

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 622

Introduced by Wishart, 27; Craighead, 6; Ebke, 32; Hansen, 26; Kolowski, 31; Krist, 10; Morfeld, 46; Pansing Brooks, 28; Vargas, 7; Wayne, 13.

Read first time January 18, 2017

Committee:

- 1 A BILL FOR AN ACT relating to cannabis; to amend sections 28-416, 28-439,
- 2 77-2701.48, 77-2704.09, and 77-4303, Reissue Revised Statutes of
- 3 Nebraska, and sections 77-27,132 and 77-27,237, Revised Statutes
- 4 Cumulative Supplement, 2016; to adopt the Medical Cannabis Act; to
- 5 change provisions relating to controlled substances and taxation; to
- 6 harmonize provisions; to provide operative dates; and to repeal the
- 7 original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 54 of this act shall be known and may be
2 cited as the Medical Cannabis Act.

3 Sec. 2. For purposes of the Medical Cannabis Act, the definitions
4 found in sections 3 to 17 of this act apply.

5 Sec. 3. Compassion center and dispensary means an entity registered
6 by the department to acquire, possess, or dispense medical cannabis or
7 medical cannabis products.

8 Sec. 4. Department means the Division of Public Health of the
9 Department of Health and Human Services.

10 Sec. 5. Disqualifying felony offense means a violation of a state
11 or federal law that is a felony under Nebraska law or would be a felony
12 if committed in Nebraska, regardless of the sentence imposed.

13 Sec. 6. Health care practitioner means a person licensed to
14 practice under the Medicine and Surgery Practice Act, but shall not
15 include an acupuncturist.

16 Sec. 7. Manufacturer means an entity registered by the department
17 to cultivate, acquire, manufacture, possess, prepare, transfer,
18 transport, or supply medical cannabis or medical cannabis products.

19 Sec. 8. Medical cannabis means any species of the genus cannabis
20 plant, or any mixture or preparation of any species of the genus cannabis
21 plant, including whole plant extracts and resins, which is delivered in
22 the form of:

23 (1) Liquid, including, but not limited to, oil;

24 (2) Pill form; or

25 (3) Vaporized delivery method with use of liquid or oil but which
26 does not require the use of dried leaves or plant form.

27 Smoking shall not be an approved method of delivery.

28 Sec. 9. Medical cannabis product means any delivery device or
29 related supplies and educational materials used in the administration of
30 medical cannabis for a patient with a qualifying medical condition
31 enrolled in the registry program.

1 Sec. 10. Medical records means a health care practitioner's record
2 of a patient's health history and treatment rendered.

3 Sec. 11. Participating health care practitioner means a health care
4 practitioner who (1) has the primary responsibility for the care and
5 treatment of the qualifying medical condition of a person diagnosed with
6 a qualifying medical condition and (2) meets the requirements of section
7 27 of this act.

8 Sec. 12. Patient means a Nebraska resident who has been diagnosed
9 with a qualifying medical condition by a participating health care
10 practitioner and who has otherwise met any other requirements for
11 patients under the Medical Cannabis Act to participate in the registry
12 program under the act.

13 Sec. 13. Patient registry number means a unique identification
14 number assigned by the department to a patient enrolled in the registry
15 program.

16 Sec. 14. Qualifying medical condition means a diagnosis of any of
17 the following conditions:

18 (1) Cancer if the underlying condition or treatment produces one or
19 more of the following:

20 (a) Severe or chronic pain;

21 (b) Nausea or severe vomiting; or

22 (c) Cachexia or severe wasting;

23 (2) Glaucoma;

24 (3) Human immunodeficiency virus or acquired immune deficiency
25 syndrome;

26 (4) Tourette's syndrome;

27 (5) Amyotrophic lateral sclerosis;

28 (6) Seizures, including those characteristic of epilepsy;

29 (7) Severe and persistent muscle spasms, including those
30 characteristic of multiple sclerosis;

31 (8) Crohn's disease;

1 (9) Terminal illness, with a probable life expectancy of under one
2 year, if the illness or its treatment produces one or more of the
3 following:

4 (a) Severe or chronic pain;

5 (b) Nausea or severe vomiting; or

6 (c) Cachexia or severe wasting;

7 (10) Hepatitis C;

8 (11) Huntington's disease;

9 (12) Lupus;

10 (13) Parkinson's disease;

11 (14) Lyme disease;

12 (15) Spinal cord injury or disease;

13 (16) Opioid addiction;

14 (17) Epilepsy;

15 (18) Post-traumatic stress disorder;

16 (19) Anxiety; or

17 (20) Any other illness for which medical cannabis provides relief as
18 determined by the participating health care practitioner.

19 Sec. 15. Registered designated caregiver means a person who:

20 (1) Is at least twenty-one years of age;

21 (2) Does not have a conviction for a disqualifying felony offense;

22 (3) Has been approved by the department to assist a patient who has
23 been identified by a participating health care practitioner as having a
24 developmental disability or physical disability and unable to self-
25 administer medication or acquire medical cannabis from a compassion
26 center and dispensary due to the disability; and

27 (4) Is authorized by the department to assist the patient with the
28 use of medical cannabis.

29 Sec. 16. Registry program means the patient registry established
30 under the Medical Cannabis Act.

31 Sec. 17. Registry verification means the verification provided by

1 the department that a patient is enrolled in the registry program
2 pursuant to subsection (5) of section 22 of this act.

3 Sec. 18. (1) Nothing in the Medical Cannabis Act permits any person
4 to engage in and does not prevent the imposition of any civil, criminal,
5 or other penalties for:

6 (a) Undertaking any task under the influence of medical cannabis
7 that would constitute negligence or professional malpractice;

8 (b) Possessing or engaging in the use of medical cannabis:

9 (i) On a school bus or van;

10 (ii) On the grounds of any preschool or primary or secondary school;

11 (iii) In any adult or juvenile correctional facility; or

12 (iv) On the grounds of any child care facility or home daycare;

13 (c) Vaporizing medical cannabis:

14 (i) On any form of public transportation;

15 (ii) Where the vapor would be inhaled by a nonpatient minor child;

16 or

17 (iii) In any public place, including any indoor or outdoor area used
18 by or open to the general public or a place of employment as defined in
19 section 71-5724; or

20 (d) Operating, navigating, or being in actual physical control of
21 any motor vehicle, aircraft, train, or motorboat, or working on
22 transportation property, equipment, or facilities, while under the
23 influence of medical cannabis.

24 (2)(a) Nothing in the Medical Cannabis Act allows the medical
25 assistance program established pursuant to the Medical Assistance Act to
26 reimburse an enrollee or a provider under the medical assistance program
27 for costs associated with the medical use of cannabis. The medical
28 assistance program shall continue to provide coverage for all services
29 related to treatment of an enrollee's qualifying medical condition if the
30 service is covered under the medical assistance program.

31 (b) Nothing in the Medical Cannabis Act requires a private insurer

1 to reimburse an insured or any other person for costs associated with the
2 medical use of cannabis. The private insurer shall continue to provide
3 coverage for all services related to treatment of an insured's qualifying
4 medical condition if the service is covered under the insurance policy.

5 Sec. 19. The department shall establish and maintain a registry
6 program for patients. The patient registry shall include the name,
7 address, and telephone number of patients enrolling in the registry
8 program and shall identify the participating health care practitioner for
9 the patient and the registered designated caregiver, if any.

10 Sec. 20. (1) A patient shall apply to the department for enrollment
11 in the registry program by submitting an application pursuant to section
12 21 of this act.

13 (2) As a condition of enrollment, a patient shall agree to:

14 (a) Continue to receive regularly scheduled treatment for his or her
15 qualifying medical condition from his or her participating health care
16 practitioner; and

17 (b) Report changes in his or her qualifying medical condition to his
18 or her participating health care practitioner.

19 Sec. 21. (1) The department shall develop an application for
20 patient enrollment in the registry program. The application shall be
21 available to the patient and given to participating health care
22 practitioners in Nebraska. The application shall include:

23 (a) The name, mailing address, and date of birth of the patient;

24 (b) The name, mailing address, and telephone number of the patient's
25 participating health care practitioner;

26 (c) The name, mailing address, and date of birth of the patient's
27 designated caregiver, if any, or the name and mailing address of the
28 patient's parent or legal guardian if the parent or legal guardian will
29 be acting as a caregiver;

30 (d) A copy of the certification from the patient's participating
31 health care practitioner which certifies that the patient has a bona fide

1 relationship with the participating health care practitioner that existed
2 prior to submitting the application, that the patient has been diagnosed
3 with a qualifying medical condition, and, if applicable, that, in the
4 medical opinion of the participating health care practitioner, the
5 patient has a developmental disability or physical disability and, as a
6 result of that disability, the patient is unable to self-administer
7 medication or acquire medical cannabis from a compassion center and
8 dispensary; and

9 (e) All other signed affidavits and enrollment forms required by the
10 department under the Medical Cannabis Act, including, but not limited to,
11 the disclosure form required under subsection (3) of this section and
12 informed consent form as required under subsection (4) of this section.

13 (2) The department shall require a patient to resubmit a copy of the
14 certification from the patient's participating health care practitioner
15 on an annual basis and shall require that the recertification be dated
16 within ninety days prior to submission.

17 (3) The department shall develop a disclosure form and require, as a
18 condition of enrollment, that the patient sign a copy of the disclosure
19 form. The disclosure form shall include:

20 (a) A statement that the department, or any employee of any state
21 agency, may not be held criminally liable for any injury, loss of
22 property, personal injury, or death caused by any act or omission while
23 acting within the respective scope of office or employment under the
24 Medical Cannabis Act; and

25 (b) The patient's acknowledgment that enrollment in the registry
26 program is conditional on the patient's agreement to comply with the
27 Medical Cannabis Act.

28 (4) The department shall require a patient to give written, informed
29 consent for the use of the medical cannabis. Written, informed consent
30 shall consist of a signed disclosure and consent form executed by an
31 eligible patient, or his or her parent or legal guardian if the eligible

1 patient is a minor, and attested to by the eligible patient's treating
2 health care practitioner, that:

3 (a) Explains the approved products and treatments available at that
4 time for the disease or condition from which the patient suffers;

5 (b) Attests to the fact that the patient concurs with his or her
6 treating health care practitioner that no treatment then approved by the
7 United States Food and Drug Administration for the qualifying medical
8 condition of the patient would likely treat or improve the patient's
9 qualifying medical condition without significant risk to the patient;

10 (c) Describes the potential outcomes of using the medical cannabis.
11 The description shall include any possibility of worsening symptoms and
12 death hastened by the treatment;

13 (d) Contains a statement that the patient's health insurance carrier
14 is not obligated to pay for any care or treatments consequent to the use
15 of the medical cannabis; and

16 (e) Makes clear that the patient understands that he or she is
17 liable for all expenses consequent to the use of the medical cannabis.

18 Sec. 22. (1) After receipt of a patient's application and signed
19 disclosure and consent forms, the department shall enroll the patient in
20 the registry program and issue the patient and patient's registered
21 designated caregiver or parent or legal guardian, if applicable, a
22 registry verification. A patient's enrollment in the registry program
23 shall only be denied if the patient:

24 (a) Does not have certification from a participating health care
25 practitioner that the patient has been diagnosed with a qualifying
26 medical condition;

27 (b) Has not signed and returned to the department the disclosure and
28 consent forms required under subsections (3) and (4) of section 21 of
29 this act;

30 (c) Does not provide the information required under the Medical
31 Cannabis Act;

1 (d) Has previously been removed from the registry program for a
2 violation of section 20, 40, 41, or 42 of this act; or

3 (e) Provides false information under the act.

4 (2) The department shall give written notice to a patient of the
5 reason for denying enrollment in the registry program.

6 (3) Denial of enrollment in the registry program may be appealed.
7 The appeal shall be in accordance with the Administrative Procedure Act.

8 (4) A patient's enrollment in the registry program shall only be
9 revoked if a patient violates a requirement under section 20, 40, 41, or
10 42 of this act or upon the death of the patient.

11 (5) The department shall develop a registry verification to provide
12 to the patient, to the participating health care practitioner identified
13 in the patient's application, and to the compassion center and
14 dispensary. The registry verification shall include:

15 (a) The patient's name and date of birth;

16 (b) The patient registry number assigned to the patient;

17 (c) Confirmation that the patient has a qualifying medical condition
18 as provided by the patient's participating health care practitioner in
19 the certification; and

20 (d) The name, mailing address, and date of birth of the patient's
21 registered designated caregiver, if any, or the name and mailing address
22 of the patient's parent or legal guardian if the parent or legal guardian
23 will be acting as a caregiver.

24 Sec. 23. (1) There is a presumption that a patient enrolled in the
25 registry program under the Medical Cannabis Act is engaged in the
26 authorized use of medical cannabis.

27 (2) The presumption may be rebutted by evidence that conduct related
28 to use of medical cannabis was not for the purpose of treating or
29 alleviating the patient's qualifying medical condition or symptoms
30 associated with the patient's qualifying medical condition.

31 Sec. 24. (1) The department shall register a designated caregiver

1 for a patient if the patient's participating health care practitioner has
2 certified that the patient, in the medical opinion of the participating
3 health care practitioner, has a developmental disability or a physical
4 disability and, as a result of that disability, the patient is unable to
5 self-administer medication or acquire medical cannabis from a compassion
6 center and dispensary and the caregiver has agreed, in writing, to be the
7 patient's registered designated caregiver. As a condition of registration
8 as a registered designated caregiver, the department shall require the
9 person to:

10 (a) Be at least twenty-one years of age;

11 (b) Agree to only possess medical cannabis for purposes of assisting
12 the patient; and

13 (c) Agree that if the application is approved, the person will not
14 be a registered designated caregiver for more than one patient unless
15 each of such patients reside in the same residence.

16 (2)(a) The department shall conduct a criminal background check on
17 the designated caregiver prior to registration to ensure that the person
18 does not have a conviction for a disqualifying felony offense. Any cost
19 of the background check shall be paid by the person seeking registration
20 as a registered designated caregiver or his or her employer.

21 (b) The person shall file a complete set of his or her legible
22 fingerprints with the department. The department shall transmit such
23 fingerprints to the Nebraska State Patrol which shall transmit a copy of
24 the applicant's fingerprints to the Identification Division of the
25 Federal Bureau of Investigation for a national criminal history record
26 information check.

27 (c) The national criminal history record information check shall
28 include information concerning the person from federal repositories of
29 such information and repositories of such information in other states if
30 authorized by federal law for use by the department.

31 (d) The Nebraska State Patrol shall undertake a search for Nebraska

1 criminal history record information concerning the person. The Nebraska
2 State Patrol shall issue a report to the department which contains the
3 results of the criminal history record information check conducted by the
4 Nebraska State Patrol.

5 (e) Criminal history record information subject to federal
6 confidentiality requirements shall remain confidential and may be
7 released only upon the written authorization of the subject of the
8 information.

9 Sec. 25. (1) A parent or legal guardian of a patient may act as the
10 caregiver to the patient without having to register as a registered
11 designated caregiver. The parent or legal guardian shall follow all of
12 the requirements of parents and legal guardians in the Medical Cannabis
13 Act. Nothing in the act limits any legal authority a parent or legal
14 guardian may have for the patient under any other law.

15 (2)(a) The department shall conduct a criminal background check on
16 the parent or legal guardian acting as designated caregiver to ensure
17 that the person does not have a conviction for a disqualifying felony
18 offense. Any cost of the background check shall be paid by the parent or
19 legal guardian seeking to act as a designated caregiver.

20 (b) The person shall file a complete set of his or her legible
21 fingerprints with the department. The department shall transmit such
22 fingerprints to the Nebraska State Patrol which shall transmit a copy of
23 the applicant's fingerprints to the Identification Division of the
24 Federal Bureau of Investigation for a national criminal history record
25 information check.

26 (c) The national criminal history record information check shall
27 include information concerning the person from federal repositories of
28 such information and repositories of such information in other states if
29 authorized by federal law for use by the department.

30 (d) The Nebraska State Patrol shall undertake a search for Nebraska
31 criminal history record information concerning the person. The Nebraska

1 State Patrol shall issue a report to the department which contains the
2 results of the criminal history record information check conducted by the
3 Nebraska State Patrol.

4 (e) Criminal history record information subject to federal
5 confidentiality requirements shall remain confidential and may be
6 released only upon the written authorization of the subject of the
7 information.

8 Sec. 26. A patient or registered designated caregiver shall notify
9 the department of any address or name change within thirty days after the
10 change occurred. A registered designated caregiver shall notify the
11 department of the death of a patient for whom the caregiver provides
12 medical cannabis within thirty days after the death of the patient. A
13 patient or registered designated caregiver is subject to a one-hundred-
14 dollar fine for failure to notify the department as required under this
15 section.

16 Sec. 27. (1) Prior to a patient's enrollment in the registry
17 program, a participating health care practitioner shall:

18 (a) Determine, in the medical judgment of the participating health
19 care practitioner, whether a patient suffers from a qualifying medical
20 condition and, if so determined, provide the patient with a certification
21 of that diagnosis;

22 (b) Determine whether a patient has a developmental disability or
23 physical disability and, as a result of that disability, the patient is
24 unable to self-administer medication or acquire medical cannabis from a
25 compassion center and dispensary and, if so determined, include that
26 determination on the patient's certification of diagnosis;

27 (c) Provide explanatory information from the department to patients
28 with qualifying medical conditions, including disclosure to all patients
29 about the experimental nature of therapeutic use of medical cannabis; the
30 possible risks, benefits, and side effects of the proposed treatment; and
31 the application and other materials from the department; and

1 (d) Agree to continue treatment of the patient's qualifying medical
2 condition.

3 (2) Upon notification from the department of the patient's
4 enrollment in the registry program, the participating health care
5 practitioner shall otherwise comply with all requirements developed by
6 the department.

7 (3) Nothing in this section requires a health care practitioner (a)
8 to participate under the Medical Cannabis Act or (b) to provide
9 recommendations, limitations, or restrictions regarding dosage or the
10 form of marijuana on a patient's certification.

11 Sec. 28. (1) The department shall:

12 (a) Create and provide a certification to be used by a participating
13 health care practitioner to certify whether a patient has been diagnosed
14 with a qualifying medical condition and include in the certification an
15 option for the participating health care practitioner to certify whether
16 the patient, in the medical opinion of the participating health care
17 practitioner, has a developmental disability or a physical disability
18 and, as a result of that disability, the patient is unable to self-
19 administer medication or acquire medical cannabis from a compassion
20 center and dispensary;

21 (b) Give notice of the certification program created in subdivision
22 (1)(a) of this section to health care practitioners in Nebraska who are
23 eligible to serve as participating health care practitioners and explain
24 the purposes and requirements of the Medical Cannabis Act;

25 (c) Provide explanatory information and assistance to each
26 participating health care practitioner in understanding the nature of
27 therapeutic use of medical cannabis within the requirements of the
28 Medical Cannabis Act;

29 (d) Provide oversight of the participating health care practitioner
30 in conducting patient treatment, and medical records reporting in a
31 manner that ensures stringent security and record-keeping requirements

1 and that prevents the unauthorized release of private data; and

2 (e) Develop safety criteria for patients with a qualifying medical
3 condition as a requirement of the patient's participation in the registry
4 program in order to prevent the patient from undertaking any task under
5 the influence of medical cannabis that would constitute negligence or
6 professional malpractice on the part of the patient.

7 (2) A health care practitioner shall have a bona fide health care
8 practitioner-patient relationship with each patient certified by the
9 health care practitioner as having a qualifying medical condition.

10 Sec. 29. Data collected on patients by a participating health care
11 practitioner are medical records and subject to sections 81-663 to
12 81-675.

13 Sec. 30. (1) Except as otherwise provided in section 36 of this
14 act, the department shall register one manufacturer in each congressional
15 district in Nebraska for the production of all medical cannabis within
16 Nebraska by July 1, 2018, unless the Medical Cannabis Board extends the
17 deadline under section 34 of this act. The department shall register
18 manufacturers which comply with subsection (2) of this section based on
19 the factors in subsection (3) of this section. The registration shall be
20 valid until July 1 of the calendar year following the date of
21 registration and shall be renewed by July 1 of each year thereafter upon
22 application and payment of the annual fee established pursuant to section
23 44 of this act to the department and compliance with the Medical Cannabis
24 Act and the rules and regulations adopted and promulgated under the act.
25 The department shall renew registrations based on the factors in
26 subsection (3) of this section. The department shall continue to accept
27 applications for registration after July 1, 2018, for any congressional
28 district which does not have a registered manufacturer by such date.

29 (2)(a) As a condition for registration prior to July 1, 2018, a
30 manufacturer shall agree to:

31 (i) Begin supplying medical cannabis to compassion centers and

1 dispensaries on or before January 1, 2019, unless extended by the Medical
2 Cannabis Board; and

3 (ii) Comply with the Medical Cannabis Act and the rules and
4 regulations adopted and promulgated under the act.

5 (b) As a condition for registration on and after July 1, 2018, a
6 manufacturer shall agree to supply medical cannabis to compassion centers
7 and dispensaries in compliance with the Medical Cannabis Act and
8 otherwise be in compliance with the act and the rules and regulations
9 adopted and promulgated under the act.

10 (3) The department shall consider the following factors when
11 determining whether to register a manufacturer:

12 (a) The technical expertise of the manufacturer in cultivating
13 medical cannabis and converting the medical cannabis into an acceptable
14 delivery method under the Medical Cannabis Act;

15 (b) The qualifications of the manufacturer's employees;

16 (c) The long-term financial stability of the manufacturer;

17 (d) The ability to provide appropriate security measures on the
18 premises of the manufacturer; and

19 (e) Whether the manufacturer has demonstrated the ability to meet
20 the medical cannabis production needs required by the Medical Cannabis
21 Act.

22 (4) The department shall require each manufacturer to contract with
23 an independent laboratory to test medical cannabis produced by the
24 manufacturer. A laboratory chosen by a manufacturer is subject to
25 approval by the department and is required to report testing results to
26 the manufacturer in a manner determined by the department.

27 Sec. 31. (1) A manufacturer of medical cannabis shall provide a
28 reliable and ongoing supply of medical cannabis needed for the registry
29 program.

30 (2) The cultivation, harvesting, manufacturing, packaging, and
31 processing of medical cannabis must occur at the physical address of the

1 manufacturer provided to the department on the registration application.

2 (3) A manufacturer shall process and prepare any medical cannabis
3 plant material into a form allowable under the Medical Cannabis Act prior
4 to distribution of any medical cannabis.

5 (4) A manufacturer shall contract with an independent laboratory,
6 subject to the department's approval of the laboratory and any additional
7 requirements set by the department, for purposes of testing medical
8 cannabis produced by the manufacturer as to chemical composition,
9 contamination, and consistency.

10 (5) The manufacturer shall consult with an independent laboratory
11 under contract with the manufacturer or other experts in reporting the
12 range of recommended treatments for each qualifying medical condition,
13 the range of chemical compositions that will likely be medically
14 beneficial, and any risks of noncannabis drug interactions. The
15 manufacturer shall provide this information to the department on an
16 annual basis. The department shall compile and publish the contents of
17 these reports and of the medical cannabis offered by each manufacturer on
18 the department's web site. Compassion centers and dispensaries shall make
19 these reports available to patients upon request.

20 Sec. 32. Each manufacturer shall assign a tracking number to any
21 medical cannabis distributed by the manufacturer. A manufacturer shall
22 require any employee of the manufacturer who is transporting medical
23 cannabis or medical cannabis products to carry identification showing
24 that the person is an employee of the manufacturer. An employee of a
25 manufacturer shall not transport medical cannabis or medical cannabis
26 products outside the State of Nebraska.

27 Sec. 33. (1) Except as otherwise provided in section 36 of this
28 act, the department shall register up to four compassion center and
29 dispensaries in each congressional district in Nebraska for the
30 dispensing and sale of all medical cannabis to patients within Nebraska
31 by July 1, 2018, unless the Medical Cannabis Board extends the deadline.

1 The department shall register a compassion center and dispensary which
2 complies with subsection (2) of this section based on the factors in
3 subsection (3) of this section. The registration shall be valid until
4 July 1 of the calendar year following the date of registration and shall
5 be renewed by July 1 of each year thereafter upon application and payment
6 of the annual fee established pursuant to section 44 of this act to the
7 department and compliance with the Medical Cannabis Act and the rules and
8 regulations adopted and promulgated under the act. The department shall
9 renew registrations based on the factors in subsection (3) of this
10 section. The department shall continue to accept applications for
11 registration after July 1, 2018, for any congressional district which
12 does not have four compassion center and dispensaries by such date.

13 (2)(a) As a condition for registration prior to July 1, 2018, a
14 compassion center and dispensary shall agree to:

15 (i) Begin supplying medical cannabis to patients on or before
16 January 1, 2020; and

17 (ii) Comply with the Medical Cannabis Act and rules and regulations
18 adopted and promulgated by the department under the act.

19 (b) As a condition for registration on and after July 1, 2018, a
20 compassion center and dispensary shall agree to supply medical cannabis
21 to patients in compliance with the Medical Cannabis Act and otherwise be
22 in compliance with the act and the rules and regulations adopted and
23 promulgated under the act.

24 (3) The department shall consider the following factors when
25 determining whether to register a compassion center and dispensary:

26 (a) The technical expertise of the compassion center and dispensary
27 in distributing medical cannabis to patients;

28 (b) The qualifications of the pharmacists and other employees of the
29 compassion center and dispensary;

30 (c) The long-term financial stability of the compassion center and
31 dispensary; and

1 (d) The ability to provide appropriate security measures on the
2 premises of the compassion center and dispensary.

3 Sec. 34. (1) The department shall adopt and promulgate rules and
4 regulations necessary for a compassion center and dispensary to begin
5 dispensing medical cannabis to patients enrolled in the registry program
6 by July 1, 2018, and publish notice of the proposed rules and regulations
7 prior to November 1, 2017.

8 (2) The department shall, by May 1, 2018, advise the public and the
9 Medical Cannabis Board if the department is unable to register three
10 manufacturers by July 1, 2018. The department shall provide a written
11 statement as to the reason or reasons the deadline will not be met. Upon
12 request of the department, the board shall extend the deadline by six
13 months but may not extend the deadline more than once.

14 (3) If notified by a manufacturer that distribution to compassion
15 center and dispensaries may not begin by January 1, 2019, the department
16 shall advise the public and the board. Upon notification by the
17 department, the board shall extend the deadline by six months but may not
18 extend the deadline more than once.

19 Sec. 35. (1) A compassion center and dispensary shall require that
20 medical cannabis be dispensed to a patient by a pharmacist licensed under
21 the Pharmacy Practice Act.

22 (2) Prior to the dispensing of any medical cannabis, a compassion
23 center and dispensary shall:

24 (a) Verify that the compassion center and dispensary has received
25 the registry verification from the department for that individual
26 patient;

27 (b) Verify that the person requesting the distribution of medical
28 cannabis is the patient, the patient's registered designated caregiver,
29 or the patient's parent or legal guardian listed in the registry
30 verification;

31 (c) Assign a tracking number to any medical cannabis dispensed from

1 the compassion center and dispensary;

2 (d) Properly package medical cannabis in compliance with the federal
3 Poison Prevention Packaging Act of 1970, regarding child resistant
4 packaging and exemptions for packaging for elderly patients, and label
5 dispensed medical cannabis with a list of all active ingredients and
6 individually identifying information, including:

7 (i) The patient's name, mailing address, and date of birth;

8 (ii) The name, mailing address, and date of birth of the patient's
9 registered designated caregiver or, if listed on the registry
10 verification, the name and mailing address of the patient's parent or
11 legal guardian, if applicable;

12 (iii) The patient registry number;

13 (iv) The chemical composition of the medical cannabis;

14 (v) The recommended dosage or quantity of the medical cannabis, if
15 any;

16 (vi) The date the certification is issued;

17 (vii) The date the medical cannabis is dispensed; and

18 (viii) The name and address of the compassion center and dispensary
19 dispensing the medical cannabis; and

20 (e) Ensure that the dispensed medical cannabis contains a maximum of
21 a thirty-day supply of the recommended quantity, if any, determined for
22 that patient.

23 (3) A compassion center and dispensary shall take back any unused
24 medical cannabis and dispose of it in accordance with rules and
25 regulations adopted and promulgated by the department.

26 Sec. 36. (1) Each manufacturer and each compassion center and
27 dispensary shall disclose its proposed location to the department during
28 the registration process. A county, city, or village governing body may
29 adopt a resolution or ordinance prohibiting the operation of a
30 manufacturer or compassion center and dispensary or both within its
31 jurisdiction and may adopt zoning regulations that reasonably limit a

1 manufacturer or compassion center and dispensary to certain areas within
2 its jurisdiction. If all jurisdictions within a congressional district
3 adopt a prohibition on the operation of manufacturers, the department may
4 register an additional manufacturer in another congressional district. If
5 all jurisdictions within a congressional district adopt a prohibition on
6 the operation of a compassion center and dispensary, the department may
7 register up to four additional compassion center and dispensaries in
8 another congressional district or up to two additional compassion center
9 and dispensaries in each of the other congressional districts.

10 (2) A manufacturer shall operate only one location where all
11 cultivation, harvesting, manufacturing, packaging, and processing shall
12 be conducted.

13 (3)(a) Any compassion center and dispensary may distribute medical
14 cannabis and medical cannabis products but shall not contain any medical
15 cannabis in a form other than those forms allowed under the Medical
16 Cannabis Act. A compassion center and dispensary shall not conduct any
17 cultivation, harvesting, manufacturing, packaging, or processing of
18 medical cannabis.

19 (b) The operating documents of a compassion center and dispensary
20 shall include:

21 (i) Procedures for the oversight of the compassion center and
22 dispensary and procedures to ensure accurate record keeping; and

23 (ii) Procedures for the implementation of appropriate security
24 measures to deter and prevent the theft of medical cannabis and
25 unauthorized entrance into areas containing medical cannabis.

26 (4) The operating documents of a manufacturer shall include:

27 (a) Procedures for the oversight of the manufacturer and procedures
28 to ensure accurate record keeping; and

29 (b) Procedures for the implementation of appropriate security
30 measures to deter and prevent the theft of medical cannabis and
31 unauthorized entrance into areas containing medical cannabis.

1 (5) Each manufacturer and each compassion center and dispensary
2 shall implement security requirements, including requirements for
3 protection of its location by a fully operational security alarm system,
4 facility access controls, perimeter intrusion detection systems, and a
5 personnel identification system.

6 (6) Each manufacturer and each compassion center and dispensary
7 shall not share office space with or refer patients to a participating
8 health care practitioner.

9 (7) Each manufacturer and each compassion center and dispensary
10 shall not permit any person to consume medical cannabis on the property
11 of the manufacturer or compassion center and dispensary.

12 (8) Each manufacturer and each compassion center and dispensary are
13 subject to reasonable inspection by the department or its designee.

14 (9)(a) A manufacturer and a compassion center and dispensary may not
15 employ any person who is under twenty-one years of age or who has been
16 convicted of a disqualifying felony offense. An employee of a
17 manufacturer and a compassion center and dispensary shall submit to a
18 completed criminal history record information check before an employee
19 may begin working with the manufacturer or compassion center and
20 dispensary.

21 (b) Each employee shall pay the costs of the criminal history record
22 information check and shall file a complete set of his or her legible
23 fingerprints with the department. The department shall transmit such
24 fingerprints to the Nebraska State Patrol which shall transmit a copy of
25 the applicant's fingerprints to the Identification Division of the
26 Federal Bureau of Investigation for a national criminal history record
27 information check.

28 (c) The national criminal history record information check shall
29 include information concerning the employee from federal repositories of
30 such information and repositories of such information in other states if
31 authorized by federal law for use by the department.

1 (d) The Nebraska State Patrol shall undertake a search for Nebraska
2 criminal history record information concerning the employee. The Nebraska
3 State Patrol shall issue a report to the department which contains the
4 results of the criminal history record information check conducted by the
5 Nebraska State Patrol.

6 (e) Criminal history record information subject to federal
7 confidentiality requirements shall remain confidential and may be
8 released only upon the written authorization of the employee.

9 (10) No manufacturer or compassion center and dispensary may operate
10 in any location within one thousand feet of a public or private school
11 existing before the date of the manufacturer's or compassion center and
12 dispensary's registration with the department.

13 (11) Each manufacturer and each compassion center and dispensary
14 shall comply with reasonable restrictions set by the department relating
15 to signage, marketing, display, and advertising of medical cannabis and
16 shall comply with local zoning regulations.

17 Sec. 37. (1) Subject to section 18 of this act, the following are
18 not violations under the Medical Cannabis Act:

19 (a) Use or possession of medical cannabis or medical cannabis
20 products by a patient enrolled in the registry program or possession of
21 medical cannabis or medical cannabis products by a registered designated
22 caregiver or the parent or legal guardian of a patient if the parent or
23 legal guardian is listed on the registry verification;

24 (b) Possession or sale of medical cannabis or medical cannabis
25 products by a manufacturer or a compassion center and dispensary,
26 employees of a manufacturer or a compassion center and dispensary, a
27 laboratory conducting testing on medical cannabis, or employees of the
28 laboratory; and

29 (c) Possession of medical cannabis or medical cannabis products by
30 any person while carrying out the duties required under the Medical
31 Cannabis Act.

1 (2) Medical cannabis obtained and distributed pursuant to the
2 Medical Cannabis Act and associated property is not subject to forfeiture
3 under section 28-431.

4 (3) The department, the department's staff, the department's agents
5 or contractors, and participating health care practitioners are not
6 subject to any civil or disciplinary penalties by any business,
7 occupational, or professional licensing board or entity, solely for
8 participation in the registry program under the Medical Cannabis Act. A
9 pharmacist licensed under the Pharmacy Practice Act is not subject to any
10 civil or disciplinary penalties when acting in accordance with the
11 Medical Cannabis Act. Nothing in this section affects a professional
12 licensing board from taking action in response to violations of any other
13 provision of law.

14 (4) Federal, state, and local law enforcement authorities are
15 prohibited from accessing the registry program under the Medical Cannabis
16 Act except (a) when acting pursuant to a search warrant or (b) to
17 determine the eligibility of the patient to possess medical cannabis.

18 (5) No information contained in a report, document, or registry or
19 obtained from a patient under the Medical Cannabis Act may be admitted as
20 evidence in a criminal proceeding unless independently obtained or in
21 connection with a proceeding involving a violation of the act.

22 (6) Any person who violates subsection (4) of this section is guilty
23 of a Class I misdemeanor.

24 (7) An attorney shall not be subject to disciplinary action for
25 providing legal assistance to a prospective or registered manufacturer or
26 compassion center and dispensary or to others related to activity that is
27 no longer subject to criminal penalties under state law pursuant to the
28 Medical Cannabis Act.

29 (8) Possession of a registry verification or application for
30 enrollment in the registry program by a person entitled to possess or
31 apply for enrollment in the registry program does not constitute probable

1 cause or reasonable suspicion, nor shall it be used to support a search
2 of the person or property of the person possessing or applying for the
3 registry verification or otherwise subject the person or property of the
4 person to inspection by any governmental agency.

5 Sec. 38. (1) No school or landlord may refuse to enroll or lease to
6 and may not otherwise penalize a person solely for the person's status as
7 a patient enrolled in the registry program under the Medical Cannabis Act
8 unless failing to do so would violate federal law or regulations or cause
9 the school or landlord to lose a monetary or licensing-related benefit
10 under federal law or regulations.

11 (2) For purposes of medical care, including organ transplants, the
12 use of medical cannabis under the Medical Cannabis Act by a patient
13 enrolled in the registry program does not constitute the use of an
14 illicit substance or otherwise disqualify a patient from needed medical
15 care.

16 (3) A person shall not be denied custody of a minor child or
17 visitation rights or parenting time with a minor child solely based on
18 the person's status as a patient enrolled in the registry program under
19 the Medical Cannabis Act.

20 Sec. 39. (1) In addition to any other applicable penalty, a
21 compassion center and dispensary or an agent of a compassion center and
22 dispensary who intentionally transfers or dispenses medical cannabis to a
23 person other than a registered compassion center and dispensary, a
24 patient, a registered designated caregiver, or, if listed on the registry
25 verification, a parent or legal guardian of a patient, is guilty of a
26 Class IV felony. A person convicted under this section shall not continue
27 to be affiliated with the compassion center and dispensary and is
28 disqualified from further participation under the Medical Cannabis Act.

29 (2) In addition to any other applicable penalty, a manufacturer or
30 an agent of a manufacturer who intentionally dispenses medical cannabis
31 to a person other than a registered manufacturer or a registered

1 compassion center and dispensary is guilty of a Class IV felony. A person
2 convicted under this section shall not continue to be affiliated with the
3 manufacturer and is disqualified from further participation under the
4 Medical Cannabis Act.

5 Sec. 40. In addition to any other applicable penalty provided by
6 law, a patient, a registered designated caregiver, or, if listed on the
7 registry verification, a parent or legal guardian of a patient who
8 intentionally sells or otherwise transfers medical cannabis to a person
9 other than a patient, a registered designated caregiver, or, if listed on
10 the registry verification, a parent or legal guardian of a patient, is
11 guilty of a Class IV felony.

12 Sec. 41. A person who intentionally makes a false statement to a
13 law enforcement official about any fact or circumstance relating to the
14 use of medical cannabis to avoid arrest or prosecution is guilty of a
15 Class III misdemeanor. The penalty is in addition to any other penalties
16 that may apply for making a false statement or for the possession,
17 cultivation, or sale of cannabis not protected by the Medical Cannabis
18 Act. If a person convicted of violating this section is a patient or a
19 registered designated caregiver, the person is disqualified from further
20 participation under the act.

21 Sec. 42. A person who knowingly submits false records or
22 documentation required by the department to register as a manufacturer or
23 compassion center and dispensary under the Medical Cannabis Act is guilty
24 of a Class IV felony.

25 Sec. 43. A manufacturer or a compassion center and dispensary may
26 be fined up to one thousand dollars for any violation of the Medical
27 Cannabis Act or the rules and regulations adopted and promulgated
28 pursuant to the act if no penalty has been specified. This penalty is in
29 addition to any other applicable penalties in law.

30 Sec. 44. (1) The department shall collect an application fee of
31 twenty-five thousand dollars from each entity submitting an application

1 for registration as a manufacturer or a compassion center and dispensary.
2 The department shall remit the fees to the State Treasurer for credit to
3 the Medical Cannabis Regulation Fund.

4 (2) The department shall establish and collect an annual fee not to
5 exceed (a) seventy-five thousand dollars from a manufacturer for the cost
6 of regulating and inspecting the manufacturer in that year and (b)
7 twenty-five thousand dollars from a compassion center and dispensary for
8 the cost of regulating and inspecting the compassion center and
9 dispensary in that year. The department shall remit the fees to the State
10 Treasurer for credit to the Medical Cannabis Regulation Fund.

11 Sec. 45. The Medical Cannabis Regulation Fund is created and shall
12 consist of funds from contracts, grants, gifts, or fees under the Medical
13 Cannabis Act. The fund shall be used for purposes of regulation of
14 medical cannabis. Transfers may be made from the fund to the General Fund
15 at the direction of the Legislature. Any money in the Medical Cannabis
16 Regulation Fund available for investment shall be invested by the state
17 investment officer pursuant to the Nebraska Capital Expansion Act and the
18 Nebraska State Funds Investment Act.

19 Sec. 46. (1) The department may examine and inspect or provide for
20 the examination and inspection of any manufacturer or compassion center
21 and dispensary in such manner and at such times as provided in rules and
22 regulations adopted and promulgated by the department. The department
23 shall issue an examination and inspection report and provide a copy of
24 the report to the facility or service within ten working days after the
25 completion of an examination and inspection. The department shall then
26 post a copy of the report on its web site. The costs incurred by the
27 department in conducting such an examination and inspection shall be paid
28 for by the manufacturer or compassion center and dispensary.

29 (2) When making an examination under this section, the department
30 may retain professionals and specialists as designees.

31 Sec. 47. (1) The department shall adopt and promulgate rules and

1 regulations to establish requirements for reporting incidents when
2 individuals who are not authorized to possess cannabis under the Medical
3 Cannabis Act are found in possession of medical cannabis. The rules and
4 regulations shall identify professionals required to report, the
5 information they are required to report, and actions the reporter must
6 take to secure the medical cannabis.

7 (2) The department shall adopt and promulgate rules and regulations
8 to establish requirements for law enforcement officials and health care
9 professionals to report incidents involving an overdose of medical
10 cannabis to the department.

11 (3) Rules and regulations shall include the method by which the
12 department will collect and tabulate reports of unauthorized possession
13 and overdose.

14 Sec. 48. The Medical Cannabis Board is established. The board shall
15 consist of seven members. Five members shall be appointed by the Governor
16 and approved by a majority of the members of the Legislature. Of the
17 appointed members, the board shall have at least one person from each
18 congressional district, at least one person licensed to practice pharmacy
19 under the Pharmacy Practice Act, and at least one person licensed to
20 practice medicine and surgery under the Medicine and Surgery Practice
21 Act. The chief medical officer as designated in section 81-3115 or his or
22 her designee and the Chairperson of the Health and Human Services
23 Committee of the Legislature of his or her designee shall be nonvoting,
24 ex officio members.

25 Sec. 49. The Governor shall appoint the initial appointed members
26 of the Medical Cannabis Board for terms of one year, two years, three
27 years, four years, and five years. Appointments made for the succeeding
28 members shall be for terms of five years. The term of office of each
29 member of the board shall expire on August 1 of the appropriate year. If
30 a vacancy occurs prior to the expiration of a term, the Governor shall
31 appoint a successor with similar qualifications for the remainder of the

1 unexpired term. No appointed member of the board shall serve more than
2 two consecutive, full terms. If the Legislature is not in session when an
3 appointment is made by the Governor, the member shall take office and act
4 as a recess appointee until the Legislature convenes.

5 Sec. 50. The members of the Medical Cannabis Board shall be
6 reimbursed for the necessary expenses incurred in the performance of
7 their duties as provided in sections 81-1174 to 81-1177.

8 Sec. 51. Within thirty days after the initial appointment and in
9 the last calendar quarter of each subsequent year, the members of the
10 Medical Cannabis Board shall meet and elect a chairperson of the board
11 from the appointed members and such other officers, including a vice-
12 chairperson and a secretary, as the board deems necessary. In case of the
13 death, resignation, or other permanent absence of the chairperson of the
14 board, the vice-chairperson shall assume the office of chairperson and
15 the members of the board at the next regular meeting of the board, or at
16 a special meeting of the board pursuant to a call signed by all remaining
17 members of which such members shall have at least three days' notice,
18 shall elect a new chairperson of the board from the appointed members and
19 such other new officers as the board deems necessary.

20 Sec. 52. The Medical Cannabis Board shall meet at least once each
21 quarter and at such other times as it deems necessary. Special meetings
22 may be held upon the call of the chairperson or pursuant to a call signed
23 by five other members of which the chairperson and the other members of
24 the board shall have at least three days' notice. All regular meetings
25 shall be held in suitable offices to be provided in the state office
26 building described in section 81-1108.37 or elsewhere. A majority of the
27 members of the board shall constitute a quorum for the transaction of
28 business. Every act of a majority of the members of the board shall be
29 deemed to be the act of the board. All meetings shall be open to the
30 public. The minutes of the meetings shall show the action of the board on
31 matters presented and shall be open to public inspection.

1 Sec. 53. The Medical Cannabis Board shall advise the department
2 regarding:

3 (1) Rules and regulations for the regulation of medical cannabis;

4 (2) The policies of the department as they relate to medical
5 cannabis; and

6 (3) Recommendations for legislative changes regarding regulation of
7 medical cannabis.

8 Sec. 54. No member of the Medical Cannabis Board shall be
9 personally liable in damages to any person for slander, libel, defamation
10 of character, breach of any privileged communication, or otherwise for
11 any action taken or recommendation made within the scope of the functions
12 of such board while acting as an agent of the state if such board member
13 acts without malice and in the reasonable belief that such action or
14 recommendation is warranted by the facts known to him or her after a
15 reasonable effort is made to obtain the facts on which such action is
16 taken or recommendation is made.

17 Sec. 55. Section 28-416, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 28-416 (1) Except as authorized by the Medical Cannabis Act or the
20 Uniform Controlled Substances Act, it shall be unlawful for any person
21 knowingly or intentionally: (a) To manufacture, distribute, deliver,
22 dispense, or possess with intent to manufacture, distribute, deliver, or
23 dispense a controlled substance; or (b) to create, distribute, or possess
24 with intent to distribute a counterfeit controlled substance.

25 (2) Except as provided in subsections (4), (5), (7), (8), (9), and
26 (10) of this section, any person who violates subsection (1) of this
27 section with respect to: (a) A controlled substance classified in
28 Schedule I, II, or III of section 28-405 which is an exceptionally
29 hazardous drug shall be guilty of a Class II felony; (b) any other
30 controlled substance classified in Schedule I, II, or III of section
31 28-405 shall be guilty of a Class IIA felony; or (c) a controlled

1 substance classified in Schedule IV or V of section 28-405 shall be
2 guilty of a Class IIIA felony.

3 (3) A person knowingly or intentionally possessing a controlled
4 substance, except marijuana or any substance containing a quantifiable
5 amount of the substances, chemicals, or compounds described, defined, or
6 delineated in subdivision (c)(25) of Schedule I of section 28-405, unless
7 such substance was obtained directly or pursuant to a medical order
8 issued by a practitioner authorized to prescribe while acting in the
9 course of his or her professional practice, or except as otherwise
10 authorized by the act, shall be guilty of a Class IV felony.

11 (4)(a) Except as authorized by the Uniform Controlled Substances
12 Act, any person eighteen years of age or older who knowingly or
13 intentionally manufactures, distributes, delivers, dispenses, or
14 possesses with intent to manufacture, distribute, deliver, or dispense a
15 controlled substance or a counterfeit controlled substance (i) to a
16 person under the age of eighteen years, (ii) in, on, or within one
17 thousand feet of the real property comprising a public or private
18 elementary, vocational, or secondary school, a community college, a
19 public or private college, junior college, or university, or a
20 playground, or (iii) within one hundred feet of a public or private youth
21 center, public swimming pool, or video arcade facility shall be punished
22 by the next higher penalty classification than the penalty prescribed in
23 subsection (2), (7), (8), (9), or (10) of this section, depending upon
24 the controlled substance involved, for the first violation and for a
25 second or subsequent violation shall be punished by the next higher
26 penalty classification than that prescribed for a first violation of this
27 subsection, but in no event shall such person be punished by a penalty
28 greater than a Class IB felony.

29 (b) For purposes of this subsection:

30 (i) Playground shall mean any outdoor facility, including any
31 parking lot appurtenant to the facility, intended for recreation, open to

1 the public, and with any portion containing three or more apparatus
2 intended for the recreation of children, including sliding boards,
3 swingsets, and teeterboards;

4 (ii) Video arcade facility shall mean any facility legally
5 accessible to persons under eighteen years of age, intended primarily for
6 the use of pinball and video machines for amusement, and containing a
7 minimum of ten pinball or video machines; and

8 (iii) Youth center shall mean any recreational facility or
9 gymnasium, including any parking lot appurtenant to the facility or
10 gymnasium, intended primarily for use by persons under eighteen years of
11 age which regularly provides athletic, civic, or cultural activities.

12 (5)(a) Except as authorized by the Uniform Controlled Substances
13 Act, it shall be unlawful for any person eighteen years of age or older
14 to knowingly and intentionally employ, hire, use, cause, persuade, coax,
15 induce, entice, seduce, or coerce any person under the age of eighteen
16 years to manufacture, transport, distribute, carry, deliver, dispense,
17 prepare for delivery, offer for delivery, or possess with intent to do
18 the same a controlled substance or a counterfeit controlled substance.

19 (b) Except as authorized by the Uniform Controlled Substances Act,
20 it shall be unlawful for any person eighteen years of age or older to
21 knowingly and intentionally employ, hire, use, cause, persuade, coax,
22 induce, entice, seduce, or coerce any person under the age of eighteen
23 years to aid and abet any person in the manufacture, transportation,
24 distribution, carrying, delivery, dispensing, preparation for delivery,
25 offering for delivery, or possession with intent to do the same of a
26 controlled substance or a counterfeit controlled substance.

27 (c) Any person who violates subdivision (a) or (b) of this
28 subsection shall be punished by the next higher penalty classification
29 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
30 this section, depending upon the controlled substance involved, for the
31 first violation and for a second or subsequent violation shall be

1 punished by the next higher penalty classification than that prescribed
2 for a first violation of this subsection, but in no event shall such
3 person be punished by a penalty greater than a Class IB felony.

4 (6) It shall not be a defense to prosecution for violation of
5 subsection (4) or (5) of this section that the defendant did not know the
6 age of the person through whom the defendant violated such subsection.

7 (7) Any person who violates subsection (1) of this section with
8 respect to cocaine or any mixture or substance containing a detectable
9 amount of cocaine in a quantity of:

10 (a) One hundred forty grams or more shall be guilty of a Class IB
11 felony;

12 (b) At least twenty-eight grams but less than one hundred forty
13 grams shall be guilty of a Class IC felony; or

14 (c) At least ten grams but less than twenty-eight grams shall be
15 guilty of a Class ID felony.

16 (8) Any person who violates subsection (1) of this section with
17 respect to base cocaine (crack) or any mixture or substance containing a
18 detectable amount of base cocaine in a quantity of:

19 (a) One hundred forty grams or more shall be guilty of a Class IB
20 felony;

21 (b) At least twenty-eight grams but less than one hundred forty
22 grams shall be guilty of a Class IC felony; or

23 (c) At least ten grams but less than twenty-eight grams shall be
24 guilty of a Class ID felony.

25 (9) Any person who violates subsection (1) of this section with
26 respect to heroin or any mixture or substance containing a detectable
27 amount of heroin in a quantity of:

28 (a) One hundred forty grams or more shall be guilty of a Class IB
29 felony;

30 (b) At least twenty-eight grams but less than one hundred forty
31 grams shall be guilty of a Class IC felony; or

1 (c) At least ten grams but less than twenty-eight grams shall be
2 guilty of a Class ID felony.

3 (10) Any person who violates subsection (1) of this section with
4 respect to amphetamine, its salts, optical isomers, and salts of its
5 isomers, or with respect to methamphetamine, its salts, optical isomers,
6 and salts of its isomers, in a quantity of:

7 (a) One hundred forty grams or more shall be guilty of a Class IB
8 felony;

9 (b) At least twenty-eight grams but less than one hundred forty
10 grams shall be guilty of a Class IC felony; or

11 (c) At least ten grams but less than twenty-eight grams shall be
12 guilty of a Class ID felony.

13 (11) Except as otherwise provided in the Medical Cannabis Act, any
14 ~~Any~~ person knowingly or intentionally possessing marijuana weighing more
15 than one ounce but not more than one pound shall be guilty of a Class III
16 misdemeanor.

17 (12) Except as otherwise provided in the Medical Cannabis Act, any
18 ~~Any~~ person knowingly or intentionally possessing marijuana weighing more
19 than one pound shall be guilty of a Class IV felony.

20 (13) Except as otherwise provided in the Medical Cannabis Act, any
21 ~~Any~~ person knowingly or intentionally possessing marijuana weighing one
22 ounce or less or any substance containing a quantifiable amount of the
23 substances, chemicals, or compounds described, defined, or delineated in
24 subdivision (c)(25) of Schedule I of section 28-405 shall:

25 (a) For the first offense, be guilty of an infraction, receive a
26 citation, be fined three hundred dollars, and be assigned to attend a
27 course as prescribed in section 29-433 if the judge determines that
28 attending such course is in the best interest of the individual
29 defendant;

30 (b) For the second offense, be guilty of a Class IV misdemeanor,
31 receive a citation, and be fined four hundred dollars and may be

1 imprisoned not to exceed five days; and

2 (c) For the third and all subsequent offenses, be guilty of a Class
3 IIIA misdemeanor, receive a citation, be fined five hundred dollars, and
4 be imprisoned not to exceed seven days.

5 (14) Any person convicted of violating this section, if placed on
6 probation, shall, as a condition of probation, satisfactorily attend and
7 complete appropriate treatment and counseling on drug abuse provided by a
8 program authorized under the Nebraska Behavioral Health Services Act or
9 other licensed drug treatment facility.

10 (15) Any person convicted of violating this section, if sentenced to
11 the Department of Correctional Services, shall attend appropriate
12 treatment and counseling on drug abuse.

13 (16) Any person knowingly or intentionally possessing a firearm
14 while in violation of subsection (1) of this section shall be punished by
15 the next higher penalty classification than the penalty prescribed in
16 subsection (2), (7), (8), (9), or (10) of this section, but in no event
17 shall such person be punished by a penalty greater than a Class IB
18 felony.

19 (17) A person knowingly or intentionally in possession of money used
20 or intended to be used to facilitate a violation of subsection (1) of
21 this section shall be guilty of a Class IV felony.

22 (18) In addition to the existing penalties available for a violation
23 of subsection (1) of this section, including any criminal attempt or
24 conspiracy to violate subsection (1) of this section, a sentencing court
25 may order that any money, securities, negotiable instruments, firearms,
26 conveyances, or electronic communication devices as defined in section
27 28-833 or any equipment, components, peripherals, software, hardware, or
28 accessories related to electronic communication devices be forfeited as a
29 part of the sentence imposed if it finds by clear and convincing evidence
30 adduced at a separate hearing in the same prosecution, following
31 conviction for a violation of subsection (1) of this section, and

1 conducted pursuant to section 28-1601, that any or all such property was
2 derived from, used, or intended to be used to facilitate a violation of
3 subsection (1) of this section.

4 (19) In addition to the penalties provided in this section:

5 (a) If the person convicted or adjudicated of violating this section
6 is eighteen years of age or younger and has one or more licenses or
7 permits issued under the Motor Vehicle Operator's License Act:

8 (i) For the first offense, the court may, as a part of the judgment
9 of conviction or adjudication, (A) impound any such licenses or permits
10 for thirty days and (B) require such person to attend a drug education
11 class;

12 (ii) For a second offense, the court may, as a part of the judgment
13 of conviction or adjudication, (A) impound any such licenses or permits
14 for ninety days and (B) require such person to complete no fewer than
15 twenty and no more than forty hours of community service and to attend a
16 drug education class; and

17 (iii) For a third or subsequent offense, the court may, as a part of
18 the judgment of conviction or adjudication, (A) impound any such licenses
19 or permits for twelve months and (B) require such person to complete no
20 fewer than sixty hours of community service, to attend a drug education
21 class, and to submit to a drug assessment by a licensed alcohol and drug
22 counselor; and

23 (b) If the person convicted or adjudicated of violating this section
24 is eighteen years of age or younger and does not have a permit or license
25 issued under the Motor Vehicle Operator's License Act:

26 (i) For the first offense, the court may, as part of the judgment of
27 conviction or adjudication, (A) prohibit such person from obtaining any
28 permit or any license pursuant to the act for which such person would
29 otherwise be eligible until thirty days after the date of such order and
30 (B) require such person to attend a drug education class;

31 (ii) For a second offense, the court may, as part of the judgment of

1 conviction or adjudication, (A) prohibit such person from obtaining any
2 permit or any license pursuant to the act for which such person would
3 otherwise be eligible until ninety days after the date of such order and
4 (B) require such person to complete no fewer than twenty hours and no
5 more than forty hours of community service and to attend a drug education
6 class; and

7 (iii) For a third or subsequent offense, the court may, as part of
8 the judgment of conviction or adjudication, (A) prohibit such person from
9 obtaining any permit or any license pursuant to the act for which such
10 person would otherwise be eligible until twelve months after the date of
11 such order and (B) require such person to complete no fewer than sixty
12 hours of community service, to attend a drug education class, and to
13 submit to a drug assessment by a licensed alcohol and drug counselor.

14 A copy of an abstract of the court's conviction or adjudication
15 shall be transmitted to the Director of Motor Vehicles pursuant to
16 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
17 juvenile is prohibited from obtaining a license or permit under this
18 subsection.

19 Sec. 56. Section 28-439, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 28-439 As used in sections 28-101, 28-431, and 28-439 to 28-444,
22 unless the context otherwise requires, drug paraphernalia shall mean all
23 equipment, products, and materials of any kind which are used, intended
24 for use, or designed for use, in manufacturing, injecting, ingesting,
25 inhaling, or otherwise introducing into the human body a controlled
26 substance in violation of sections 28-101, 28-431, and 28-439 to 28-444,
27 the Medical Cannabis Act, or the Uniform Controlled Substances Act. It
28 shall include, but not be limited to, the following:

29 (1) Diluents and adulterants, such as quinine hydrochloride,
30 mannitol, mannite, dextrose, and lactose, used, intended for use, or
31 designed for use in cutting controlled substances;

1 (2) Separation gins and sifters used, intended for use, or designed
2 for use in removing twigs and seeds from, or in otherwise cleaning or
3 refining, marijuana;

4 (3) Hypodermic syringes, needles, and other objects used, intended
5 for use, and designed for use in parenterally injecting controlled
6 substances into the human body; and

7 (4) Objects used, intended for use, or designed for use in
8 ingesting, inhaling, or otherwise introducing marijuana, cocaine,
9 hashish, or hashish oil into the human body, which shall include but not
10 be limited to the following:

11 (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
12 with or without screens, permanent screens, hashish heads, or punctured
13 metal bowls;

14 (b) Water pipes;

15 (c) Carburetion tubes and devices;

16 (d) Smoking and carburetion masks;

17 (e) Roach clips, meaning objects used to hold burning material, such
18 as a marijuana cigarette, which has become too small or too short to be
19 held in the hand;

20 (f) Miniature cocaine spoons, and cocaine vials;

21 (g) Chamber pipes;

22 (h) Carburetor pipes;

23 (i) Electric pipes;

24 (j) Air-driven pipes;

25 (k) Chillums;

26 (l) Bongs; and

27 (m) Ice pipes or chillers.

28 Sec. 57. Section 77-2701.48, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 77-2701.48 (1) Bundled transaction means the retail sale of two or
31 more products, except real property and services to real property, when

1 (a) the products are otherwise distinct and identifiable and (b) the
2 products are sold for one non-itemized price. Bundled transaction does
3 not include the sale of any products in which the sales price varies, or
4 is negotiable, based on the selection by the purchaser of the products
5 included in the transaction.

6 (2) Distinct and identifiable products do not include:

7 (a) Packaging, such as containers, boxes, sacks, bags, and bottles
8 or other materials such as wrapping, labels, tags, and instruction guides
9 that accompany the retail sale of the products and are incidental or
10 immaterial to the retail sale thereof. Examples of packaging that are
11 incidental or immaterial include grocery sacks, shoeboxes, dry cleaning
12 garment bags, and express delivery envelopes and boxes;

13 (b) A product provided free of charge with the required purchase of
14 another product. A product is provided free of charge if the sales price
15 of the product purchased does not vary depending on the inclusion of the
16 product provided free of charge; and

17 (c) Items included in the definition of sales price pursuant to
18 section 77-2701.35.

19 (3) One non-itemized price does not include a price that is
20 separately identified by product on binding sales or other supporting
21 sales-related documentation made available to the customer in paper or
22 electronic form, including, but not limited to, an invoice, bill of sale,
23 receipt, contract, service agreement, lease agreement, periodic notice of
24 rates and services, rate card, or price list.

25 (4) A transaction that otherwise meets the definition of a bundled
26 transaction is not a bundled transaction if it is (a) the retail sale of
27 tangible personal property and a service where the tangible personal
28 property is essential to the use of the service, and is provided
29 exclusively in connection with the service, and the true object of the
30 transaction is the service, (b) the retail sale of services when one
31 service is provided that is essential to the use or receipt of a second

1 service and the first service is provided exclusively in connection with
2 the second service and the true object of the transaction is the second
3 service, or (c) a transaction that includes taxable products and
4 nontaxable products and the purchase price or sales price of the taxable
5 products is de minimus. De minimus means the seller's purchase price or
6 sales price of the taxable products is ten percent or less of the total
7 purchase price or sales price of the bundled products. Sellers shall use
8 either the purchase price or the sales price of the products to determine
9 if the taxable products are de minimus. Sellers may not use a combination
10 of the purchase price and sales price of the products to determine if the
11 taxable products are de minimus. Sellers shall use the full term of a
12 service contract to determine if the taxable products are de minimus.

13 (5) Bundled transaction does not include the retail sale of exempt
14 tangible personal property and taxable tangible personal property if (a)
15 the transaction includes food and food ingredients, drugs, durable
16 medical equipment, mobility enhancing equipment, over-the-counter drugs,
17 prosthetic devices, or medical supplies, as such terms are defined in
18 section 77-2704.09, and (b) the seller's purchase price or sales price of
19 the taxable tangible personal property is fifty percent or less of the
20 total purchase price or sales price of the bundled tangible personal
21 property. Sellers may not use a combination of the purchase price and
22 sales price of the tangible personal property when making the fifty-
23 percent determination for a transaction.

24 Sec. 58. Section 77-2704.09, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 77-2704.09 (1) Sales and use taxes shall not be imposed on the gross
27 receipts from the sale, lease, or rental of and the storage, use, or
28 other consumption in this state of (a) insulin, (b) mobility enhancing
29 equipment and drugs, not including over-the-counter drugs, when sold for
30 a patient's use under a prescription, and (c) the following when sold for
31 a patient's use under a prescription and which are of the type eligible

1 for coverage under the medical assistance program established pursuant to
2 the Medical Assistance Act: Durable medical equipment; home medical
3 supplies; prosthetic devices; oxygen; and oxygen equipment.

4 (2) For purposes of this section:

5 (a)(i) ~~(a)~~ Drug means a compound, substance, preparation, and
6 component of a compound, substance, or preparation, other than food and
7 food ingredients, dietary supplements, or alcoholic beverages:

8 (A) ~~(i)~~ Recognized in the official United States Pharmacopoeia,
9 official Homeopathic Pharmacopoeia of the United States, or official
10 National Formulary, and any supplement to any of them;

11 (B) ~~(ii)~~ Intended for use in the diagnosis, cure, mitigation,
12 treatment, or prevention of disease; or

13 (C) ~~(iii)~~ Intended to affect the structure or any function of the
14 body; and

15 (ii) Drug does not include cannabis obtained pursuant to the Medical
16 Cannabis Act;

17 (b) Durable medical equipment means equipment which can withstand
18 repeated use, is primarily and customarily used to serve a medical
19 purpose, generally is not useful to a person in the absence of illness or
20 injury, is appropriate for use in the home, and is not worn in or on the
21 body. Durable medical equipment includes repair and replacement parts for
22 such equipment;

23 (c) Home medical supplies means supplies primarily and customarily
24 used to serve a medical purpose which are appropriate for use in the home
25 and are generally not useful to a person in the absence of illness or
26 injury;

27 (d) Mobility enhancing equipment means equipment which is primarily
28 and customarily used to provide or increase the ability to move from one
29 place to another, which is not generally used by persons with normal
30 mobility, and which is appropriate for use either in a home or a motor
31 vehicle. Mobility enhancing equipment includes repair and replacement

1 parts for such equipment. Mobility enhancing equipment does not include
2 any motor vehicle or equipment on a motor vehicle normally provided by a
3 motor vehicle manufacturer;

4 (e) Over-the-counter drug means a drug that contains a label that
5 identifies the product as a drug as required by 21 C.F.R. 201.66, as such
6 regulation existed on January 1, 2003. The over-the-counter drug label
7 includes a drug facts panel or a statement of the active ingredients with
8 a list of those ingredients contained in the compound, substance, or
9 preparation;

10 (f) Oxygen equipment means oxygen cylinders, cylinder transport
11 devices including sheaths and carts, cylinder studs and support devices,
12 regulators, flowmeters, tank wrenches, oxygen concentrators, liquid
13 oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing,
14 nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and
15 accessories;

16 (g) Prescription means an order, formula, or recipe issued in any
17 form of oral, written, electronic, or other means of transmission by a
18 duly licensed practitioner authorized under the Uniform Credentialing
19 Act; and

20 (h) Prosthetic devices means a replacement, corrective, or
21 supportive device worn on or in the body to artificially replace a
22 missing portion of the body, prevent or correct physical deformity or
23 malfunction, or support a weak or deformed portion of the body, and
24 includes any supplies used with such device and repair and replacement
25 parts.

26 Sec. 59. Section 77-27,132, Revised Statutes Cumulative Supplement,
27 2016, is amended to read:

28 77-27,132 (1) There is hereby created a fund to be designated the
29 Revenue Distribution Fund which shall be set apart and maintained by the
30 Tax Commissioner. Revenue not required to be credited to the General Fund
31 or any other specified fund may be credited to the Revenue Distribution

1 Fund. Credits and refunds of such revenue shall be paid from the Revenue
2 Distribution Fund. The balance of the amount credited, after credits and
3 refunds, shall be allocated as provided by the statutes creating such
4 revenue.

5 (2) The Tax Commissioner shall pay to a depository bank designated
6 by the State Treasurer all amounts collected under the Nebraska Revenue
7 Act of 1967. The Tax Commissioner shall present to the State Treasurer
8 bank receipts showing amounts so deposited in the bank, and of the
9 amounts so deposited the State Treasurer shall:

10 (a) For transactions occurring on or after October 1, 2014, and
11 before October 1, 2019, credit to the Game and Parks Commission Capital
12 Maintenance Fund all of the proceeds of the sales and use taxes imposed
13 pursuant to section 77-2703 on the sale or lease of motorboats as defined
14 in section 37-1204, personal watercraft as defined in section 37-1204.01,
15 all-terrain vehicles as defined in section 60-103, and utility-type
16 vehicles as defined in section 60-135.01;

17 (b) Credit to the Highway Trust Fund all of the proceeds of the
18 sales and use taxes derived from the sale or lease for periods of more
19 than thirty-one days of motor vehicles, trailers, and semitrailers,
20 except that the proceeds equal to any sales tax rate provided for in
21 section 77-2701.02 that is in excess of five percent derived from the
22 sale or lease for periods of more than thirty-one days of motor vehicles,
23 trailers, and semitrailers shall be credited to the Highway Allocation
24 Fund;

25 (c) For transactions occurring on or after July 1, 2013, and before
26 July 1, 2033, of the proceeds of the sales and use taxes derived from
27 transactions other than those listed in subdivisions (2)(a), ~~and (b)~~, and
28 (d) of this section from a sales tax rate of one-quarter of one percent,
29 credit monthly eighty-five percent to the State Highway Capital
30 Improvement Fund and fifteen percent to the Highway Allocation Fund; ~~and~~

31 (d) For transactions occurring on or after the operative date of

1 this section, credit to the Medical Cannabis Regulation Fund all of the
2 proceeds of the sales and use taxes imposed pursuant to section 77-2703
3 on the sale of medical cannabis pursuant to the Medical Cannabis Act; and

4 (e) ~~(d)~~ Of the proceeds of the sales and use taxes derived from
5 transactions other than those listed in subdivisions (2)(a), ~~and (b)~~, and
6 (d) of this section, credit to the Property Tax Credit Cash Fund the
7 amount certified under section 77-27,237, if any such certification is
8 made.

9 The balance of all amounts collected under the Nebraska Revenue Act
10 of 1967 shall be credited to the General Fund.

11 Sec. 60. Section 77-27,237, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 77-27,237 If the federal government passes a law that expands the
14 state's authority to require out-of-state retailers to collect and remit
15 the tax imposed under section 77-2703 on purchases by Nebraska residents
16 and the state collects additional revenue under section 77-2703 as a
17 result of such federal law, then the Department of Revenue shall
18 determine the amount of such additional revenue collected during the
19 first twelve months following the date on which the state begins
20 collecting such additional revenue. The department shall certify such
21 amount to the Governor, the Legislature, and the State Treasurer, and the
22 certified amount shall be used for purposes of subdivision (2)(e) ~~(2)(d)~~
23 of section 77-27,132. This section terminates three years after August
24 30, 2015.

25 Sec. 61. Section 77-4303, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 77-4303 (1) A tax is hereby imposed on marijuana and controlled
28 substances at the following rates:

29 (a) On each ounce of marijuana or each portion of an ounce, one
30 hundred dollars;

31 (b) On each gram or portion of a gram of a controlled substance that

1 is customarily sold by weight or volume, one hundred fifty dollars; or

2 (c) On each fifty dosage units or portion thereof of a controlled
3 substance that is not customarily sold by weight, five hundred dollars.

4 (2) For purposes of calculating the tax under this section,
5 marijuana or any controlled substance that is customarily sold by weight
6 or volume shall be measured by the weight of the substance in the
7 dealer's possession. The weight shall be the actual weight, if known, or
8 the estimated weight as determined by the Nebraska State Patrol or other
9 law enforcement agency. Such determination shall be presumed to be the
10 weight of such marijuana or controlled substances for purposes of
11 sections 77-4301 to 77-4316.

12 (3) The tax shall not be imposed upon a person registered or
13 otherwise lawfully in possession of marijuana or a controlled substance
14 pursuant to Chapter 28, article 4, or a person lawfully in possession of
15 cannabis under the Medical Cannabis Act.

16 Sec. 62. Sections 57, 58, 59, 60, 61, and 64 of this act become
17 operative on October 1, 2017. The other sections of this act become
18 operative on their effective date.

19 Sec. 63. Original sections 28-416 and 28-439, Reissue Revised
20 Statutes of Nebraska, are repealed.

21 Sec. 64. Original sections 77-2701.48, 77-2704.09, and 77-4303,
22 Reissue Revised Statutes of Nebraska, and sections 77-27,132 and
23 77-27,237, Revised Statutes Cumulative Supplement, 2016, are repealed.