



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-2457/1  
CMH/JK/EVM/MD/MP:kjf

**2017 BILL**

1       **AN ACT** *to repeal* 23.33 (1) (jo) 5., 30.50 (10m) (e), 340.01 (50m) (e), 350.01 (10v)  
2           (e), 885.235 (1) (d) 5., 939.22 (33) (e), 961.14 (4) (t), 961.41 (1) (h), 961.41 (1m)  
3           (h), 961.41 (1q), 961.41 (3g) (e), 961.571 (1) (a) 7., 961.571 (1) (a) 11. e., 961.571  
4           (1) (a) 11. k. and L. and 967.055 (1m) (b) 5.; **to renumber** 30.681 (1) (bn) and  
5           subchapter VI (title) of chapter 50 [precedes 50.90]; **to renumber and amend**  
6           23.33 (4c) (a) 5., 30.681 (1) (d), 108.133 (1) (a), 115.35 (1), 346.63 (1) (d), 350.101  
7           (1) (e), 961.01 (14) and 961.34; **to amend** 20.435 (6) (jm), 23.33 (1) (jo) 1., 23.33  
8           (4c) (a) 4., 23.33 (4c) (b) 3., 23.33 (4c) (b) 4. a., 23.33 (4c) (b) 4. b., 23.33 (4p) (d),  
9           23.33 (13) (b) 1., 23.33 (13) (b) 2., 23.33 (13) (b) 3., 23.33 (13) (e), 30.50 (10m) (a),  
10          30.681 (1) (b) (title), 30.681 (1) (bn) (title), 30.681 (1) (c), 30.681 (2) (b) (title),  
11          30.681 (2) (c), 30.681 (2) (d) 1. a., 30.681 (2) (d) 1. b., 30.684 (4), 30.80 (6) (d),  
12          49.148 (4) (a), 49.45 (23) (g) 1. e., 49.79 (1) (b), 50.56 (3), 51.49 (1) (d), 59.54 (25)  
13          (title), 59.54 (25) (a) (intro.), 66.0107 (1) (bm), 111.35 (2) (e), 146.40 (1) (bo),  
14          146.81 (1) (L), 146.997 (1) (d) 18., 289.33 (3) (d), 340.01 (50m) (a), 343.10 (5) (a)

**BILL**

1 1., 343.10 (5) (a) 2., 343.12 (7) (a) 11., 343.16 (2) (b), 343.16 (5) (a), 343.30 (1p),  
2 343.30 (1q) (h), 343.305 (2), 343.305 (3) (a), 343.305 (3) (am), 343.305 (3) (ar) 1.,  
3 343.305 (3) (b), 343.305 (5) (b), 343.305 (5) (d), 343.305 (7) (a), 343.305 (8) (b)  
4 2. bm., 343.305 (8) (b) 2. d., 343.305 (8) (b) 4m. a., 343.305 (8) (b) 5. b., 343.305  
5 (8) (b) 6. b., 343.305 (9) (a) 5. a., 343.305 (9) (am) 5. a., 343.305 (9) (am) 5. c.,  
6 343.305 (9) (d), 343.305 (10) (em), 343.307 (1) (d), 343.307 (2) (e), 343.31 (1) (am),  
7 343.31 (2), 343.315 (2) (a) 2., 343.315 (2) (a) 5., 343.315 (2) (a) 6., 343.315 (2) (bm)  
8 2., 343.32 (2) (bj), 344.576 (2) (b), 346.63 (1) (b), 346.63 (2) (a) 2., 346.63 (2) (b)  
9 1., 346.63 (2) (b) 2., 346.65 (2m) (a), 346.65 (2q), 349.02 (2) (b) 4., 349.03 (2m),  
10 349.06 (1m), 350.01 (10v) (a), 350.101 (1) (d), 350.101 (2) (c), 350.101 (2) (d) 1.,  
11 350.101 (2) (d) 2., 350.104 (4), 350.11 (3) (d), 609.83, 767.41 (5) (am) (intro.),  
12 767.451 (5m) (a), 885.235 (1) (d) 1., 885.235 (1g) (intro.), 885.235 (1m), 885.235  
13 (4), 895.047 (3) (a), 905.04 (4) (f), 939.22 (33) (a), 940.09 (1m) (a), 940.09 (1m)  
14 (b), 940.09 (2) (a), 940.09 (2) (b), 940.25 (1m), 940.25 (2), 941.20 (1) (bm), 961.38  
15 (1n) (a), 961.41 (1r), 961.41 (3g) (c), 961.41 (3g) (d), 961.41 (3g) (em), 961.47 (1),  
16 961.48 (3), 961.48 (5), 961.49 (1m) (intro.), 961.571 (1) (a) 11. (intro.), 967.055  
17 (1) (a), 967.055 (1) (b), 967.055 (1m) (b) 1., 967.055 (2) (a), 971.365 (1) (a),  
18 971.365 (1) (b), 971.365 (1) (c) and 971.365 (2); and **to create** 20.435 (1) (jm),  
19 20.566 (1) (bn), 23.33 (1) (k), 23.33 (4c) (a) 2g., 23.33 (4c) (a) 3g., 23.33 (4c) (b)  
20 2n., 30.50 (13p), 30.681 (1) (b) 1g., 30.681 (1) (bn) 2., 30.681 (2) (b) 1g.,  
21 subchapter VI of chapter 50 [precedes 50.80], 66.0414, 94.55, 108.02 (18r),  
22 108.04 (5m), 108.133 (1) (a) 2., 111.32 (9m), 111.32 (11m), 115.35 (1) (a) 6., 121.02  
23 (1) (L) 7., subchapter IV (title) of chapter 139 [precedes 139.97], 139.97,  
24 139.971, 139.972, 139.973, 139.974, 139.975, 139.976, 139.977, 139.978,  
25 139.979, 139.980, 146.44, 340.01 (66m), 343.305 (5) (dm), 346.63 (2p), 350.01

**BILL**

1 (21g), 350.101 (1) (bg), 350.101 (1) (cg), 350.101 (2) (bg), 632.895 (16p), 767.41  
2 (5) (d), 767.451 (5m) (d), 885.235 (1) (e), 885.235 (1g) (ag), 885.235 (1g) (cg),  
3 885.235 (1L), 939.22 (39g), 940.09 (1) (bg), 940.09 (1) (dg), 940.09 (1g) (bg),  
4 940.09 (1g) (dg), 940.25 (1) (bg), 940.25 (1) (dg), 941.20 (1) (bg) and subchapter  
5 VIII of chapter 961 [precedes 961.70] of the statutes; **relating to:** marijuana  
6 possession, regulation of marijuana distribution and cultivation, medical  
7 marijuana, operating a motor vehicle while under the influence of marijuana,  
8 making appropriations, requiring the exercise of rule-making authority, and  
9 providing criminal penalties.

---

***Analysis by the Legislative Reference Bureau***

Current law prohibits a person from manufacturing, distributing, or delivering marijuana; possessing marijuana with the intent to manufacture, distribute, or deliver it; possessing or attempting to possess marijuana; using drug paraphernalia; or possessing drug paraphernalia with the intent to produce, distribute, or use a controlled substance. This bill changes state law so that state law permits both recreational use of marijuana and medical use of marijuana.

With respect to recreational use of marijuana, this bill changes state law to permit a Wisconsin resident who is at least 21 to possess no more than two ounces of marijuana and to permit a nonresident of Wisconsin who is at least 21 to possess no more than one-quarter ounce of marijuana. Generally, a person who possesses more than the maximum amount he or she is allowed to possess, but not more than 28 grams of marijuana is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. A person who possesses more than 28 grams of marijuana is guilty of a Class B misdemeanor, except that, if the person takes action to hide the amount of marijuana he or she has and the person has in place a security system to alert him or her to the presence of law enforcement, a method of intimidation, or a trap that could injure or kill a person approaching the area containing the marijuana, the person is guilty of a Class I felony. This bill also eliminates the prohibition on possessing or using drug paraphernalia that relates to marijuana consumption.

This bill prohibits the sale of marijuana for recreational use via mail, telephone, or Internet. A person who violates this prohibition is guilty of a Class A misdemeanor. This bill prohibits the use of marijuana in public. A person who violates this prohibition is subject to a civil forfeiture of not more than \$100.

This bill also creates a process by which a person may obtain a permit to produce, process, or sell marijuana for recreational use and pay an excise tax for the

**BILL**

privilege of doing business in this state. Under this bill, a person who does not have a permit to sell marijuana may not sell, distribute, or transfer marijuana, or possess marijuana with the intent to sell or distribute it. A person who violates the prohibition is guilty of a Class I felony except that the felony classification increases to a Class H felony if the person sells, distributes, or transfers the marijuana to a person who is under the age of 21 (minor) and the person is at least three years older than the minor. This bill prohibits a permittee from selling, distributing, or transferring marijuana to a minor and from permitting a minor to be on premises for which a permit is issued. If a permittee violates one of those prohibitions, the permittee may be subject to a civil forfeiture of not more than \$500 and the permit may be suspended for up to 30 days. Under this bill, a minor who does any of the following is subject to a forfeiture of not less than \$250 nor more than \$500: procures or attempts to procure marijuana from a permittee; falsely represents his or her age to receive marijuana from a permittee; knowingly possesses marijuana for recreational use; or knowingly enters any premises for which a permit has been issued without being accompanied by his or her parent, guardian, or spouse who is at least 21 years of age.

In addition, under this bill, a person who cultivates more than six marijuana plants at one time is required to have a permit. A person without a permit who cultivates more than six plants at one time but not more than 12, is subject to a civil forfeiture not to exceed \$1,000 or imprisonment not to exceed 90 days or both. If the person cultivates more than 12 plants at one time, the person is guilty of a Class B misdemeanor, except that, if the person takes action to hide the number of plants he or she has and the person has in place a security system to alert him or her to the presence of law enforcement, a method of intimidation, or a trap that could injure or kill a person approaching the area containing the plants, the person is guilty of a Class I felony.

With respect to the medical use of marijuana, this bill changes state law to permit a person to use marijuana for medical use to alleviate the symptoms or effects of a debilitating medical condition or treatment. A person's primary caregiver also may acquire, possess, cultivate, or transport marijuana for a person suffering from a debilitating medical condition or treatment if it is not practicable for the person to acquire, possess, cultivate, or transport marijuana independently or the person is under the age of 18.

The bill requires the Department of Health Services to establish a registry for persons who use marijuana for medical use. Under the bill, a person may apply for a registry identification card by submitting to DHS a signed application, a written certification by the person's physician that the person has or is undergoing a debilitating medical condition or treatment and that the potential benefits of the person's use of tetrahydrocannabinols would likely outweigh the health risks for the person, and a registration fee of not more than \$150. DHS must verify the information and issue the person a registry identification card. A registry identification card is generally valid for four years and may be renewed. DHS may not disclose that it has issued to a person a registry identification card, or information from an application for one, except to a law enforcement agency for the

**BILL**

purpose of verifying that a person possesses a valid registry identification card. This bill also requires DHS to promulgate a rule listing other jurisdictions that allow the medical use of marijuana by a visiting person or allow a person to assist with a person's medical use of marijuana. This bill treats documents issued by these entities the same as registry identification cards issued by DHS.

The bill also requires DHS to license and regulate compassion centers to distribute or deliver marijuana or drug paraphernalia or possess or manufacture marijuana or drug paraphernalia with the intent to deliver or distribute to facilitate the medical use of marijuana. This bill prohibits compassion centers from being located within 500 feet of a school, prohibits a compassion center from distributing to a person more than six live marijuana plants and three ounces of usable marijuana (maximum medicinal amount), and prohibits a compassion center from possessing a quantity that exceeds, by an amount determined by DHS, the total maximum medicinal amount of marijuana of all of the persons it serves. An applicant for a license must pay an initial application fee of \$250, and a compassion center must pay an annual fee of \$5,000. This bill also requires DHS to register entities as tetrahydrocannabinols-testing laboratories. The laboratories must test marijuana for contaminants; research findings on the use of medical marijuana; and provide training on safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana, security and inventory accountability, and research on medical marijuana.

Under current law, a person may not operate a vehicle with a detectable amount of a restricted controlled substance, which includes delta-9-tetrahydrocannabinol (THC), in his or her blood, regardless of impairment. Penalties for violating this provision increase with the number of violations. Under this bill, a person may not operate a vehicle with a THC concentration of 5.0 ng/mL or more, instead of a detectable amount, in his or her blood. This bill does not change the penalty structure.

Under the fair employment law, no employer or other person may engage in any act of employment discrimination against any individual on the basis of the individual's use or nonuse of lawful products off the employer's premises during nonworking hours, subject to certain exceptions, one of which is if the use impairs the individual's ability to undertake adequately the job-related responsibilities of that individual's employment. The bill specifically defines marijuana as a lawful product for purposes of the fair employment law, such that no person may engage in any act of employment discrimination against an individual due to the individual's use of marijuana off the employer's premises during nonworking hours, subject to those exceptions.

Under current law, an individual may be disqualified from receiving unemployment insurance benefits if he or she is terminated due to misconduct or substantial fault. The bill specifically provides that an employee's use of marijuana off the employer's premises during nonworking hours does not constitute misconduct or substantial fault, unless termination for that use is permitted under one of the exceptions under the fair employment law. Also under current law, the Department of Workforce Development must establish a program to test claimants who apply for

**BILL**

UI benefits for the presence of controlled substances, as defined under federal law. If a claimant tests positive for a controlled substance, the claimant may be denied UI benefits, subject to certain exceptions and limitations. The bill excludes THC for purposes of this testing requirement. As such, under the bill, an individual who tests positive for THC may not be denied UI benefits.

The bill exempts THC including marijuana from drug testing for certain public assistance program. Currently, a participant in a community service job or transitional placement under the Wisconsin Works program (W2) or a recipient of the FoodShare program, also known as the food stamp program, who is convicted of possession, use, or distribution of a controlled substance must submit to a test for controlled substances as a condition of continued eligibility. DHS is currently required to request a waiver of federal Medicaid law to require drug screening and testing as a condition of eligibility for the childless adult demonstration project in the Medical Assistance program. Current law also requires DHS to promulgate rules to develop and implement a drug screening, testing, and treatment policy for able-bodied adults without dependents in the FoodShare employment and training program. The bill exempts THC from all of those drug testing requirements and programs. In addition, because THC is not a controlled substance under state law under the bill, the requirement under current law that the Department of Children and Families promulgate rules to create a controlled substance abuse screening and testing requirement for applicants for the work experience program for noncustodial parents under W2 and the Transform Milwaukee Jobs and Transitional Jobs programs does not include THC.

The bill requires health insurance policies, known in the bill as disability insurance policies, and self-insured health plans of the state or of a county, city, town, village, or school district that provides coverage of prescription drugs and devices to provide coverage for the medical use of tetrahydrocannabinols in accordance with requirements specified in the bill and any equipment or supplies necessary for the medical use of tetrahydrocannabinols. The coverage of the medical use of tetrahydrocannabinols may be subject under the policy or plan only to the exclusions, limitations, and cost-sharing provisions that apply generally to the coverage of prescription drugs or devices under the policy or plan.

This bill changes state law regarding marijuana. It does not affect federal law, which generally prohibits persons from manufacturing, delivering, or possessing marijuana and applies to both intrastate and interstate violations.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**BILL**

1           **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2           the following amounts for the purposes indicated:

**2017-18           2018-19**

3           **20.566   Department of revenue**

4           (1)    COLLECTION OF TAXES

5           (bn)  Administration and enforcement

6                   of marijuana tax and regulation   GPR    A           -0-    1,100,800

7           **SECTION 2.** 20.435 (1) (jm) of the statutes is created to read:

8                   20.435 (1) (jm) *Licensing and support services for compassion centers.* All  
9           moneys received under s. 50.84 to regulate and license compassion centers under  
10          subch. VII of ch. 50.

11          **SECTION 3.** 20.435 (6) (jm) of the statutes is amended to read:

12                   20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule  
13          for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a), (am), (b), and (bm),  
14          and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and  
15          (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and  
16          146.40 (4r) (b) and (er), and subch. ~~VI~~ VII of ch. 50 and to conduct health facilities  
17          plan and rule development activities, for accrediting nursing homes, convalescent  
18          homes, and homes for the aged, to conduct capital construction and remodeling plan  
19          reviews under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing  
20          or certifying, and approving facilities, issuing permits, and providing technical  
21          assistance, that are not specified under any other paragraph in this subsection. All  
22          moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,  
23          50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and

**BILL****SECTION 3**

1 50.981, all moneys received from fees for the costs of inspecting, licensing or  
2 certifying, and approving facilities, issuing permits, and providing technical  
3 assistance, that are not specified under any other paragraph in this subsection, and  
4 all moneys received under s. 50.135 (2) shall be credited to this appropriation  
5 account.

6 **SECTION 4.** 20.566 (1) (bn) of the statutes is created to read:

7 20.566 (1) (bn) *Administration and enforcement of marijuana tax and*  
8 *regulation.* The amounts in the schedule for the purposes of administering the  
9 marijuana tax imposed under subch. IV of ch. 139 and for the costs incurred in  
10 enforcing the taxing and regulation of marijuana producers, marijuana processors,  
11 and marijuana retailers under subch. IV of ch. 139.

12 **SECTION 5.** 23.33 (1) (jo) 1. of the statutes is amended to read:

13 23.33 (1) (jo) 1. A controlled substance included in schedule I under ch. 961  
14 ~~other than a tetrahydrocannabinol.~~

15 **SECTION 6.** 23.33 (1) (jo) 5. of the statutes is repealed.

16 **SECTION 7.** 23.33 (1) (k) of the statutes is created to read:

17 23.33 (1) (k) “Tetrahydrocannabinols concentration” means the number of  
18 nanograms of tetrahydrocannabinols per milliliter of blood.

19 **SECTION 8.** 23.33 (4c) (a) 2g. of the statutes is created to read:

20 23.33 (4c) (a) 2g. ‘Operating with a tetrahydrocannabinols concentration at or  
21 above specified levels.’ No person may engage in the operation of an all-terrain  
22 vehicle or utility terrain vehicle while the person has a tetrahydrocannabinols  
23 concentration of 5.0 or more.

24 **SECTION 9.** 23.33 (4c) (a) 3g. of the statutes is created to read:



**BILL**

1           23.33 (4c) (a) 3g. 'Operating with a tetrahydrocannabinols concentration at  
2           specified levels; below age 21.' If a person has not attained the age of 21, the person  
3           may not engage in the operation of an all-terrain vehicle or utility terrain vehicle  
4           while he or she has a tetrahydrocannabinols concentration of more than 0.0 but less  
5           than 5.0.

6           **SECTION 10.** 23.33 (4c) (a) 4. of the statutes is amended to read:

7           23.33 (4c) (a) 4. 'Related charges.' A person may be charged with and a  
8           prosecutor may proceed upon a complaint based upon a violation of any combination  
9           of subd. 1., 2., 2g., or 2m. for acts arising out of the same incident or occurrence. If  
10          the person is charged with violating any combination of subd. 1., 2., 2g., or 2m., the  
11          offenses shall be joined. If the person is found guilty of any combination of subd. 1.,  
12          2., 2g., or 2m. for acts arising out of the same incident or occurrence, there shall be  
13          a single conviction for purposes of sentencing and for purposes of counting  
14          convictions under sub. (13) (b) 2. and 3. Subdivisions 1., 2., 2g., and 2m. each require  
15          proof of a fact for conviction which the others do not require.

16          **SECTION 11.** 23.33 (4c) (a) 5. of the statutes is renumbered 23.33 (4c) (a) 5. a.  
17          and amended to read:

18          23.33 (4c) (a) 5. a. In an action under subd. 2m. that is based on the defendant  
19          allegedly having a detectable amount of methamphetamine, or  
20          gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
21          the defendant has a defense if he or she proves by a preponderance of the evidence  
22          that at the time of the incident or occurrence he or she had a valid prescription for  
23          methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
24          acid, ~~or,~~

**BILL****SECTION 11**

1           b. In an action under subd. 2g. or 3g. that is based on the defendant allegedly  
2 having a prohibited tetrahydrocannabinols concentration, the defendant has a  
3 defense if he or she proves by a preponderance of the evidence that at the time of the  
4 incident or occurrence he or she had a valid prescription for  
5 delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.  
6 50.80 (6).

7           **SECTION 12.** 23.33 (4c) (b) 2n. of the statutes is created to read:

8           23.33 (4c) (b) 2n. ‘Causing injury while operating with tetrahydrocannabinols  
9 concentration at or above specified levels.’ No person who has a  
10 tetrahydrocannabinols concentration of 5.0 or more may cause injury to another  
11 person by the operation of an all-terrain vehicle or utility terrain vehicle.

12           **SECTION 13.** 23.33 (4c) (b) 3. of the statutes is amended to read:

13           23.33 (4c) (b) 3. ‘Related charges.’ A person may be charged with and a  
14 prosecutor may proceed upon a complaint based upon a violation of any combination  
15 of subd. 1., 2., ~~or 2m.,~~ or 2n. for acts arising out of the same incident or occurrence.  
16 If the person is charged with violating any combination of subd. 1., 2., ~~or 2m.,~~ or 2n.  
17 in the complaint, the crimes shall be joined under s. 971.12. If the person is found  
18 guilty of any combination of subd. 1., 2., ~~or 2m.,~~ or 2n. for acts arising out of the same  
19 incident or occurrence, there shall be a single conviction for purposes of sentencing  
20 and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions  
21 1., 2., ~~and 2m.,~~ and 2n. each require proof of a fact for conviction which the others do  
22 not require.

23           **SECTION 14.** 23.33 (4c) (b) 4. a. of the statutes is amended to read:

24           23.33 (4c) (b) 4. a. In an action under this paragraph, the defendant has a  
25 defense if he or she proves by a preponderance of the evidence that the injury would

**BILL**

1 have occurred even if he or she had been exercising due care and he or she had not  
2 been under the influence of an intoxicant, did not have an alcohol concentration of  
3 0.08 or more, ~~or~~ did not have a detectable amount of a restricted controlled substance  
4 in his or her blood, or did not have a tetrahydrocannabinols concentration of 5.0 or  
5 more.

6 **SECTION 15.** 23.33 (4c) (b) 4. b. of the statutes is amended to read:

7 23.33 **(4c)** (b) 4. b. In an action under subd. 2m. that is based on the defendant  
8 allegedly having a detectable amount of methamphetamine, or  
9 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
10 the defendant has a defense if he or she proves by a preponderance of the evidence  
11 that at the time of the incident or occurrence he or she had a valid prescription for  
12 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
13 acid, ~~or,~~

14 c. In an action under subd. 2n. that is based on the defendant allegedly having  
15 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
16 or she proves by a preponderance of the evidence that at the time of the incident or  
17 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
18 he or she was a qualifying patient, as defined in s. 50.80 (6).

19 **SECTION 16.** 23.33 (4p) (d) of the statutes is amended to read:

20 23.33 **(4p)** (d) *Admissibility; effect of test results; other evidence.* The results  
21 of a chemical test required or administered under par. (a), (b) or (c) are admissible  
22 in any civil or criminal action or proceeding arising out of the acts committed by a  
23 person alleged to have violated the intoxicated operation of an all-terrain vehicle or  
24 utility terrain vehicle law on the issue of whether the person was under the influence  
25 of an intoxicant or the issue of whether the person had alcohol concentrations or

**BILL****SECTION 16**

1 tetrahydrocannabinols concentrations at or above specified levels or a detectable  
2 amount of a restricted controlled substance in his or her blood. Results of these  
3 chemical tests shall be given the effect required under s. 885.235. This subsection  
4 does not limit the right of a law enforcement officer to obtain evidence by any other  
5 lawful means.

6 **SECTION 17.** 23.33 (13) (b) 1. of the statutes is amended to read:

7 23.33 (13) (b) 1. Except as provided under subds. 2. and 3., a person who  
8 violates sub. (4c) (a) 1., 2., 2g., or 2m. or (4p) (e) shall forfeit not less than \$150 nor  
9 more than \$300.

10 **SECTION 18.** 23.33 (13) (b) 2. of the statutes is amended to read:

11 23.33 (13) (b) 2. Except as provided under subd. 3., a person who violates sub.  
12 (4c) (a) 1., 2., 2g., or 2m. or (4p) (e) and who, within 5 years prior to the arrest for the  
13 current violation, was convicted previously under the intoxicated operation of an  
14 all-terrain vehicle or utility terrain vehicle law or the refusal law shall be fined not  
15 less than \$300 nor more than \$1,100 and shall be imprisoned not less than 5 days  
16 nor more than 6 months.

17 **SECTION 19.** 23.33 (13) (b) 3. of the statutes is amended to read:

18 23.33 (13) (b) 3. A person who violates sub. (4c) (a) 1., 2., 2g., or 2m. or (4p) (e)  
19 and who, within 5 years prior to the arrest for the current violation, was convicted  
20 2 or more times previously under the intoxicated operation of an all-terrain vehicle  
21 or utility terrain vehicle law or refusal law shall be fined not less than \$600 nor more  
22 than \$2,000 and shall be imprisoned not less than 30 days nor more than one year  
23 in the county jail.

24 **SECTION 20.** 23.33 (13) (e) of the statutes is amended to read:

**BILL**

1           23.33 (13) (e) *Alcohol, controlled substances or controlled substance analogs,*  
2 *tetrahydrocannabinols; assessment.* In addition to any other penalty or order, a  
3 person who violates sub. (4c) (a) or (b) or (4p) (e) or who violates s. 940.09 or 940.25  
4 if the violation involves the operation of an all-terrain vehicle or utility terrain  
5 vehicle, shall be ordered by the court to submit to and comply with an assessment  
6 by an approved public treatment facility for an examination of the person's use of  
7 alcohol, controlled substances or controlled substance analogs, or  
8 tetrahydrocannabinols. The assessment order shall comply with s. 343.30 (1q) (c) 1.  
9 a. to c. Intentional failure to comply with an assessment ordered under this  
10 paragraph constitutes contempt of court, punishable under ch. 785.

11           **SECTION 21.** 30.50 (10m) (a) of the statutes is amended to read:

12           30.50 (10m) (a) A controlled substance included in schedule I under ch. 961  
13 ~~other than a tetrahydrocannabinol.~~

14           **SECTION 22.** 30.50 (10m) (e) of the statutes is repealed.

15           **SECTION 23.** 30.50 (13p) of the statutes is created to read:

16           30.50 (13p) "Tetrahydrocannabinols concentration" means the number of  
17 nanograms of tetrahydrocannabinols per milliliter of blood.

18           **SECTION 24.** 30.681 (1) (b) (title) of the statutes is amended to read:

19           30.681 (1) (b) (title) *Operating after using a controlled substance or, alcohol, or*  
20 *marijuana.*

21           **SECTION 25.** 30.681 (1) (b) 1g. of the statutes is created to read:

22           30.681 (1) (b) 1g. No person may engage in the operation of a motorboat while  
23 the person has a tetrahydrocannabinols concentration of 5.0 or more.

24           **SECTION 26.** 30.681 (1) (bn) (title) of the statutes is amended to read:

**BILL****SECTION 26**

1           30.681 (1) (bn) (title) *Operating with alcohol or tetrahydrocannabinols*  
2 *concentrations at specified levels; below legal drinking age.*

3           **SECTION 27.** 30.681 (1) (bn) of the statutes is renumbered 30.681 (1) (bn) 1.

4           **SECTION 28.** 30.681 (1) (bn) 2. of the statutes is created to read:

5           30.681 (1) (bn) 2. A person who has not attained the legal age, as defined in s.  
6 961.70 (2), may not engage in the operation of a motorboat while he or she has a  
7 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0.

8           **SECTION 29.** 30.681 (1) (c) of the statutes is amended to read:

9           30.681 (1) (c) *Related charges.* A person may be charged with and a prosecutor  
10 may proceed upon a complaint based upon a violation of any combination of par. (a)  
11 or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence. If the  
12 person is charged with violating any combination of par. (a) or (b) 1., 1g., 1m., or 2.,  
13 the offenses shall be joined. If the person is found guilty of any combination of par.  
14 (a) or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence, there  
15 shall be a single conviction for purposes of sentencing and for purposes of counting  
16 convictions under s. 30.80 (6) (a) 2. and 3. Paragraphs (a) and (b) 1., 1g., 1m., and  
17 2. each require proof of a fact for conviction which the others do not require.

18           **SECTION 30.** 30.681 (1) (d) of the statutes is renumbered 30.681 (1) (d) 1. and  
19 amended to read:

20           30.681 (1) (d) 1. In an action under par. (b) 1m. that is based on the defendant  
21 allegedly having a detectable amount of methamphetamine, or  
22 gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood,  
23 the defendant has a defense if he or she proves by a preponderance of the evidence  
24 that at the time of the incident or occurrence he or she had a valid prescription for

**BILL**

1 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
2 acid, ~~or~~,

3 2. In an action under par. (b) 1g. or (bn) 2. that is based on the defendant  
4 allegedly having a prohibited tetrahydrocannabinols concentration, the defendant  
5 has a defense if he or she proves by a preponderance of the evidence that at the time  
6 of the incident or occurrence he or she had a valid prescription for  
7 delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.  
8 50.80 (6).

9 **SECTION 31.** 30.681 (2) (b) (title) of the statutes is amended to read:

10 30.681 (2) (b) (title) *Causing injury after using a controlled substance or,*  
11 *alcohol, or marijuana.*

12 **SECTION 32.** 30.681 (2) (b) 1g. of the statutes is created to read:

13 30.681 (2) (b) 1g. No person who has a tetrahydrocannabinols concentration  
14 of 5.0 or more may cause injury to another person by the operation of a motorboat.

15 **SECTION 33.** 30.681 (2) (c) of the statutes is amended to read:

16 30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor  
17 may proceed upon a complaint based upon a violation of any combination of par. (a)  
18 or (b) 1., 1g., 1m., or 2. for acts arising out of the same incident or occurrence. If the  
19 person is charged with violating any combination of par. (a) or (b) 1., 1g., 1m., or 2.  
20 in the complaint, the crimes shall be joined under s. 971.12. If the person is found  
21 guilty of any combination of par. (a) or (b) 1., 1g., 1m., or 2. for acts arising out of the  
22 same incident or occurrence, there shall be a single conviction for purposes of  
23 sentencing and for purposes of counting convictions under s. 30.80 (6) (a) 2. and 3.  
24 Paragraphs (a) and (b) 1., 1g., 1m., and 2. each require proof of a fact for conviction  
25 which the others do not require.

**BILL****SECTION 34**

1           **SECTION 34.** 30.681 (2) (d) 1. a. of the statutes is amended to read:

2           30.681 (2) (d) 1. a. In an action under this subsection for a violation of the  
3 intoxicated boating law where the defendant was operating a motorboat that is not  
4 a commercial motorboat, the defendant has a defense if he or she proves by a  
5 preponderance of the evidence that the injury would have occurred even if he or she  
6 had been exercising due care and he or she had not been under the influence of an  
7 intoxicant or did not have an alcohol concentration of 0.08 or more or a  
8 tetrahydrocannabinols concentration of 5.0 or more or a detectable amount of a  
9 restricted controlled substance in his or her blood.

10           **SECTION 35.** 30.681 (2) (d) 1. b. of the statutes is amended to read:

11           30.681 (2) (d) 1. b. In an action under par. (b) 1m. that is based on the defendant  
12 allegedly having a detectable amount of methamphetamine, or  
13 gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood,  
14 the defendant has a defense if he or she proves by a preponderance of the evidence  
15 that at the time of the incident or occurrence he or she had a valid prescription for  
16 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
17 acid, ~~or,~~

18           c. In an action under par. (b) 1g. that is based on the defendant allegedly having  
19 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
20 or she proves by a preponderance of the evidence that at the time of the incident or  
21 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
22 he or she was a qualifying patient, as defined in s. 50.80 (6).

23           **SECTION 36.** 30.684 (4) of the statutes is amended to read:

24           30.684 (4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE. The results  
25 of a chemical test required or administered under sub. (1), (2) or (3) are admissible



**BILL**

1 in any civil or criminal action or proceeding arising out of the acts committed by a  
2 person alleged to have violated the intoxicated boating law on the issue of whether  
3 the person was under the influence of an intoxicant or the issue of whether the person  
4 had alcohol concentrations or tetrahydrocannabinols concentrations at or above  
5 specified levels or a detectable amount of a restricted controlled substance in his or  
6 her blood. Results of these chemical tests shall be given the effect required under s.  
7 885.235. This section does not limit the right of a law enforcement officer to obtain  
8 evidence by any other lawful means.

9 **SECTION 37.** 30.80 (6) (d) of the statutes is amended to read:

10 30.80 (6) (d) *Alcohol, controlled substances or controlled substance analogs, or*  
11 *tetrahydrocannabinols; examination.* In addition to any other penalty or order, a  
12 person who violates s. 30.681 (1) or (2) or 30.684 (5) or who violates s. 940.09 or 940.25  
13 if the violation involves the operation of a motorboat, shall be ordered by the court  
14 to submit to and comply with an assessment by an approved public treatment facility  
15 for an examination of the person's use of alcohol, controlled substances or controlled  
16 substance analogs, or tetrahydrocannabinols. Intentional failure to comply with an  
17 assessment ordered under this paragraph constitutes contempt of court, punishable  
18 under ch. 785.

19 **SECTION 38.** 49.148 (4) (a) of the statutes is amended to read:

20 49.148 (4) (a) A Wisconsin ~~works~~ Works agency shall require a participant in  
21 a community service job or transitional placement who, after August 22, 1996, was  
22 convicted in any state or federal court of a felony that had as an element possession,  
23 use or distribution of a controlled substance to submit to a test for use of a controlled  
24 substance as a condition of continued eligibility. If the test results are positive, the  
25 Wisconsin ~~works~~ Works agency shall decrease the presanction benefit amount for

**BILL****SECTION 38**

1 that participant by not more than 15 percent for not fewer than 12 months, or for the  
2 remainder of the participant's period of participation in a community service job or  
3 transitional placement, if less than 12 months. If, at the end of 12 months, the  
4 individual is still a participant in a community service job or transitional placement  
5 and submits to another test for use of a controlled substance and if the results of the  
6 test are negative, the Wisconsin works Works agency shall discontinue the reduction  
7 under this paragraph. In this subsection, "controlled substance" does not include  
8 tetrahydrocannabinols in any form including tetrahydrocannabinols contained in  
9 marijuana, obtained from marijuana, or chemically synthesized.

10 **SECTION 39.** 49.45 (23) (g) 1. e. of the statutes is amended to read:

11 49.45 **(23)** (g) 1. e. Require, as a condition of eligibility, that an applicant or  
12 enrollee submit to a drug screening assessment and, if indicated, a drug test, as  
13 specified by the department in the waiver amendment. The department may not test  
14 for tetrahydrocannabinols in any form including tetrahydrocannabinols contained  
15 in marijuana, obtained from marijuana, or chemically synthesized under this subd.  
16 1. e.

17 **SECTION 40.** 49.79 (1) (b) of the statutes is amended to read:

18 49.79 **(1)** (b) "Controlled substance" has the meaning given in 21 USC 802 (6),  
19 except "controlled substance" does not include tetrahydrocannabinols in any form  
20 including tetrahydrocannabinols contained in marijuana, obtained from marijuana,  
21 or chemically synthesized.

22 **SECTION 41.** 50.56 (3) of the statutes is amended to read:

23 50.56 **(3)** Notwithstanding sub. (2), insofar as a conflict exists between this  
24 subchapter, or the rules promulgated under this subchapter, and subch. I, II or VI

**BILL**

1 VII, or the rules promulgated under subch. I, II or ~~VI~~ VII, the provisions of this  
2 subchapter and the rules promulgated under this subchapter control.

3 **SECTION 42.** Subchapter VI of chapter 50 [precedes 50.80] of the statutes is  
4 created to read:

**CHAPTER 50****SUBCHAPTER VI****DISTRIBUTION AND****TESTING CENTERS**

9 **50.80 Definitions.** In this subchapter:

10 (1) "Compassion center" means a licensed organization that grows, sells,  
11 distributes, or delivers marijuana for the medical use of tetrahydrocannabinols.

12 (2) "Debilitating medical condition or treatment" means any of the following:

13 (a) Cancer; glaucoma; acquired immunodeficiency syndrome; a positive test for  
14 the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to HIV;  
15 Crohn's disease; a hepatitis C virus infection; Alzheimer's disease; amyotrophic  
16 lateral sclerosis; nail patella syndrome; Ehlers-Danlos Syndrome; post-traumatic  
17 stress disorder; or the treatment of these conditions.

18 (b) A chronic or debilitating disease or medical condition or the treatment of  
19 such a disease or condition that causes cachexia, severe pain, severe nausea,  
20 seizures, including those characteristic of epilepsy, or severe and persistent muscle  
21 spasms, including those characteristic of multiple sclerosis.

22 (c) Any other medical condition or any other treatment for a medical condition  
23 designated as a debilitating medical condition or treatment in rules promulgated by  
24 the department of health services under s. 50.81 (2).

25 (2m) "Department" means the department of health services.

**BILL****SECTION 42**

1           **(3)** “Maximum medicinal amount” means 6 live marijuana plants and 3 ounces  
2 of usable marijuana.

3           **(4)** “Medical use of tetrahydrocannabinols” means any of the following:

4           (a) The use of tetrahydrocannabinols in any form by a qualifying patient to  
5 alleviate the symptoms or effects of the qualifying patient’s debilitating medical  
6 condition or treatment.

7           (b) The acquisition, possession, cultivation, or transportation of  
8 tetrahydrocannabinols in any form by a qualifying patient if done to facilitate his or  
9 her use of the tetrahydrocannabinols under par. (a).

10          (c) The acquisition, possession, cultivation, or transportation of  
11 tetrahydrocannabinols in any form by a primary caregiver of a qualifying patient,  
12 the transfer of tetrahydrocannabinols in any form between a qualifying patient and  
13 his or her primary caregiver, or the transfer of tetrahydrocannabinols in any form  
14 between persons who are primary caregivers for the same qualifying patient if all of  
15 the following apply:

16           1. The acquisition, possession, cultivation, or transportation of  
17 tetrahydrocannabinols is done to facilitate the qualifying patient’s use of  
18 tetrahydrocannabinols under par. (a) or (b).

19           2. It is not practicable for the qualifying patient to acquire, possess, cultivate,  
20 or transport the tetrahydrocannabinols independently, or the qualifying patient is  
21 under 18 years of age.

22           **(4m)** “Physician” means a person licensed under s. 448.04 (1) (a).

23           **(5)** “Primary caregiver” means a person who is at least 18 years of age and who  
24 has agreed to help a qualifying patient in his or her medical use of  
25 tetrahydrocannabinols.

**BILL**

1           **(6)** “Qualifying patient” means a person who has been diagnosed by a physician  
2 as having or undergoing a debilitating medical condition or treatment but does not  
3 include a person under the age of 18 years unless all of the following apply:

4           (a) The person’s physician has explained the potential risks and benefits of the  
5 medical use of tetrahydrocannabinols to the person and to a parent, guardian, or  
6 individual having legal custody of the person.

7           (b) The parent, guardian, or individual having legal custody of the person  
8 provides the physician a written statement consenting to do all of the following:

9           1. Allow the person’s medical use of tetrahydrocannabinols.

10          2. Serve as a primary caregiver for the person.

11          3. Manage the person’s medical use of tetrahydrocannabinols.

12          **(7)** “Registry identification card” has the meaning given in s. 146.44 (1) (h).

13          **(8)** “Treatment team” means a qualifying patient and his or her primary  
14 caregivers.

15          **(9)** “Usable marijuana” has the meaning given in s. 139.97 (12).

16          **(10)** “Written certification” means a statement made by a person’s physician  
17 if all of the following apply:

18          (a) The statement indicates that, in the physician’s professional opinion, the  
19 person has or is undergoing a debilitating medical condition or treatment and the  
20 potential benefits of the person’s use of tetrahydrocannabinols under sub. (4) (a)  
21 would likely outweigh the health risks for the person.

22          (b) The statement indicates that the opinion described in par. (a) was formed  
23 after a full assessment, conducted no more than 6 months prior to making the  
24 statement and made in the course of a bona fide physician-patient relationship, of  
25 the person’s medical history and current medical condition.

**BILL**

1 (c) The statement is signed by the physician or is contained in the person's  
2 medical records.

3 (d) The statement contains an expiration date that is no more than 48 months  
4 after issuance and the statement has not expired.

5 **50.81 Departmental powers and duties.** (1) The department shall provide  
6 licensing, regulation, record keeping, and security for compassion centers.

7 (2) Notwithstanding s. 227.12 (1), any person may petition the department to  
8 promulgate a rule to designate a medical condition or treatment as a debilitating  
9 medical condition or treatment. The department shall promulgate rules providing  
10 for public notice of and a public hearing regarding any such petition, with the public  
11 hearing providing persons an opportunity to comment upon the petition. After the  
12 hearing, but no later than 180 days after the submission of the petition, the  
13 department shall approve or deny the petition. The department's decision to approve  
14 or deny a petition is subject to judicial review under s. 227.52.

15 **50.82 Licensing.** The department shall issue licenses to a pharmacist or a  
16 pharmacy to operate as a compassion center and shall decide which and how many  
17 applicants for a license receive a license based on all of the following:

18 (1) The ability of an applicant to provide to treatment teams a sufficient  
19 amount of medical marijuana for the medical use of tetrahydrocannabinols.

20 (2) The experience the applicant has running an organization or a business.

21 (3) The preferences of the governing bodies with jurisdiction over the area in  
22 which the applicants are located.

23 (4) The ability of the applicant to keep records confidential and maintain a safe  
24 and secure facility.

25 (5) The ability of the applicant to abide by the prohibitions under s. 50.83.

**BILL**

1           **50.83 Prohibitions.** The department may not issue a license to operate as a  
2 compassion center to, and must revoke a license of, any organization to which any  
3 of the following applies:

4           (1) The organization is located within 500 feet of a public or private elementary  
5 or secondary school, including a charter school.

6           (2) The compassion center distributes to a treatment team a number of plants  
7 or an amount in ounces of usable marijuana that, in the period of distribution, results  
8 in the treatment team possessing more than the maximum medicinal amount.

9           (3) The compassion center possesses a number of plants or an amount in ounces  
10 of usable marijuana that exceeds the combined maximum medicinal amount for all  
11 of the treatment teams that are estimated to use the organization by a number or an  
12 amount determined by the department by rule to be unacceptable.

13           **50.84 Licensing procedure.** (1) The application for a license must be in  
14 writing on a form provided by the department and include the licensing application  
15 fee under sub. (2) (a).

16           (2) (a) A licensing application fee is \$250.

17           (b) The annual fee for a compassion center is \$5,000.

18           (3) A compassion center license is valid until revoked. Each license shall be  
19 issued only for the applicant named in the application and may not be transferred  
20 or assigned.

21           **50.85 Distribution of medical marijuana.** (1) A compassion center may  
22 sell, distribute, or deliver tetrahydrocannabinols or drug paraphernalia intended for  
23 the storage or use of usable marijuana to a member of a treatment team if the  
24 compassion center receives a copy of the qualifying patient's written certification or  
25 registry identification card.

**BILL****SECTION 42**

1           (2) A compassion center may possess or manufacture tetrahydrocannabinols  
2 or drug paraphernalia with the intent to sell, distribute, or deliver under sub. (1).

3           (3) A compassion center may have 2 locations, one for cultivation and one for  
4 sales, distribution, or delivery.

5           (4) A compassion center shall have all tetrahydrocannabinols tested for mold,  
6 fungus, pesticides, and other contaminants and may not sell, distribute, or deliver  
7 tetrahydrocannabinols that test positive for mold, fungus, pesticides, or other  
8 contaminants if the contaminants, or level of contaminants, are identified by the  
9 testing laboratories under s. 50.86 (2) to be potentially unsafe to a qualifying  
10 patient's health.

11           (5) A compassion center may cultivate marijuana outdoors.

12           **50.86 Testing laboratories.** The department shall register entities as  
13 tetrahydrocannabinols testing laboratories. The laboratories may possess or  
14 manufacture tetrahydrocannabinols or drug paraphernalia and shall perform the  
15 following services:

16           (1) Test marijuana produced for the medical use of tetrahydrocannabinols for  
17 potency and for mold, fungus, pesticides, and other contaminants.

18           (2) Collect information on research findings and conduct research related to  
19 the medical use of tetrahydrocannabinols, including research that identifies  
20 potentially unsafe levels of contaminants.

21           (3) Provide training to persons who hold registry identification cards or written  
22 certifications, treatment teams, and persons employed by compassion centers on the  
23 following:

24           (a) The safe and efficient cultivation, harvesting, packaging, labeling, and  
25 distribution of marijuana for the medical use of tetrahydrocannabinols.



**BILL**

1 (b) Security and inventory accountability procedures.

2 (c) The most recent research on the medical use of tetrahydrocannabinols.

3 **SECTION 43.** Subchapter VI (title) of chapter 50 [precedes 50.90] of the statutes  
4 is renumbered subchapter VII (title) of chapter 50 [precedes 50.90].

5 **SECTION 44.** 51.49 (1) (d) of the statutes is amended to read:

6 51.49 (1) (d) "Operating while intoxicated" means a violation of s. 346.63 (1) ~~or~~,  
7 (2m), or (2p) or a local ordinance in conformity therewith or of s. 346.63 (2) or (6),  
8 940.09 (1) or 940.25.

9 **SECTION 45.** 59.54 (25) (title) of the statutes is amended to read:

10 59.54 (25) (title) ~~POSSESSION~~ REGULATION OF MARIJUANA.

11 **SECTION 46.** 59.54 (25) (a) (intro.) of the statutes is amended to read:

12 59.54 (25) (a) (intro.) The board may enact and enforce an ordinance ~~to prohibit~~  
13 ~~the possession of marijuana, as defined in s. 961.01 (14), subject to the exceptions in~~  
14 ~~s. 961.41 (3g) (intro.), and provide a forfeiture for a violation of the ordinance that~~  
15 ~~is consistent with s. 961.71 or 961.72;~~ except that if a complaint is issued regarding  
16 ~~an allegation of possession of more than 25 grams of marijuana, or possession of any~~  
17 ~~amount of marijuana following a conviction in this state for possession of marijuana~~  
18 ~~alleging a violation of s. 961.72 (2) (b) 2., (c) 3., or (d) 4., the subject of the complaint~~  
19 ~~may not be prosecuted under this subsection for the same action that is the subject~~  
20 ~~of the complaint unless all of the following occur:~~

21 **SECTION 47.** 66.0107 (1) (bm) of the statutes is amended to read:

22 66.0107 (1) (bm) Enact and enforce an ordinance ~~to prohibit the possession of~~  
23 ~~marijuana, as defined in s. 961.01 (14), subject to the exceptions in s. 961.41 (3g)~~  
24 ~~(intro.), and provide a forfeiture for a violation of the ordinance that is consistent~~  
25 ~~with s. 961.71 or 961.72;~~ except that if a complaint is issued regarding ~~an allegation~~

**BILL**

1 of possession of more than 25 grams of marijuana, or possession of any amount of  
2 marijuana following a conviction in this state for possession of marijuana alleging  
3 a violation of s. 961.72 (2) (b) 2., (c) 3., or (d) 4., the subject of the complaint may not  
4 be prosecuted under this paragraph for the same action that is the subject of the  
5 complaint unless the charges are dismissed or the district attorney declines to  
6 prosecute the case.

7 **SECTION 48.** 66.0414 of the statutes is created to read:

8 **66.0414 Cultivation of tetrahydrocannabinols.** No village, town, city, or  
9 county may enact or enforce an ordinance or a resolution that prohibits cultivating  
10 tetrahydrocannabinols outdoors if the cultivation is by one of the following:

11 (1) A compassion center, as defined in s. 50.80 (1).

12 (2) A person who is cultivating tetrahydrocannabinols for the medical use of  
13 tetrahydrocannabinols, as defined in s. 50.80 (4), if the amount does not exceed the  
14 maximum medicinal amount, as defined in s. 50.80 (3).

15 (3) An individual who has no more than 6 marijuana plants at one time for his  
16 or her personal use.

17 **SECTION 49.** 94.55 of the statutes is created to read:

18 **94.55 Marijuana producers and processors.** (1) DEFINITIONS. In this  
19 section:

20 (a) "Marijuana" has the meaning given in s. 961.70 (3).

21 (b) "Marijuana processor" has the meaning given in s. 139.97 (6).

22 (c) "Marijuana producer" has the meaning given in s. 139.97 (7).

23 (d) "Usable marijuana" has the meaning given in s. 139.97 (12).

24 (e) "Permittee" means a marijuana producer or processor who is issued a permit  
25 under this section.

**BILL**

1           **(2) PERMIT REQUIRED.** (a) No person may operate in this state as a marijuana  
2 producer or marijuana processor without a permit from the department. A person  
3 who acts as a marijuana producer and a marijuana processor shall obtain a separate  
4 permit for each activity. Each person who applies for a permit under this section  
5 shall submit with the application a \$250 fee. A permit issued under this section is  
6 valid for one year and may be renewed, except that the department may revoke or  
7 suspend a permit prior to its expiration. A person is not entitled to a refund of the  
8 fees paid under this subsection if the person's permit is denied, revoked, or  
9 suspended.

10           (b) A permittee shall annually pay to the department a fee for as long as the  
11 person holds a valid permit under this section. The annual fee for a marijuana  
12 processor permittee is \$2,000. The annual fee for a marijuana producer permittee  
13 is one of the following, unless the department, by rule, establishes a higher amount:

14           1. If the permittee plants, grows, cultivates, or harvests not more than 1,800  
15 marijuana plants, \$1,800.

16           2. If the permittee plants, grows, cultivates, or harvests more than 1,800 but  
17 not more than 3,600 marijuana plants, \$2,900.

18           3. If the permittee plants, grows, cultivates, or harvests more than 3,600 but  
19 not more than 6,000 marijuana plants, \$3,600.

20           4. If the permittee plants, grows, cultivates, or harvests more than 6,000 but  
21 not more than 10,200 marijuana plants, \$5,100.

22           5. If the permittee plants, grows, cultivates, or harvests more than 10,200  
23 marijuana plants, \$7,100 plus \$800 for every 3,600 marijuana plants over 10,200.

**BILL****SECTION 49**

1 (c) This subsection applies to all officers, directors, agents, and stockholders  
2 holding 5 percent or more of the stock of any corporation applying for a permit under  
3 this section.

4 (d) Subject to ss. 111.321, 111.322, and 111.335, no permit under this section  
5 may be granted to any person to whom any of the following applies:

6 1. The person has been convicted of a violent misdemeanor, as defined in s.  
7 941.29 (1g) (b), at least 3 times.

8 2. The person has been convicted of a violent felony, as defined in s. 941.29 (1g)  
9 (a), unless pardoned.

10 3. During the preceding 3 years, the person has been committed under s. 51.20  
11 for being drug dependent.

12 4. The person chronically and habitually uses alcohol beverages or other  
13 substances to the extent that his or her normal faculties are impaired. A person is  
14 presumed to chronically and habitually use alcohol beverages or other substances to  
15 the extent that his or her normal faculties are impaired if, within the preceding 3  
16 years, any of the following applies:

17 a. The person has been committed for involuntary treatment under s. 51.45  
18 (13).

19 b. The person has been convicted of a violation of s. 941.20 (1) (b).

20 c. In 2 or more cases arising out of separate incidents, a court has found the  
21 person to have committed a violation of s. 346.63 or a local ordinance in conformity  
22 with that section; a violation of a law of a federally recognized American Indian tribe  
23 or band in this state in conformity with s. 346.63; or a violation of the law of another  
24 jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while  
25 intoxicated, while under the influence of a controlled substance, a controlled

**BILL**

1 substance analog, or a combination thereof, with an excess or specified range of  
2 alcohol concentration, or while under the influence of any drug to a degree that  
3 renders the person incapable of safely driving, as those or substantially similar  
4 terms are used in that jurisdiction's laws.

5 5. The person has income which comes principally from gambling or has been  
6 convicted of 2 or more gambling offenses.

7 6. The person has been guilty of crimes relating to prostitution.

8 7. The person has been guilty of crimes relating to loaning money or anything  
9 of value to persons holding licenses or permits pursuant to ch. 125.

10 8. The person is under the age of 21.

11 9. The person has not been a resident of this state continuously for at least 90  
12 days prior to the application date.

13 (e) 1. Before the department issues a new or renewed permit under this section,  
14 the department shall give notice of the permit application to the governing body of  
15 the municipality where the the permit applicant intends to operate as a marijuana  
16 producer or marijuana processor. No later than 30 days after the department  
17 submits the notice, the governing body of the municipality may file with the  
18 department a written objection to granting or renewing the permit. At the  
19 municipality's request, the department may extend the period for filing objections.

20 2. A written objection filed under subd. 1. shall provide all the facts on which  
21 the objection is based. In determining whether to grant or deny a permit for which  
22 an objection has been filed under this paragraph, the department shall give  
23 substantial weight to objections from a municipality based on chronic illegal activity  
24 associated with the premises for which the applicant seeks a permit, the premises  
25 of any other operation in this state for which the applicant holds or has held a valid

**BILL****SECTION 49**

1 permit or license, the conduct of the applicant's patrons inside or outside the  
2 premises of any other operation in this state for which the applicant holds or has held  
3 a valid permit or license, and local zoning ordinances. In this subdivision, "chronic  
4 illegal activity" means a pervasive pattern of activity that threatens the public  
5 health, safety, and welfare of the municipality, including any crime or ordinance  
6 violation, and is documented in crime statistics, police reports, emergency medical  
7 response data, calls for service, field data, or similar law enforcement agency records.

8 (f) After denying a permit, the department shall immediately notify the  
9 applicant in writing of the denial and the reasons for the denial. After making a  
10 decision to grant or deny a permit for which a municipality has filed an objection  
11 under par. (e), the department shall immediately notify the governing body of the  
12 municipality in writing of its decision and the reasons for the decision.

13 (g) 1. The department's denial of a permit under this section is subject to  
14 judicial review under ch. 227.

15 2. The department's decision to grant a permit under this section regardless of  
16 an objection filed under par. (e) is subject to judicial review under ch. 227.

17 (h) The department shall not issue a permit under this section to any person  
18 who does not hold a valid certificate under s. 73.03 (50).

19 **(3) SCHOOLS.** The department may not issue a permit under this section to  
20 operate as a marijuana producer within 500 feet of the perimeter of the grounds of  
21 any elementary or secondary school.

22 **(4) EDUCATION.** The department shall develop and make available training  
23 programs for marijuana producers on how to safely and efficiently plant, grow,  
24 cultivate, harvest, and otherwise handle marijuana, and for marijuana processors

**BILL**

1 on how to safely and efficiently produce and handle marijuana products and test  
2 marijuana for contaminants.

3 **(5) RULES.** The department shall promulgate rules necessary to administer and  
4 enforce this section, including rules relating to the inspection of the plants, facilities,  
5 and products of permittees.

6 **(6) PENALTIES.** (a) Any person who violates the requirements under sub. (2) or  
7 (3) or any of the requirements established by the rules promulgated under sub. (5)  
8 shall be fined not less than \$100 nor more than \$500 or imprisoned not more than  
9 6 months or both.

10 (b) In addition to the penalties imposed under par. (a), the department shall  
11 revoke the permit of any person convicted of any violation described under par. (a)  
12 and not issue another permit to that person for a period of 2 years following the  
13 revocation.

14 **SECTION 50.** 108.02 (18r) of the statutes is created to read:

15 108.02 **(18r)** MARIJUANA. "Marijuana" has the meaning given in s. 111.32 (11m).

16 **SECTION 51.** 108.04 (5m) of the statutes is created to read:

17 108.04 **(5m)** DISCHARGE FOR USE OF MARIJUANA. (a) Notwithstanding sub. (5),  
18 "misconduct," for purposes of sub. (5), does not include the employee's use of  
19 marijuana off the employer's premises during nonworking hours or a violation of the  
20 employer's policy concerning such use, unless termination of the employee because  
21 of that use is permitted under s. 111.35.

22 (b) Notwithstanding sub. (5g), "substantial fault," for purposes of sub. (5g), does  
23 not include the employee's use of marijuana off the employer's premises during  
24 nonworking hours or a violation of the employer's policy concerning such use, unless  
25 termination of the employee because of that use is permitted under s. 111.35.

**BILL**

1           **SECTION 52.** 108.133 (1) (a) of the statutes is renumbered 108.133 (1) (a) 1. and  
2 amended to read:

3           108.133 (1) (a) 1. Notwithstanding s. 108.02 (9), “controlled substance” has the  
4 meaning given in 21 USC 802, except as provided in subd. 2.

5           **SECTION 53.** 108.133 (1) (a) 2. of the statutes is created to read:

6           108.133 (1) (a) 2. “Controlled substance” does not include  
7 tetrahydrocannabinols, commonly known as “THC,” in any form including  
8 tetrahydrocannabinols contained in marijuana, obtained from marijuana, or  
9 chemically synthesized.

10          **SECTION 54.** 111.32 (9m) of the statutes is created to read:

11          111.32 (9m) “Lawful product” includes marijuana.

12          **SECTION 55.** 111.32 (11m) of the statutes is created to read:

13          111.32 (11m) “Marijuana” means all parts of the plants of the genus Cannabis,  
14 whether growing or not; the seeds thereof; the resin extracted from any part of the  
15 plant; and every compound, manufacture, salt, derivative, mixture or preparation of  
16 the plant, its seeds or resin, including tetrahydrocannabinols.

17          **SECTION 56.** 111.35 (2) (e) of the statutes is amended to read:

18          111.35 (2) (e) Conflicts with any federal or state statute, rule or regulation.  
19 This paragraph does not apply with respect to violations concerning marijuana or  
20 tetrahydrocannabinols under 21 USC 841 to 865.

21          **SECTION 57.** 115.35 (1) of the statutes is renumbered 115.35 (1) (a) (intro.) and  
22 amended to read:

23          115.35 (1) (a) (intro.) A critical health problems education program is  
24 established in the department. The program shall be a systematic and integrated  
25 program designed to provide appropriate learning experiences based on scientific



**BILL**

1 knowledge of the human organism as it functions within its environment and  
2 designed to favorably influence the health, understanding, attitudes and practices  
3 of the individual child which will enable him or her to adapt to changing health  
4 problems of our society. The program shall be designed to educate youth with regard  
5 to critical health problems and shall include, but not be limited to, the following  
6 topics as the basis for comprehensive education curricula in all elementary and  
7 secondary schools: ~~controlled~~

8 1. Controlled substances, as defined in s. 961.01 (4); controlled substance  
9 analogs, as defined in s. 961.01 (4m); alcohol; and tobacco; ~~mental.~~

10 2. Mental health; ~~sexually.~~

11 3. Sexually transmitted diseases, including acquired immunodeficiency  
12 syndrome; ~~human.~~

13 4. Human growth and development; ~~and.~~

14 5. Other related health and safety topics as determined by the department.

15 (b) Participation in the human growth and development topic of the curricula  
16 described in par. (a) shall be entirely voluntary. The department may not require a  
17 school board to use a specific human growth and development curriculum.

18 **SECTION 58.** 115.35 (1) (a) 6. of the statutes is created to read:

19 115.35 (1) (a) 6. Beginning in the 2018-19 school year, the program shall also  
20 include scientific, evidence-based and grade-level appropriate information about  
21 the common uses of marijuana, how marijuana use affects an individual's behavior,  
22 body, and brain, and the health and behavior risks associated with marijuana use  
23 and abuse.

24 **SECTION 59.** 121.02 (1) (L) 7. of the statutes is created to read:

**BILL****SECTION 59**

1           121.02 (1) (L) 7. Beginning in the 2018-19 school year, as part of the health  
2 curriculum, in one of grades 5 to 8 and in one of grades 9 to 12, provide pupils with  
3 the instruction about marijuana described in s. 115.35 (1) (a) 6.

4           **SECTION 60.** Subchapter IV (title) of chapter 139 [precedes 139.97] of the  
5 statutes is created to read:

**CHAPTER 139****SUBCHAPTER IV****MARIJUANA TAX AND REGULATION**

6           **SECTION 61.** 139.97 of the statutes is created to read:

7           **139.97 Definitions.** In this subchapter:

8           **(1)** “Department” means the department of revenue.

9           **(2)** “Lot” means a definite quantity of marijuana or usable marijuana identified  
10 by a lot number, every portion or package of which is consistent with the factors that  
11 appear in the labeling.

12           **(3)** “Lot number” means a number that specifies the person who holds a valid  
13 permit under this subchapter and the harvesting or processing date for each lot.

14           **(4)** “Marijuana” has the meaning given in s. 961.70 (3).

15           **(5)** “Marijuana distributor” means a person in this state who purchases usable  
16 marijuana from a marijuana processor and who sells the usable marijuana to a  
17 marijuana retailer for the purpose of resale to consumers.

18           **(6)** “Marijuana processor” means a person in this state who processes  
19 marijuana into usable marijuana, packages and labels usable marijuana for sale in  
20 retail outlets, and sells usable marijuana at wholesale to marijuana distributors.

21           **(7)** “Marijuana producer” means a person in this state who produces marijuana  
22 and sells it at wholesale to marijuana processors.  
23  
24  
25

**BILL**

1           (8) “Marijuana retailer” means a person in this state who sells usable  
2 marijuana at a retail outlet.

3           (9) “Permittee” means a marijuana producer, marijuana processor, marijuana  
4 distributor, or marijuana retailer who is issued a permit under s. 139.972.

5           (10) “Retail outlet” means a location for the retail sale of usable marijuana.

6           (11) “Sales price” has the meaning given in s. 77.51 (15b).

7           (12) “Usable marijuana” means marijuana that has been processed for human  
8 consumption and includes dried marijuana flowers, marijuana-infused products,  
9 and marijuana edibles.

10           **SECTION 62.** 139.971 of the statutes is created to read:

11           **139.971 Marijuana tax.** (1) (a) An excise tax is imposed on a marijuana  
12 producer at the rate of 15 percent of the sales price on each wholesale sale in this state  
13 of marijuana to a marijuana processor.

14           (b) An excise tax is imposed on a marijuana retailer at the rate of 10 percent  
15 of the sales price on each retail sale in this state of usable marijuana.

16           (2) Each person liable for the taxes imposed under sub. (1) shall pay the taxes  
17 to the department no later than the 15th day of the month following the month in  
18 which the person’s tax liability is incurred and shall include with the payment a  
19 return on a form prescribed by the department.

20           (3) For purposes of this section, a marijuana producer may not sell marijuana  
21 directly to a marijuana distributor or marijuana retailer and a marijuana retailer  
22 may purchase usable marijuana for resale only from a marijuana distributor.

23           **SECTION 63.** 139.972 of the statutes is created to read:

24           **139.972 Permits required.** (1) (a) No person may operate in this state as a  
25 marijuana producer, marijuana processor, marijuana distributor, or marijuana

**BILL****SECTION 63**

1 retailer without first filing an application for and obtaining the proper permit from  
2 the department to perform such operations. In addition, no person may operate in  
3 this state as a marijuana producer or marijuana processor without first filing an  
4 application for and obtaining the proper permit under s. 94.55.

5 (b) This section applies to all officers, directors, agents, and stockholders  
6 holding 5 percent or more of the stock of any corporation applying for a permit under  
7 this section.

8 (c) Subject to ss. 111.321, 111.322, and 111.335, no permit under this section  
9 may be granted to any person to whom any of the following applies:

10 1. The person has been convicted of a violent misdemeanor, as defined in s.  
11 941.29 (1g) (b), at least 3 times.

12 2. The person has been convicted of a violent felony, as defined in s. 941.29 (1g)  
13 (a), unless pardoned.

14 3. During the preceding 3 years, the person has been committed under s. 51.20  
15 for being drug dependent.

16 4. The person chronically and habitually uses alcohol beverages or other  
17 substances to the extent that his or her normal faculties are impaired. A person is  
18 presumed to chronically and habitually use alcohol beverages or other substances to  
19 the extent that his or her normal faculties are impaired if, within the preceding 3  
20 years, any of the following applies:

21 a. The person has been committed for involuntary treatment under s. 51.45  
22 (13).

23 b. The person has been convicted of a violation of s. 941.20 (1) (b).

24 c. In 2 or more cases arising out of separate incidents, a court has found the  
25 person to have committed a violation of s. 346.63 or a local ordinance in conformity

**BILL**

1 with that section; a violation of a law of a federally recognized American Indian tribe  
2 or band in this state in conformity with s. 346.63; or a violation of the law of another  
3 jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while  
4 intoxicated, while under the influence of a controlled substance, a controlled  
5 substance analog, or a combination thereof, with an excess or specified range of  
6 alcohol concentration, or while under the influence of any drug to a degree that  
7 renders the person incapable of safely driving, as those or substantially similar  
8 terms are used in that jurisdiction's laws.

9 5. The person has income which comes principally from gambling or has been  
10 convicted of 2 or more gambling offenses.

11 6. The person has been guilty of crimes relating to prostitution.

12 7. The person has been guilty of crimes relating to loaning money or anything  
13 of value to persons holding licenses or permits pursuant to ch. 125.

14 8. The person is under the age of 21.

15 9. The person has not been a resident of this state continuously for at least 90  
16 days prior to the application date.

17 (d) 1. Before the department issues a new or renewed permit under this section,  
18 the department shall give notice of the permit application to the governing body of  
19 the municipality where the the permit applicant intends to operate the premises of  
20 a marijuana producer, marijuana processor, marijuana distributor, or marijuana  
21 retailer. No later than 30 days after the department submits the notice, the  
22 governing body of the municipality may file with the department a written objection  
23 to granting or renewing the permit. At the municipality's request, the department  
24 may extend the period for filing objections.

**BILL****SECTION 63**

1           2. A written objection filed under subd. 1. shall provide all the facts on which  
2 the objection is based. In determining whether to grant or deny a permit for which  
3 an objection has been filed under this paragraph, the department shall give  
4 substantial weight to objections from a municipality based on chronic illegal activity  
5 associated with the premises for which the applicant seeks a permit, the premises  
6 of any other operation in this state for which the applicant holds or has held a valid  
7 permit or license, the conduct of the applicant's patrons inside or outside the  
8 premises of any other operation in this state for which the applicant holds or has held  
9 a valid permit or license, and local zoning ordinances. In this subdivision, "chronic  
10 illegal activity" means a pervasive pattern of activity that threatens the public  
11 health, safety, and welfare of the municipality, including any crime or ordinance  
12 violation, and is documented in crime statistics, police reports, emergency medical  
13 response data, calls for service, field data, or similar law enforcement agency records.

14           (e) After denying a permit, the department shall immediately notify the  
15 applicant in writing of the denial and the reasons for the denial. After making a  
16 decision to grant or deny a permit for which a municipality has filed an objection  
17 under par. (d), the department shall immediately notify the governing body of the  
18 municipality in writing of its decision and the reasons for the decision.

19           (f) 1. The department's denial of a permit under this section is subject to judicial  
20 review under ch. 227.

21           2. The department's decision to grant a permit under this section regardless of  
22 an objection filed under par. (d) is subject to judicial review under ch. 227.

23           (g) The department shall not issue a permit under this section to any person  
24 who does not hold a valid certificate under s. 73.03 (50).

**BILL**

1           **(2)** Each person who applies for a permit under this section shall submit with  
2 the application a \$250 fee. Each person who is granted a permit under this section  
3 shall annually pay to the department a \$2,000 fee for as long as the person holds a  
4 valid permit under this section. A permit issued under this section is valid for one  
5 year and may be renewed, except that the department may revoke or suspend a  
6 permit prior to its expiration. A person is not entitled to a refund of the fees paid  
7 under this subsection if the person's permit is denied, revoked, or suspended.

8           **(3)** The department may not issue a permit under this section to operate any  
9 premises which are within 500 feet of the perimeter of the grounds of any elementary  
10 or secondary school, playground, recreation facility, child care facility, public park,  
11 public transit facility, or library.

12           **(4)** Under this section, a separate permit is required for and issued to each class  
13 of permittee and the permit holder shall perform only the operations authorized by  
14 the permit. A permit issued under this section is not transferable from one person  
15 to another or from one premises to another. A separate permit is required for each  
16 place in this state where the operations of a marijuana producer, marijuana  
17 processor, marijuana distributor, or marijuana retailer occur, including each retail  
18 outlet. No person who has been issued a permit to operate as a marijuana retailer,  
19 or who has any direct or indirect financial interest in the operation of a marijuana  
20 retailer, shall be issued a permit to operate as a marijuana producer, marijuana  
21 processor, or marijuana distributor.

22           **(5)** Each person issued a permit under this section shall post the permit in a  
23 conspicuous place on the premises to which the permit relates.

24           **SECTION 64.** 139.973 of the statutes is created to read:

**BILL****SECTION 64**

1           **139.973 Regulation. (1)** (a) No permittee may employ an individual who is  
2 under the age of 21 to work in the business to which the permit relates.

3           (b) Subject to ss. 111.321, 111.322, and 111.335, no permittee may employ an  
4 individual if any of the conditions under s. 139.972 (1) (c) 1. to 7. apply to the  
5 individual.

6           **(2)** A retail outlet shall sell no products or services other than usable marijuana  
7 or paraphernalia intended for the storage or use of usable marijuana.

8           **(3)** No marijuana retailer may allow a person who is under the age of 21 to enter  
9 or be on the premises of a retail outlet in violation of s. 961.71 (2m).

10          **(4)** The maximum amount of usable marijuana that a retail outlet may sell to  
11 an individual consumer in a single transaction may not exceed the permissible  
12 amount under s. 961.70 (5).

13          **(4m)** A marijuana retailer may not collect, retain, or distribute personal  
14 information regarding the retailer's customers except that which is necessary to  
15 complete a sale of usable marijuana.

16          **(5)** No marijuana retailer may display any signage in a window, on a door, or  
17 on the outside of the premises of a retail outlet that is visible to the general public  
18 from a public right-of-way, other than a single sign that is no larger than 1,600  
19 square inches identifying the retail outlet by the permittee's business or trade name.

20          **(6)** No marijuana retailer may display usable marijuana in a manner that is  
21 visible to the general public from a public right-of-way.

22          **(7)** No marijuana retailer or employee of a retail outlet may consume, or allow  
23 to be consumed, any usable marijuana on the premises of the retail outlet.

24          **(7m)** A marijuana retailer may operate a retail outlet only between the hours  
25 of 8 a.m. and 8 p.m.



**BILL**

1           **(8)** Except as provided under sub. (5), no marijuana producer, marijuana  
2 processor, marijuana distributor, or marijuana retailer may place or maintain, or  
3 cause to be placed or maintained, an advertisement of usable marijuana in any form  
4 or through any medium.

5           **(9)** (a) On a schedule determined by the department, every marijuana producer  
6 and marijuana processor shall submit representative samples of the marijuana and  
7 usable marijuana produced or processed by the marijuana producer or marijuana  
8 processor to a testing laboratory registered under s. 50.86 for testing marijuana and  
9 usable marijuana in order to certify that the marijuana and usable marijuana  
10 comply with standards prescribed by the department by rule, including testing for  
11 potency and for mold, fungus, pesticides, and other contaminants. The laboratory  
12 testing the sample shall destroy any part of the sample that remains after the  
13 testing.

14           (b) Marijuana producers and marijuana processors shall submit the results of  
15 the testing provided under par. (a) to the department in the manner prescribed by  
16 the department by rule.

17           (c) If a representative sample inspected and tested under par. (a) does not meet  
18 the standards prescribed by the department, the department shall take the  
19 necessary action to ensure that the entire lot from which the sample was taken is  
20 destroyed. The department shall promulgate rules to determine lots and lot  
21 numbers for purposes of this subsection and for the reporting of lots and lot numbers  
22 to the department.

23           **(10)** (a) A marijuana processor shall affix a label to all usable marijuana that  
24 the marijuana processor sells to marijuana distributors. The label shall specify the

**BILL****SECTION 64**

1 ingredients and the concentration of tetrahydrocannabinols in the usable  
2 marijuana.

3 (b) No marijuana processor may make usable marijuana using marijuana  
4 grown outside of this state. The label on each package of usable marijuana sold in  
5 this state before January 1, 2023, shall indicate that the usable marijuana is made  
6 in this state.

7 (11) (a) No permittee may sell marijuana or usable marijuana that contains  
8 more than 3 parts tetrahydrocannabinols to one part cannabidiol.

9 (b) No permittee may sell marijuana or usable marijuana that tests positive  
10 under sub. (9) (a) for mold, fungus, pesticides, or other contaminants if the  
11 contaminants, or level of contaminants, are identified by a testing laboratory to be  
12 potentially unsafe to the consumer.

13 (12) Immediately after beginning employment with a marijuana retailer, every  
14 employee of a marijuana retailer shall receive training, approved by the department,  
15 on the safe handling of usable marijuana offered for sale and on security and  
16 inventory accountability procedures related to such sales.

17 **SECTION 65.** 139.974 of the statutes is created to read:

18 **139.974 Records and reports.** (1) Every permittee shall keep accurate and  
19 complete records of the production and sales of marijuana and usable marijuana in  
20 this state. The records shall be kept on the premises described in the permit and in  
21 such manner as to ensure permanency and accessibility for inspection at reasonable  
22 hours by the department's authorized personnel. The department shall prescribe  
23 reasonable and uniform methods of keeping records and making reports and shall  
24 provide the necessary forms to permittees.

**BILL**

1           **(2)** If the department determines that any permittee's records are not kept in  
2 the prescribed form or are in such condition that the department requires an unusual  
3 amount of time to determine from the records the amount of the tax due, the  
4 department shall give notice to the permittee that the permittee is required to revise  
5 the permittee's records and keep them in the prescribed form. If the permittee fails  
6 to comply within 30 days, the permittee shall pay the expenses reasonably  
7 attributable to a proper examination and tax determination at the rate of \$30 a day  
8 for each auditor used to make the examination and determination. The department  
9 shall send a bill for such expenses and the permittee shall pay the amount of such  
10 bill within 10 days.

11           **(3)** If any permittee fails to file a report when due, the permittee shall be  
12 required to pay a late filing fee of \$10. A report that is mailed is filed on time if it is  
13 mailed in a properly addressed envelope with postage prepaid, the envelope is  
14 officially postmarked, or marked or recorded electronically as provided under section  
15 7502 (f) (2) (c) of the Internal Revenue Code, on the date due, and the report is  
16 actually received by the department or at the destination that the department  
17 prescribes within 5 days of the due date. A report that is not mailed is timely if it  
18 is received on or before the due date by the department or at the destination that the  
19 department prescribes. For purposes of this subsection, "mailed" includes delivery  
20 by a delivery service designated under section 7502 (f) of the Internal Revenue Code.

21           **(4)** Sections 71.78 (1), (1m), and (4) to (9) and 71.83 (2) (a) 3. and 3m., relating  
22 to confidentiality of income, franchise, and gift tax returns, apply to any information  
23 obtained from any permittee under this subchapter on a tax return, report, schedule,  
24 exhibit, or other document or from an audit report relating to any of those documents,  
25 except that the department shall publish production and sales statistics.

**BILL****SECTION 66**

1           **SECTION 66.** 139.975 of the statutes is created to read:

2           **139.975 Administration and enforcement.** (1) The department shall  
3 administer and enforce this subchapter and promulgate rules necessary to  
4 administer and enforce this subchapter.

5           (2) The duly authorized employees of the department have all necessary police  
6 powers to prevent violations of this subchapter.

7           (3) Authorized personnel of the department of justice and the department of  
8 revenue, and any law enforcement officer, within their respective jurisdictions, may  
9 at all reasonable hours enter the premises of any permittee and examine the books  
10 and records to determine whether the tax imposed by this subchapter has been fully  
11 paid and may enter and inspect any premises where marijuana or usable marijuana  
12 is produced, processed, made, sold, or stored to determine whether the permittee is  
13 complying with this subchapter.

14           (4) The department may suspend or revoke the permit of any permittee who  
15 violates s. 100.30, any provision of this subchapter, or any rules promulgated under  
16 sub. (1). The department shall revoke the permit of any permittee who violates s.  
17 100.30 3 or more times within a 5-year period.

18           (5) No suit shall be maintained in any court to restrain or delay the collection  
19 or payment of the tax levied in s. 139.971. The aggrieved taxpayer shall pay the tax  
20 when due and, if paid under protest, may at any time within 90 days from the date  
21 of payment sue the state to recover the tax paid. If it is finally determined that any  
22 part of the tax was wrongfully collected, the secretary of administration shall pay the  
23 amount wrongfully collected. A separate suit need not be filed for each separate  
24 payment made by any taxpayer, but a recovery may be had in one suit for as many  
25 payments as may have been made.

**BILL**

1           **(6)** (a) Any person may be compelled to testify in regard to any violation of this  
2 subchapter of which the person may have knowledge, even though such testimony  
3 may tend to incriminate the person, upon being granted immunity from prosecution  
4 in connection with the testimony, and upon the giving of such testimony, the person  
5 shall not be prosecuted because of the violation relative to which the person has  
6 testified.

7           (b) The immunity provided under par. (a) is subject to the restrictions under  
8 s. 972.085.

9           **(7)** The provisions on timely filing under s. 71.80 (18) apply to the tax imposed  
10 under this subchapter.

11           **(8)** Sections 71.74 (1), (2), (10), (11), and (14), 71.77, 71.91 (1) (a) and (c) and  
12 (2) to (7), 71.92, and 73.0301 as they apply to the taxes under ch. 71 apply to the taxes  
13 under this subchapter. Section 71.74 (13) as it applies to the collection of the taxes  
14 under ch. 71 applies to the collection of the taxes under this subchapter, except that  
15 the period during which notice of an additional assessment shall be given begins on  
16 the due date of the report under this subchapter.

17           **(9)** Any building or place of any kind where marijuana or usable marijuana is  
18 sold, possessed, stored, or manufactured without a lawful permit or in violation of  
19 s. 139.972 or 139.973 is declared a public nuisance and may be closed and abated as  
20 such.

21           **(10)** At the request of the secretary of revenue, the attorney general may  
22 represent this state or assist a district attorney in prosecuting any case arising under  
23 this subchapter.

24           **(11)** The tax imposed under this subchapter does apply to the sale, distribution,  
25 or delivery of medical marijuana as described in s. 50.85 (1).

**BILL****SECTION 67**

1           **SECTION 67.** 139.976 of the statutes is created to read:

2           **139.976 Theft of tax moneys.** All marijuana tax moneys received by a  
3           permittee for the sale of marijuana or usable marijuana on which the tax under this  
4           subchapter has become due and has not been paid are trust funds in the permittee's  
5           possession and are the property of this state. Any permittee who fraudulently  
6           withholds, appropriates, or otherwise uses marijuana tax moneys that are the  
7           property of this state is guilty of theft under s. 943.20 (1), whether or not the  
8           permittee has or claims to have an interest in those moneys.

9           **SECTION 68.** 139.977 of the statutes is created to read:

10           **139.977 Seizure and confiscation. (1)** All marijuana and usable marijuana  
11           produced, processed, made, kept, stored, sold, distributed, or transported in violation  
12           of this subchapter, and all tangible personal property used in connection with the  
13           marijuana or usable marijuana is unlawful property and subject to seizure by the  
14           department or a law enforcement officer. Except as provided in sub. (2), all  
15           marijuana and usable marijuana seized under this subsection shall be destroyed.

16           **(2)** If marijuana or usable marijuana on which the tax has not been paid is  
17           seized as provided under sub. (1), it may be given to law enforcement officers to use  
18           in criminal investigations or sold to qualified buyers by the department, without  
19           notice. If the department finds that the marijuana or usable marijuana may  
20           deteriorate or become unfit for use in criminal investigations or for sale, or that those  
21           uses would otherwise be impractical, the department may order them destroyed.

22           **(3)** If marijuana or usable marijuana on which the tax has been paid is seized  
23           as provided under sub. (1), it shall be returned to the true owner if ownership can be  
24           ascertained and the owner or the owner's agent is not involved in the violation  
25           resulting in the seizure. If the ownership cannot be ascertained or if the owner or

**BILL**

1 the owner's agent was guilty of the violation that resulted in the seizure of the  
2 marijuana or usable marijuana, it may be sold or otherwise disposed of as provided  
3 in sub. (2).

4 (4) If tangible personal property other than marijuana or usable marijuana is  
5 seized as provided under sub. (1), the department shall advertise the tangible  
6 personal property for sale by publication of a class 2 notice under ch. 985. If no person  
7 claiming a lien on, or ownership of, the property has notified the department of the  
8 person's claim within 10 days after last insertion of the notice, the department shall  
9 sell the property. If a sale is not practical the department may destroy the property.  
10 If a person claiming a lien on, or ownership of, the property notifies the department  
11 within the time prescribed in this subsection, the department may apply to the  
12 circuit court in the county where the property was seized for an order directing  
13 disposition of the property or the proceeds from the sale of the property. If the court  
14 orders the property to be sold, all liens, if any, may be transferred from the property  
15 to the sale proceeds. Neither the property seized nor the proceeds from the sale shall  
16 be turned over to any claimant of lien or ownership unless the claimant first  
17 establishes that the property was not used in connection with any violation under  
18 this subchapter or that, if so used, it was done without the claimant's knowledge or  
19 consent and without the claimant's knowledge of facts that should have given the  
20 claimant reason to believe it would be put to such use. If no claim of lien or ownership  
21 is established as provided under this subsection the property may be ordered  
22 destroyed.

23 **SECTION 69.** 139.978 of the statutes is created to read:

24 **139.978 Interest and penalties.** (1) Any person who makes or signs any  
25 false or fraudulent report under this subchapter or who attempts to evade the tax

**BILL****SECTION 69**

1 imposed by s. 139.971, or who aids in or abets the evasion or attempted evasion of  
2 that tax, may be fined not more than \$10,000 or imprisoned for not more than 9  
3 months or both.

4 (2) Any permittee who fails to keep the records required by s. 139.974 (1) and  
5 (2) shall be fined not less than \$100 nor more than \$500 or imprisoned not more than  
6 6 months or both.

7 (3) Any person who refuses to permit the examination or inspection authorized  
8 under s. 139.975 (3) may be fined not more than \$500 or imprisoned not more than  
9 6 months or both. The department shall immediately suspend or revoke the permit  
10 of any person who refuses to permit the examination or inspection authorized under  
11 s. 139.975 (3).

12 (4) Any person who violates any of the provisions of this subchapter for which  
13 no other penalty is prescribed shall be fined not less than \$100 nor more than \$1,000  
14 or imprisoned not less than 10 days nor more than 90 days or both.

15 (5) Any person who violates any of the rules promulgated in accordance with  
16 this subchapter shall be fined not less than \$100 nor more than \$500 or be  
17 imprisoned not more than 6 months or both.

18 (6) In addition to the penalties imposed for violating the provisions of this  
19 subchapter or any of the department's rules, the department shall revoke the permit  
20 of any person convicted of such a violation and not issue another permit to that  
21 person for a period of 2 years following the revocation.

22 (7) Unpaid taxes bear interest at the rate of 12 percent per year from the due  
23 date of the return until paid or deposited with the department, and all refunded taxes  
24 bear interest at the rate of 3 percent per year from the due date of the return to the  
25 date on which the refund is certified on the refund rolls.



**BILL**

1           **(8)** All nondelinquent payments of additional amounts owed shall be applied  
2 in the following order: penalties, interest, tax principal.

3           **(9)** Delinquent marijuana taxes bear interest at the rate of 1.5 percent per  
4 month until paid. The taxes imposed by this subchapter shall become delinquent if  
5 not paid:

6           (a) In the case of a timely filed return, no return filed or a late return, on or  
7 before the due date of the return.

8           (b) In the case of a deficiency determination of taxes, within 2 months after the  
9 date of demand.

10          **(10)** If due to neglect an incorrect return is filed, the entire tax finally  
11 determined is subject to a penalty of 25 percent of the tax exclusive of interest or  
12 other penalty. A person filing an incorrect return has the burden of proving that the  
13 error or errors were due to good cause and not due to neglect.

14          **SECTION 70.** 139.979 of the statutes is created to read:

15          **139.979 Personal use.** An individual who possesses no more than 6  
16 marijuana plants at any one time is not subject to the tax imposed under s. 139.971.  
17 An individual who possesses more than 6 marijuana plants at any one time shall  
18 apply for the appropriate permit under s. 139.972 and pay the appropriate tax  
19 imposed under s. 139.971.

20          **SECTION 71.** 139.980 of the statutes is created to read:

21          **139.980 Agreement with tribes.** The department may enter into an  
22 agreement with a federally recognized American Indian Tribe in this state for the  
23 administration and enforcement of this subchapter and to provide refunds of the tax  
24 imposed under s. 139.971 on marijuana sold on tribal land by or to enrolled members  
25 of the tribe residing on the tribal land.

**BILL****SECTION 72**

1           **SECTION 72.** 146.40 (1) (bo) of the statutes is amended to read:

2           146.40 (1) (bo) “Hospice” means a hospice that is licensed under subch. VI VII  
3 of ch. 50.

4           **SECTION 73.** 146.44 of the statutes is created to read:

5           **146.44 Medical Marijuana Registry Program. (1) DEFINITIONS.** In this  
6 section:

7           (a) “Applicant” means a person who is applying for a registry identification card  
8 under sub. (2) (a).

9           (b) “Debilitating medical condition or treatment” has the meaning given in s.  
10 50.80 (2).

11           (c) “Medical use of tetrahydrocannabinols” has the meaning given in s. 50.80  
12 (4).

13           (d) “Out-of-state registry identification card” means a document issued by an  
14 entity listed in the rule promulgated under sub. (7) (f) that identifies the person as  
15 a qualifying patient or primary caregiver, or an equivalent designation.

16           (e) “Primary caregiver” has the meaning given in s. 50.80 (5).

17           (f) “Qualifying patient” has the meaning given in s. 50.80 (6).

18           (g) “Registrant” means a person to whom a registry identification card is issued  
19 under sub. (4).

20           (h) “Registry identification card” means a document issued by the department  
21 under this section that identifies a person as a qualifying patient or primary  
22 caregiver.

23           (i) “Written certification” has the meaning given in s. 50.80 (10).

**BILL**

1           **(2) APPLICATION.** (a) An adult who is claiming to be a qualifying patient may  
2 apply for a registry identification card by submitting to the department a signed  
3 application form containing or accompanied by all of the following:

4           1. His or her name, address, and date of birth.

5           2. A written certification.

6           3. The name, address, and telephone number of the person's current physician,  
7 as listed in the written certification.

8           4. A registration fee in an amount determined by the department, but not to  
9 exceed \$150.

10           (b) An adult registrant who is a qualifying patient or an applicant may jointly  
11 apply with another adult to the department for a registry identification card for the  
12 other adult, designating the other adult as a primary caregiver for the registrant or  
13 applicant. Both persons who jointly apply for a registry identification card under this  
14 paragraph shall sign the application form, which shall contain the name, address,  
15 and date of birth of the individual applying to be registered as a primary caregiver.

16           (c) The department shall promulgate rules specifying how a parent, guardian,  
17 or person having legal custody of a child may apply for a registry identification card  
18 for himself or herself and for the child and the circumstances under which the  
19 department may approve or deny the application.

20           **(3) PROCESSING THE APPLICATION.** The department shall verify the information  
21 contained in or accompanying an application submitted under sub. (2) and shall  
22 approve or deny the application within 30 days after receiving it. Except as provided  
23 in sub. (2) (c), the department may deny an application submitted under sub. (2) only  
24 if the required information has not been provided or if false information has been  
25 provided.

**BILL****SECTION 73**

1           **(4) ISSUING A REGISTRY IDENTIFICATION CARD.** The department shall issue to the  
2 applicant a registry identification card within 5 days after approving an application  
3 under sub. (3). Unless voided under sub. (5) (b) or (c) or revoked under rules issued  
4 by the department under sub. (7) (d), a registry identification card shall expire 4  
5 years from the date of issuance. A registry identification card shall contain all of the  
6 following:

7           (a) The name, address, and date of birth of all of the following:

8           1. The registrant.

9           2. Each primary caregiver, if the registrant is a qualifying patient.

10          3. The qualifying patient, if the registrant is a primary caregiver.

11          (b) The date of issuance and expiration date of the registry identification card.

12          (c) A photograph of the registrant.

13          (d) Other information the department may require by rule.

14           **(5) ADDITIONAL INFORMATION TO BE PROVIDED BY REGISTRANT.** (a) 1. An adult  
15 registrant shall notify the department of any change in the registrant's name and  
16 address. An adult registrant who is a qualifying patient shall notify the department  
17 of any change in his or her physician, of any significant improvement in his or her  
18 health as it relates to his or her debilitating medical condition or treatment, and if  
19 a registered primary caregiver no longer assists the registrant with the medical use  
20 of tetrahydrocannabinols.

21           2. If a qualifying patient is a child, a primary caregiver for the child shall  
22 provide the department with any information that the child, if he or she were an  
23 adult, would have to provide under subd. 1. within 10 days after the date of the  
24 change to which the information relates.

**BILL**

1 (b) If a registrant fails to notify the department within 10 days after any change  
2 for which notification is required under par. (a) 1., his or her registry identification  
3 card is void. If a registrant fails to comply with par. (a) 2., the registry identification  
4 card for the qualifying patient to whom the information under par. (a) 2. relates is  
5 void.

6 (c) If a qualifying patient's registry identification card becomes void under par.  
7 (b), the registry identification card for each of the qualifying patient's primary  
8 caregivers is void. The department shall send written notice of this fact to each such  
9 primary caregiver.

10 **(6) RECORDS.** (a) The department shall maintain a list of all registrants.

11 (b) Notwithstanding s. 19.35 and except as provided in par. (c), the department  
12 may not disclose information from an application submitted or a registry  
13 identification card issued under this section.

14 (c) The department may disclose to state or local law enforcement agencies  
15 information from an application submitted by, or from a registry identification card  
16 issued to, a specific person under this section, for the purpose of verifying that the  
17 person possesses a valid registry identification card.

18 **(7) RULES.** The department shall promulgate rules to implement this section,  
19 including the rules required under sub. (2) (c) and rules doing all of the following:

20 (a) Creating forms for applications to be used under sub. (2).

21 (b) Specifying how the department will verify the truthfulness of information  
22 submitted on an application under sub. (2).

23 (c) Specifying how and under what circumstances registry identification cards  
24 may be renewed.

**BILL****SECTION 73**

1 (d) Specifying how and under what changed circumstances a registry  
2 identification card may be revoked.

3 (e) Specifying under what circumstances an applicant whose application is  
4 denied may reapply.

5 (f) Listing each state, district, commonwealth, territory, or insular possession  
6 thereof that, by issuing an out-of-state registry identification card, allows the  
7 medical use of marijuana by a visiting qualifying patient or allows a person to assist  
8 with a visiting qualifying patient's medical use of marijuana.

9 (g) Creating guidelines for issuing registry identification cards, and for  
10 obtaining and distributing marijuana for the medical use of tetrahydrocannabinols,  
11 to persons under the care of the department who have a debilitating medical  
12 condition or treatment.

13 **SECTION 74.** 146.81 (1) (L) of the statutes is amended to read:

14 146.81 (1) (L) A hospice licensed under subch. ~~VI~~ VII of ch. 50.

15 **SECTION 75.** 146.997 (1) (d) 18. of the statutes is amended to read:

16 146.997 (1) (d) 18. A hospice licensed under subch. ~~VI~~ VII of ch. 50.

17 **SECTION 76.** 289.33 (3) (d) of the statutes is amended to read:

18 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,  
19 authorization, approval, variance or exception or any restriction, condition of  
20 approval or other restriction, regulation, requirement or prohibition imposed by a  
21 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by  
22 a town, city, village, county or special purpose district, including without limitation  
23 because of enumeration any ordinance, resolution or regulation adopted under s.  
24 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),  
25 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),

**BILL**

1 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),  
2 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),  
3 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) (a), and (26), 59.55 (3),  
4 (4), (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16),  
5 59.57 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70  
6 (1), (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (7), (8),  
7 and (10), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34,  
8 61.35, 61.351, 61.353, 61.354, 62.11, 62.23, 62.231, 62.233, 62.234, 66.0101, 66.0415,  
9 87.30, 196.58, 200.11 (8), 236.45, 281.43 or 349.16, subch. VIII of ch. 60, or subch. III  
10 of ch. 91.

11 **SECTION 77.** 340.01 (50m) (a) of the statutes is amended to read:

12 340.01 **(50m)** (a) A controlled substance included in schedule I under ch. 961  
13 ~~other than a tetrahydrocannabinol.~~

14 **SECTION 78.** 340.01 (50m) (e) of the statutes is repealed.

15 **SECTION 79.** 340.01 (66m) of the statutes is created to read:

16 340.01 **(66m)** "Tetrahydrocannabinols concentration" has the meaning given  
17 in s. 23.33 (1) (k).

18 **SECTION 80.** 343.10 (5) (a) 1. of the statutes is amended to read:

19 343.10 **(5)** (a) 1. In addition to any restrictions appearing on the former  
20 operator's license of the applicant, the occupational license shall contain definite  
21 restrictions as to hours of the day, not to exceed 12, hours per week, not to exceed 60,  
22 type of occupation and areas or routes of travel which are permitted under the  
23 license. The occupational license may permit travel to and from church during  
24 specified hours if the travel does not exceed the restrictions as to hours of the day and  
25 hours per week in this subdivision. The occupational license may permit travel

**BILL****SECTION 80**

1 necessary to comply with a driver safety plan ordered under s. 343.30 (1q) or 343.305  
2 if the travel does not exceed the restrictions as to hours of the day and hours per week  
3 in this subdivision. The occupational license may contain restrictions on the use of  
4 alcohol, of tetraacannabinols, and of controlled substances and controlled substance  
5 analogs in violation of s. 961.41.

6 **SECTION 81.** 343.10 (5) (a) 2. of the statutes is amended to read:

7 343.10 (5) (a) 2. If the applicant has 2 or more convictions, suspensions or  
8 revocations, as counted under s. 343.307 (1), the occupational license shall prohibit  
9 the applicant from driving or operating a motor vehicle while he or she has an alcohol  
10 concentration of more than 0.0 or a tetrahydrocannabinols concentration of more  
11 than 0.0.

12 **SECTION 82.** 343.12 (7) (a) 11. of the statutes is amended to read:

13 343.12 (7) (a) 11. Operating a motor vehicle while under the legal drinking age  
14 with a prohibited alcohol concentration under s. 346.63 (2m) or while under the legal  
15 age with a prohibited tetrahydrocannabinols concentration under s. 346.63 (2p).

16 **SECTION 83.** 343.16 (2) (b) of the statutes is amended to read:

17 343.16 (2) (b) *Specific requirements.* The standards developed by the  
18 department under par. (c) shall provide that the examination for persons making  
19 their first application for an operator's license shall include, subject to sub. (3) (am),  
20 a test of the applicant's eyesight, ability to read and understand highway signs  
21 regulating, warning and directing traffic, knowledge of the traffic laws, including ss.  
22 346.072 and 346.26, understanding of fuel-efficient driving habits and the relative  
23 costs and availability of other modes of transportation, knowledge of the need for  
24 anatomical gifts and the ability to make an anatomical gift through the use of a donor  
25 card issued under s. 343.175 (2), and an actual demonstration of ability to exercise



**BILL**

1 ordinary and reasonable control in the operation of a motor vehicle. The test of  
2 knowledge of the traffic laws shall include questions on the provisions of ss. 343.30  
3 (1q), 343.303 to 343.31 and 346.63 to 346.655, relating to the operation of a motor  
4 vehicle and the consumption of alcohol beverages and tetrahydrocannabinols. The  
5 test of knowledge may also include questions on the social, medical and economic  
6 effects of alcohol and other drug abuse. The examination of applicants for  
7 authorization to operate 'Class M' vehicles shall test an applicant's knowledge of  
8 Type 1 motorcycle safety, including proper eye protection to be worn during hours of  
9 darkness. The department may require persons changing their residence to this  
10 state from another jurisdiction and persons applying for a reinstated license after  
11 termination of a revocation period to take all or parts of the examination required  
12 of persons making their first application for an operator's license. Any applicant who  
13 is required to give an actual demonstration of ability to exercise ordinary and  
14 reasonable control in the operation of a motor vehicle shall furnish a representative  
15 vehicle in safe operating condition for use in testing ability.

16 **SECTION 84.** 343.16 (5) (a) of the statutes is amended to read:

17 343.16 (5) (a) The secretary may require any applicant for a license or any  
18 licensed operator to submit to a special examination by such persons or agencies as  
19 the secretary may direct to determine incompetency, physical or mental disability,  
20 disease, or any other condition that might prevent such applicant or licensed person  
21 from exercising reasonable and ordinary control over a motor vehicle. If the  
22 department requires the applicant to submit to an examination, the applicant shall  
23 pay for the examination. If the department receives an application for a renewal or  
24 duplicate license after voluntary surrender under s. 343.265 or receives a report from  
25 a physician, physician assistant, as defined in s. 448.01 (6), advanced practice nurse

**BILL****SECTION 84**

1 prescriber certified under s. 441.16 (2), or optometrist under s. 146.82 (3), or if the  
2 department has a report of 2 or more arrests within a one-year period for any  
3 combination of violations of s. 346.63 (1) or (5) or a local ordinance in conformity with  
4 s. 346.63 (1) or (5) or a law of a federally recognized American Indian tribe or band  
5 in this state in conformity with s. 346.63 (1) or (5), or s. 346.63 (1m), 1985 stats., or  
6 s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a  
7 vehicle, the department shall determine, by interview or otherwise, whether the  
8 operator should submit to an examination under this section. The examination may  
9 consist of an assessment. If the examination indicates that education or treatment  
10 for a disability, disease, or condition concerning the use of alcohol, a controlled  
11 substance or a controlled substance analog, or tetrahydrocannabinols is appropriate,  
12 the department may order a driver safety plan in accordance with s. 343.30 (1q). If  
13 there is noncompliance with assessment or the driver safety plan, the department  
14 shall revoke the person's operating privilege in the manner specified in s. 343.30 (1q)  
15 (d).

16 **SECTION 85.** 343.30 (1p) of the statutes is amended to read:

17 343.30 **(1p)** Notwithstanding sub. (1), a court shall suspend the operating  
18 privilege of a person for 3 months upon the person's conviction by the court for  
19 violation of s. 346.63 (2m) or (2p) or a local ordinance in conformity with s. 346.63  
20 (2m) or (2p). If there was a minor passenger under 16 years of age in the motor  
21 vehicle at the time of the violation that gave rise to the conviction under s. 346.63  
22 (2m) or (2p) or a local ordinance in conformity with s. 346.63 (2m) or (2p), the court  
23 shall suspend the operating privilege of the person for 6 months.

24 **SECTION 86.** 343.30 (1q) (h) of the statutes is amended to read:

**BILL**

1           343.30 (1q) (h) The court or department shall provide that the period of  
2 suspension or revocation imposed under this subsection shall be reduced by any  
3 period of suspension or revocation previously served under s. 343.305 if the  
4 suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63  
5 (1) ~~or~~, (2m), or (2p) or a local ordinance in conformity therewith arise out of the same  
6 incident or occurrence. The court or department shall order that the period of  
7 suspension or revocation imposed under this subsection run concurrently with any  
8 period of time remaining on a suspension or revocation imposed under s. 343.305  
9 arising out of the same incident or occurrence. The court may modify an occupational  
10 license authorized under s. 343.305 (8) (d) in accordance with this subsection.

11           **SECTION 87.** 343.305 (2) of the statutes is amended to read:

12           343.305 (2) IMPLIED CONSENT. Any person who is on duty time with respect to  
13 a commercial motor vehicle or drives or operates a motor vehicle upon the public  
14 highways of this state, or in those areas enumerated in s. 346.61, is deemed to have  
15 given consent to one or more tests of his or her breath, blood or urine, for the purpose  
16 of determining the presence or quantity in his or her blood or breath, of alcohol,  
17 tetrahydrocannabinols, controlled substances, controlled substance analogs or other  
18 drugs, or any combination of alcohol, tetrahydrocannabinols, controlled substances,  
19 controlled substance analogs and other drugs, when requested to do so by a law  
20 enforcement officer under sub. (3) (a) or (am) or when required to do so under sub.  
21 (3) (ar) or (b). Any such tests shall be administered upon the request of a law  
22 enforcement officer. The law enforcement agency by which the officer is employed  
23 shall be prepared to administer, either at its agency or any other agency or facility,  
24 2 of the 3 tests under sub. (3) (a), (am), or (ar), and may designate which of the tests  
25 shall be administered first.

**BILL****SECTION 88**

1           **SECTION 88.** 343.305 (3) (a) of the statutes is amended to read:

2           343.305 (3) (a) Upon arrest of a person for violation of s. 346.63 (1), (2m), (2p),  
3 or (5) or a local ordinance in conformity therewith, or for a violation of s. 346.63 (2)  
4 or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, or upon  
5 arrest subsequent to a refusal under par. (ar), a law enforcement officer may request  
6 the person to provide one or more samples of his or her breath, blood or urine for the  
7 purpose specified under sub. (2). Compliance with a request for one type of sample  
8 does not bar a subsequent request for a different type of sample.

9           **SECTION 89.** 343.305 (3) (am) of the statutes is amended to read:

10           343.305 (3) (am) Prior to arrest, a law enforcement officer may request the  
11 person to provide one or more samples of his or her breath, blood or urine for the  
12 purpose specified under sub. (2) whenever a law enforcement officer detects any  
13 presence of alcohol, tetrahydrocannabinols, a controlled substance, a controlled  
14 substance analog or other drug, or a combination thereof, on a person driving or  
15 operating or on duty time with respect to a commercial motor vehicle or has reason  
16 to believe the person is violating or has violated s. 346.63 (7). Compliance with a  
17 request for one type of sample does not bar a subsequent request for a different type  
18 of sample. For the purposes of this paragraph, "law enforcement officer" includes  
19 inspectors in the performance of duties under s. 110.07 (3).

20           **SECTION 90.** 343.305 (3) (ar) 1. of the statutes is amended to read:

21           343.305 (3) (ar) 1. If a person is the operator of a vehicle that is involved in an  
22 accident that causes substantial bodily harm, as defined in s. 939.22 (38), to any  
23 person, and a law enforcement officer detects any presence of alcohol,  
24 tetrahydrocannabinols, a controlled substance, a controlled substance analog or  
25 other drug, or a combination thereof, the law enforcement officer may request the

**BILL**

1 operator to provide one or more samples of his or her breath, blood, or urine for the  
2 purpose specified under sub. (2). Compliance with a request for one type of sample  
3 does not bar a subsequent request for a different type of sample. A person who is  
4 unconscious or otherwise not capable of withdrawing consent is presumed not to  
5 have withdrawn consent under this subdivision and one or more samples specified  
6 in par. (a) or (am) may be administered to the person. If a person refuses to take a  
7 test under this subdivision, he or she may be arrested under par. (a).

8 **SECTION 91.** 343.305 (3) (b) of the statutes is amended to read:

9 343.305 (3) (b) A person who is unconscious or otherwise not capable of  
10 withdrawing consent is presumed not to have withdrawn consent under this  
11 subsection, and if a law enforcement officer has probable cause to believe that the  
12 person has violated s. 346.63 (1), (2m), (2p), or (5) or a local ordinance in conformity  
13 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the  
14 use of a vehicle, or detects any presence of alcohol, tetrahydrocannabinols, controlled  
15 substance, controlled substance analog or other drug, or a combination thereof, on  
16 a person driving or operating or on duty time with respect to a commercial motor  
17 vehicle or has reason to believe the person has violated s. 346.63 (7), one or more  
18 samples specified in par. (a) or (am) may be administered to the person.

19 **SECTION 92.** 343.305 (5) (b) of the statutes is amended to read:

20 343.305 (5) (b) Blood may be withdrawn from the person arrested for violation  
21 of s. 346.63 (1), (2), (2m), (2p), (5), or (6) or 940.25, or s. 940.09 where the offense  
22 involved the use of a vehicle, or a local ordinance in conformity with s. 346.63 (1),  
23 (2m), (2p), or (5), or as provided in sub. (3) (am) or (b) to determine the presence or  
24 quantity of alcohol, tetrahydrocannabinols, a controlled substance, a controlled  
25 substance analog, or any other drug, or any combination of alcohol, controlled

**BILL****SECTION 92**

1 substance, controlled substance analog, and any other drug in the blood only by a  
2 physician, registered nurse, medical technologist, physician assistant, phlebotomist,  
3 or other medical professional who is authorized to draw blood, or person acting under  
4 the direction of a physician.

5 **SECTION 93.** 343.305 (5) (d) of the statutes is amended to read:

6 343.305 (5) (d) At the trial of any civil or criminal action or proceeding arising  
7 out of the acts committed by a person alleged to have been driving or operating a  
8 motor vehicle while under the influence of an intoxicant, a controlled substance, a  
9 controlled substance analog or any other drug, or under the influence of any  
10 combination of alcohol, tetrahydrocannabinols, a controlled substance, a controlled  
11 substance analog and any other drug, to a degree which renders him or her incapable  
12 of safely driving, or under the combined influence of an intoxicant and any other drug  
13 to a degree which renders him or her incapable of safely driving, or having a  
14 prohibited alcohol or tetrahydrocannabinols concentration, or alleged to have been  
15 driving or operating or on duty time with respect to a commercial motor vehicle while  
16 having an alcohol concentration above 0.0 or possessing an intoxicating beverage,  
17 regardless of its alcohol content, or within 4 hours of having consumed or having been  
18 under the influence of an intoxicating beverage, regardless of its alcohol content, or  
19 of having an alcohol concentration of 0.04 or more, the results of a test administered  
20 in accordance with this section are admissible on the issue of whether the person was  
21 under the influence of an intoxicant, a controlled substance, a controlled substance  
22 analog or any other drug, or under the influence of any combination of alcohol,  
23 tetrahydrocannabinols, a controlled substance, a controlled substance analog and  
24 any other drug, to a degree which renders him or her incapable of safely driving or  
25 under the combined influence of an intoxicant and any other drug to a degree which

**BILL**

1 renders him or her incapable of safely driving or any issue relating to the person's  
2 alcohol concentration. Test results shall be given the effect required under s.  
3 885.235.

4 **SECTION 94.** 343.305 (5) (dm) of the statutes is created to read:

5 343.305 (5) (dm) At the trial of any civil or criminal action or proceeding arising  
6 out of the acts committed by a person alleged to have been driving or operating a  
7 motor vehicle while having a tetrahydrocannabinols concentration at or above  
8 specified levels, the results of a blood test administered in accordance with this  
9 section are admissible on any issue relating to the tetrahydrocannabinols  
10 concentration. Test results shall be given the effect required under s. 885.235.

11 **SECTION 95.** 343.305 (7) (a) of the statutes is amended to read:

12 343.305 (7) (a) If a person submits to chemical testing administered in  
13 accordance with this section and any test results indicate the presence of a detectable  
14 amount of a restricted controlled substance in the person's blood or a prohibited  
15 alcohol or tetrahydrocannabinols concentration, the law enforcement officer shall  
16 report the results to the department. The person's operating privilege is  
17 administratively suspended for 6 months.

18 **SECTION 96.** 343.305 (8) (b) 2. bm. of the statutes is amended to read:

19 343.305 (8) (b) 2. bm. Whether the person had a prohibited alcohol or  
20 tetrahydrocannabinols concentration or a detectable amount of a restricted  
21 controlled substance in his or her blood at the time the offense allegedly occurred.

22 **SECTION 97.** 343.305 (8) (b) 2. d. of the statutes is amended to read:

23 343.305 (8) (b) 2. d. If one or more tests were administered in accordance with  
24 this section, whether each of the test results for those tests indicate the person had

**BILL**

1 a prohibited alcohol or tetrahydrocannabinols concentration or a detectable amount  
2 of a restricted controlled substance in his or her blood.

3 **SECTION 98.** 343.305 (8) (b) 4m. a. of the statutes is amended to read:

4 343.305 (8) (b) 4m. a. A blood test administered in accordance with this section  
5 indicated that the person had a detectable amount of methamphetamine, or  
6 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ or a prohibited  
7 tetrahydrocannabinols concentration but did not have a detectable amount of any  
8 other restricted controlled substance in his or her blood.

9 **SECTION 99.** 343.305 (8) (b) 5. b. of the statutes is amended to read:

10 343.305 (8) (b) 5. b. The person did not have a prohibited alcohol or  
11 tetrahydrocannabinols concentration or a detectable amount of a restricted  
12 controlled substance in his or her blood at the time the offense allegedly occurred.

13 **SECTION 100.** 343.305 (8) (b) 6. b. of the statutes is amended to read:

14 343.305 (8) (b) 6. b. The person had a prohibited alcohol or  
15 tetrahydrocannabinols concentration or a detectable amount of a restricted  
16 controlled substance in his or her blood at the time the offense allegedly occurred.

17 **SECTION 101.** 343.305 (9) (a) 5. a. of the statutes is amended to read:

18 343.305 (9) (a) 5. a. Whether the officer had probable cause to believe the  
19 person was driving or operating a motor vehicle while under the influence of alcohol,  
20 tetrahydrocannabinols, a controlled substance or a controlled substance analog or  
21 any combination of alcohol, tetrahydrocannabinols, a controlled substance and a  
22 controlled substance analog, under the influence of any other drug to a degree which  
23 renders the person incapable of safely driving, or under the combined influence of  
24 alcohol and any other drug to a degree which renders the person incapable of safely  
25 driving, having a restricted controlled substance in his or her blood, or having a



**BILL**

1 prohibited alcohol or tetrahydrocannabinols concentration or, if the person was  
2 driving or operating a commercial motor vehicle, an alcohol concentration of 0.04 or  
3 more and whether the person was lawfully placed under arrest for violation of s.  
4 346.63 (1), (2m) or (5) or a local ordinance in conformity therewith or s. 346.63 (2) or  
5 (6), 940.09 (1) or 940.25.

6 **SECTION 102.** 343.305 (9) (am) 5. a. of the statutes is amended to read:

7 343.305 (9) (am) 5. a. Whether the officer detected any presence of alcohol,  
8 tetrahydrocannabinols, controlled substance, controlled substance analog or other  
9 drug, or a combination thereof, on the person or had reason to believe that the person  
10 was violating or had violated s. 346.63 (7).

11 **SECTION 103.** 343.305 (9) (am) 5. c. of the statutes is amended to read:

12 343.305 (9) (am) 5. c. Whether the person refused to permit the test. The person  
13 shall not be considered to have refused the test if it is shown by a preponderance of  
14 evidence that the refusal was due to a physical inability to submit to the test due to  
15 a physical disability or disease unrelated to the use of alcohol,  
16 tetrahydrocannabinols, controlled substances, controlled substance analogs or other  
17 drugs.

18 **SECTION 104.** 343.305 (9) (d) of the statutes is amended to read:

19 343.305 (9) (d) At the close of the hearing, or within 5 days thereafter, the court  
20 shall determine the issues under par. (a) 5. or (am) 5. If all issues are determined  
21 adversely to the person, the court shall proceed under sub. (10). If one or more of the  
22 issues is determined favorably to the person, the court shall order that no action be  
23 taken on the operating privilege on account of the person's refusal to take the test in  
24 question. This section does not preclude the prosecution of the person for violation

**BILL****SECTION 104**

1 of s. 346.63 (1), (2m), (2p), (5) or (7) or a local ordinance in conformity therewith, or  
2 s. 346.63 (2) or (6), 940.09 (1) or 940.25.

3 **SECTION 105.** 343.305 (10) (em) of the statutes is amended to read:

4 343.305 (10) (em) One penalty for improperly refusing to submit to a test for  
5 intoxication regarding a person arrested for a violation of s. 346.63 (2m), (2p), or (7)  
6 or a local ordinance in conformity therewith is revocation of the person's operating  
7 privilege for 6 months. If there was a minor passenger under 16 years of age in the  
8 motor vehicle at the time of the incident that gave rise to the improper refusal, the  
9 revocation period is 12 months. After the first 15 days of the revocation period, the  
10 person is eligible for an occupational license under s. 343.10. Any such improper  
11 refusal or revocation for the refusal does not count as a prior refusal or a prior  
12 revocation under this section or ss. 343.30 (1q), 343.307 and 346.65 (2). The person  
13 shall not be required to submit to and comply with any assessment or driver safety  
14 plan under pars. (c) and (d).

15 **SECTION 106.** 343.307 (1) (d) of the statutes is amended to read:

16 343.307 (1) (d) Convictions under the law of another jurisdiction that prohibits  
17 a person from refusing chemical testing or using a motor vehicle while intoxicated  
18 or under the influence of a controlled substance or controlled substance analog, or  
19 a combination thereof; with an excess or specified range of alcohol or  
20 tetrahydrocannabinols concentration; while under the influence of any drug to a  
21 degree that renders the person incapable of safely driving; or while having a  
22 detectable amount of a restricted controlled substance in his or her blood, as those  
23 or substantially similar terms are used in that jurisdiction's laws.

24 **SECTION 107.** 343.307 (2) (e) of the statutes is amended to read:

**BILL**

1           343.307 (2) (e) Convictions under the law of another jurisdiction that prohibits  
2 a person from refusing chemical testing or using a motor vehicle while intoxicated  
3 or under the influence of a controlled substance or controlled substance analog, or  
4 a combination thereof; with an excess or specified range of alcohol or  
5 tetrahydrocannabinols concentration; while under the influence of any drug to a  
6 degree that renders the person incapable of safely driving; or while having a  
7 detectable amount of a restricted controlled substance in his or her blood, as those  
8 or substantially similar terms are used in that jurisdiction's laws.

9           **SECTION 108.** 343.31 (1) (am) of the statutes is amended to read:

10           343.31 (1) (am) Injury by the operation of a vehicle while under the influence  
11 of an intoxicant, tetrahydrocannabinols, a controlled substance or a controlled  
12 substance analog, or any combination of an intoxicant, tetrahydrocannabinols, a  
13 controlled substance and a controlled substance analog, under the influence of any  
14 other drug to a degree which renders him or her incapable of safely driving, or under  
15 the combined influence of an intoxicant and any other drug to a degree which renders  
16 him or her incapable of safely driving or while the person has a detectable amount  
17 of a restricted controlled substance in his or her blood or has a prohibited alcohol or  
18 tetrahydrocannabinols concentration and which is criminal under s. 346.63 (2).

19           **SECTION 109.** 343.31 (2) of the statutes is amended to read:

20           343.31 (2) The department shall revoke the operating privilege of any resident  
21 upon receiving notice of the conviction of such person in another jurisdiction for an  
22 offense therein which, if committed in this state, would have been cause for  
23 revocation under this section or for revocation under s. 343.30 (1q). Such offenses  
24 shall include violation of any law of another jurisdiction that prohibits a person from  
25 using a motor vehicle while intoxicated or under the influence of a controlled

**BILL****SECTION 109**

1 substance or controlled substance analog, or a combination thereof; with an excess  
2 or specified range of alcohol or tetrahydrocannabinols concentration; while under  
3 the influence of any drug to a degree that renders the person incapable of safely  
4 driving; or while having a detectable amount of a restricted controlled substance in  
5 his or her blood, as those or substantially similar terms are used in that jurisdiction's  
6 laws. Upon receiving similar notice with respect to a nonresident, the department  
7 shall revoke the privilege of the nonresident to operate a motor vehicle in this state.  
8 Such revocation shall not apply to the operation of a commercial motor vehicle by a  
9 nonresident who holds a valid commercial driver license issued by another state.

10 **SECTION 110.** 343.315 (2) (a) 2. of the statutes is amended to read:

11 343.315 (2) (a) 2. Section 346.63 (1) (b) or (5) (a) or a local ordinance in  
12 conformity therewith or a law of a federally recognized American Indian tribe or  
13 band in this state in conformity with s. 346.63 (1) (b) or (5) (a) or the law of another  
14 jurisdiction prohibiting driving or operating a commercial motor vehicle while the  
15 person's alcohol concentration is 0.04 or more or with an excess or specified range of  
16 alcohol or tetrahydrocannabinols concentration, as those or substantially similar  
17 terms are used in that jurisdiction's laws.

18 **SECTION 111.** 343.315 (2) (a) 5. of the statutes is amended to read:

19 343.315 (2) (a) 5. Section 343.305 (7) or (9) or a local ordinance in conformity  
20 therewith or a law of a federally recognized American Indian tribe or band in this  
21 state in conformity with s. 343.305 (7) or (9) or the law of another jurisdiction  
22 prohibiting refusal of a person driving or operating a motor vehicle to submit to  
23 chemical testing to determine the person's alcohol or tetrahydrocannabinols  
24 concentration or intoxication or the amount of a restricted controlled substance in

**BILL**

1 the person's blood, or prohibiting positive results from such chemical testing, as  
2 those or substantially similar terms are used in that jurisdiction's laws.

3 **SECTION 112.** 343.315 (2) (a) 6. of the statutes is amended to read:

4 343.315 (2) (a) 6. Section 346.63 (2) or (6), 940.09 (1) or 940.25 or a law of a  
5 federally recognized American Indian tribe or band in this state in conformity with  
6 s. 346.63 (2) or (6), 940.09 (1) or 940.25, or the law of another jurisdiction prohibiting  
7 causing or inflicting injury, great bodily harm or death through use of a motor vehicle  
8 while intoxicated or under the influence of alcohol, tetrahydrocannabinols, a  
9 controlled substance, a controlled substance analog or a combination thereof, or with  
10 an alcohol concentration of 0.04 or more or with an excess or specified range of alcohol  
11 or tetrahydrocannabinols concentration, while under the influence of any drug to a  
12 degree that renders the person incapable of safely driving, or while having a  
13 detectable amount of a restricted controlled substance in the person's blood, as those  
14 or substantially similar terms are used in that jurisdiction's laws.

15 **SECTION 113.** 343.315 (2) (bm) 2. of the statutes is amended to read:

16 343.315 (2) (bm) 2. The offense relates to a vehicle operator's alcohol or  
17 tetrahydrocannabinols concentration or intoxication or the amount of a restricted  
18 controlled substance in the operator's blood.

19 **SECTION 114.** 343.32 (2) (bj) of the statutes is amended to read:

20 343.32 (2) (bj) The scale adopted by the secretary shall assess, for each  
21 conviction, 6 demerit points for a violation of s. 346.63 (6), 4 demerit points for a  
22 violation of s. 346.63 (2m) or (2p), and 3 demerit points for a violation of s. 346.63 (7)  
23 (a) 3. The scale adopted by the secretary shall not assess any demerit points for  
24 conviction of a violation of s. 346.63 (5) or (7) (a) 1. or 2.

25 **SECTION 115.** 344.576 (2) (b) of the statutes is amended to read:

**BILL****SECTION 115**

1           344.576 (2) (b) The damage occurs while the renter or authorized driver  
2 operates the private passenger vehicle in this state while under the influence of an  
3 intoxicant or other drug, as described under s. 346.63 (1) (a), (am), or (b) ~~or~~, (2m), or  
4 (2p).

5           **SECTION 116.** 346.63 (1) (b) of the statutes is amended to read:

6           346.63 (1) (b) The person has a prohibited alcohol or tetrahydrocannabinols  
7 concentration.

8           **SECTION 117.** 346.63 (1) (d) of the statutes is renumbered 346.63 (1) (d) 1. and  
9 amended to read:

10           346.63 (1) (d) 1. In an action under par. (am) that is based on the defendant  
11 allegedly having a detectable amount of methamphetamine, or  
12 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
13 the defendant has a defense if he or she proves by a preponderance of the evidence  
14 that at the time of the incident or occurrence he or she had a valid prescription for  
15 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
16 acid, ~~or~~

17           2. In an action under par. (b) that is based on the defendant allegedly having  
18 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
19 or she proves by a preponderance of the evidence that at the time of the incident or  
20 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
21 he or she was a qualifying patient, as defined in s. 50.80 (6).

22           **SECTION 118.** 346.63 (2) (a) 2. of the statutes is amended to read:

23           346.63 (2) (a) 2. The person has a prohibited alcohol or tetrahydrocannabinols  
24 concentration.

25           **SECTION 119.** 346.63 (2) (b) 1. of the statutes is amended to read:

**BILL**

1           346.63 (2) (b) 1. In an action under this subsection, the defendant has a defense  
2 if he or she proves by a preponderance of the evidence that the injury would have  
3 occurred even if he or she had been exercising due care and he or she had not been  
4 under the influence of an intoxicant, tetrahydrocannabinols, a controlled substance,  
5 a controlled substance analog or a combination thereof, under the influence of any  
6 other drug to a degree which renders him or her incapable of safely driving, or under  
7 the combined influence of an intoxicant and any other drug to a degree which renders  
8 him or her incapable of safely driving, did not have a prohibited alcohol or  
9 tetrahydrocannabinols concentration described under par. (a) 2., or did not have a  
10 detectable amount of a restricted controlled substance in his or her blood.

11           **SECTION 120.** 346.63 (2) (b) 2. of the statutes is amended to read:

12           346.63 (2) (b) 2. In an action under par. (a) 3. that is based on the defendant  
13 allegedly having a detectable amount of methamphetamine, or  
14 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
15 the defendant has a defense if he or she proves by a preponderance of the evidence  
16 that at the time of the incident or occurrence he or she had a valid prescription for  
17 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
18 acid, ~~or~~.

19           3. In an action under par. (a) 2. that is based on the defendant allegedly having  
20 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
21 or she proves by a preponderance of the evidence that at the time of the incident or  
22 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
23 he or she was a qualifying patient, as defined in s. 50.80 (6).

24           **SECTION 121.** 346.63 (2p) of the statutes is created to read:

**BILL****SECTION 121**

1           346.63 **(2p)** If a person has not attained the legal age, as defined in s. 961.70  
2           (2), the person may not drive or operate a motor vehicle while he or she has a  
3           tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0. One  
4           penalty for violation of this subsection is suspension of a person's operating privilege  
5           under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10  
6           at any time. If a person arrested for a violation of this subsection refuses to take a  
7           test under s. 343.305, the refusal is a separate violation and the person is subject to  
8           revocation of the person's operating privilege under s. 343.305 (10) (em).

9           **SECTION 122.** 346.65 (2m) (a) of the statutes is amended to read:

10           346.65 **(2m)** (a) In imposing a sentence under sub. (2) for a violation of s. 346.63  
11           (1) (am) or (b) or (5) or a local ordinance in conformity therewith, the court shall  
12           review the record and consider the aggravating and mitigating factors in the matter.  
13           If the amount of alcohol in the person's blood or urine or the amount of a restricted  
14           controlled substance or tetrahydrocannabinols in the person's blood is known, the  
15           court shall consider that amount as a factor in sentencing. The chief judge of each  
16           judicial administrative district shall adopt guidelines, under the chief judge's  
17           authority to adopt local rules under SCR 70.34, for the consideration of aggravating  
18           and mitigating factors.

19           **SECTION 123.** 346.65 (2q) of the statutes is amended to read:

20           346.65 **(2q)** Any person violating s. 346.63 (2m) or (2p) shall forfeit \$200. If  
21           there was a minor passenger under 16 years of age in the motor vehicle at the time  
22           of the violation that gave rise to the conviction under s. 346.63 (2m) or (2p), the person  
23           shall be fined \$400.

24           **SECTION 124.** 349.02 (2) (b) 4. of the statutes is amended to read:



**BILL**

1           349.02 (2) (b) 4. Local ordinances enacted under s. 59.54 (25) (a) or (25m) or  
2           66.0107 (1) (bm).

3           **SECTION 125.** 349.03 (2m) of the statutes is amended to read:

4           349.03 (2m) Notwithstanding sub. (2), a municipal court may suspend a license  
5           for a violation of a local ordinance in conformity with s. 346.63 (1) ~~or~~, (2m), or (2p).

6           **SECTION 126.** 349.06 (1m) of the statutes is amended to read:

7           349.06 (1m) Notwithstanding sub. (1), a municipal court may suspend a license  
8           for a violation of a local ordinance in conformity with s. 346.63 (1) ~~or~~, (2m), or (2p).

9           **SECTION 127.** 350.01 (10v) (a) of the statutes is amended to read:

10           350.01 (10v) (a) A controlled substance included in schedule I under ch. 961  
11           ~~other than a tetrahydrocannabinol.~~

12           **SECTION 128.** 350.01 (10v) (e) of the statutes is repealed.

13           **SECTION 129.** 350.01 (21g) of the statutes is created to read:

14           350.01 (21g) “Tetrahydrocannabinols concentration” has the meaning given in  
15           s. 23.33 (1) (k).

16           **SECTION 130.** 350.101 (1) (bg) of the statutes is created to read:

17           350.101 (1) (bg) *Operating with tetrahydrocannabinols concentration at or*  
18           *above specified levels.* No person may engage in the operation of a snowmobile while  
19           the person has a tetrahydrocannabinols concentration of 5.0 or more.

20           **SECTION 131.** 350.101 (1) (cg) of the statutes is created to read:

21           350.101 (1) (cg) *Operating with tetrahydrocannabinols concentration at or*  
22           *above specified levels.* If a person has not attained the age of 21, the person may not  
23           engage in the operation of a snowmobile while he or she has a tetrahydrocannabinols  
24           concentration of more than 0.0 but not more than 5.0.

25           **SECTION 132.** 350.101 (1) (d) of the statutes is amended to read:

**BILL**

1           350.101 (1) (d) *Related charges*. A person may be charged with and a prosecutor  
2 may proceed upon a complaint based upon a violation of any combination of par. (a),  
3 (b), (bg), or (bm) for acts arising out of the same incident or occurrence. If the person  
4 is charged with violating any combination of par. (a), (b), (bg), or (bm), the offenses  
5 shall be joined. If the person is found guilty of any combination of par. (a), (b), (bg),  
6 or (bm) for acts arising out of the same incident or occurrence, there shall be a single  
7 conviction for purposes of sentencing and for purposes of counting convictions under  
8 s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b), (bg), and (bm) each require proof of a  
9 fact for conviction which the others do not require.

10           **SECTION 133.** 350.101 (1) (e) of the statutes is renumbered 350.101 (1) (e) 1. and  
11 amended to read:

12           350.101 (1) (e) 1. In an action under par. (bm) that is based on the defendant  
13 allegedly having a detectable amount of methamphetamine, or  
14 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
15 the defendant has a defense if he or she proves by a preponderance of the evidence  
16 that at the time of the incident or occurrence he or she had a valid prescription for  
17 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
18 acid, ~~or~~

19           2. In an action under par. (bg) or (cg) that is based on the defendant allegedly  
20 having a prohibited tetrahydrocannabinols concentration, the defendant has a  
21 defense if he or she proves by a preponderance of the evidence that at the time of the  
22 incident or occurrence he or she had a valid prescription for  
23 delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.  
24 50.80 (6).

25           **SECTION 134.** 350.101 (2) (bg) of the statutes is created to read:

**BILL**

1           350.101 (2) (bg) *Causing injury with tetrahydrocannabinols concentrations at*  
2 *or above specified levels.* No person who has a tetrahydrocannabinols concentration  
3 of 5.0 or more may cause injury to another person by the operation of a snowmobile.

4           **SECTION 135.** 350.101 (2) (c) of the statutes is amended to read:

5           350.101 (2) (c) *Related charges.* A person may be charged with and a prosecutor  
6 may proceed upon a complaint based upon a violation of any combination of par. (a),  
7 (b), (bg), or (bm) for acts arising out of the same incident or occurrence. If the person  
8 is charged with violating any combination of par. (a), (b), (bg), or (bm) in the  
9 complaint, the crimes shall be joined under s. 971.12. If the person is found guilty  
10 of any combination of par. (a), (b), (bg), or (bm) for acts arising out of the same incident  
11 or occurrence, there shall be a single conviction for purposes of sentencing and for  
12 purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b),  
13 (bg), and (bm) each require proof of a fact for conviction which the others do not  
14 require.

15           **SECTION 136.** 350.101 (2) (d) 1. of the statutes is amended to read:

16           350.101 (2) (d) 1. In an action under this subsection, the defendant has a  
17 defense if he or she proves by a preponderance of the evidence that the injury would  
18 have occurred even if he or she had been exercising due care and he or she had not  
19 been under the influence of an intoxicant or did not have an alcohol concentration  
20 of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or more or a  
21 detectable amount of a restricted controlled substance in his or her blood.

22           **SECTION 137.** 350.101 (2) (d) 2. of the statutes is amended to read:

23           350.101 (2) (d) 2. In an action under par. (bm) that is based on the defendant  
24 allegedly having a detectable amount of methamphetamine, or  
25 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,

**BILL**

1 the defendant has a defense if he or she proves by a preponderance of the evidence  
2 that at the time of the incident or occurrence he or she had a valid prescription for  
3 methamphetamine or one of its metabolic precursors, or gamma-hydroxybutyric  
4 acid, ~~or~~.

5 3. In an action under par. (bg) that is based on the defendant allegedly having  
6 a prohibited tetrahydrocannabinols concentration, the defendant has a defense if he  
7 or she proves by a preponderance of the evidence that at the time of the incident or  
8 occurrence he or she had a valid prescription for delta-9-tetrahydrocannabinol or  
9 he or she was a qualifying patient, as defined in s. 50.80 (6).

10 **SECTION 138.** 350.104 (4) of the statutes is amended to read:

11 350.104 (4) ADMISSIBILITY; EFFECT OF TEST RESULTS; OTHER EVIDENCE. The results  
12 of a chemical test required or administered under sub. (1), (2) or (3) are admissible  
13 in any civil or criminal action or proceeding arising out of the acts committed by a  
14 person alleged to have violated the intoxicated snowmobiling law on the issue of  
15 whether the person was under the influence of an intoxicant or the issue of whether  
16 the person had alcohol or tetrahydrocannabinols concentrations at or above specified  
17 levels or a detectable amount of a restricted controlled substance in his or her blood.  
18 Results of these chemical tests shall be given the effect required under s. 885.235.  
19 This section does not limit the right of a law enforcement officer to obtain evidence  
20 by any other lawful means.

21 **SECTION 139.** 350.11 (3) (d) of the statutes is amended to read:

22 350.11 (3) (d) *Alcohol, controlled substances or controlled substance analogs,*  
23 *or tetrahydrocannabinols; assessment.* In addition to any other penalty or order, a  
24 person who violates s. 350.101 (1) or (2) or 350.104 (5) or who violates s. 940.09 or  
25 940.25 if the violation involves the operation of a snowmobile, shall be ordered by the

**BILL**

1 court to submit to and comply with an assessment by an approved public treatment  
2 facility for an examination of the person's use of alcohol, controlled substances or  
3 controlled substance analogs, or tetrahydrocannabinols. The assessment order shall  
4 comply with s. 343.30 (1q) (c) 1. a. to c. Intentional failure to comply with an  
5 assessment ordered under this paragraph constitutes contempt of court, punishable  
6 under ch. 785.

7 **SECTION 140.** 609.83 of the statutes is amended to read:

8 **609.83 Coverage of drugs and devices.** Limited service health  
9 organizations, preferred provider plans, and defined network plans are subject to s.  
10 632.853 and 632.895 (16p).

11 **SECTION 141.** 632.895 (16p) of the statutes is created to read:

12 632.895 (16p) MEDICAL USE OF MARIJUANA. (a) In this subsection, "medical use  
13 of tetrahydrocannabinols" has the meaning given in s. 50.80 (4).

14 (b) Every disability insurance policy and every self-insured health plan of the  
15 state or of a county, city, town, village, or school district that provides coverage of  
16 prescription drugs and devices shall provide coverage for the medical use of  
17 tetrahydrocannabinols in accordance with subch. VI of ch. 50 and any equipment or  
18 supplies necessary for the medical use of tetrahydrocannabinols.

19 (c) Coverage under par. (b) may be subject only to the exclusions, limitations,  
20 and cost-sharing provisions that apply generally to the coverage of prescription  
21 drugs or devices that is provided under the policy or self-insured health plan.

22 **SECTION 142.** 767.41 (5) (am) (intro.) of the statutes is amended to read:

23 767.41 (5) (am) (intro.) Subject to pars. (bm) and, (c), and (d), in determining  
24 legal custody and periods of physical placement, the court shall consider all facts  
25 relevant to the best interest of the child. The court may not prefer one parent or

**BILL**

1 potential custodian over the other on the basis of the sex or race of the parent or  
2 potential custodian. Subject to pars. (bm) ~~and~~, (c), and (d), the court shall consider  
3 the following factors in making its determination:

4 **SECTION 143.** 767.41 (5) (d) of the statutes is created to read:

5 767.41 (5) (d) The court may not consider as a factor in determining the legal  
6 custody of a child whether a parent or potential custodian holds or has applied for  
7 a registry identification card, as defined in s. 146.44 (1) (h), is or has been the subject  
8 of a written certification, as defined in s. 50.80 (10), or is or has been a qualifying  
9 patient, as defined in s. 50.80 (6), or a primary caregiver, as defined in s. 50.80 (5),  
10 unless the parent or potential custodian's behavior creates an unreasonable danger  
11 to the child that can be clearly articulated and substantiated.

12 **SECTION 144.** 767.451 (5m) (a) of the statutes is amended to read:

13 767.451 (5m) (a) Subject to pars. (b) ~~and~~, (c), and (d) in all actions to modify  
14 legal custody or physical placement orders, the court shall consider the factors under  
15 s. 767.41 (5) (am), subject to s. 767.41 (5) (bm), and shall make its determination in  
16 a manner consistent with s. 767.41.

17 **SECTION 145.** 767.451 (5m) (d) of the statutes is created to read:

18 767.451 (5m) (d) In an action to modify a legal custody order, the court may not  
19 consider as a factor in making a determination whether a parent or potential  
20 custodian holds, or has applied for, a registry identification card, as defined in s.  
21 146.44 (1) (h), is or has been the subject of a written certification, as defined in s.  
22 50.80 (10), or is or has been a qualifying patient, as defined in s. 50.80 (6), or a  
23 primary caregiver, as defined in s. 50.80 (5), unless the parent or potential  
24 custodian's behavior creates an unreasonable danger to the child that can be clearly  
25 articulated and substantiated.

**BILL**

1           **SECTION 146.** 885.235 (1) (d) 1. of the statutes is amended to read:

2           885.235 (1) (d) 1. A controlled substance included in schedule I under ch. 961  
3 ~~other than a tetrahydrocannabinol.~~

4           **SECTION 147.** 885.235 (1) (d) 5. of the statutes is repealed.

5           **SECTION 148.** 885.235 (1) (e) of the statutes is created to read:

6           885.235 (1) (e) “Tetrahydrocannabinols concentration” has the meaning given  
7 in s. 23.33 (1) (k).

8           **SECTION 149.** 885.235 (1g) (intro.) of the statutes is amended to read:

9           885.235 (1g) (intro.) In any action or proceeding in which it is material to prove  
10 that a person was under the influence of an intoxicant or had a prohibited alcohol or  
11 tetrahydrocannabinols concentration or a specified alcohol concentration while  
12 operating or driving a motor vehicle or, if the vehicle is a commercial motor vehicle,  
13 on duty time, while operating a motorboat, except a sailboat operating under sail  
14 alone, while operating a snowmobile, while operating an all-terrain vehicle or utility  
15 terrain vehicle or while handling a firearm, evidence of the amount of alcohol or  
16 tetrahydrocannabinols in the person’s blood at the time in question, as shown by  
17 chemical analysis of a sample of the person’s blood or urine or evidence of the amount  
18 of alcohol in the person’s breath, is admissible on the issue of whether he or she was  
19 under the influence of an intoxicant or had a prohibited alcohol or  
20 tetrahydrocannabinols concentration or a specified alcohol concentration if the  
21 sample was taken within 3 hours after the event to be proved. The chemical analysis  
22 shall be given effect as follows without requiring any expert testimony as to its effect:

23           **SECTION 150.** 885.235 (1g) (ag) of the statutes is created to read:

24           885.235 (1g) (ag) The fact that the analysis shows that the person had a  
25 tetrahydrocannabinols concentration of more than 0.0 but less than 5.0 is relevant

**BILL****SECTION 150**

1 evidence on the issue of being under the combined influence of  
2 tetrahydrocannabinols and alcohol, a controlled substance, a controlled substance  
3 analog, or any other drug, but, except as provided in sub. (1L), is not to be given any  
4 prima facie effect.

5 **SECTION 151.** 885.235 (1g) (cg) of the statutes is created to read:

6 885.235 (1g) (cg) The fact that the analysis shows that the person had a  
7 tetrahydrocannabinols concentration of 5.0 or more is prima facie evidence that he  
8 or she had an tetrahydrocannabinols concentration of 5.0 or more.

9 **SECTION 152.** 885.235 (1L) of the statutes is created to read:

10 885.235 (1L) In any action under s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63  
11 (2p), or 350.101 (1) (cg), evidence of the amount of tetrahydrocannabinols in the  
12 person's blood at the time in question, as shown by chemical analysis of a sample of  
13 the person's blood or urine, is admissible on the issue of whether he or she had a  
14 tetrahydrocannabinols concentration in the range specified in s. 23.33 (4c) (a) 3g.,  
15 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1) (cg) if the sample was taken within 3  
16 hours after the event to be proved. The fact that the analysis shows that the person  
17 had a tetrahydrocannabinols concentration of more than 0.0 but not more than 5.0  
18 is prima facie evidence that the person had a tetrahydrocannabinols concentration  
19 in the range specified in s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63 (2p), or 350.101  
20 (1) (cg).

21 **SECTION 153.** 885.235 (1m) of the statutes is amended to read:

22 885.235 (1m) In any action under s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681  
23 (1) (bn), 346.63 (2m) or (7), or 350.101 (1) (c), evidence of the amount of alcohol in the  
24 person's blood at the time in question, as shown by chemical analysis of a sample of  
25 the person's blood or urine or evidence of the amount of alcohol in the person's breath,



**BILL**

1 is admissible on the issue of whether he or she had an alcohol concentration in the  
2 range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m),  
3 or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7) if the  
4 sample was taken within 3 hours after the event to be proved. The fact that the  
5 analysis shows that the person had an alcohol concentration of more than 0.0 but not  
6 more than 0.08 is prima facie evidence that the person had an alcohol concentration  
7 in the range specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn) 1., 346.63  
8 (2m), or 350.101 (1) (c) or an alcohol concentration above 0.0 under s. 346.63 (7).

9 **SECTION 154.** 885.235 (4) of the statutes is amended to read:

10 885.235 (4) The provisions of this section relating to the admissibility of  
11 chemical tests for alcohol or tetrahydrocannabinols concentration or intoxication or  
12 for determining whether a person had a detectable amount of a restricted controlled  
13 substance in his or her blood shall not be construed as limiting the introduction of  
14 any other competent evidence bearing on the question of whether or not a person was  
15 under the influence of an intoxicant, had a detectable amount of a restricted  
16 controlled substance in his or her blood, had a specified alcohol or  
17 tetrahydrocannabinols concentration, or had an alcohol concentration in the range  
18 specified in s. 23.33 (4c) (a) 3., 23.335 (12) (a) 3., 30.681 (1) (bn) 1., 346.63 (2m), or  
19 350.101 (1) (c), or had a tetrahydrocannabinols concentration in the range specified  
20 in s. 23.33 (4c) (a) 3g., 30.681 (1) (bn) 2., 346.63 (2p), or 350.101 (1) (cg).

21 **SECTION 155.** 895.047 (3) (a) of the statutes is amended to read:

22 895.047 (3) (a) If the defendant proves by clear and convincing evidence that  
23 at the time of the injury the claimant was under the influence of any controlled  
24 substance or controlled substance analog to the extent prohibited under s. 346.63 (1)  
25 (a), or had an alcohol concentration, as defined in s. 340.01 (1v), of 0.08 or more or

**BILL**

1 a tetrahydrocannabinols concentration, as defined in s. 23.33 (1) (k), of 5.0 or more,  
2 there shall be a rebuttable presumption that the claimant's intoxication or drug use  
3 was the cause of his or her injury.

4 **SECTION 156.** 905.04 (4) (f) of the statutes is amended to read:

5 905.04 (4) (f) *Tests for intoxication.* There is no privilege concerning the results  
6 of or circumstances surrounding any chemical tests for intoxication or for alcohol  
7 concentration, as defined in s. 340.01 (1v), or tetrahydrocannabinols concentration,  
8 as defined in s. 23.33 (1) (k).

9 **SECTION 157.** 939.22 (33) (a) of the statutes is amended to read:

10 939.22 (33) (a) A controlled substance included in schedule I under ch. 961  
11 ~~other than a tetrahydrocannabinol.~~

12 **SECTION 158.** 939.22 (33) (e) of the statutes is repealed.

13 **SECTION 159.** 939.22 (39g) of the statutes is created to read:

14 939.22 (39g) "Tetrahydrocannabinols concentration" has the meaning given in  
15 s. 23.33 (1) (k).

16 **SECTION 160.** 940.09 (1) (bg) of the statutes is created to read:

17 940.09 (1) (bg) Causes the death of another by the operation or handling of a  
18 vehicle while the person has a tetrahydrocannabinols concentration of 5.0 or more.

19 **SECTION 161.** 940.09 (1) (dg) of the statutes is created to read:

20 940.09 (1) (dg) Causes the death of an unborn child by the operation or  
21 handling of a vehicle while the person has a tetrahydrocannabinols concentration of  
22 5.0 or more.

23 **SECTION 162.** 940.09 (1g) (bg) of the statutes is created to read:

**BILL**

1           940.09 **(1g)** (bg) Causes the death of another by the operation or handling of  
2 a firearm or airgun while the person has a tetrahydrocannabinols concentration of  
3 5.0 or more.

4           **SECTION 163.** 940.09 (1g) (dg) of the statutes is created to read:

5           940.09 **(1g)** (dg) Causes the death of an unborn child by the operation or  
6 handling of a firearm or airgun while the person has a tetrahydrocannabinols  
7 concentration of 5.0 or more.

8           **SECTION 164.** 940.09 (1m) (a) of the statutes is amended to read:

9           940.09 **(1m)** (a) A person may be charged with and a prosecutor may proceed  
10 upon an information based upon a violation of any combination of sub. (1) (a), (am),  
11 ~~or (b), or (bg)~~; any combination of sub. (1) (a), (am), ~~(bg)~~, or (bm); any combination of  
12 sub. (1) (c), (cm), ~~or (d), or (dg)~~; any combination of sub. (1) (c), (cm), ~~(dg)~~, or (e); any  
13 combination of sub. (1g) (a), (am), ~~or (b), or (bg)~~; or any combination of sub. (1g) (c),  
14 (cm), ~~or (d), or (dg)~~ for acts arising out of the same incident or occurrence.

15           **SECTION 165.** 940.09 (1m) (b) of the statutes is amended to read:

16           940.09 **(1m)** (b) If a person is charged in an information with any of the  
17 combinations of crimes referred to in par. (a), the crimes shall be joined under s.  
18 971.12. If the person is found guilty of more than one of the crimes so charged for  
19 acts arising out of the same incident or occurrence, there shall be a single conviction  
20 for purposes of sentencing and for purposes of counting convictions under s. 23.33  
21 (13) (b) 2. and 3., under s. 23.335 (23) (c) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under  
22 s. 343.307 (1) or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), ~~(bg)~~, (bm),  
23 (c), (cm), (d), ~~(dg)~~, and (e) each require proof of a fact for conviction which the others  
24 do not require, and sub. (1g) (a), (am), (b), ~~(bg)~~, (c), (cm), ~~and (d), and (dg)~~ each require  
25 proof of a fact for conviction which the others do not require.

**BILL**

1           **SECTION 166.** 940.09 (2) (a) of the statutes is amended to read:

2           940.09 (2) (a) In any action under this section, the defendant has a defense if  
3 he or she proves by a preponderance of the evidence that the death would have  
4 occurred even if he or she had been exercising due care and he or she had not been  
5 under the influence of an intoxicant, did not have a detectable amount of a restricted  
6 controlled substance in his or her blood, did not have a tetrahydrocannabinols  
7 concentration of 5.0 or greater, or did not have an alcohol concentration described  
8 under sub. (1) (b), (bm), (d) or (e) or (1g) (b) or (d).

9           **SECTION 167.** 940.09 (2) (b) of the statutes is amended to read:

10           940.09 (2) (b) In any action under sub. (1) (am) or (cm) or (1g) (am) or (cm) that  
11 is based on the defendant allegedly having a detectable amount of  
12 methamphetamine or gamma-hydroxybutyric acid or  
13 ~~delta-9-tetrahydrocannabinol~~ in his or her blood, the defendant has a defense if he  
14 or she proves by a preponderance of the evidence that at the time of the incident or  
15 occurrence he or she had a valid prescription for methamphetamine or one of its  
16 metabolic precursors or gamma-hydroxybutyric acid or.

17           (c) In an action under sub. (1) (bg) or (dg) or (1g) (bg) or (dg) that is based on  
18 the defendant allegedly having a tetrahydrocannabinols concentration that is 5.0 or  
19 greater, the defendant has a defense if he or she proves by a preponderance of the  
20 evidence that at the time of the incident or occurrence he or she had a valid  
21 prescription for delta-9-tetrahydrocannabinol or he or she was a qualifying patient,  
22 as defined in s. 50.80 (6).

23           **SECTION 168.** 940.25 (1) (bg) of the statutes is created to read:

**BILL**

1           940.25 (1) (bg) Causes great bodily harm to another human being by the  
2 operation of a vehicle while the person has a tetrahydrocannabinols concentration  
3 of 5.0 or more.

4           **SECTION 169.** 940.25 (1) (dg) of the statutes is created to read:

5           940.25 (1) (dg) Causes great bodily harm to an unborn child by the operation  
6 of a vehicle while the person has a tetrahydrocannabinols concentration of 5.0 or  
7 more.

8           **SECTION 170.** 940.25 (1m) of the statutes is amended to read:

9           940.25 (1m) (a) A person may be charged with and a prosecutor may proceed  
10 upon an information based upon a violation of any combination of sub. (1) (a), (am),  
11 ~~or (b), or (bg)~~; any combination of sub. (1) (a), (am), ~~(bg)~~, or (bm); any combination of  
12 sub. (1) (c), (cm), ~~or (d), or (dg)~~; or any combination of sub. (1) (c), (cm), ~~(dg)~~, or (e) for  
13 acts arising out of the same incident or occurrence.

14           (b) If a person is charged in an information with any of the combinations of  
15 crimes referred to in par. (a), the crimes shall be joined under s. 971.12. If the person  
16 is found guilty of more than one of the crimes so charged for acts arising out of the  
17 same incident or occurrence, there shall be a single conviction for purposes of  
18 sentencing and for purposes of counting convictions under s. 23.33 (13) (b) 2. and 3.,  
19 under s. 23.335 (23) (c) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q)  
20 and 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), ~~(bg)~~, (bm),  
21 (c), (cm), (d), ~~(dg)~~, and (e) each require proof of a fact for conviction which the others  
22 do not require.

23           **SECTION 171.** 940.25 (2) of the statutes is amended to read:

24           940.25 (2) (a) The defendant has a defense if he or she proves by a  
25 preponderance of the evidence that the great bodily harm would have occurred even

**BILL****SECTION 171**

1 if he or she had been exercising due care and he or she had not been under the  
2 influence of an intoxicant, did not have a detectable amount of a restricted controlled  
3 substance in his or her blood, did not have a tetrahydrocannabinols concentration of  
4 5.0 or greater, or did not have an alcohol concentration described under sub. (1) (b),  
5 (bm), (d) or (e).

6 (b) In any action under this section that is based on the defendant allegedly  
7 having a detectable amount of methamphetamine, or gamma-hydroxybutyric acid,  
8 ~~or delta-9-tetrahydrocannabinol~~ in his or her blood, the defendant has a defense if  
9 he or she proves by a preponderance of the evidence that at the time of the incident  
10 or occurrence he or she had a valid prescription for methamphetamine or one of its  
11 metabolic precursors, or gamma-hydroxybutyric acid, ~~or~~.

12 (c) In any action under this section that is based on the defendant allegedly  
13 having a tetrahydrocannabinols concentration that is 5.0 or greater, the defendant  
14 has a defense if he or she proves by a preponderance of the evidence that at the time  
15 of the incident or occurrence he or she had a valid prescription for  
16 delta-9-tetrahydrocannabinol or he or she was a qualifying patient, as defined in s.  
17 50.80 (6).

18 **SECTION 172.** 941.20 (1) (bg) of the statutes is created to read:

19 941.20 (1) (bg) Operates or goes armed with a firearm while he or she has a  
20 tetrahydrocannabinols concentration that is 5.0 or greater. A defendant has a  
21 defense to any action under this paragraph if he or she proves by a preponderance  
22 of the evidence that at the time of the incident or occurrence he or she had a valid  
23 prescription for delta-9-tetrahydrocannabinol or he or she was a qualifying patient,  
24 as defined in s. 50.80 (6).

25 **SECTION 173.** 941.20 (1) (bm) of the statutes is amended to read:

**BILL**

1           941.20 (1) (bm) Operates or goes armed with a firearm while he or she has a  
2 detectable amount of a restricted controlled substance in his or her blood. A  
3 defendant has a defense to any action under this paragraph that is based on the  
4 defendant allegedly having a detectable amount of methamphetamine, or  
5 gamma-hydroxybutyric acid, ~~or delta-9-tetrahydrocannabinol~~ in his or her blood,  
6 if he or she proves by a preponderance of the evidence that at the time of the incident  
7 or occurrence he or she had a valid prescription for methamphetamine or one of its  
8 metabolic precursors, or gamma-hydroxybutyric acid, ~~or~~  
9 delta-9-tetrahydrocannabinol.

10           **SECTION 174.** 961.01 (14) of the statutes is renumbered 961.70 (3) and amended  
11 to read:

12           961.70 (3) “Marijuana” means all parts of the plants of the genus Cannabis,  
13 whether growing or not, with a concentration of tetrahydrocannabinols that is  
14 greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted  
15 from any part of the plant; and every compound, manufacture, salt, derivative,  
16 mixture, or preparation of the plant, its seeds or resin, ~~including~~  
17 ~~tetrahydrocannabinols~~. “Marijuana” does include the mature stalks if mixed with  
18 other parts of the plant, but does not include fiber produced from the stalks, oil or  
19 cake made from the seeds of the plant, any other compound, manufacture, salt,  
20 derivative, mixture, or preparation of the mature stalks (except the resin extracted  
21 therefrom), fiber, oil, or cake or the sterilized seed of the plant which is incapable of  
22 germination.

23           **SECTION 175.** 961.14 (4) (t) of the statutes, as affected by 2017 Wisconsin Act  
24 4, is repealed.

**BILL**

1           **SECTION 176.** 961.34 of the statutes is renumbered 961.75, and 961.75 (title),  
2 as renumbered, is amended to read:

3           **961.75 (title) ~~Controlled substances~~ Marijuana therapeutic research.**

4           **SECTION 177.** 961.38 (1n) (a) of the statutes, as affected by 2017 Wisconsin Act  
5 4, is amended to read:

6           961.38 (1n) (a) A pharmacy or physician approved under s. ~~961.34~~ 961.75 (2)  
7 (a) or (b) may dispense cannabidiol in a form without a psychoactive effect as a  
8 treatment for a medical condition.

9           **SECTION 178.** 961.41 (1) (h) of the statutes is repealed.

10          **SECTION 179.** 961.41 (1m) (h) of the statutes is repealed.

11          **SECTION 180.** 961.41 (1q) of the statutes is repealed.

12          **SECTION 181.** 961.41 (1r) of the statutes is amended to read:

13          961.41 (1r) DETERMINING WEIGHT OF SUBSTANCE. In determining amounts under  
14 s. 961.49 (2) (b), 1999 stats., and subs. (1) and (1m), an amount includes the weight  
15 of cocaine, cocaine base, heroin, phencyclidine, lysergic acid diethylamide, psilocin,  
16 psilocybin, amphetamine, methamphetamine, ~~tetrahydrocannabinols~~, synthetic  
17 cannabinoids, or substituted cathinones, or any controlled substance analog of any  
18 of these substances together with any compound, mixture, diluent, plant material  
19 or other substance mixed or combined with the controlled substance or controlled  
20 substance analog. ~~In addition, in determining amounts under subs. (1) (h) and (1m)~~  
21 ~~(h), the amount of tetrahydrocannabinols means anything included under s. 961.14~~  
22 ~~(4) (t) and includes the weight of any marijuana.~~

23          **SECTION 182.** 961.41 (3g) (c) of the statutes is amended to read:

24          961.41 (3g) (c) *Cocaine and cocaine base.* If a person possesses or attempts to  
25 possess cocaine or cocaine base, or a controlled substance analog of cocaine or cocaine



**BILL**

1 base, the person shall be fined not more than \$5,000 and may be imprisoned for not  
2 more than one year in the county jail upon a first conviction and is guilty of a Class  
3 I felony for a 2nd or subsequent offense. For purposes of this paragraph, an offense  
4 is considered a 2nd or subsequent offense if, prior to the offender's conviction of the  
5 offense, the offender has at any time been convicted of any felony or misdemeanor  
6 under this chapter or under any statute of the United States or of any state relating  
7 to controlled substances, controlled substance analogs, narcotic drugs, ~~marijuana,~~  
8 or depressant, stimulant, or hallucinogenic drugs.

9 **SECTION 183.** 961.41 (3g) (d) of the statutes is amended to read:

10 961.41 **(3g)** (d) *Certain hallucinogenic and stimulant drugs.* If a person  
11 possesses or attempts to possess lysergic acid diethylamide, phencyclidine,  
12 amphetamine, 3,4-methylenedioxymethamphetamine, methcathinone, cathinone,  
13 N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm),  
14 (u) to (xb), or (7) (L), psilocin, or psilocybin, or a controlled substance analog of  
15 lysergic acid diethylamide, phencyclidine, amphetamine,  
16 3,4-methylenedioxymethamphetamine, methcathinone, cathinone,  
17 N-benzylpiperazine, a substance specified in s. 961.14 (4) (a) to (h), (m) to (q), (sm),  
18 (u) to (xb), or (7) (L), psilocin, or psilocybin, the person may be fined not more than  
19 \$5,000 or imprisoned for not more than one year in the county jail or both upon a first  
20 conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For  
21 purposes of this paragraph, an offense is considered a 2nd or subsequent offense if,  
22 prior to the offender's conviction of the offense, the offender has at any time been  
23 convicted of any felony or misdemeanor under this chapter or under any statute of  
24 the United States or of any state relating to controlled substances, controlled

**BILL****SECTION 183**

1 substance analogs, narcotic drugs, ~~marijuana~~, or depressant, stimulant, or  
2 hallucinogenic drugs.

3 **SECTION 184.** 961.41 (3g) (e) of the statutes is repealed.

4 **SECTION 185.** 961.41 (3g) (em) of the statutes is amended to read:

5 961.41 **(3g)** (em) *Synthetic cannabinoids*. If a person possesses or attempts to  
6 possess a controlled substance specified in s. 961.14 (4) (tb), or a controlled substance  
7 analog of a controlled substance specified in s. 961.14 (4) (tb), the person may be fined  
8 not more than \$1,000 or imprisoned for not more than 6 months or both upon a first  
9 conviction and is guilty of a Class I felony for a 2nd or subsequent offense. For  
10 purposes of this paragraph, an offense is considered a 2nd or subsequent offense if,  
11 prior to the offender's conviction of the offense, the offender has at any time been  
12 convicted of any felony or misdemeanor under this chapter or under any statute of  
13 the United States or of any state relating to controlled substances, controlled  
14 substance analogs, narcotic drugs, ~~marijuana~~, or depressant, stimulant, or  
15 hallucinogenic drugs.

16 **SECTION 186.** 961.47 (1) of the statutes is amended to read:

17 961.47 **(1)** Whenever any person who has not previously been convicted of any  
18 offense under this chapter, or of any offense under any statute of the United States  
19 or of any state or of any county ordinance relating to controlled substances or  
20 controlled substance analogs, narcotic drugs, ~~marijuana~~ or stimulant, depressant,  
21 or hallucinogenic drugs, pleads guilty to or is found guilty of possession or attempted  
22 possession of a controlled substance or controlled substance analog under s. 961.41  
23 (3g) (b), the court, without entering a judgment of guilt and with the consent of the  
24 accused, may defer further proceedings and place him or her on probation upon terms  
25 and conditions. Upon violation of a term or condition, the court may enter an

**BILL**

1 adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the  
2 terms and conditions, the court shall discharge the person and dismiss the  
3 proceedings against him or her. Discharge and dismissal under this section shall be  
4 without adjudication of guilt and is not a conviction for purposes of disqualifications  
5 or disabilities imposed by law upon conviction of a crime, including the additional  
6 penalties imposed for 2nd or subsequent convictions under s. 961.48. There may be  
7 only one discharge and dismissal under this section with respect to any person.

8 **SECTION 187.** 961.48 (3) of the statutes is amended to read:

9 961.48 (3) For purposes of this section, a felony offense under this chapter is  
10 considered a 2nd or subsequent offense if, prior to the offender's conviction of the  
11 offense, the offender has at any time been convicted of any felony or misdemeanor  
12 offense under this chapter or under any statute of the United States or of any state  
13 relating to controlled substances or controlled substance analogs, narcotic drugs,  
14 marijuana or depressant, stimulant, or hallucinogenic drugs.

15 **SECTION 188.** 961.48 (5) of the statutes is amended to read:

16 961.48 (5) This section does not apply if the person is presently charged with  
17 a felony under s. 961.41 (3g) (c), (d), ~~(e)~~, or (g).

18 **SECTION 189.** 961.49 (1m) (intro.) of the statutes is amended to read:

19 961.49 (1m) (intro.) If any person violates s. 961.41 (1) (cm), (d), (e), (f), or (g)  
20 ~~or (h)~~ by delivering or distributing, or violates s. 961.41 (1m) (cm), (d), (e), (f), or (g)  
21 ~~or (h)~~ by possessing with intent to deliver or distribute, cocaine, cocaine base, heroin,  
22 phencyclidine, lysergic acid diethylamide, psilocin, psilocybin, amphetamine,  
23 methamphetamine, or methcathinone ~~or any form of tetrahydrocannabinols~~ or a  
24 controlled substance analog of any of these substances and the delivery, distribution

**BILL**

1 or possession takes place under any of the following circumstances, the maximum  
2 term of imprisonment prescribed by law for that crime may be increased by 5 years:

3 **SECTION 190.** 961.571 (1) (a) 7. of the statutes is repealed.

4 **SECTION 191.** 961.571 (1) (a) 11. (intro.) of the statutes is amended to read:

5 961.571 (1) (a) 11. (intro.) Objects used, designed for use or primarily intended  
6 for use in ingesting, inhaling, or otherwise introducing ~~marijuana~~, cocaine, hashish  
7 or hashish oil into the human body, such as:

8 **SECTION 192.** 961.571 (1) (a) 11. e. of the statutes is repealed.

9 **SECTION 193.** 961.571 (1) (a) 11. k. and L. of the statutes are repealed.

10 **SECTION 194.** Subchapter VIII of chapter 961 [precedes 961.70] of the statutes  
11 is created to read:

**CHAPTER 961****SUBCHAPTER VIII****REGULATION OF MARIJUANA**

12  
13  
14 **961.70 Definitions.** In this subchapter:

15  
16 (1) "Compassion center" has the meaning given in s. 50.80 (1).

17 (2) "Legal age" means 21 years of age.

18 (5) "Permissible amount" means one of the following:

19 (a) For a person who is a resident of Wisconsin, an amount that does not exceed  
20 2 ounces of usable marijuana.

21 (b) For a person who is not a resident of Wisconsin, an amount that does not  
22 exceed one-quarter ounce of usable marijuana.

23 (6) "Permittee" has the meaning given under s. 139.97 (9).

24 (7) "Qualifying patient" has the meaning given in s. 50.80 (6).

25 (8) "Retail outlet" has the meaning given in s. 139.97 (10).

**BILL**

1           **(9)**       “Tetrahydrocannabinols concentration” means percent of  
2       delta-9-tetrahydrocannabinol content per dry weight of any part of the plant  
3       Cannabis, or per volume or weight of marijuana product, or the combined percent of  
4       delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the  
5       plant Cannabis regardless of moisture content.

6           **(10)** “Treatment team” has the meaning given in s. 50.80 (8).

7           **(11)** “Underage person” means a person who has not attained the legal age.

8           **(12)** “Usable marijuana” has the meaning given in s. 139.97 (12).

9           **961.71 Underage persons prohibitions; penalties. (1)** (a) 1. No permittee  
10       may sell, distribute, or deliver marijuana to any underage person, except that a  
11       permittee that is also a compassion center may sell, distribute, or deliver to an  
12       underage person who is a qualifying patient or to a treatment team.

13           2. No permittee or compassion center may directly or indirectly permit an  
14       underage person to violate sub. (2m).

15           (b) 1. A permittee that violates par. (a) 1. or 2. may be subject to a forfeiture of  
16       not more than \$500 and to a suspension of the permittee’s permit for an amount of  
17       time not to exceed 30 days.

18           2. A compassion center that violates par. (a) 2. may be subject to a forfeiture  
19       of not more than \$500.

20           (c) In determining whether a permittee or compassion center has violated par.  
21       (a) 2., all relevant circumstances surrounding the presence of the underage person  
22       may be considered. In determining whether a permittee has violated par. (a) 1., all  
23       relevant circumstances surrounding the selling, distributing, or delivering of  
24       marijuana may be considered. In addition, proof of all of the following facts by the

**BILL**

1 permittee or compassion center is a defense to any prosecution for a violation under  
2 par. (a):

3 1. That the underage person falsely represented that he or she had attained the  
4 legal age.

5 2. That the appearance of the underage person was such that an ordinary and  
6 prudent person would believe that the underage person had attained the legal age.

7 3. That the action was made in good faith and in reliance on the representation  
8 and appearance of the underage person in the belief that the underage person had  
9 attained the legal age.

10 4. That the underage person supported the representation under subd. 1. with  
11 documentation that he or she had attained the legal age.

12 **(2)** Any underage person who does any of the following is subject to a forfeiture  
13 of not less than \$250 nor more than \$500:

14 (a) Procures or attempts to procure marijuana from a permittee.

15 (b) Falsely represents his or her age for the purpose of receiving marijuana from  
16 a permittee.

17 (c) Knowingly possesses or consumes marijuana, except that this paragraph  
18 does not apply to an underage person who is a qualifying patient.

19 (d) Violates sub. (2m).

20 **(2m)** An underage person not accompanied by his or her parent, guardian, or  
21 spouse who has attained the legal age may not enter, knowingly attempt to enter, or  
22 be on the premises of a retail outlet that is not a compassion center. An underage  
23 person not accompanied by his or her parent, guardian, or spouse who has attained  
24 the legal age or by his or her treatment team may not enter, knowingly attempt to  
25 enter, or be on the premises of a compassion center.

**BILL**

1           **(3)** An individual who has attained the legal age and who knowingly does any  
2 of the following may be subject to a forfeiture that does not exceed \$1,000:

3           (a) Permits or fails to take action to prevent a violation of sub. (2) (c) on premises  
4 owned by the individual or under the individual's control.

5           (b) Encourages or contributes to a violation of sub. (2) (a).

6           **961.72 Restrictions; penalties. (1)** No person except a permittee or a  
7 compassion center may sell, or possess with the intent to sell, marijuana. No person  
8 may distribute or deliver, or possess with the intent to distribute or deliver,  
9 marijuana except a permittee or except a compassion center or a member of a  
10 treatment team who distributes or delivers, or possesses with the intent to distribute  
11 or deliver, to a qualifying patient. Any person who violates a prohibition under this  
12 subsection is guilty of the following:

13           (a) Except as provided in par. (b), a Class I felony.

14           (b) If the individual to whom the marijuana is, or is intended to be, sold,  
15 distributed, or delivered has not attained the legal age and the actual or intended  
16 seller, distributor, or deliverer is at least 3 years older than the individual to whom  
17 the marijuana is, or is intended to be, sold, distributed, or delivered, a Class H felony.

18           **(2)** (a) A person that is not a permittee or a compassion center who possesses  
19 an amount of marijuana that exceeds the permissible amount but does not exceed 28  
20 grams of marijuana is subject to a civil forfeiture not to exceed \$1,000 or  
21 imprisonment not to exceed 90 days or both.

22           (b) A person who is not a permittee, a compassion center, a qualifying patient,  
23 or a treatment team member who possesses an amount of marijuana that exceeds 28  
24 grams of marijuana:

25           1. Except as provided in subd. 2., a Class B misdemeanor.

**BILL**

1           2. A Class I felony if the person has taken action to hide how much marijuana  
2 the person possesses and any of the following applies:

3           a. The person has in place a system that could alert the person if law  
4 enforcement approaches an area that contains marijuana if the system exceeds a  
5 security system that would be used by a reasonable person in the person's region.

6           b. The person has in place a method of intimidating individuals who approach  
7 an area that contains marijuana if the method exceeds a method that would be used  
8 by a reasonable person in the person's region.

9           c. The person has rigged a system so that any individual approaching the area  
10 may be injured or killed by the system.

11           (c) A person who is not a permittee, a compassion center, a qualifying patient,  
12 or a treatment team member who cultivates more than 6 marijuana plants at one  
13 time is one of the following:

14           1. Except as provided in subds. 2. and 3., subject to a civil forfeiture not to  
15 exceed \$1,000 or imprisonment not to exceed 90 days or both.

16           2. Except as provided in subd. 3., guilty of a Class B misdemeanor if the number  
17 of marijuana plants is more than 12.

18           3. Guilty of a Class I felony if the number of marijuana plants is more than 12,  
19 if the individual has taken action to hide how many plants are being cultivated, and  
20 if any of the following applies:

21           a. The person has in place a system that could alert the person if law  
22 enforcement approaches an area that contains plants if the system exceeds a security  
23 system that would be used by a reasonable person in the person's region.



**BILL**

1           b. The person has in place a method of intimidating individuals who approach  
2 an area that contains plants if the method exceeds a method that would be used by  
3 a reasonable person in the person's region.

4           c. The person has rigged a system so that any individual approaching the area  
5 that contains plants may be injured or killed by the system.

6           (d) No person except a qualifying patient, a member of a treatment team, a  
7 permittee, or a compassion center may cultivate marijuana plants. Any person who  
8 violates this prohibition must apply for a permit under s. 139.979; in addition, the  
9 person is one of the following:

10           1. Except as provided in subds. 2., 3., and 4., subject to a civil forfeiture that  
11 is not more than twice the permitting fee under s. 139.979.

12           2. Except as provided in subds. 3. and 4., subject to a civil forfeiture not to  
13 exceed \$1,000 or imprisonment not to exceed 90 days or both if the number of  
14 marijuana plants is more than 6.

15           3. Except as provided in subd. 4., guilty of a Class B misdemeanor if the number  
16 of marijuana plants is more than 12.

17           4. Guilty of a Class I felony if the number of marijuana plants is more than 12,  
18 if the person has taken action to hide how many plants are being cultivated, and if  
19 any of the following applies:

20           a. The person has in place a system that could alert the person if law  
21 enforcement approaches an area that contains plants if the system exceeds a security  
22 system that would be used by a reasonable person in the person's region.

23           b. The person has in place a method of intimidating individuals who approach  
24 an area that contains plants if the method exceeds a method that would be used by  
25 a reasonable person in the person's region.

**BILL**

1 c. The person has rigged a system so that any individual approaching the area  
2 that contains plants may be injured or killed by the system.

3 (e) Whoever uses or displays marijuana in a public space is subject to a civil  
4 forfeiture of not more than \$100.

5 **(3)** Any person except a compassion center who sells or attempts to sell  
6 marijuana via mail, telephone, or Internet is guilty of a Class A misdemeanor.

7 **SECTION 195.** 967.055 (1) (a) of the statutes is amended to read:

8 967.055 **(1)** (a) The legislature intends to encourage the vigorous prosecution  
9 of offenses concerning the operation of motor vehicles by persons under the influence  
10 of an intoxicant, a controlled substance, a controlled substance analog or any  
11 combination of an intoxicant, controlled substance and controlled substance analog,  
12 under the influence of any other drug to a degree which renders him or her incapable  
13 of safely driving, or under the combined influence of an intoxicant and any other drug  
14 to a degree which renders him or her incapable of safely driving or having a  
15 prohibited alcohol concentration, as defined in s. 340.01 (46m), or having a  
16 tetrahydrocannabinols concentration of 5.0 or greater, offenses concerning the  
17 operation of motor vehicles by persons with a detectable amount of a restricted  
18 controlled substance in his or her blood, and offenses concerning the operation of  
19 commercial motor vehicles by persons with an alcohol concentration of 0.04 or more.

20 **SECTION 196.** 967.055 (1) (b) of the statutes is amended to read:

21 967.055 **(1)** (b) The legislature intends to encourage the vigorous prosecution  
22 of offenses concerning the operation of motorboats by persons under the influence of  
23 an intoxicant, a controlled substance, a controlled substance analog or any  
24 combination of an intoxicant, controlled substance and controlled substance analog  
25 to a degree which renders him or her incapable of operating a motorboat safely, or

**BILL**

1 under the combined influence of an intoxicant and any other drug to a degree which  
2 renders him or her incapable of operating a motorboat safely or having an alcohol  
3 concentration of 0.08 or more or a tetrahydrocannabinols concentration of 5.0 or  
4 greater.

5 **SECTION 197.** 967.055 (1m) (b) 1. of the statutes is amended to read:

6 967.055 (1m) (b) 1. A controlled substance included in schedule I under ch. 961  
7 ~~other than a tetrahydrocannabinol.~~

8 **SECTION 198.** 967.055 (1m) (b) 5. of the statutes is repealed.

9 **SECTION 199.** 967.055 (2) (a) of the statutes is amended to read:

10 967.055 (2) (a) Notwithstanding s. 971.29, if the prosecutor seeks to dismiss  
11 or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity  
12 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the  
13 use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply  
14 to the court. The application shall state the reasons for the proposed amendment or  
15 dismissal. The court may approve the application only if the court finds that the  
16 proposed amendment or dismissal is consistent with the public's interest in deterring  
17 the operation of motor vehicles by persons who are under the influence of an  
18 intoxicant, a controlled substance, a controlled substance analog or any combination  
19 of an intoxicant, controlled substance and controlled substance analog, under the  
20 influence of any other drug to a degree which renders him or her incapable of safely  
21 driving, or under the combined influence of an intoxicant and any other drug to a  
22 degree which renders him or her incapable of safely driving, in deterring the  
23 operation of motor vehicles by persons with a detectable amount of a restricted  
24 controlled substance in his or her blood, in deterring the operation of motor vehicles  
25 by persons with a tetrahydrocannabinols concentration that is 5.0 or greater, or in

**BILL**

1 deterring the operation of commercial motor vehicles by persons with an alcohol  
2 concentration of 0.04 or more. The court may not approve an application to amend  
3 the vehicle classification from a commercial motor vehicle to a noncommercial motor  
4 vehicle unless there is evidence in the record that the motor vehicle being operated  
5 by the defendant at the time of his or her arrest was not a commercial motor vehicle.

6 **SECTION 200.** 971.365 (1) (a) of the statutes is amended to read:

7 971.365 (1) (a) In any case under s. 961.41 (1) (em), 1999 stats., or s. 961.41 (1)  
8 (cm), (d), (e), (f), or (g) ~~or (h)~~ involving more than one violation, all violations may be  
9 prosecuted as a single crime if the violations were pursuant to a single intent and  
10 design.

11 **SECTION 201.** 971.365 (1) (b) of the statutes is amended to read:

12 971.365 (1) (b) In any case under s. 961.41 (1m) (em), 1999 stats., or s. 961.41  
13 (1m) (cm), (d), (e), (f), or (g) ~~or (h)~~ involving more than one violation, all violations may  
14 be prosecuted as a single crime if the violations were pursuant to a single intent and  
15 design.

16 **SECTION 202.** 971.365 (1) (c) of the statutes is amended to read:

17 971.365 (1) (c) In any case under s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41  
18 (3g) (dm), 1999 stats., or s. 961.41 (3g) (am), (c), (d), ~~(e)~~, or (g) involving more than  
19 one violation, all violations may be prosecuted as a single crime if the violations were  
20 pursuant to a single intent and design.

21 **SECTION 203.** 971.365 (2) of the statutes is amended to read:

22 971.365 (2) An acquittal or conviction under sub. (1) does not bar a subsequent  
23 prosecution for any acts in violation of s. 961.41 (1) (em), 1999 stats., s. 961.41 (1m)  
24 (em), 1999 stats., s. 961.41 (3g) (a) 2., 1999 stats., or s. 961.41 (3g) (dm), 1999 stats.,  
25 or s. 961.41 (1) (cm), (d), (e), (f), or (g), ~~or (h)~~, (1m) (cm), (d), (e), (f), or (g), ~~or (h)~~ or (3g)

**BILL**

1 (am), (c), (d), ~~(e)~~, or (g) on which no evidence was received at the trial on the original  
2 charge.

3 **SECTION 204. Nonstatutory provisions.**

4 (1) JOINT LEGISLATIVE COUNCIL STUDY. The joint legislative council shall study  
5 the implementation of the marijuana tax and regulation provided under subchapter  
6 IV of chapter 139 of the statutes and identify uses for the revenues generated by the  
7 tax. The joint legislative council shall report its findings, conclusions, and  
8 recommendations to the joint committee on finance no later than 2 years after the  
9 effective date of this subsection.

10 **SECTION 205. Initial applicability.**

11 (1) INSURANCE COVERAGE OF MEDICAL USE OF MARIJUANA.

12 (a) For policies and plans containing provisions inconsistent with this act, the  
13 treatment of sections 609.83 and 632.895 (16p) of the statutes first applies to policy  
14 or plan years beginning on January 1 of the year following the year in which this  
15 paragraph takes effect, except as provided in paragraph (b).

16 (b) For policies or plans that are affected by a collective bargaining agreement  
17 containing provisions inconsistent with this act, the treatment of sections 609.83 and  
18 632.895 (16p) of the statutes first applies to policy or plan years beginning on the  
19 effective date of this paragraph or on the day on which the collective bargaining  
20 agreement is newly established, extended, modified, or renewed, whichever is later.

21 **SECTION 206. Effective dates.** This act takes effect on the first day of the 6th  
22 month beginning after publication, except as follows:

23 (1) The treatment of sections 23.33 (1) (jo) 1. and 5. and (k), (4c) (a) 2g., 3g., 4.,  
24 and 5. and (b) 2n., 3., and 4. a. and b., (4p) (d), and (13) (b) 1., 2., and 3. and (e), 30.50  
25 (10m) (a) and (e) and (13p), 30.681 (1) (b) (title) and 1g., (bn) (title), (c), and (d) and

**BILL**

1 (2) (b) (title) and 1g., (c), and (d) 1. a. and b., 30.684 (4), 30.80 (6) (d), 49.148 (4) (a),  
2 49.45 (23) (g) 1. e., 49.79 (1) (b), 51.49 (1) (d), 59.54 (25) (title) and (a) (intro.), 66.0107  
3 (1) (bm), 66.0414, 108.02 (18r), 108.04 (5m), 111.32 (9m) and (11m), 111.35 (2) (e),  
4 121.02 (1) (L) 7., 289.33 (3) (d), 340.01 (50m) (a) and (e) and (66m), 343.10 (5) (a) 1.  
5 and 2., 343.12 (7) (a) 11., 343.16 (2) (b) and (5) (a), 343.30 (1p) and (1q) (h), 343.305  
6 (2), (3) (a), (am), (ar) 1., and (b), (5) (b), (d), and (dm), (7) (a), (8) (b) 2. bm. and d., 4m.  
7 a., 5. b., and 6. b., (9) (a) 5. a., (am) 5. a. and c., and (d), and (10) (em), 343.307 (1) (d)  
8 and (2) (e), 343.31 (1) (am) and (2), 343.315 (2) (a) 2., 5., and 6. and (bm) 2., 343.32  
9 (2) (bj), 344.576 (2) (b), 346.63 (1) (b) and (d), (2) (a) 2. and (b) 1. and 2., and (2p),  
10 346.65 (2m) (a) and (2q), 349.02 (2) (b) 4., 349.03 (2m), 349.06 (1m), 350.01 (10v) (a)  
11 and (e) and (21g), 350.101 (1) (bg), (cg), (d), and (e) and (2) (bg), (c), and (d) 1. and 2.,  
12 350.104 (4), 350.11 (3) (d), 885.235 (1) (d) 1. and 5. and (e), (1g) (intro.), (ag), and (cg),  
13 (1L), (1m), and (4), 895.047 (3) (a), 905.04 (4) (f), 939.22 (33) (a) and (e) and (39g),  
14 940.09 (1) (bg) and (dg), (1g) (bg) and (dg), (1m) (a) and (b), and (2) (a) and (b), 940.25  
15 (1) (bg) and (dg), (1m), and (2), 941.20 (1) (bg) and (bm), 961.01 (14), 961.14 (4) (t),  
16 961.34, 961.38 (1n) (a), 961.41 (1) (h), (1m) (h), (1q), (1r), and (3g) (c), (d), (e), and (em),  
17 961.47 (1), 961.48 (3) and (5), 961.49 (1m) (intro.), 961.571 (1) (a) 7. and 11. (intro.),  
18 e., k and L., subchapter VIII of chapter 961, 967.055 (1) (a) and (b), (1m) (b) 1. and  
19 5., and (2) (a), and 971.365 (1) (a), (b), and (c) and (2) of the statutes, the renumbering  
20 of section 30.681 (1) (bn) of the statutes, the renumbering and amendment of sections  
21 108.133 (1) (a) and 115.35 (1) of the statutes, and the creation of sections 30.681 (1)  
22 (bn) 2., 108.133 (1) (a) 2., and 115.35 (1) (a) 6. of the statutes take effect on the day  
23 after publication.

24

(END)