation. Any contractor or any agent, employee or
19 subcontractor of the contractor, who shall use or otherwise dispose of any
20 materials, machinery or equipment purchased under such a certificate for
21 any purpose other than that for which such a certificate is issued without
22 the payment of the sales or compensating tax otherwise imposed thereon,
23 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
24 subject to the penalties provided for in K.S.A. 79-3615(h), and
25 amendments thereto;

26 (iiii) all sales of tangible personal property or services purchased by a
27 contractor for the purpose of constructing, maintaining, repairing,
28 enlarging, furnishing or remodeling facilities for the operation of services
29 for Wichita children's home for any such purpose that would be exempt
30 from taxation under the provisions of this section if purchased directly by
31 Wichita children's home. Nothing in this subsection shall be deemed to
32 exempt the purchase of any construction machinery, equipment or tools
33 used in the constructing, maintaining, repairing, enlarging, furnishing or
34 remodeling such facilities for Wichita children's home. When Wichita
35 children's home contracts for the purpose of constructing, maintaining,
36 repairing, enlarging, furnishing or remodeling such facilities, it shall obtain
37 from the state and furnish to the contractor an exemption certificate for the
38 project involved, and the contractor may purchase materials for
39 incorporation in such project. The contractor shall furnish the number of
40 such certificate to all suppliers from whom such purchases are made, and
41 such suppliers shall execute invoices covering the same bearing the
42 number of such certificate. Upon completion of the project, the contractor
43 shall furnish to Wichita children's home a sworn statement, on a form to be

1 provided by the director of taxation, that all purchases so made were
2 entitled to exemption under this subsection. All invoices shall be held by
3 the contractor for a period of five years and shall be subject to audit by the
4 director of taxation. If any materials purchased under such a certificate are
5 found not to have been incorporated in the building or other project or not
6 to have been returned for credit or the sales or compensating tax otherwise
7 imposed upon such materials that will not be so incorporated in the
8 building or other project reported and paid by such contractor to the
9 director of taxation not later than the 20th day of the month following the
10 close of the month in which it shall be determined that such materials will
11 not be used for the purpose for which such certificate was issued, Wichita
12 children's home shall be liable for the tax on all materials purchased for the
13 project, and upon payment, it may recover the same from the contractor
14 together with reasonable attorney fees. Any contractor or any agent,
15 employee or subcontractor, who shall use or otherwise dispose of any
16 materials purchased under such a certificate for any purpose other than that
17 for which such a certificate is issued without the payment of the sales or
18 compensating tax otherwise imposed upon such materials, shall be guilty
19 of a misdemeanor and, upon conviction, shall be subject to the penalties
20 provided for in K.S.A. 79-3615(h), and amendments thereto;

21 (jjjj) all sales of tangible personal property or services purchased by
22 or on behalf of the beacon, inc., that is exempt from federal income
23 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
24 for the purpose of providing those desiring help with food, shelter, clothing
25 and other necessities of life during times of special need;

26 (kkkk) all sales of tangible personal property and services purchased
27 by or on behalf of reaching out from within, inc., which is exempt from
28 federal income taxation pursuant to section 501(c)(3) of the federal
29 internal revenue code, for the purpose of sponsoring self-help programs for
30 incarcerated persons that will enable such incarcerated persons to become
31 role models for non-violence while in correctional facilities and productive
32 family members and citizens upon return to the community; and

33 (llll) all sales of tangible personal property and services purchased by
34 Gove county healthcare endowment foundation, inc., which is exempt
35 from federal income taxation pursuant to section 501(c)(3) of the federal
36 internal revenue code of 1986, and which such property and services are
37 used for the purpose of constructing and equipping an airport in Quinter,
38 Kansas, and all sales of tangible personal property or services purchased
39 by a contractor for the purpose of constructing and equipping an airport in
40 Quinter, Kansas, for such organization, that would be exempt from
41 taxation under the provisions of this section if purchased directly by such
42 organization. Nothing in this subsection shall be deemed to exempt the
43 purchase of any construction machinery, equipment or tools used in the

1 constructing or equipping of facilities for such organization. When such
2 organization shall contract for the purpose of constructing or equipping an
3 airport in Quinter, Kansas, it shall obtain from the state and furnish to the
4 contractor an exemption certificate for the project involved, and the
5 contractor may purchase materials for incorporation in such project. The
6 contractor shall furnish the number of such certificate to all suppliers from
7 whom such purchases are made, and such suppliers shall execute invoices
8 covering the same bearing the number of such certificate. Upon
9 completion of the project, the contractor shall furnish to such organization
10 concerned a sworn statement, on a form to be provided by the director of
11 taxation, that all purchases so made were entitled to exemption under this
12 subsection. All invoices shall be held by the contractor for a period of five
13 years and shall be subject to audit by the director of taxation. If any
14 materials purchased under such a certificate are found not to have been
15 incorporated in such facilities or not to have been returned for credit or the
16 sales or compensating tax otherwise imposed upon such materials that will
17 not be so incorporated in such facilities reported and paid by such
18 contractor to the director of taxation no later than the 20th day of the month
19 following the close of the month in which it shall be determined that such
20 materials will not be used for the purpose for which such certificate was
21 issued, such organization concerned shall be liable for tax on all materials
22 purchased for the project, and upon payment thereof it may recover the
23 same from the contractor together with reasonable attorney fees. Any
24 contractor or any agent, employee or subcontractor thereof, who purchased
25 under such a certificate for any purpose other than that for which such a
26 certificate is issued without the payment of the sales or compensating tax
27 otherwise imposed upon such materials, shall be guilty of a misdemeanor
28 and, upon conviction therefor, shall be subject to the penalties provided for
29 in K.S.A. 79-3615(h), and amendments thereto. The provisions of this
30 subsection shall expire and have no effect on and after July 1, 2019.

31 Sec. 54. K.S.A. 2018 Supp. 79-5201 is hereby amended to read as
32 follows: 79-5201. As used in ~~this act~~ *article 52 of chapter 79 of the*
33 *Kansas Statutes Annotated, and amendments thereto:*

34 (a) ~~"Marijuana" means any marijuana, whether real or counterfeit, as~~
35 ~~defined by K.S.A. 2018 Supp. 21-5701, and amendments thereto, which is~~
36 ~~held, possessed, transported, transferred, sold or offered to be sold in~~
37 ~~violation of the laws of Kansas;~~

38 (b) ~~"Controlled substance" means any drug or substance, whether real~~
39 ~~or counterfeit, as defined by K.S.A. 2018 Supp. 21-5701, and amendments~~
40 ~~thereto, which is held, possessed, transported, transferred, sold or offered~~
41 ~~to be sold in violation of the laws of Kansas. Such term shall not include~~
42 ~~marijuana;~~

43 (c) ~~"dealer" means any person who, in violation of Kansas law,~~

1 manufactures, produces, ships, transports or imports into Kansas or in any
2 manner acquires or possesses more than 28 grams of marijuana, or more
3 than one gram of any controlled substance, or 10 or more dosage units of
4 any controlled substance which is not sold by weight;

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

9 (d) "*marijuana*" means any marijuana, whether real or counterfeit,
10 as defined by K.S.A. 2018 Supp. 21-5701, and amendments thereto, that is
11 held, possessed, transported, transferred, sold or offered to be sold in
12 violation of the laws of Kansas; and

13 (e) "*medical cannabis*" means cannabis or cannabis derivatives as
14 defined in section 2, and amendments thereto.

15 Sec. 55. K.S.A. 79-5210 is hereby amended to read as follows: 79-
16 5210. Nothing in this act requires persons registered under article 16 of
17 chapter 65 of the Kansas Statutes Annotated or otherwise lawfully in
18 possession of marijuana, *medical cannabis* or a controlled substance to pay
19 the tax required under this act.

20 Sec. 56. K.S.A. 2017 Supp. 65-1120, as amended by section 5 of
21 chapter 42 of the 2018 Session Laws of Kansas, K.S.A. 44-1009, 44-1015,
22 65-2836, 65-28a05, 65-28b08 and 79-5210 and K.S.A. 2018 Supp. 21-
23 5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 23-3201, 38-2269,
24 44-501, 44-706, 79-3606 and 79-5201 are hereby repealed.

25 Sec. 57. This act shall take effect and be in force from and after its
26 publication in the statute book.