

**SENATE BILL No. 315**

By Committee on Ways and Means

5-7

1 AN ACT concerning health and healthcare; relating to medical marijuana;  
2 creating the Kansas medical marijuana regulation act; providing for  
3 licensure and regulation of the cultivation, distribution, sale and  
4 possession of medical marijuana; delegating administrative duties and  
5 functions to the secretary of health and environment, secretary of  
6 revenue, board of healing arts, board of pharmacy and the director of  
7 alcoholic beverage control; imposing fines and penalties for violations  
8 of the act; establishing the medical marijuana registration fund and the  
9 medical marijuana business regulation fund; creating the crime of  
10 unlawful transport of medical marijuana; making exceptions to the  
11 crimes of unlawful manufacture and possession of controlled  
12 substances; amending K.S.A. 44-1009, 44-1015, 65-28b08, 79-5201  
13 and 79-5210 and K.S.A. 2020 Supp. 19-101a, 21-5703, 21-5705, 21-  
14 5706, 21-5707, 21-5709, 21-5710, 23-3201, 38-2269, 44-501, 44-706  
15 and 65-1120 and repealing the existing sections.

16

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

18 New Section 1. The provisions of sections 1 through 46, and  
19 amendments thereto, shall be known and may be cited as the Kansas  
20 medical marijuana regulation act.

21 New Sec. 2. As used in the Kansas medical marijuana regulation act,  
22 section 1 et seq., and amendments thereto:

23 (a) "Academic medical center" means a medical school and its  
24 affiliated teaching hospitals and clinics.

25 (b) "Board of healing arts" means the state board of healing arts.

26 (c) "Caregiver" means an individual registered pursuant to section 8,  
27 and amendments thereto, who may purchase and possess medical  
28 marijuana in accordance with section 11, and amendments thereto.

29 (d) "Cultivator" means a person issued a license pursuant to section  
30 22, and amendments thereto, who may grow and sell medical marijuana in  
31 accordance with section 25, and amendments thereto.

32 (e) "Director" means the director of alcoholic beverage control.

33 (f) "Distributor" means a person issued a license pursuant to section  
34 22, and amendments thereto, who may purchase and sell medical  
35 marijuana in accordance with section 28, and amendments thereto.

36 (g) "Electronic cigarette" means the same as defined in K.S.A. 79-

1 3301, and amendments thereto.

2 (h) "Marijuana" means the same as defined in K.S.A. 65-4101, and  
3 amendments thereto.

4 (i) "Medical marijuana" means marijuana that is cultivated,  
5 processed, tested, dispensed, possessed or used for a medical purpose.

6 (j) "Patient" means an individual registered pursuant to section 8, and  
7 amendments thereto, who may purchase and possess medical marijuana in  
8 accordance with section 10, and amendments thereto.

9 (k) "Postsecondary educational institution" means the same as  
10 defined in K.S.A. 74-3201b, and amendments thereto.

11 (l) "Processor" means a person issued a license pursuant to section  
12 22, and amendments thereto, who may purchase, process and sell medical  
13 marijuana in accordance with section 27, and amendments thereto.

14 (m) "Physician" means an individual licensed to practice medicine  
15 and surgery in this state and who is certified by the board of healing arts to  
16 recommend treatment with medical marijuana pursuant to section 18, and  
17 amendments thereto.

18 (n) "Physician's designee" means:

19 (1) A registered nurse, licensed practical nurse, respiratory therapist,  
20 emergency medical responder, paramedic, dental hygienist, pharmacy  
21 technician or pharmacy intern who has registered for access to the program  
22 database as an agent of a practitioner or pharmacist to request program  
23 data on behalf of the practitioner or pharmacist;

24 (2) a death investigator who has registered for limited access to the  
25 program database as an agent of a medical examiner, coroner or another  
26 person authorized under law to investigate or determine causes of death; or

27 (3) an individual authorized by rules and regulations adopted by the  
28 board of healing arts to access the prescription monitoring program  
29 database by the board of healing arts in rules and regulations.

30 (o) "Qualifying medical condition" means any of the following:

31 (1) Acquired immune deficiency syndrome;

32 (2) Alzheimer's disease;

33 (3) amyotrophic lateral sclerosis;

34 (4) cancer;

35 (5) chronic traumatic encephalopathy;

36 (6) Crohn's disease;

37 (7) epilepsy or another seizure disorder;

38 (8) fibromyalgia;

39 (9) glaucoma;

40 (10) hepatitis C;

41 (11) inflammatory bowel disease;

42 (12) multiple sclerosis;

43 (13) Parkinson's disease;

- 1 (14) positive status for human immunodeficiency virus;  
2 (15) post-traumatic stress disorder;  
3 (16) sickle cell anemia;  
4 (17) spinal cord disease or injury;  
5 (18) Tourette's syndrome;  
6 (19) traumatic brain injury;  
7 (20) ulcerative colitis;  
8 (21) pain that is either chronic and severe or intractable;  
9 (22) a debilitating psychiatric disorder that is diagnosed by a  
10 physician licensed in this state who is board-certified in the practice of  
11 psychiatry, as determined by the board of healing arts;  
12 (23) any other chronic, debilitating or terminal condition that, in the  
13 professional judgment of a physician licensed in this state, would be a  
14 detriment to the patient's mental or physical health if left untreated; or  
15 (24) any other disease or condition approved by the secretary of  
16 health and environment pursuant to section 15, and amendments thereto.
- 17 (p) "Retail dispensary" means a person issued a license pursuant to  
18 section 22, and amendments thereto, who may purchase and sell medical  
19 marijuana in accordance with section 29, and amendments thereto.
- 20 (q) "Simultaneously grown, mature flowering plants" means a  
21 marijuana plant, whether male or female, that has flowered and that has  
22 buds that are readily observed by unaided visual examination.
- 23 (r) "Smoking" means the use of a lighted cigarette, cigar or pipe or  
24 otherwise burning marijuana in any other form for the purpose of  
25 consuming such marijuana.
- 26 (s) "Vaporization" means the use of an electronic cigarette for the  
27 purpose of consuming medical marijuana in which such medical marijuana  
28 comes into direct contact with a heating element.
- 29 (t) "Veteran" means a person who has:  
30 (1) Served in the army, navy, marine corps, air force, coast guard,  
31 space force, any state air or army national guard or any branch of the  
32 military reserves of the United States; and  
33 (2) been separated from the branch of service in which the person  
34 was honorably discharged or received a general discharge under honorable  
35 conditions.
- 36 New Sec. 3. (a) No person shall grow, harvest, process, sell, barter,  
37 transport, deliver, furnish or otherwise possess any form of marijuana,  
38 except as specifically provided in the Kansas medical marijuana regulation  
39 act or the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et  
40 seq., and amendments thereto.
- 41 (b) Nothing in the Kansas medical marijuana regulation act shall be  
42 construed to:  
43 (1) Require a physician to recommend that a patient use medical

1 marijuana to treat a qualifying medical condition;

2 (2) permit the use, possession or administration of medical marijuana  
3 other than as authorized by this act;

4 (3) permit the use, possession or administration of medical marijuana  
5 on federal land located in this state;

6 (4) require any public place to accommodate a registered patient's use  
7 of medical marijuana;

8 (5) prohibit any public place from accommodating a registered  
9 patient's use of medical marijuana;

10 (6) authorize any limitation on the number of any licenses awarded  
11 under this act to otherwise qualified applicants or authorize any state  
12 agency through rules and regulations to effectively limit the number of  
13 licenses available to otherwise qualified applicants for any type of license  
14 awarded under this act; or

15 (7) restrict research related to marijuana conducted at a postsecondary  
16 educational institution, academic medical center or private research and  
17 development organization as part of a research protocol approved by an  
18 institutional review board or equivalent entity.

19 New Sec. 4. (a) There is hereby established the Kansas medical  
20 marijuana regulation program.

21 (b) The secretary of health and environment shall administer the  
22 program in accordance with the provisions of this act and provide for the  
23 registration of patients and caregivers, including the issuance of  
24 identification cards to registered patients and caregivers.

25 (c) The board of healing arts shall administer the program in  
26 accordance with the provisions of this act and provide for the certification  
27 of physicians authorizing such physicians to recommend medical  
28 marijuana as a treatment for patients.

29 (d) The board of pharmacy shall administer the program in  
30 accordance with the provisions of this act and provide for the registration  
31 of pharmacist consultants and the requirements for reporting to the  
32 prescription monitoring program.

33 (e) The director of alcoholic beverage control shall administer the  
34 program in accordance with the provisions of this act and provide for the  
35 licensure of cultivators, laboratories, processors, distributors and retail  
36 dispensaries.

37 New Sec. 5. (a) The medical marijuana advisory committee is hereby  
38 created in the department of health and environment. The committee shall  
39 consist of the following:

40 (1) Five members appointed by the governor as follows:

41 (A) Two members who are practicing pharmacists, at least one of  
42 whom supports the use of medical marijuana and at least one of whom is a  
43 member of the state board of pharmacy;

- 1 (B) two members who are practicing physicians, at least one of whom  
2 supports the use of medical marijuana and at least one of whom is a  
3 member of the board of healing arts; and
- 4 (C) one member who represents persons involved in the treatment of  
5 alcohol and drug addiction;
- 6 (2) two members appointed by the president of the senate as follows:
- 7 (A) One member who represents law enforcement; and
- 8 (B) one member who represents caregivers;
- 9 (3) one member who represents agricultural interests, appointed by  
10 the majority leader of the senate;
- 11 (4) one member who is a nurse, appointed by the minority leader of  
12 the senate;
- 13 (5) two members appointed by the speaker of the house of  
14 representatives as follows:
- 15 (A) One member who represents patients; and
- 16 (B) one member who represents employers;
- 17 (6) one member who represents cultivators, appointed by the majority  
18 leader of the house of representatives;
- 19 (7) one member who represents employees, appointed by the  
20 minority leader of the house of representatives; and
- 21 (8) the secretary of health and environment, who shall serve as  
22 chairperson.
- 23 (b) The initial appointments to the committee shall be made on or  
24 before July 31, 2021.
- 25 (c) Except for the secretary of health and environment, each member  
26 of the committee shall serve from the date of appointment until the  
27 committee ceases to exist, except that members shall serve at the pleasure  
28 of the appointing authority. A vacancy shall be filled within 21 days of  
29 such vacancy in the same manner as the original appointment.
- 30 (d) Each member of the committee shall be paid compensation,  
31 subsistence allowances, mileage and other expenses as provided in K.S.A.  
32 75-3223(e), and amendments thereto.
- 33 (e) The committee shall hold its initial meeting not later than 30 days  
34 after the last member of the committee is appointed. The committee may  
35 develop and submit to the secretary of health and environment and the  
36 director of alcoholic beverage control any recommendations related to the  
37 Kansas medical marijuana regulation program and the implementation and  
38 enforcement of this act.
- 39 (f) The committee shall develop policies and procedures for the  
40 submission, review, approval and denial of petitions for approval of a  
41 qualifying medical condition submitted pursuant to section 15, and  
42 amendments thereto.
- 43 (g) Prior to January 31 of each year, the medical marijuana advisory

1 committee shall provide a report to the legislature detailing any concerns  
2 or recommended changes that the committee has for the medical marijuana  
3 regulation act.

4 (h) The provisions of this section shall expire on July 1, 2026.

5 New Sec. 6. (a) Except as permitted under subsection (c), the  
6 following individuals shall not solicit or accept, directly or indirectly, any  
7 gift, gratuity, emolument or employment from any person who is an  
8 applicant for any license or is a licensee under the provisions of the Kansas  
9 medical marijuana regulation act or any officer, agent or employee thereof,  
10 or solicit requests from or recommend, directly or indirectly, to any such  
11 person, the appointment of any individual to any place or position:

12 (1) The secretary of health and environment or any officer, employee  
13 or agent of the department of health and environment;

14 (2) the secretary of revenue, the director of alcoholic beverage control  
15 or any officer, employee or agent of the division of alcoholic beverage  
16 control;

17 (3) any member of the board of pharmacy; or

18 (4) any member of the board of healing arts.

19 (b) Except as permitted under subsection (c), an applicant for a  
20 license or a licensee under the provisions of the Kansas medical marijuana  
21 regulation act shall not offer any gift, gratuity, emolument or employment  
22 to any of the following:

23 (1) The secretary of health and environment or any officer, employee  
24 or agent of the department of health and environment;

25 (2) the secretary of revenue, the director of alcoholic beverage control  
26 or any officer, employee or agent of the division of alcoholic beverage  
27 control;

28 (3) any member of the board of pharmacy; or

29 (4) any member of the board of healing arts.

30 (c) The board of healing arts, the board of pharmacy, the secretary of  
31 health and environment and the secretary of revenue may adopt rules and  
32 regulations for their respective agencies allowing the acceptance of official  
33 hospitality by members of the board of healing arts, the board of pharmacy  
34 or the respective secretary and employees of each such respective agency,  
35 subject to any limits as prescribed by such rules and regulations.

36 (d) If any member of the board of healing arts, the board of  
37 pharmacy, the secretary of health and environment, the secretary of  
38 revenue or any employee of each such respective agency violates any  
39 provision of this section, such person shall be removed from such person's  
40 office or employment.

41 (e) Violation of any provision of this section is a severity level 7,  
42 nonperson felony.

43 (f) Nothing in this section shall be construed to prohibit the

1 prosecution and punishment of any person for any other crime in the  
2 Kansas criminal code.

3 New Sec. 7. All actions taken by the board of healing arts, the board  
4 of pharmacy, the secretary of health and environment or the director of  
5 alcoholic beverage control under the Kansas medical marijuana regulation  
6 act shall be in accordance with the Kansas administrative procedure act  
7 and reviewable in accordance with the Kansas judicial review act.

8 New Sec. 8. (a) A patient seeking to use medical marijuana or a  
9 caregiver seeking to assist a patient in the use or administration of medical  
10 marijuana shall apply to the department of health and environment for  
11 registration. The physician who is treating the patient, or such physician's  
12 designee, shall submit the application on the patient's or caregiver's behalf  
13 in such form and manner as prescribed by the secretary of health and  
14 environment.

15 (b) The application for registration shall include the following:

16 (1) A statement from the physician certifying that:

17 (A) A bona fide physician-patient relationship exists between the  
18 physician and patient;

19 (B) the patient has been diagnosed with a qualifying medical  
20 condition;

21 (C) the physician, or such physician's designee, has requested from  
22 the prescription monitoring program database a report of information  
23 related to the patient that covers at least the 12 months immediately  
24 preceding the date of the report;

25 (D) the physician has informed the patient of the risks and benefits of  
26 medical marijuana as it pertains to the patient's qualifying medical  
27 condition and medical history; and

28 (E) the physician has informed the patient that it is the physician's  
29 opinion that the benefits of medical marijuana outweigh its risks;

30 (2) in the case of an application submitted on behalf of a patient, the  
31 name or names of one or more caregivers, if any, who will assist the  
32 patient in the use or administration of medical marijuana;

33 (3) in the case of an application submitted on behalf of a caregiver,  
34 the name of the patient or patients whom the caregiver seeks to assist in  
35 the use or administration of medical marijuana; and

36 (4) in the case of a patient who is a minor, the name of the patient's  
37 parent or legal guardian who has consented to treatment with medical  
38 marijuana and who shall be designated as the patient's caregiver.

39 (c) If the application is complete and meets the requirements of this  
40 act and rules and regulations adopted thereunder and the patient or  
41 caregiver has paid the required fee, the secretary of health and  
42 environment shall register the patient or caregiver and issue to the patient  
43 or caregiver an identification card.

1 (d) (1) A registered caregiver must be at least 21 years of age, except  
2 that, if the caregiver is the parent or legal guardian of a patient who is a  
3 minor, then the registered caregiver must be at least 18 years of age.

4 (2) A registered patient may designate up to two registered  
5 caregivers. If the patient is a minor, a parent or legal guardian of such  
6 patient shall be designated as a registered caregiver for such patient.

7 (3) A registered caregiver may provide assistance to not more than  
8 two registered patients, unless the secretary approves a greater number of  
9 registered patients.

10 (4) A physician who submits an application on behalf of a patient  
11 may not also serve as such patient's registered caregiver.

12 (e) Any information collected by the department of health and  
13 environment pursuant to this section is confidential and not a public  
14 record. The department may share information identifying a specific  
15 patient with a licensed retail dispensary or any law enforcement agency for  
16 the purpose of confirming that such patient has a valid registration.  
17 Information that does not identify a person may be released in summary,  
18 statistical or aggregate form. The provisions of this subsection shall expire  
19 on July 1, 2026, unless the legislature reviews and reenacts such  
20 provisions in accordance with K.S.A. 45-229, and amendments thereto,  
21 prior to July 1, 2026.

22 (f) The fees for a patient or caregiver registration, or the renewal  
23 thereof, shall be set by rules and regulations adopted by the secretary of  
24 health and environment in an amount not to exceed:

25 (1) Except as specified in paragraph (2), \$50 for a patient registration;

26 (2) \$25 for a patient registration if the patient is indigent or is a  
27 veteran; and

28 (3) \$25 for a caregiver registration.

29 (g) A registration shall be valid for a period of one year from the date  
30 the identification card is issued and may be renewed by submitting a  
31 registration renewal application and paying the required fee.

32 New Sec. 9. The department of health and environment shall assign a  
33 unique 24-character identification number to each registered patient and  
34 caregiver when issuing an identification card. Licensed retail dispensaries  
35 shall obtain verification by the department that a patient or caregiver has a  
36 valid registration.

37 New Sec. 10. (a) A patient registered pursuant to section 8, and  
38 amendments thereto, who obtains medical marijuana from a licensed retail  
39 dispensary may:

40 (1) Use medical marijuana;

41 (2) subject to subsection (b), possess medical marijuana; and

42 (3) possess any paraphernalia or accessories used to administer  
43 medical marijuana.

1 (b) A registered patient may possess medical marijuana in an amount  
2 not to exceed a 30-day supply.

3 (c) Nothing in this section shall be construed to authorize a registered  
4 patient to operate a motor vehicle, watercraft or aircraft while under the  
5 influence of medical marijuana.

6 New Sec. 11. (a) A caregiver registered pursuant to section 8, and  
7 amendments thereto, who obtains medical marijuana from a licensed retail  
8 dispensary may:

9 (1) Subject to subsection (b), possess medical marijuana on behalf of  
10 a registered patient under the caregiver's care;

11 (2) assist a registered patient under the caregiver's care in the use or  
12 administration of medical marijuana; and

13 (3) possess any paraphernalia or accessories used to administer  
14 medical marijuana.

15 (b) A registered caregiver may possess medical marijuana on behalf  
16 of a registered patient in an amount not to exceed a 30-day supply. If a  
17 caregiver provides care to more than one registered patient, the caregiver  
18 shall maintain separate inventories of medical marijuana for each patient.

19 (c) Nothing in this section shall be construed to permit a registered  
20 caregiver to personally use medical marijuana unless the caregiver is also a  
21 registered patient.

22 New Sec. 12. (a) In addition to or in lieu of any other civil or criminal  
23 penalty as provided by law, the secretary of health and environment may  
24 impose a civil penalty or suspend or revoke a registration upon a finding  
25 that the patient or caregiver committed a violation as provided in this  
26 section.

27 (b) Nothing in this act shall be construed to require the secretary to  
28 enforce minor violations if the secretary determines that the public interest  
29 is adequately served by a notice or warning to the alleged offender.

30 (c) Upon a finding that a registrant has submitted fraudulent  
31 information or otherwise falsified or misrepresented information required  
32 to be submitted by such registrant, the secretary may impose a civil fine of  
33 not to exceed \$500 for a first offense and may suspend or revoke the  
34 individual's registration for a second or subsequent offense.

35 (d) If the secretary suspends, revokes or refuses to renew any  
36 registration issued pursuant to this act and determines that there is clear  
37 and convincing evidence of a danger of immediate and serious harm to any  
38 person, the secretary may place under seal all medical marijuana owned by  
39 or in the possession, custody or control of the affected registrant. Except as  
40 provided in this section, the secretary shall not dispose of the sealed  
41 medical marijuana until a final order is issued authorizing such disposition.  
42 During the pendency of an appeal from any order issued by the secretary, a  
43 court may order the secretary to sell medical marijuana that is perishable,

1 and the proceeds of any such sale shall be deposited with the court.

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

17 (b) Moneys in the medical marijuana registration fund shall be used  
18 for the payment or reimbursement of costs related to the regulation and  
19 enforcement of the possession and use of medical marijuana by the  
20 secretary.

21 New Sec. 14. (a) On or before July 1, 2022, the secretary of health  
22 and environment shall, after consulting with the medical marijuana  
23 advisory committee, adopt rules and regulations to administer the Kansas  
24 medical marijuana regulation program and implement and enforce the  
25 provisions of the Kansas medical marijuana regulation act. Such rules and  
26 regulations shall:

27 (1) Establish procedures for registration of patients and caregivers  
28 and eligibility requirements for registration;

29 (2) establish procedures for the issuance of patient or caregiver  
30 identification cards;

31 (3) establish a renewal schedule, renewal procedures and renewal  
32 fees for registrations;

33 (4) subject to the provisions of subsection (b), specify, by form and  
34 tetrahydrocannabinol content, a maximum 30-day supply of medical  
35 marijuana that may be possessed;

36 (5) specify the forms or methods of using medical marijuana that are  
37 attractive to children; and

38 (6) establish a program to assist patients who are indigent or who are  
39 veterans in obtaining medical marijuana.

40 (b) Any maximum supply of medical marijuana that may be  
41 purchased or possessed by a patient or caregiver shall allow at least three  
42 ounces of dried, unprocessed medical marijuana or its equivalent as a 30-  
43 day supply and allow for exceptions from any such limitation upon

1 submission of a written certification from two independent physicians that  
2 there are compelling reasons for the patient or caregiver to purchase and  
3 possess greater quantities of medical marijuana.

4 (c) When adopting rules and regulations under this section, the  
5 secretary shall consider standards and procedures that have been found to  
6 be best practices relative to the use and regulation of medical marijuana.

7 New Sec. 15. (a) Any person may submit a petition to the medical  
8 marijuana advisory committee requesting that a disease or condition be  
9 added as a qualifying medical condition for the purposes of this act. The  
10 petition shall be submitted in such form and manner as prescribed by the  
11 secretary of health and environment. A petition shall not seek to add a  
12 broad category of diseases or conditions, but shall be limited to one  
13 disease or condition and shall include a description of such disease or  
14 condition.

15 (b) Upon receipt of a petition, the committee shall review such  
16 petition to determine whether to recommend the approval or denial of the  
17 disease or condition described in the petition as an addition to the list of  
18 qualifying medical conditions. The committee may consolidate the review  
19 of petitions for the same or similar diseases or conditions. In making its  
20 determination, the committee shall:

21 (1) Consult with one or more experts who specialize in the study of  
22 the disease or condition;

23 (2) review any relevant medical or scientific evidence pertaining to  
24 the disease or condition;

25 (3) consider whether conventional medical therapies are insufficient  
26 to treat or alleviate the disease or condition;

27 (4) review evidence supporting the use of medical marijuana to treat  
28 or alleviate the disease or condition; and

29 (5) review any letters of support provided by physicians with  
30 knowledge of the disease or condition, including any letter provided by a  
31 physician treating the petitioner.

32 (c) Upon completion of its review, the committee shall make a  
33 recommendation to the secretary of health and environment whether to  
34 approve or deny the addition of the disease or condition to the list of  
35 qualifying medical conditions. The secretary shall adopt rules and  
36 regulations in accordance with the recommendation of the committee.

37 New Sec. 16. On or before July 1, 2022, the department of health and  
38 environment shall make a website available for the public to access  
39 information regarding patient and caregiver registration under the Kansas  
40 medical marijuana regulation act.

41 New Sec. 17. A medical marijuana registry identification card, or its  
42 equivalent, that is issued under the laws of another state, district, territory,  
43 commonwealth or insular possession of the United States that is verifiable

1 by the jurisdiction of issuance and allows a nonresident patient to possess  
2 medical marijuana for medical purposes shall have the same force and  
3 effect as an identification card issued by the secretary pursuant to this act  
4 if the nonresident patient has not been residing in this state for more than  
5 180 days.

6 New Sec. 18. (a) Except as provided in subsection (j), a physician  
7 seeking to recommend treatment with medical marijuana shall apply to the  
8 board of healing arts for a certificate authorizing such physician to  
9 recommend treatment with medical marijuana. The application shall be  
10 submitted in such form and manner as prescribed by the board. The board  
11 shall grant a certificate to recommend if the following conditions are  
12 satisfied:

13 (1) The application is complete and meets the requirements  
14 established in rules and regulations adopted by the board of healing arts;  
15 and

16 (2) the applicant demonstrates that the applicant does not have an  
17 ownership or investment interest in or compensation arrangement with an  
18 entity licensed by the department of health and environment or the director  
19 of alcoholic beverage control under this act or an applicant for such  
20 licensure.

21 (b) (1) Pursuant to rules and regulations adopted by the board of  
22 healing arts, a certificate to recommend shall:

23 (A) Expire annually unless renewed in the manner prescribed by the  
24 board; and

25 (B) be accompanied by an annual fee in an amount not to exceed  
26 \$175.

27 (2) Renewal of a certificate to recommend shall be conditioned upon  
28 the holder's certification of having met the requirements in subsection (a)  
29 and having completed at least two hours of continuing medical education  
30 in medical marijuana annually in accordance with subsection (g).

31 (c) A physician licensed in this state who holds a certificate to  
32 recommend treatment with medical marijuana may recommend that a  
33 patient be treated with medical marijuana if:

34 (1) The patient has been diagnosed with a qualifying medical  
35 condition;

36 (2) an ongoing physician-patient relationship has been established by  
37 an initial office visit;

38 (3) an in-person physical examination of the patient was performed  
39 by the physician together with a review of all of the patient's medical  
40 records, particularly relating to the medical indication for a  
41 tetrahydrocannabinol recommendation; and

42 (4) the recommending physician, or physician's designee, reports all  
43 medical marijuana recommendations for any patient to the prescription

1 monitoring program in accordance with K.S.A. 65-1683, and amendments  
2 thereto.

3 (d) In the case of a patient who is a minor, the physician may  
4 recommend treatment with medical marijuana only after obtaining the  
5 consent of the patient's parent or other person responsible for providing  
6 consent to treatment.

7 (e) When issuing a written recommendation to a patient, the  
8 physician shall specify any information required by rules and regulations  
9 adopted by the board of healing arts. A written recommendation issued to a  
10 patient under this section is valid for a period of not more than 180 days.  
11 The physician may renew the recommendation for not more than four  
12 additional periods of not more than 180 days each. Thereafter, the  
13 physician may issue another recommendation to the patient only upon a  
14 physical examination of the patient.

15 (f) Each year a physician holding a certificate to recommend  
16 treatment with medical marijuana shall submit to the board of healing arts  
17 a report that describes the physician's observations regarding the  
18 effectiveness of medical marijuana in treating the physician's patients  
19 during the year covered by the report. When submitting reports, a  
20 physician shall not include any information that identifies or would tend to  
21 identify any specific patient.

22 (g) Annually, each physician who holds a certificate to recommend  
23 treatment with medical marijuana shall complete at least two hours of  
24 continuing medical education in the treatment with and use of medical  
25 marijuana as approved by the board of healing arts.

26 (h) A physician shall not issue a recommendation for treatment with  
27 medical marijuana for a family member or the physician's self, or  
28 personally furnish or otherwise dispense medical marijuana.

29 (i) A physician who holds a certificate to recommend treatment with  
30 medical marijuana shall be immune from civil liability, shall not be subject  
31 to professional disciplinary action by the board of healing arts and shall  
32 not be subject to criminal prosecution for any of the following actions:

33 (1) Advising a patient, patient representative or caregiver about the  
34 benefits and risks of medical marijuana to treat a qualifying medical  
35 condition;

36 (2) recommending that a patient use medical marijuana to treat or  
37 alleviate a qualifying medical condition; and

38 (3) monitoring a patient's treatment with medical marijuana.

39 (j) This section shall not apply to a physician who recommends  
40 treatment with marijuana or a drug derived from marijuana under any of  
41 the following that is approved by an institutional review board or  
42 equivalent entity, the United States food and drug administration or the  
43 national institutes of health or one of its cooperative groups or centers

1 under the United States department of health and human services:

- 2 (1) A research protocol;
- 3 (2) a clinical trial;
- 4 (3) an investigational new drug application; or
- 5 (4) an expanded access submission.

6 New Sec. 19. (a) On or before July 1, 2022, the board of healing arts  
7 shall adopt rules and regulations to implement and enforce the provisions  
8 of section 18, and amendments thereto. Such rules and regulations shall  
9 include:

- 10 (1) The procedures and fees for applying for a certificate to  
11 recommend treatment with medical marijuana;
- 12 (2) the conditions for eligibility for a certificate to recommend  
13 treatment with medical marijuana;
- 14 (3) the schedule, fees and procedures for renewing such a certificate;
- 15 (4) the reasons for which a certificate may be suspended or revoked;
- 16 (5) the standards under which a certificate suspension may be lifted;
- 17 and
- 18 (6) the minimum standards of care when recommending treatment  
19 with medical marijuana.

20 (b) The board of healing arts shall approve one or more continuing  
21 medical education courses of study that assist physicians holding  
22 certificates to recommend treatment with medical marijuana in diagnosing  
23 and treating qualifying medical conditions with medical marijuana.

24 New Sec. 20. (a) There shall be no direct or indirect cooperative  
25 advertising between or among two or more cultivators, dispensaries or  
26 physicians, or any combination thereof, where such advertising has the  
27 purpose or effect of steering or influencing patient or caregiver choice with  
28 regard to their selection of a physician, retail dispensary or medical  
29 marijuana.

30 (b) No advertisement may be disseminated if the submitter of the  
31 advertisement has received information that has not been widely  
32 publicized in medical literature that the use of the medical marijuana  
33 product may cause fatalities or serious harm.

34 (c) All advertisements for medical marijuana or medical marijuana  
35 products that make a statement relating to side effects, contraindications  
36 and effectiveness shall present a true statement of such information. When  
37 applicable, advertisements broadcast through media such as radio,  
38 television or other electronic media shall include such information in the  
39 audio or audio and visual parts of the presentation. False or misleading  
40 information in any part of the advertisement shall not be corrected by the  
41 inclusion of a true statement in another, distinct part of the advertisement.

42 (d) An advertisement is false or otherwise misleading if such  
43 advertisement:

- 1 (1) Contains a representation or suggestion that a medical marijuana  
2 brand or product is better, more effective, useful in a broader range of  
3 conditions or patients or safer than other drugs or treatments, including  
4 other medical marijuana products, unless such a claim has been  
5 demonstrated by substantial evidence or substantial clinical experience;
- 6 (2) contains favorable information or opinions about a medical  
7 marijuana brand or product previously regarded as valid but that have been  
8 rendered invalid by contrary and more recent credible information;
- 9 (3) uses a quote or paraphrase out of context or without citing  
10 conflicting information from the same source to convey a false or  
11 misleading idea;
- 12 (4) cites or refers to a study on individuals without a qualifying  
13 medical condition without disclosing that the subjects were not suffering  
14 from a qualifying medical condition;
- 15 (5) uses data favorable to a medical marijuana product derived from  
16 patients treated with a product or dosages different from those approved in  
17 this state;
- 18 (6) contains favorable information or conclusions from a study that is  
19 inadequate in design, scope or conduct to furnish significant support for  
20 such information or conclusions; or
- 21 (7) fails to provide adequate emphasis for the fact that two or more  
22 facing pages are part of the same advertisement when only one page  
23 contains information relating to side effects, consequences and  
24 contraindications.
- 25 (e) An advertisement for medical marijuana or medical marijuana  
26 products shall not contain any:
- 27 (1) Statement that is false or misleading in any material particular or  
28 is otherwise in violation of the Kansas consumer protection act;
- 29 (2) statement that falsely disparages a competitor's products;
- 30 (3) statement, design or representation, picture or illustration that:
- 31 (A) Is obscene or indecent;
- 32 (B) encourages or represents the recreational use of marijuana or the  
33 use of medical marijuana for a condition other than a qualifying medical  
34 condition;
- 35 (C) relates to the safety or efficacy of medical marijuana unless  
36 supported by substantial evidence or substantial clinical data; or
- 37 (D) portrays anyone under 18 years of age or contains the use of a  
38 figure, symbol or language that is customarily associated with anyone  
39 under 18 years of age;
- 40 (4) offer of a prize or award to a registered patient, caregiver or  
41 physician related to the purchase of medical marijuana; or
- 42 (5) statement that indicates or implies that the product or entity in the  
43 advertisement has been approved or endorsed by the secretary of health

1 and environment, director of alcoholic beverage control, the state of  
2 Kansas or any person or entity associated with the state.

3 (f) The secretary of revenue may:

4 (1) Require a specific disclosure be made in the advertisement in a  
5 clear and conspicuous manner, if the secretary determines that the  
6 advertisement would be false or misleading without such a disclosure; or

7 (2) make recommendations with respect to changes that are:

8 (A) Necessary to protect the public health, safety and welfare; or

9 (B) consistent with dispensing information for the product under  
10 review.

11 (g) A retail dispensary shall not:

12 (1) Illuminate a dispensary sign advertising a medical marijuana  
13 product at any time;

14 (2) advertise medical marijuana brand names or utilize graphics  
15 related to marijuana or paraphernalia on the exterior of the dispensary or  
16 the building in which the dispensary is located; or

17 (3) display any medical marijuana or paraphernalia so as to be clearly  
18 visible from the exterior of the dispensary.

19 (h) Medical marijuana shall not be advertised:

20 (1) For sale by a cultivator, processor or distributor, except that such  
21 entities may make a price list available to a dispensary; or

22 (2) on any billboard that is located along a state highway.

23 New Sec. 21. (a) All cultivator, laboratory, processor, distributor and  
24 retail dispensary licenses issued pursuant to the Kansas medical marijuana  
25 regulation act shall only be issued to a person:

26 (1) Who is a citizen of the United States;

27 (2) who has not been convicted of a felony under the laws of this  
28 state, any other state or the United States, except for any felony that has  
29 been expunged from such person's record and such expungement occurred  
30 at least 10 years prior to the date the application for licensure is submitted;

31 (3) who has not had a license revoked for cause under the provisions  
32 of this act or has not had any license issued under the medical marijuana  
33 laws of any state revoked for cause, except that a license may be issued to  
34 a person whose license was revoked for the conviction of a misdemeanor  
35 at any time after the lapse of 10 years following the date of the revocation;

36 (4) who has not been convicted of being the keeper of or is keeping  
37 any property, whether real or personal, where sexual relations are being  
38 sold or offered for sale by a person who is 18 years of age or older or has  
39 not forfeited bond to appear in court to answer charges of being a keeper  
40 of any such property;

41 (5) who has not been convicted of being a proprietor of a gambling  
42 house, pandering or any other crime opposed to decency and morality or  
43 has not forfeited bond to appear in court to answer charges for any of those

1 crimes;

2 (6) who is at least 18 years of age;

3 (7) who, other than as a member of the governing body of a city or  
4 county, does not appoint or supervise any law enforcement officer, is not a  
5 law enforcement officer or is not an employee of the director of alcoholic  
6 beverage control;

7 (8) who does not intend to carry on the business authorized by the  
8 license as an agent of another;

9 (9) who, at the time of application for renewal of any license issued  
10 under this act, would be eligible for the license upon a first application,  
11 except as provided by paragraph (11);

12 (10) who owns the premises for which a license is sought or, at the  
13 time of application, has a written lease thereon;

14 (11) whose spouse would be eligible to receive a license under this  
15 act, except that:

16 (A) A spouse's ineligibility due to citizenship or age shall not  
17 disqualify a person from licensure;

18 (B) a spouse's ineligibility due to conviction of a felony or other  
19 crime shall only disqualify a person from licensure if such felony or other  
20 crime was committed while the person's spouse held a license issued under  
21 this act; and

22 (C) a spouse's ineligibility shall not apply in determining eligibility  
23 for renewal of a license;

24 (12) who has been a resident of this state for at least two years  
25 immediately preceding the date of the application for licensure. If an  
26 individual licensee ceases to be a resident of this state at any time after the  
27 license is issued, then the license shall be forfeited; and

28 (13) who has not been found to have held an undisclosed beneficial  
29 interest in any license issued pursuant to this act that was obtained by  
30 means of fraud or any false statement made on the application for such  
31 license.

32 (b) If the applicant is not an individual, then the license shall only be  
33 issued to a business entity formed in this state and registered with the  
34 secretary of state. No license shall be issued to a publicly traded  
35 corporation. Such entity shall submit the following to the director along  
36 with the application for licensure:

37 (1) A certificate of good standing;

38 (2) a copy of such entity's bylaws, operating agreement or other  
39 document providing for the governance of such entity; and

40 (3) a certified document indicating:

41 (A) Each individual who holds an ownership interest in such entity  
42 and each individual who holds an ownership interest in any business entity  
43 that holds an ownership interest in the applicant;

1 (B) the percentage of ownership interest of each such individual or  
2 business entity; and

3 (C) the residential address of each such individual.

4 (c) All individuals holding an ownership interest in a business entity  
5 applying for a license shall satisfy the requirements for licensure under  
6 subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(7), (a)(8), (a)(9) and (a)  
7 (13).

8 (d) Any business entity applying for a license shall own the premises  
9 for which a license is sought or have a fully executed written lease thereon  
10 at the time of application.

11 (e) No license shall be issued to a business entity if less than 75% of  
12 the total equity or similar ownership interest in such entity is owned by  
13 individuals who have been residents of this state for at least two years  
14 immediately preceding the date of the application. A license shall be  
15 forfeited if, for more than 90 consecutive days, less than 75% of the total  
16 equity or similar ownership interest in such entity is owned by individuals  
17 who are residents of this state at any time after the license is issued.

18 (f) All business entities holding a license shall notify the director of  
19 any change in such entity's registration status with the secretary of state,  
20 any amendment of such entity's governing documents and any change in  
21 ownership, including the names and addresses of the individuals whose  
22 ownership interest changed within 30 days after such change occurs.

23 (g) Any transfer of a license shall be reported to and approved by the  
24 director. The director shall not approve any transfer of a license to any  
25 individual or business entity that does not satisfy the requirements of this  
26 section at the time of the transfer.

27 (h) Any compensation, fee, expense or similarly characterized  
28 nonequity payment that is contingent on or otherwise determined in a  
29 manner that factors in profits, sales, revenue or cash flow of any kind  
30 relating to a licensee's operation, including, but not limited to, profit-based  
31 consulting fees and percentage rent payments is prohibited. Any licensee  
32 that enters into an agreement for any prohibited compensation, fee,  
33 expense or payment shall forfeit such entity's license to the director. Such  
34 prohibited compensation, fee, expense or payment:

35 (1) Includes any distribution that is made by a licensee to one or more  
36 individuals or other entities residing or domiciled outside this state that  
37 hold an equity or similar ownership interest in the licensee if such  
38 distribution is greater than 25% of the total distributed amount; and

39 (2) does not include payments of fixed amounts that are determined  
40 prior to the commencement of applicable services.

41 (i) For purposes of this section:

42 (1) The term "business entity" includes for-profit corporations,  
43 limited liability companies, partnerships, limited partnerships, limited

1 liability partnerships and trusts.

2 (2) If the applicant is a trust, then references to individual ownership  
3 interests in the trust shall mean any grantor, beneficiary or trustee of such  
4 trust.

5 New Sec. 22. (a) Any person who seeks to cultivate, conduct  
6 laboratory testing of, process, distribute or sell at retail medical marijuana,  
7 medical marijuana concentrate or medical marijuana products shall submit  
8 an application for the appropriate license to the director in such form and  
9 manner as prescribed by the director. A separate license application shall  
10 be submitted for each location to be operated by the licensee.

11 (b) The director shall issue a license to an applicant if:

12 (1) The criminal history record check conducted pursuant to section  
13 42, and amendments thereto, with respect to the applicant demonstrates  
14 that the applicant is not disqualified from holding a license pursuant to  
15 section 21, and amendments thereto;

16 (2) the applicant is not applying for a laboratory license and  
17 demonstrates that such applicant does not:

18 (A) Have an ownership or investment interest in or compensation  
19 arrangement with a licensed laboratory or an applicant for such license; or

20 (B) share any corporate officers or employees with a licensed  
21 laboratory or an applicant for such license;

22 (3) the applicant demonstrates that such applicant will not violate the  
23 provisions of section 41, and amendments thereto;

24 (4) the applicant has submitted a tax clearance certificate issued by  
25 the department of revenue; and

26 (5) the applicant meets all other licensure eligibility conditions  
27 established in rules and regulations adopted by the secretary of revenue  
28 and has paid all required fees.

29 (c) (1) A license issued to a cultivator, laboratory, processor or  
30 distributor shall be valid for a period of one year from the date such  
31 license is issued.

32 (2) A license issued to a retail dispensary shall be valid for a period of  
33 two years from the date such license is issued.

34 (3) Any license may be renewed by submitting a license renewal  
35 application and paying the required fee.

36 New Sec. 23. (a) Prior to January 1, 2022, the director shall contract  
37 with an operational private laboratory for the purpose of conducting  
38 compliance and quality assurance testing of medical marijuana  
39 laboratories, processors and cultivators licensed in this state in an effort to  
40 provide public safety and ensure that quality medical marijuana and  
41 medical marijuana products are available to registered patients.

42 (b) Any laboratory under contract with the director for compliance  
43 and quality assurance testing shall not:

1 (1) Conduct any other commercial medical marijuana testing in this  
2 state; or

3 (2) employ, or be owned by any individual:

4 (A) Who has a direct or indirect financial interest in any licensee in  
5 this state;

6 (B) whose spouse, parent, child, spouse of a child, sibling or spouse  
7 of a sibling has a pending application for a license issued under this act; or

8 (C) who is a member of the board of directors of a licensee.

9 (c) The laboratory under contract with the director for compliance  
10 and quality assurance shall be accessible and utilized for any medical  
11 marijuana testing needs by any regulatory agency within the state,  
12 including, but not limited to, the department of health and environment,  
13 the Kansas bureau of investigation and the state fire marshal.

14 New Sec. 24. (a) The director shall propose rules and regulations as  
15 necessary to develop acceptable testing and research practices in  
16 consultation with the compliance and quality assurance testing laboratory  
17 contracted with pursuant to section 23, and amendments thereto, including,  
18 but not limited to, testing, standards, quality control analysis, equipment  
19 certification and calibration and chemical identification and substances  
20 used in bona fide research methods. After the hearing on a proposed rule  
21 and regulation has been held as required by law, the director shall submit  
22 any such proposed rule and regulation to the secretary of revenue who, if  
23 the secretary approves it, shall adopt the rule and regulation.

24 (b) The director shall recommend rules and regulations for laboratory  
25 testing performed under this act concerning:

26 (1) The cleanliness and orderliness of the premises of a licensed  
27 laboratory and the establishing of licensed laboratories in secured  
28 locations;

29 (2) the inspection, cleaning and maintenance of any equipment or  
30 utensils used for the analysis of test samples;

31 (3) testing procedures and standards for cannabinoid and terpenoid  
32 potency and safe levels of contaminants and appropriate remediation and  
33 validation procedures;

34 (4) controlled access areas for storage of medical marijuana, medical  
35 marijuana concentrate and medical marijuana product test samples, waste  
36 and reference standards;

37 (5) the establishment by the laboratory of a system, including  
38 computer systems to be utilized by the laboratory, to retain and maintain  
39 all required records, including business records, and processes to ensure  
40 results are reported in a timely and accurate manner;

41 (6) the possession, storage and use by the laboratory of reagents,  
42 solutions and reference standards;

43 (7) a certificate of analysis for each lot of reference standard;

1 (8) the transport and disposal of unused medical marijuana, medical  
2 marijuana concentrate and medical marijuana product and waste;

3 (9) the mandatory use by a laboratory of an inventory tracking system  
4 to ensure all test harvest and production batches or samples containing  
5 medical marijuana, medical marijuana concentrate or medical marijuana  
6 products are identified and tracked from the point such substances are  
7 transferred from a licensee or a registered patient or caregiver through the  
8 point of transfer, destruction or disposal. The inventory tracking system  
9 reporting shall include the results of any tests that are conducted;

10 (10) the employment of laboratory personnel;

11 (11) a written standard operating procedure manual to be maintained  
12 and updated by the laboratory;

13 (12) the successful participation in a proficiency testing program  
14 approved by the director for conducting testing required by section 26, and  
15 amendments thereto, in order to obtain and maintain certification;

16 (13) the establishment of and adherence to a quality assurance and  
17 quality control program to ensure sufficient monitoring of laboratory  
18 processes and the quality of results reported;

19 (14) the immediate recall of medical marijuana, medical marijuana  
20 concentrate or medical marijuana products that test above allowable  
21 thresholds or are otherwise determined to be unsafe;

22 (15) the establishment by the laboratory of a system to document the  
23 complete chain of custody for samples from receipt through disposal; and

24 (16) any other aspect of laboratory testing of medical marijuana,  
25 medical marijuana concentrate or medical marijuana product deemed  
26 necessary by the director.

27 New Sec. 25. (a) A cultivator licensee may cultivate medical  
28 marijuana in a building designated by the licensee. A cultivator may  
29 deliver or sell medical marijuana to one or more licensed processors,  
30 distributors or retail dispensaries. Except as provided in subsection (b), a  
31 cultivator shall not have more than 1,750 simultaneously grown, mature  
32 flowering plants.

33 (b) (1) At the time the licensee applies for renewal of a cultivator  
34 license, a licensee may submit an application to the director for approval  
35 of an expansion of such licensee's cultivation area. Expansion approval  
36 applications shall be submitted in such form and manner as prescribed by  
37 the director and shall include an expansion plan that shall include the  
38 following:

39 (A) Specifications for the expansion or alteration that demonstrate  
40 compliance with all applicable zoning ordinances, building codes and any  
41 other state and local laws and rules and regulations adopted thereunder;

42 (B) a proposed timeline for completion of the expansion that, if  
43 approved, will become a mandatory condition; and

1 (C) a history of compliance with the Kansas medical marijuana  
2 regulation act and all rules and regulations adopted thereunder, including a  
3 history of enforcement actions and sanctions issued by the department or  
4 any law enforcement agency against the licensee.

5 (2) Each approval of an expansion application shall authorize the  
6 licensee to have an additional 250 simultaneously grown, mature  
7 flowering plants in addition to the number of such plants permitted under  
8 subsection (a).

9 (c) (1) Unless authorized by this act, a cultivator shall not transfer or  
10 sell medical marijuana and a processor shall not transfer, sell or process  
11 into a concentrate or product any medical marijuana, medical marijuana  
12 concentrate or medical marijuana product unless samples from each  
13 harvest batch or production batch from which that medical marijuana,  
14 medical marijuana concentrate or medical marijuana product was derived  
15 has been tested by a licensed laboratory for contaminants and has passed  
16 all contaminant tests required by this act.

17 (2) A licensed cultivator may transfer medical marijuana that has  
18 failed testing for quality control to a licensed processor only for the  
19 purposes of decontamination or remediation and only in accordance with  
20 the provisions of this act.

21 (d) A licensed cultivator shall not cultivate medical marijuana for  
22 personal, family or household use or on any public land.

23 New Sec. 26. (a) A laboratory licensee shall obtain a separate license  
24 for each laboratory location. Each licensed premises shall comply with all  
25 applicable local ordinances, including, but not limited to, zoning,  
26 occupancy, licensing and building codes.

27 (b) (1) The licensure of a laboratory shall be contingent upon a  
28 successful on-site inspection, participation in proficiency testing and  
29 ongoing compliance with the requirements of this act. A laboratory shall  
30 be inspected prior to initial licensure and up to six times annually by an  
31 inspector approved by the director.

32 (2) On and after January 1, 2022, accreditation by the national  
33 environmental laboratory accreditation program, ANSI/ASQ national  
34 accreditation board or another accrediting body approved by the director  
35 shall be required for licensure and renewal of licensure of a laboratory.

36 (c) No ownership interest in a licensed laboratory shall be held by a  
37 person who has a direct or indirect beneficial ownership interest in any  
38 licensed cultivator, processor, distributor or retail dispensary. A licensed  
39 laboratory shall establish policies to prevent the existence of or the  
40 appearance of undue commercial, financial or other influences that  
41 diminish, or have the effect of diminishing the public confidence in the  
42 competency, impartiality and integrity of the testing processes or results of  
43 such laboratory. Such policies shall prohibit employees, owners or agents

1 of a laboratory who participate in any aspect of the analysis and results of  
2 a sample from improperly influencing the testing process, manipulating  
3 data or benefiting from any ongoing financial, employment, personal or  
4 business relationship with the licensed entity that submitted the sample for  
5 testing.

6 (d) A licensed laboratory shall retain all results of laboratory tests  
7 conducted on medical marijuana or marijuana products for a period of at  
8 least two years and shall promptly provide the director access to such  
9 results and the underlying data. The director shall also have access to the  
10 laboratory premises and any material or information requested by the  
11 director to determine compliance with the requirements of this act.

12 (e) A licensed laboratory shall establish standards, policies and  
13 procedures for laboratory testing procedures in accordance with rules and  
14 regulations adopted by the secretary of revenue. Samples from each  
15 harvest batch or product batch, as appropriate, of medical marijuana,  
16 medical marijuana concentrate and medical marijuana product shall be  
17 tested for each of the following categories, consistent with standards  
18 adopted by the secretary of revenue pursuant to section 23, and  
19 amendments thereto:

- 20 (1) Microbials;
- 21 (2) mycotoxins;
- 22 (3) residual solvents;
- 23 (4) pesticides;
- 24 (5) tetrahydrocannabinol and other cannabinoid potency;
- 25 (6) terpenoid potency type and concentration;
- 26 (7) moisture content;
- 27 (8) homogeneity; and
- 28 (9) heavy metals.

29 (f) (1) A laboratory may only accept a test batch of usable medical  
30 marijuana, medical marijuana concentrate or medical marijuana product  
31 for testing purposes from a licensed cultivator if the cultivator has  
32 separated each harvest lot of usable marijuana into harvest batches  
33 containing not more than 10 pounds, except harvest batches of fresh,  
34 uncured medical marijuana or fresh or frozen medical marijuana to be sold  
35 to a processor in order to make a concentrate may be separated into  
36 batches containing not more than 20 pounds.

37 (2) A laboratory may only accept a test batch of usable medical  
38 marijuana, medical marijuana concentrate or marijuana product for testing  
39 purposes from a licensed processor if the processor has separated each  
40 medical marijuana production lot into production batches containing not  
41 more than 10 pounds.

42 (3) A laboratory may accept test samples of medical marijuana,  
43 medical marijuana concentrate or medical marijuana product from any

1 other licensee or any entity designated in section 44, and amendments  
2 thereto, for testing and research purposes only, including the provision of  
3 testing services for samples submitted by a licensee for product  
4 development. A laboratory shall not be prohibited from obtaining a license  
5 under this section due to such laboratory performing testing and research  
6 on medical marijuana, medical marijuana concentrate and medical  
7 marijuana products for any entity designated in section 44, and  
8 amendments thereto.

9 (4) A laboratory may accept test samples of medical marijuana,  
10 medical marijuana concentrate and medical marijuana products from an  
11 individual person for testing if such person is:

12 (A) A registered patient or caregiver under this act and such person  
13 provides the laboratory with the individual's registration identification and  
14 a valid photo identification; or

15 (B) a participant in an approved clinical or observational study  
16 conducted by a research facility.

17 (g) A licensed laboratory may transfer samples to another licensed  
18 laboratory for testing. All laboratory reports provided to or by a licensee or  
19 to a patient or caregiver shall identify the laboratory that performed the  
20 testing of the sample that is submitted. A laboratory may utilize a licensed  
21 distributor to transport samples for testing from the licensed premises  
22 requesting testing services and the licensed laboratory performing testing  
23 services.

24 New Sec. 27. (a) A processor licensee may:

25 (1) Obtain medical marijuana from one or more licensed cultivators  
26 or processors;

27 (2) subject to subsection (b), process medical marijuana obtained  
28 from one or more licensed cultivators into a form described in section 30,  
29 and amendments thereto; and

30 (3) deliver or sell processed medical marijuana, medical marijuana  
31 concentrate and medical marijuana products to one or more licensed  
32 processors, distributors or retail dispensaries.

33 (b) When packaging medical marijuana and medical marijuana  
34 products for final retail sale, a licensed processor shall:

35 (1) Package the medical marijuana in accordance with child-resistant  
36 effectiveness standards described in 16 C.F.R. § 1700.15(b) in effect on  
37 July 1, 2021;

38 (2) label the medical marijuana packaging with the product's  
39 tetrahydrocannabinol and cannabidiol content; and

40 (3) comply with any packaging or labeling requirements established  
41 by rules and regulations adopted by the secretary of revenue.

42 New Sec. 28. (a) A distributor licensee may:

43 (1) Purchase at wholesale medical marijuana from one or more

1 licensed processors and cultivators;

2 (2) store medical marijuana obtained from one or more licensed  
3 processors in a form described in section 30, and amendments thereto; and

4 (3) deliver, package for finale sale or sell processed medical  
5 marijuana to one or more licensed retail dispensaries.

6 (b) When storing or selling medical marijuana, a licensed distributor  
7 shall ensure that such medical marijuana meets the packaging and labeling  
8 requirements established by rules and regulations adopted by the secretary  
9 of revenue.

10 New Sec. 29. (a) A retail dispensary licensee may obtain medical  
11 marijuana and medical marijuana products from one or more licensed  
12 cultivators, processors or distributors and may dispense or sell medical  
13 marijuana and medical marijuana products in accordance with subsection  
14 (b).

15 (b) When dispensing or selling medical marijuana and medical  
16 marijuana products, a retail dispensary shall:

17 (1) Dispense or sell medical marijuana and medical marijuana  
18 products only to a person who provides the licensee with a current, valid  
19 identification card and only in accordance with a written recommendation  
20 issued by a physician;

21 (2) report to the prescription monitoring program the information  
22 required by K.S.A. 65-1683, and amendments thereto, and rules and  
23 regulations adopted by the board of pharmacy pursuant to section 37, and  
24 amendments thereto;

25 (3) ensure that the package containing medical marijuana or medical  
26 marijuana product is:

27 (A) Packaged in accordance with child-resistant effectiveness  
28 standards described in 16 C.F.R. § 1700.15(b), as in effect on July 1, 2021,  
29 and is an official tamper-proof Kansas specific package that is clearly  
30 marked and approved by the director; and

31 (B) labeled with the following information:

32 (1) The name and address of the licensed cultivator or processor that  
33 produced the medical marijuana or medical marijuana product and the  
34 retail dispensary;

35 (2) the name of the patient and caregiver, if any;

36 (3) the name of the physician who recommended treatment with  
37 medical marijuana;

38 (4) the directions for use, if any, as recommended by the physician;

39 (5) a health warning as specified in rules and regulations adopted by  
40 the secretary of health and environment;

41 (6) the date on which the medical marijuana or medical marijuana  
42 product was dispensed; and

43 (7) the quantity, strength, kind or form of medical marijuana

1 contained in the package.

2 (c) A retail dispensary shall employ only those individuals who have  
3 completed the training requirements established by rules and regulations  
4 adopted by the secretary of revenue.

5 (d) A retail dispensary shall designate a pharmacist consultant who is  
6 a pharmacist licensed in this state and registered pursuant to section 38,  
7 and amendments thereto.

8 (e) A retail dispensary shall not make public any information received  
9 or collected by such licensee that identifies or would tend to identify any  
10 specific patient.

11 (f) A county may prohibit the establishing and operation of retail  
12 dispensaries in such county by adoption of a resolution. Any retail  
13 dispensary that is lawfully operating at the time such resolution is adopted  
14 shall be permitted to continue operating in such county and shall not be  
15 denied renewal of any license based upon the adoption of such resolution.

16 New Sec. 30. (a) Only the following forms of medical marijuana may  
17 be dispensed under the Kansas medical marijuana regulation act:

18 (1) Oils;

19 (2) tinctures;

20 (3) plant material;

21 (4) edibles;

22 (5) patches; or

23 (6) any other form approved by the secretary of revenue under section  
24 31, and amendments thereto.

25 (b) The smoking, combustion or vaporization of medical marijuana is  
26 prohibited.

27 (c) Any form or method of using medical marijuana that is considered  
28 attractive to children is prohibited.

29 (d) Plant material shall have a tetrahydrocannabinol content of not  
30 more than 35% in its final, dispensed form.

31 (e) Extracts shall have a tetrahydrocannabinol content of not more  
32 than 70% in their final, dispensed form.

33 (f) No form of medical marijuana shall be dispensed from a vending  
34 machine or through electronic commerce.

35 New Sec. 31. (a) Any person may submit a petition to the director  
36 requesting that a form or method of using medical marijuana be approved  
37 for the purposes of section 30, and amendments thereto. The petition shall  
38 be submitted in such form and manner as prescribed by the director.

39 (b) Upon receipt of a petition, the director shall review such petition  
40 to determine whether to recommend approval of the form or method of  
41 using medical marijuana described in the petition. The director may  
42 consolidate the review of petitions for the same or similar forms or  
43 methods. The director shall consult with the medical marijuana advisory

1 committee and review any relevant scientific evidence when reviewing a  
2 petition. The director shall recommend to the secretary of revenue whether  
3 to approve or deny the proposed form or method of using medical  
4 marijuana. The secretary shall approve or deny such proposed form or  
5 method. The secretary's decision shall be final.

6 (c) Any petition that is recommended for denial by the director shall  
7 not be resubmitted until 12 months have elapsed since the petition was  
8 submitted.

9 New Sec. 32. (a) The fees for a cultivator license shall be set by rules  
10 and regulations adopted by the secretary of revenue in an amount not to  
11 exceed an annual fee of:

12 (1) \$50,000 for a cultivator license application or the renewal thereof;  
13 and

14 (2) for a cultivator license:

15 (A) \$40,000 for not more than 500 simultaneously grown, mature  
16 flowering plants; plus

17 (B) \$4,000 for each additional unit of 50 simultaneously grown,  
18 mature flowering plants, provided the aggregate number of such plants  
19 does not exceed 1,000; plus

20 (C) \$2,500 for each additional unit of 50 simultaneously grown,  
21 mature flowering plants that increases the aggregate number of such plants  
22 to more than 1,000.

23 (b) The fees for a laboratory license shall be set by rules and  
24 regulations adopted by the secretary of revenue in an amount not to exceed  
25 an annual fee of:

26 (1) \$2,000 for a laboratory license application;

27 (2) \$18,000 for a laboratory license; and

28 (3) \$20,000 for a renewal of a laboratory license.

29 (c) The fees for a processor license shall be set by rules and  
30 regulations adopted by the secretary of revenue in an amount not to exceed  
31 an annual fee of:

32 (1) \$50,000 for a processor license application or the renewal thereof;  
33 and

34 (2) \$50,000 for a processor license.

35 (d) The fees for a distributor license shall be set by rules and  
36 regulations adopted by the secretary of revenue in an amount not to exceed  
37 an annual fee of:

38 (1) \$50,000 for a distributor license application or the renewal  
39 thereof; and

40 (2) \$50,000 for a distributor license.

41 (e) The fees for a retail dispensary license shall be set by rules and  
42 regulations adopted by the secretary of revenue in an amount not to exceed  
43 a biennial fee of:

1 (1) \$50,000 for a retail dispensary license application or the renewal  
2 thereof; and

3 (2) \$50,000 for a retail dispensary license.

4 (f) Of the fee paid for an application for a license for a cultivator,  
5 processor, distributor or retail dispensary, or the application for the  
6 renewal thereof, \$40,000 shall be refunded to the applicant if the  
7 application is denied.

8 New Sec. 33. The director may refuse to issue or renew a license, or  
9 may revoke or suspend a license if the applicant has:

10 (a) Failed to comply with any provision of the Kansas medical  
11 marijuana regulation act or any rules and regulations adopted thereunder;

12 (b) falsified or misrepresented any information submitted to the  
13 director in order to obtain a license;

14 (c) failed to adhere to any acknowledgment, verification or other  
15 representation made to the director when applying for a license; or

16 (d) failed to submit or disclose information requested by the director.

17 New Sec. 34. (a) In addition to or in lieu of any other civil or criminal  
18 penalty as provided by law, the director may impose a civil penalty or  
19 suspend or revoke a license upon a finding that the licensee committed a  
20 violation as provided in this section.

21 (b) (1) Upon a finding that a licensee has submitted fraudulent  
22 information or otherwise falsified or misrepresented information required  
23 to be submitted by such licensee, the director may impose a civil fine not  
24 to exceed \$5,000 for a first offense and may suspend or revoke such  
25 licensee's license for a second or subsequent offense.

26 (2) (A) Except as provided in paragraph (B), upon a finding that a  
27 licensee has cultivated, tested, processed, sold, transferred or otherwise  
28 distributed medical marijuana in violation of this act, the director may  
29 impose a civil fine not to exceed \$5,000 for a first offense and may  
30 suspend or revoke such licensee's license for a second or subsequent  
31 offense.

32 (B) Upon a finding that a retail dispensary licensee has knowingly  
33 disclosed patient information to any individual, the director shall impose a  
34 civil fine of \$5,000 and revoke such licensee's license.

35 (c) The director may require any licensee to submit a sample of  
36 medical marijuana, medical marijuana concentrate or medical marijuana  
37 product to a laboratory upon demand.

38 (d) If the director suspends, revokes or refuses to renew any license  
39 issued pursuant to this act and determines that there is clear and  
40 convincing evidence of a danger of immediate and serious harm to any  
41 person, the director may place under seal all medical marijuana owned by  
42 or in the possession, custody or control of the affected license holder.  
43 Except as provided in this section, the director shall not dispose of the

1 sealed medical marijuana until a final order is issued authorizing such  
2 disposition. During the pendency of an appeal from any order by the  
3 director, a court may order the director to sell medical marijuana that is  
4 perishable, and the proceeds of any such sale shall be deposited with the  
5 court.

6 New Sec. 35. (a) There is hereby established the medical marijuana  
7 business regulation fund in the state treasury. The director of alcoholic  
8 beverage control shall administer the medical marijuana business  
9 regulation fund and shall remit all moneys collected from the payment by  
10 processors, distributors and retail dispensaries of all fees and fines  
11 imposed by the director pursuant to the Kansas medical marijuana  
12 regulation act and any other moneys received by or on behalf of the  
13 director pursuant to such act to the state treasurer in accordance with the  
14 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
15 each such remittance, the state treasurer shall deposit the entire amount in  
16 the state treasury to the credit of the medical marijuana business regulation  
17 fund. Moneys credited to the medical marijuana business regulation fund  
18 shall only be expended or transferred as provided in this section.  
19 Expenditures from such fund shall be made in accordance with  
20 appropriation acts upon warrants of the director of accounts and reports  
21 issued pursuant to vouchers approved by the director or the director's  
22 designee.

23 (b) Moneys in the medical marijuana business regulation fund shall  
24 be used for the payment or reimbursement of costs related to the regulation  
25 and enforcement of the cultivation, testing, distributing, possession,  
26 processing and sale of medical marijuana by the division of alcoholic  
27 beverage control.

28 New Sec. 36. (a) On or before July 1, 2022, the director shall propose  
29 rules and regulations to administer the provisions of the Kansas medical  
30 marijuana regulation act and the secretary of revenue shall, after  
31 consulting with the medical marijuana advisory committee, adopt rules  
32 and regulations to administer the Kansas medical marijuana regulation  
33 program and implement and enforce the provisions of this act. Such rules  
34 and regulations shall:

35 (1) Establish application procedures and fees for licenses issued  
36 under section 22, and amendments thereto;

37 (2) specify the conditions for eligibility for licensure;

38 (3) establish a license renewal schedule, renewal procedures and  
39 renewal fees;

40 (4) establish standards and procedures for the testing of medical  
41 marijuana by a licensed laboratory;

42 (5) establish official packaging requirements that designate the  
43 package as Kansas medical marijuana and ensure the packaging is tamper-

1 proof; and

2 (6) establish training requirements for employees of retail  
3 dispensaries.

4 (b) The director of alcoholic beverage control shall propose such  
5 rules and regulations as necessary to carry out the intent and purposes of  
6 this act. After the hearing on a proposed rule and regulation has been held  
7 as required by law, the director shall submit the proposed rule and  
8 regulation to the secretary of revenue who, if the secretary approves it,  
9 shall adopt the rule and regulation.

10 (c) When adopting rules and regulations under this section, the  
11 secretary shall consider standards and procedures that have been found to  
12 be best practices relative to the use and regulation of medical marijuana.

13 New Sec. 37. (a) On or before July 1, 2022, the board of pharmacy  
14 shall adopt rules and regulations establishing the requirements for a:

15 (1) Retail dispensary to report to the prescription monitoring program  
16 database, including, but not limited to, the:

17 (A) Methods of transmission;

18 (B) nationally recognized telecommunications format to be used;

19 (C) frequency of such reports; and

20 (D) procedures for the maintenance of information submitted to or  
21 received from the prescription monitoring program to ensure such  
22 information is treated as confidential and is subject to the requirements of  
23 K.S.A. 65-1685 and 65-1687, and amendments thereto; and

24 (2) pharmacist to register as a pharmacist consultant for a retail  
25 dispensary.

26 (b) Every September 15, December 15, March 15 and June 15, the  
27 board of pharmacy shall certify to the director of accounts and reports the  
28 amount of moneys expended for operation and maintenance of the Kansas  
29 prescription drug monitoring program that is attributable to this act. Upon  
30 receipt of each such certification, or as soon thereafter as moneys are  
31 available, the director of accounts and reports shall transfer the amount  
32 certified from the medical marijuana business regulation fund to the state  
33 board of pharmacy fee fund.

34 New Sec. 38. (a) Any pharmacist that seeks to operate as a  
35 pharmacist consultant for a retail dispensary shall register with the board  
36 of pharmacy in accordance with rules and regulations adopted by the  
37 board.

38 (b) In operating as a pharmacist consultant for a retail dispensary,  
39 such pharmacist shall:

40 (1) Not charge a fee for the pharmacist's services that exceeds an  
41 annual amount of \$75,000;

42 (2) audit each recommendation for use of medical marijuana and  
43 ensure that each such recommendation is reported to the prescription

- 1 monitoring program in accordance with K.S.A. 65-1683, and amendments  
2 thereto, and rules and regulations adopted by the board of pharmacy;
- 3 (3) develop and provide training to other retail dispensary employees  
4 at least once every 12 months that:
- 5 (A) Establishes guidelines for providing information to registered  
6 patients related to risks, benefits and side effects associated with medical  
7 marijuana;
- 8 (B) explains how to identify the signs and symptoms of substance  
9 abuse;
- 10 (C) establishes guidelines for refusing to provide medical marijuana  
11 to an individual who appears to be impaired or abusing medical marijuana;  
12 and
- 13 (D) assists in the development and implementation of review and  
14 improvement processes for patient education and support provided by the  
15 retail dispensary;
- 16 (4) provide oversight for the development and dissemination of:
- 17 (A) Education materials for qualifying patients and designated  
18 caregivers that include:
- 19 (i) Information about possible side effects and contraindications of  
20 medical marijuana;
- 21 (ii) guidelines for notifying the physician who provided the written  
22 certification for medical marijuana if side effects or contraindications  
23 occur;
- 24 (iii) a description of the potential effects of differing strengths of  
25 medical marijuana strains and products;
- 26 (iv) information about potential drug-to-drug interactions, including  
27 interactions with alcohol, prescription drugs, nonprescription drugs and  
28 supplements;
- 29 (v) techniques for the use of medical marijuana and marijuana  
30 paraphernalia; and
- 31 (vi) information about different methods, forms and routes of medical  
32 marijuana administration;
- 33 (B) systems for documentation by a registered patient or designated  
34 caregiver of the symptoms of a registered patient that includes a logbook,  
35 rating scale for pain and symptoms and guidelines for a patient's self-  
36 assessment; and
- 37 (C) policies and procedures for refusing to provide medical marijuana  
38 to an individual who appears to be impaired or abusing medical marijuana;  
39 and
- 40 (5) be accessible by the retail dispensary or dispensary agent through:
- 41 (A) Telephonic means at all times during operating hours; and  
42 (B) telephone or video conference for a patient consultation during  
43 operating hours.

1 New Sec. 39. (a) The director shall establish and maintain an  
2 electronic database to monitor medical marijuana from its seed source  
3 through its cultivation, testing, processing, distribution and dispensing.  
4 The director may contract with a separate entity to establish and maintain  
5 all or any portion of the electronic database on behalf of the division of  
6 alcoholic beverage control.

7 (b) The electronic database shall allow for information regarding  
8 medical marijuana to be updated instantaneously. Any licensed cultivator,  
9 laboratory, processor, distributor or retail dispensary shall submit such  
10 information to the director as the director determines is necessary for  
11 maintaining the electronic database.

12 (c) The director, any employee of the division, any entity under  
13 contract with the director and any employee or agent thereof shall not  
14 make public any information reported to or collected by the director under  
15 this section that identifies or would tend to identify any specific patient.  
16 Such information shall be kept confidential to protect the privacy of the  
17 patient. The provisions of this subsection shall expire on July 1, 2026,  
18 unless the legislature reviews and reenacts such provisions in accordance  
19 with K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

20 New Sec. 40. (a) The director may, in cooperation with the state  
21 treasurer, establish a closed-loop payment processing system whereby the  
22 state treasurer creates accounts to be used only by registered patients and  
23 caregivers at licensed retail dispensaries and all licensed cultivators,  
24 laboratories, processors and distributors. The system may include record-  
25 keeping and accounting functions that identify all parties in transactions  
26 involving the purchase and sale of medical marijuana. If established, such  
27 system shall be designed to prevent:

28 (1) Revenue from the sale of marijuana going to criminal enterprises,  
29 gangs and cartels;

30 (2) the diversion of marijuana from a state where it is legal in some  
31 form under that state's law to another state;

32 (3) the distribution of marijuana to minors; and

33 (4) the use of state-authorized marijuana activity as a cover or pretext  
34 for the trafficking of other illegal drugs or for other illegal activity.

35 (b) The information recorded by the system shall be fully accessible  
36 to the department of health and environment, the director and all state and  
37 federal law enforcement agencies, including the United States department  
38 of the treasury's financial crimes enforcement network.

39 New Sec. 41. (a) Except as provided in subsections (b) and (c), no  
40 licensed cultivator, laboratory, processor, distributor or retail dispensary  
41 shall be located within 1,000 feet of the boundaries of a parcel of real  
42 estate having situated on it a school, religious organization, public library  
43 or public park. If the relocation of a licensed cultivator, laboratory,

1 processor, distributor or retail dispensary results in such licensee being  
2 located within 1,000 feet of the boundaries of a parcel of real estate having  
3 situated on it a school, religious organization, public library or public park,  
4 the director shall revoke the license such agency previously issued to such  
5 cultivator, laboratory, processor, distributor or retail dispensary.

6 (b) (1) The director shall not revoke the license of a cultivator,  
7 laboratory, processor, distributor or retail dispensary if such licensee  
8 existed at a location prior to the establishment of a school, religious  
9 organization, public library or public park within 1,000 feet of such  
10 licensee.

11 (2) Any applicant for a license may petition for and receive an  
12 exemption from the provisions of this section upon approval by the  
13 secretary of health and environment and the director, provided the  
14 proposed licensed premises:

15 (A) Has an industrial zoning classification; and

16 (B) is located not less than 500 feet of the boundaries of a parcel of  
17 real estate having situated on it a school, religious organization, public  
18 library or public park.

19 (c) This section shall not apply to research related to marijuana  
20 conducted at a postsecondary educational institution, academic medical  
21 center or private research and development organization as part of a  
22 research protocol approved by an institutional review board or equivalent  
23 entity.

24 (d) As used in this section:

25 (1) "Public library" means any library established pursuant to article  
26 12 of chapter 12 of the Kansas Statutes Annotated, and amendments  
27 thereto, and any other library that serves the general public and is funded  
28 in whole, or in part, from moneys derived from tax levies;

29 (2) "public park" means any park or other outdoor recreational area or  
30 facility, including, but not limited to, parks, open spaces, trails, swimming  
31 pools, playgrounds and playing courts and fields, established by the state,  
32 or any political subdivision thereof;

33 (3) "religious organization" means any organization, church, body of  
34 communicants or group, gathered in common membership for mutual  
35 support and edification in piety, worship and religious observances, or a  
36 society of individuals united for religious purposes at a definite place  
37 owned by such entity and such religious organization maintains an  
38 established place of worship within this state and has a regular schedule of  
39 services or meetings at least on a weekly basis and has been determined to  
40 be organized and created as a bona fide religious organization; and

41 (4) "school" means any public or private preschool, elementary,  
42 middle or high school or other attendance center for kindergarten or any of  
43 the grades one through 12.

1 New Sec. 42. Each applicant for a cultivator, laboratory, processor,  
2 distributor or retail dispensary license shall require any owner, director,  
3 officer and any employee or agent of such applicant to be fingerprinted  
4 and to submit to a state and national criminal history record check. The  
5 director is authorized to submit the fingerprints to the Kansas bureau of  
6 investigation and the federal bureau of investigation for a state and  
7 national criminal history record check. The director shall use the  
8 information obtained from fingerprinting and the state and national  
9 criminal history record check for purposes of verifying the identification  
10 of the applicant and for making a determination of the qualifications of the  
11 applicant for licensure. The Kansas bureau of investigation may charge a  
12 reasonable fee to the applicant for fingerprinting and conducting a criminal  
13 history record check.

14 New Sec. 43. (a) A financial institution that provides financial  
15 services to any licensed cultivator, laboratory, processor, distributor or  
16 retail dispensary shall be exempt from any criminal law of this state an  
17 element of which may be proven by substantiating that a person provides  
18 financial services to a person who possesses, delivers or manufactures  
19 medical marijuana or medical marijuana-derived products, including any  
20 of the offenses specified in article 57 of chapter 21 of the Kansas Statutes  
21 Annotated, and amendments thereto, or any attempt, conspiracy or  
22 solicitation specified in article 53 of chapter 21 of the Kansas Statutes  
23 Annotated, and amendments thereto, if the cultivator, laboratory,  
24 processor, distributor or retail dispensary is in compliance with the  
25 provisions of this act and all applicable tax laws of this state.

26 (b) (1) Upon the request of a financial institution, the director of  
27 alcoholic beverage control shall provide to the financial institution the  
28 following information:

29 (A) Whether a person with whom the financial institution is seeking  
30 to do business is a licensed cultivator, laboratory, processor, distributor or  
31 retail dispensary;

32 (B) the name of any other business or individual affiliated with the  
33 person;

34 (C) an unredacted copy of such person's application for a license, and  
35 any supporting documentation, that was submitted by the person;

36 (D) if applicable, information relating to sales and volume of product  
37 sold by the person;

38 (E) whether the person is in compliance with the provisions of this  
39 act; and

40 (F) any past or pending violations of the Kansas medical marijuana  
41 regulation act or any rules and regulations adopted thereunder committed  
42 by such person, and any penalty imposed on the person for such violation.

43 (2) The director may charge a financial institution a reasonable fee to

1 cover the administrative cost of providing information requested under this  
2 section.

3 (c) Information received by a financial institution under subsection  
4 (b) is confidential. Except as otherwise permitted by any other state or  
5 federal law, a financial institution shall not make the information available  
6 to any person other than the customer to whom the information applies and  
7 any trustee, conservator, guardian, personal representative or agent of that  
8 customer.

9 (d) As used in this section:

10 (1) "Financial institution" means any bank, trust company, savings  
11 bank, credit union or savings and loan association or any other financial  
12 institution regulated by the state of Kansas, any agency of the United  
13 States or other state with an office in Kansas; and

14 (2) "financial services" means services that a financial institution is  
15 authorized to provide under chapter nine or article 22 of chapter 17 of the  
16 Kansas Statutes Annotated, and amendments thereto, as applicable.

17 New Sec. 44. Nothing in this act authorizes the director to oversee or  
18 limit research conducted at a postsecondary educational institution,  
19 academic medical center or private research and development organization  
20 that is related to marijuana and is approved by an agency, board, center,  
21 department or institute of the United States government, including any of  
22 the following:

23 (a) The agency for health care research and quality;

24 (b) the national institutes of health;

25 (c) the national academy of sciences;

26 (d) the centers for medicare and medicaid services;

27 (e) the United States department of defense;

28 (f) the centers for disease control and prevention;

29 (g) the United States department of veterans affairs;

30 (h) the drug enforcement administration;

31 (i) the food and drug administration; and

32 (j) any board recognized by the national institutes of health for the  
33 purpose of evaluating the medical value of health care services.

34 New Sec. 45. No provisions of the medical marijuana regulation act  
35 shall be construed to:

36 (a) Require an employer to permit or accommodate the use,  
37 consumption, possession, transfer, display, distribution, transportation, sale  
38 or growing of marijuana or any conduct otherwise allowed by this act in  
39 any workplace or on the employer's property;

40 (b) prohibit a person, employer, corporation or any other entity that  
41 occupies, owns or controls a property from prohibiting or otherwise  
42 regulating the use, consumption, possession, transfer, display, distribution,  
43 transportation, sale or growing of marijuana on such property;

1 (c) require any government medical assistance program, a private  
2 health insurer or a workers' compensation carrier or self-insured employer  
3 providing workers' compensation benefits to reimburse a person for costs  
4 associated with the use of medical marijuana;

5 (d) affect the ability of an employer to implement policies to promote  
6 workplace health and safety by restricting the use of marijuana by  
7 employees;

8 (e) prohibit an employer from:

9 (1) Establishing and enforcing a drug testing policy, drug-free  
10 workplace policy or zero-tolerance drug policy;

11 (2) disciplining an employee for a violation of a workplace drug  
12 policy or for working while under the influence of marijuana; or

13 (3) including a provision in any contract that prohibits the use of  
14 marijuana; or

15 (f) prevent an employer from, because of a person's violation of a  
16 workplace drug policy or because that person was working while under the  
17 influence of marijuana:

18 (1) Refusing to hire;

19 (2) discharging;

20 (3) disciplining; or

21 (4) otherwise taking an adverse employment action against a person  
22 with respect to hiring decisions, tenure, terms, conditions or privileges of  
23 employment.

24 New Sec. 46. The provisions of the Kansas medical marijuana  
25 regulation act are hereby declared to be severable. If any part or provision  
26 of the Kansas medical marijuana regulation act is held to be void, invalid  
27 or unconstitutional, such part or provision shall not affect or impair any of  
28 the remaining parts or provisions of the Kansas medical marijuana  
29 regulation act, and any such remaining provisions shall continue in full  
30 force and effect.

31 New Sec. 47. (a) It shall be unlawful to store or otherwise leave  
32 medical marijuana where it is readily accessible to a child under 18 years  
33 of age. Such conduct shall be unlawful with no requirement of a culpable  
34 mental state.

35 (b) Violation of this section is a class A person misdemeanor.

36 (c) This section shall not apply to any person who stores or otherwise  
37 leaves medical marijuana where it is readily accessible to a child under 18  
38 years of age if:

39 (1) Such child is a patient registered pursuant to section 8, and  
40 amendments thereto; and

41 (2) such medical marijuana is not readily accessible to any child  
42 under 18 years of age other than the child described in paragraph (1).

43 (d) As used in this section:

1 (1) "Medical marijuana" means the same as defined in section 2, and  
2 amendments thereto; and

3 (2) "readily accessible" means the medical marijuana is not stored in  
4 a locked container, and that restricts entry to such container solely to  
5 individuals who are over 17 years of age or who are registered patients  
6 pursuant to section 8, and amendments thereto.

7 (e) This section shall be a part of and supplemental to the Kansas  
8 criminal code.

9 New Sec. 48. (a) No person shall transport medical marijuana as  
10 defined in section 2, and amendments thereto, in any vehicle upon a  
11 highway or street unless such medical marijuana is in the:

12 (1) Original, sealed packaging that is in compliance with the  
13 requirements of section 29, and amendments thereto, and rules and  
14 regulations adopted by the secretary of revenue, and the seal of which has  
15 not been broken and any other means of closure has not been removed;

16 (2) locked rear trunk or rear compartment or any locked outside  
17 compartment that is not accessible to any person in the vehicle while it is  
18 in motion. If a motor vehicle is not equipped with a trunk, then such  
19 medical marijuana shall be behind the last upright seat or in an area not  
20 normally occupied by the driver or a passenger; or

21 (3) exclusive possession of a passenger in a vehicle that is a  
22 recreational vehicle, as defined by K.S.A. 75-1212, and amendments  
23 thereto, or a bus, as defined by K.S.A. 8-1406, and amendments thereto,  
24 who is not in the driving compartment of such vehicle or who is in a  
25 portion of such vehicle from which the driver is not directly accessible.

26 (b) Violation of this section is a class C nonperson misdemeanor.

27 (c) This section shall be a part of and supplemental to the Kansas  
28 criminal code.

29 New Sec. 49. (a) Subject to the provisions of K.S.A. 44-1018, and  
30 amendments thereto, it shall be unlawful for any person:

31 (1) To refuse to sell or rent after the making of a bona fide offer, to  
32 fail to transmit a bona fide offer or refuse to negotiate in good faith for the  
33 sale or rental of, or otherwise make unavailable or deny, real property to  
34 any person because such person consumes medical marijuana in  
35 accordance with section 10, and amendments thereto;

36 (2) to discriminate against any person in the terms, conditions or  
37 privileges of sale or rental of real property, or in the provision of services  
38 or facilities in connection therewith, because such person consumes  
39 medical marijuana in accordance with section 10, and amendments  
40 thereto; and

41 (3) to discriminate against any person in such person's use or  
42 occupancy of real property because such person associates with another  
43 person who consumes medical marijuana in accordance with section 10,

1 and amendments thereto.

2 (b) (1) It shall be unlawful for any person or other entity whose  
3 business includes engaging in real estate related transactions to  
4 discriminate against any person in making available such a transaction, or  
5 in the terms or conditions of such a transaction, because such person or  
6 any person associated with such person in connection with any real estate  
7 related transaction consumes medical marijuana in accordance with  
8 section 10, and amendments thereto.

9 (2) Nothing in this subsection prohibits a person engaged in the  
10 business of furnishing appraisals of real property to take into consideration  
11 factors other than an individual's consumption of medical marijuana in  
12 accordance with section 10, and amendments thereto.

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

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

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

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

29 New Sec. 50. (a) A covered entity, solely on the basis that an  
30 individual consumes medical marijuana in accordance with section 10, and  
31 amendments thereto, shall not:

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

34 (2) deny medical and other services related to organ transplantation,  
35 including evaluation, surgery, counseling and post-transplantation  
36 treatment and services;

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

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

41 (5) place such individual at a lower-priority position on an organ  
42 transplant waiting list than the position at which such individual would  
43 have been placed if not for such individual's consumption of medical

1 marijuana.

2 (b) A covered entity may take into account an individual's  
3 consumption of medical marijuana when making treatment or coverage  
4 recommendations or decisions, solely to the extent that such consumption  
5 has been found by a physician, following an individualized evaluation of  
6 the individual, to be medically significant to the provision of the  
7 anatomical gift.

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

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

14 New Sec. 51. (a) No order shall be issued pursuant to K.S.A. 2020  
15 Supp. 38-2242, 38-2243 or 38-2244, and amendments thereto, if the sole  
16 basis for the threat to the child's safety or welfare is that the child resides  
17 with an individual who consumes medical marijuana in accordance with  
18 section 10, and amendments thereto, or the child consumes medical  
19 marijuana in accordance with section 10, and amendments thereto.

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

22 New Sec. 52. Notwithstanding the provisions of K.S.A. 65-2836, and  
23 amendments thereto, the board shall not revoke, suspend or limit a  
24 physician's license, publicly censure a physician or place a physician's  
25 license under probationary conditions upon any of the following:

26 (a) The physician has:

27 (1) Advised a patient about the possible benefits and risks of using  
28 medical marijuana;

29 (2) advised the patient that using medical marijuana may mitigate the  
30 patient's symptoms; or

31 (3) submitted an application on behalf of a patient or caregiver for  
32 registration as a patient or caregiver under section 8, and amendments  
33 thereto; or

34 (b) the physician is a registered patient or caregiver pursuant to  
35 section 8, and amendments thereto, possesses or has possessed or uses or  
36 has used medical marijuana in accordance with the Kansas medical  
37 marijuana regulation act, section 1 et seq., and amendments thereto.

38 New Sec. 53. Notwithstanding the provisions of K.S.A. 65-28a05,  
39 and amendments thereto, the board shall not revoke, suspend or limit a  
40 physician assistant's license, publicly or privately censure a physician  
41 assistant or deny an application for a license or for reinstatement of a  
42 license upon any of the following:

43 (a) The physician assistant has:

1 (1) Advised a patient about the possible benefits and risks of using  
2 medical marijuana; or

3 (2) advised the patient that using medical marijuana may mitigate the  
4 patient's symptoms; or

5 (b) the physician assistant is a registered patient or caregiver pursuant  
6 to section 8, and amendments thereto, possesses or has possessed or uses  
7 or has used medical marijuana in accordance with the Kansas medical  
8 marijuana regulation act, section 1 et seq., and amendments thereto.

9 New Sec. 54. (a) Notwithstanding any other provision of law, any  
10 person, board, commission or similar body that determines the  
11 qualifications of individuals for licensure, certification or registration shall  
12 not disqualify an individual from licensure, certification or registration  
13 solely because such individual consumes medical marijuana in  
14 accordance with section 10, and amendments thereto.

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

16 (1) Kansas commission on peace officers' standards and training;

17 (2) Kansas highway patrol;

18 (3) office of the attorney general;

19 (4) department of health and environment; or

20 (5) division of alcoholic beverage control.

21 Sec. 55. K.S.A. 2020 Supp. 19-101a is hereby amended to read as  
22 follows: 19-101a.(a) The board of county commissioners may transact all  
23 county business and perform all powers of local legislation and  
24 administration it deems appropriate, subject only to the following  
25 limitations, restrictions or prohibitions:

26 (1) Counties shall be subject to all acts of the legislature which apply  
27 uniformly to all counties.

28 (2) Counties may not affect the courts located therein.

29 (3) Counties shall be subject to acts of the legislature prescribing  
30 limits of indebtedness.

31 (4) In the exercise of powers of local legislation and administration  
32 authorized under provisions of this section, the home rule power conferred  
33 on cities to determine their local affairs and government shall not be  
34 superseded or impaired without the consent of the governing body of each  
35 city within a county which may be affected.

36 (5) Counties may not legislate on social welfare administered under  
37 state law enacted pursuant to or in conformity with public law No. 271 –  
38 74<sup>th</sup> congress, or amendments thereof.

39 (6) Counties shall be subject to all acts of the legislature concerning  
40 elections, election commissioners and officers and their duties as such  
41 officers and the election of county officers.

42 (7) Counties shall be subject to the limitations and prohibitions  
43 imposed under K.S.A. 12-187 through 12-195, and amendments thereto,

1 prescribing limitations upon the levy of retailers' sales taxes by counties.

2 (8) Counties may not exempt from or effect changes in statutes made  
3 nonuniform in application solely by reason of authorizing exceptions for  
4 counties having adopted a charter for county government.

5 (9) No county may levy ad valorem taxes under the authority of this  
6 section upon real property located within any redevelopment project area  
7 established under the authority of K.S.A. 12-1772, and amendments  
8 thereto, unless the resolution authorizing the same specifically authorized  
9 a portion of the proceeds of such levy to be used to pay the principal of  
10 and interest upon bonds issued by a city under the authority of K.S.A. 12-  
11 1774, and amendments thereto.

12 (10) Counties shall have no power under this section to exempt from  
13 any statute authorizing or requiring the levy of taxes and providing  
14 substitute and additional provisions on the same subject, unless the  
15 resolution authorizing the same specifically provides for a portion of the  
16 proceeds of such levy to be used to pay a portion of the principal and  
17 interest on bonds issued by cities under the authority of K.S.A. 12-1774,  
18 and amendments thereto.

19 (11) Counties may not exempt from or effect changes in the  
20 provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

21 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101  
22 through 12-1,109, and amendments thereto, counties may not levy and  
23 collect taxes on incomes from whatever source derived.

24 (13) Counties may not exempt from or effect changes in K.S.A. 19-  
25 430, and amendments thereto.

26 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
27 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

28 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
29 15,139, 19-15,140 and 19-15,141, and amendments thereto.

30 (16) Counties may not exempt from or effect changes in the  
31 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c  
32 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-  
33 1260 through 12-1270 and 12-1276, and amendments thereto.

34 (17) Counties may not exempt from or effect changes in the  
35 provisions of K.S.A. 19-211, and amendments thereto.

36 (18) Counties may not exempt from or effect changes in the  
37 provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

38 (19) Counties may not regulate the production or drilling of any oil or  
39 gas well in any manner which would result in the duplication of regulation  
40 by the state corporation commission and the Kansas department of health  
41 and environment pursuant to chapter 55 and chapter 65 of the Kansas  
42 Statutes Annotated, and amendments thereto, and any rules and regulations  
43 adopted pursuant thereto. Counties may not require any license or permit

- 1 for the drilling or production of oil and gas wells. Counties may not  
2 impose any fee or charge for the drilling or production of any oil or gas  
3 well.
- 4 (20) Counties may not exempt from or effect changes in K.S.A. 79-  
5 41a04, and amendments thereto.
- 6 (21) Counties may not exempt from or effect changes in K.S.A. 79-  
7 1611, and amendments thereto.
- 8 (22) Counties may not exempt from or effect changes in K.S.A. 79-  
9 1494, and amendments thereto.
- 10 (23) Counties may not exempt from or effect changes in K.S.A. 19-  
11 202(b), and amendments thereto.
- 12 (24) Counties may not exempt from or effect changes in K.S.A. 19-  
13 204(b), and amendments thereto.
- 14 (25) Counties may not levy or impose an excise, severance or any  
15 other tax in the nature of an excise tax upon the physical severance and  
16 production of any mineral or other material from the earth or water.
- 17 (26) Counties may not exempt from or effect changes in K.S.A. 79-  
18 2017 or 79-2101, and amendments thereto.
- 19 (27) Counties may not exempt from or effect changes in K.S.A. 2-  
20 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-  
21 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments  
22 thereto.
- 23 (28) Counties may not exempt from or effect changes in K.S.A. 80-  
24 121, and amendments thereto.
- 25 (29) Counties may not exempt from or effect changes in K.S.A. 19-  
26 228, and amendments thereto.
- 27 (30) Counties may not exempt from or effect changes in the Kansas  
28 911 act.
- 29 (31) Counties may not exempt from or effect changes in K.S.A. 2020  
30 Supp. 26-601, and amendments thereto.
- 31 (32) (A) Counties may not exempt from or effect changes in the  
32 Kansas liquor control act except as provided by paragraph (B).
- 33 (B) Counties may adopt resolutions which are not in conflict with the  
34 Kansas liquor control act.
- 35 (33) (A) Counties may not exempt from or effect changes in the  
36 Kansas cereal malt beverage act except as provided by paragraph (B).
- 37 (B) Counties may adopt resolutions which are not in conflict with the  
38 Kansas cereal malt beverage act.
- 39 (34) Counties may not exempt from or effect changes in the Kansas  
40 lottery act.
- 41 (35) Counties may not exempt from or effect changes in the Kansas  
42 expanded lottery act.
- 43 (36) Counties may neither exempt from nor effect changes to the

1 eminent domain procedure act.

2 (37) Any county granted authority pursuant to the provisions of  
3 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be  
4 subject to the limitations and prohibitions imposed under K.S.A. 19-5001  
5 through 19-5005, and amendments thereto.

6 (38) Except as otherwise specifically authorized by K.S.A. 19-5001  
7 through 19-5005, and amendments thereto, counties may not exercise any  
8 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and  
9 amendments thereto, including the imposition or levy of any retailers' sales  
10 tax.

11 (39) Counties may not exempt from or effect changes in K.S.A. 65-  
12 201 and 65-202, and amendments thereto.

13 *(40) Except as provided in section 29, and amendments thereto, may*  
14 *not exempt from or effect changes in the Kansas medical marijuana*  
15 *regulation act, section 1 et seq., and amendments thereto.*

16 (b) Counties shall apply the powers of local legislation granted in  
17 subsection (a) by resolution of the board of county commissioners. If no  
18 statutory authority exists for such local legislation other than that set forth  
19 in subsection (a) and the local legislation proposed under the authority of  
20 such subsection is not contrary to any act of the legislature, such local  
21 legislation shall become effective upon passage of a resolution of the  
22 board and publication in the official county newspaper. If the legislation  
23 proposed by the board under authority of subsection (a) is contrary to an  
24 act of the legislature which is applicable to the particular county but not  
25 uniformly applicable to all counties, such legislation shall become  
26 effective by passage of a charter resolution in the manner provided in  
27 K.S.A. 19-101b, and amendments thereto.

28 (c) Any resolution adopted by a county which conflicts with the  
29 restrictions in subsection (a) is null and void.

30 Sec. 56. K.S.A. 2020 Supp. 21-5703 is hereby amended to read as  
31 follows: 21-5703. (a) It shall be unlawful for any person to manufacture  
32 any controlled substance or controlled substance analog.

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

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

36 (2) drug severity level 1 felony if:

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

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

1 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1)~~ of K.S.A. 65-  
 2 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any  
 3 such prior conviction; and

4 (3) drug severity level 1 felony if the controlled substance is  
 5 methamphetamine, as defined by ~~subsection (d)(3) or (f)(1)~~ of K.S.A. 65-  
 6 4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof.

7 (c) The provisions of ~~subsection (d)~~ of K.S.A. 2020 Supp. 21-  
 8 5301(d), and amendments thereto, shall not apply to a violation of  
 9 attempting to unlawfully manufacture any controlled substance or  
 10 controlled substance analog pursuant to this section.

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

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

21 (f) The sentence of a person who violates this section, K.S.A. 65-  
 22 4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its  
 23 transfer, shall not be reduced because these sections prohibit conduct  
 24 identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their  
 25 repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2020  
 26 Supp. 21-5705, and amendments thereto.

27 (g) *The provisions of this section shall not apply to a cultivator or*  
 28 *processor licensed by the director of alcoholic beverage control pursuant*  
 29 *to section 22, and amendments thereto, that is producing medical*  
 30 *marijuana, as defined in section 2, and amendments thereto, when used*  
 31 *for acts authorized by the Kansas medical marijuana regulation act,*  
 32 *section 1 et seq., and amendments thereto.*

33 Sec. 57. K.S.A. 2020 Supp. 21-5705 is hereby amended to read as  
 34 follows: 21-5705. (a) It shall be unlawful for any person to distribute or  
 35 possess with the intent to distribute any of the following controlled  
 36 substances or controlled substance analogs thereof:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (A) Drug severity level 4 felony if the quantity of the material was  
2 less than 1 gram;
- 3 (B) drug severity level 3 felony if the quantity of the material was at  
4 least 1 gram but less than 3.5 grams;
- 5 (C) drug severity level 2 felony if the quantity of the material was at  
6 least 3.5 grams but less than 100 grams; and
- 7 (D) drug severity level 1 felony if the quantity of the material was  
8 100 grams or more.
- 9 (4) Violation of subsection (a) with respect to material containing any  
10 quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107,  
11 65-4109 or 65-4111, and amendments thereto, or an analog thereof,  
12 distributed by dosage unit, is a:
- 13 (A) Drug severity level 4 felony if the number of dosage units was  
14 fewer than 10;
- 15 (B) drug severity level 3 felony if the number of dosage units was at  
16 least 10 but less than 100;
- 17 (C) drug severity level 2 felony if the number of dosage units was at  
18 least 100 but less than 1,000; and
- 19 (D) drug severity level 1 felony if the number of dosage units was  
20 1,000 or more.
- 21 (5) For any violation of subsection (a), the severity level of the  
22 offense shall be increased one level if the controlled substance or  
23 controlled substance analog was distributed or possessed with the intent to  
24 distribute on or within 1,000 feet of any school property.
- 25 (6) Violation of subsection (b) is a:
- 26 (A) Class A person misdemeanor, except as provided in ~~subsection~~  
27 ~~(4)(6)(B)~~ *subparagraph (B)*; and
- 28 (B) nondrug severity level 7, person felony if the substance was  
29 distributed to or possessed with the intent to distribute to a minor.
- 30 (7) Violation of subsection (c) is a:
- 31 (A) Drug severity level 3 felony if the number of plants cultivated  
32 was more than 4 but fewer than 50;
- 33 (B) drug severity level 2 felony if the number of plants cultivated was  
34 at least 50 but fewer than 100; and
- 35 (C) drug severity level 1 felony if the number of plants cultivated was  
36 100 or more.
- 37 (e) In any prosecution under this section, there shall be a rebuttable  
38 presumption of an intent to distribute if any person possesses the following  
39 quantities of controlled substances or analogs thereof:
- 40 (1) 450 grams or more of marijuana;
- 41 (2) 3.5 grams or more of heroin or methamphetamine;
- 42 (3) 100 dosage units or more containing a controlled substance; or
- 43 (4) 100 grams or more of any other controlled substance.

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

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

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

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

11 (g) *The provisions of subsections (a)(4) and (a)(5) shall not apply to*  
12 *any cultivator, laboratory processor, distributor or retail dispensary*  
13 *licensed by the director of alcoholic beverage control pursuant to section*  
14 *22, and amendments thereto, or any employee or agent thereof, that is*  
15 *growing, testing, processing, distributing, dispensing or selling medical*  
16 *marijuana for purposes authorized by and doing so in accordance with the*  
17 *Kansas medical marijuana regulation act, section 1 et seq., and*  
18 *amendments thereto.*

19 (h) As used in this section:

20 (1) "Material" means the total amount of any substance, including a  
21 compound or a mixture, ~~which~~ that contains any quantity of a controlled  
22 substance or controlled substance analog.

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

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

32 (B) For illegally manufactured controlled substances in liquid  
33 solution, or controlled substances in liquid products not intended for  
34 ingestion by human beings, or an analog thereof, "dosage unit" means 10  
35 milligrams, including the liquid carrier medium, except as provided in  
36 ~~subsection (g)(2)(C)~~ *subparagraph (C)*.

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

40 (3) *"Medical marijuana" means the same as defined in section 2, and*  
41 *amendments thereto.*

42 Sec. 58. K.S.A. 2020 Supp. 21-5706 is hereby amended to read as  
43 follows: 21-5706. (a) It shall be unlawful for any person to possess any

1 opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-  
 2 4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled  
 3 substance analog thereof.

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

6 (1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-  
 7 4109(b) or (c) or 65-4111(b), and amendments thereto;

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

10 (3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-  
 11 4107(g) or 65-4109(g), and amendments thereto;

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

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

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

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

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

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

22 (A) Violation of subsection (b) is a class A nonperson misdemeanor,  
 23 except as provided in subparagraph (B); and

24 (B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug  
 25 severity level 5 felony if that person has a prior conviction under such  
 26 subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially  
 27 similar offense from another jurisdiction, or under any city ordinance or  
 28 county resolution for a substantially similar offense if the substance  
 29 involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana  
 30 as designated in K.S.A. 65-4105(d), and amendments thereto, or any  
 31 substance designated in K.S.A. 65-4105(h), and amendments thereto, or an  
 32 analog thereof.

33 (3) If the substance involved is marijuana, as designated in K.S.A.  
 34 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as  
 35 designated in K.S.A. 65-4105(h), and amendments thereto, violation of  
 36 subsection (b) is a:

37 (A) Class B nonperson misdemeanor, except as provided in  
 38 subparagraphs (B) ~~and~~, (C) *and* (D);

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

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

6 (D) *nonperson misdemeanor punishable by a fine of not to exceed*  
7 *\$400, if that person is not a registered patient or caregiver under the*  
8 *Kansas medical marijuana regulation act, section 1 et seq., and*  
9 *amendments thereto, is found in possession of not more than 1.5 ounces of*  
10 *marijuana and provides a statement from such person's physician*  
11 *recommending the use of medical marijuana to treat such person's*  
12 *symptoms.*

13 (d) ~~It shall be an affirmative defense to prosecution under this section~~  
14 ~~arising out of a person's possession of any cannabidiol treatment~~  
15 ~~preparation if the person:~~

16 ~~(1) Has a debilitating medical condition, as defined in K.S.A.2020~~  
17 ~~Supp. 65-6235, and amendments thereto, or is the parent or guardian of a~~  
18 ~~minor child who has such debilitating medical condition;~~

19 ~~(2) is possessing a cannabidiol treatment preparation, as defined in~~  
20 ~~K.S.A. 2020 Supp. 65-6235, and amendments thereto, that is being used to~~  
21 ~~treat such debilitating medical condition; and~~

22 ~~(3) has possession of a letter, at all times while the person has~~  
23 ~~possession of the cannabidiol treatment preparation, that:~~

24 ~~(A) Shall be shown to a law enforcement officer on such officer's~~  
25 ~~request;~~

26 ~~(B) is dated within the preceding 15 months and signed by the~~  
27 ~~physician licensed to practice medicine and surgery in Kansas who~~  
28 ~~diagnosed the debilitating medical condition;~~

29 ~~(C) is on such physician's letterhead; and~~

30 ~~(D) identifies the person or the person's minor child as such~~  
31 ~~physician's patient and identifies the patient's debilitating medical~~  
32 ~~condition. If the substance involved is medical marijuana, as defined in~~  
33 ~~section 2, and amendments thereto, the provisions of subsections (b) and~~  
34 ~~(c) shall not apply to:~~

35 ~~(1) Any person who is registered or licensed pursuant to the Kansas~~  
36 ~~medical marijuana regulation act, section 1 et seq., and amendments~~  
37 ~~thereto, and whose possession is authorized by such act; or~~

38 ~~(2) any person who is not a resident of this state and who holds a~~  
39 ~~license issued by another jurisdiction authorizing such person to acquire~~  
40 ~~and possess medical marijuana as recognized under section 17, and~~  
41 ~~amendments thereto.~~

42 (e) It shall not be a defense to charges arising under this section that  
43 the defendant was acting in an agency relationship on behalf of any other

1 party in a transaction involving a controlled substance or controlled  
2 substance analog.

3 Sec. 59. K.S.A. 2020 Supp. 21-5707 is hereby amended to read as  
4 follows: 21-5707. (a) It shall be unlawful for any person to knowingly or  
5 intentionally use any communication facility:

6 (1) In committing, causing, or facilitating the commission of any  
7 felony under K.S.A. 2020 Supp. 21-5703, 21-5705 or 21-5706, and  
8 amendments thereto; or

9 (2) in any attempt to commit, any conspiracy to commit, or any  
10 criminal solicitation of any felony under K.S.A. 2020 Supp. 21-5703, 21-  
11 5705 or 21-5706, and amendments thereto. Each separate use of a  
12 communication facility may be charged as a separate offense under this  
13 subsection.

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

16 (c) *The provisions of this section shall not apply to any person using*  
17 *communication facilities for those activities authorized by the Kansas*  
18 *medical marijuana regulation act, section 1 et seq., and amendments*  
19 *thereto.*

20 (d) As used in this section, "communication facility" means any and  
21 all public and private instrumentalities used or useful in the transmission  
22 of writing, signs, signals, pictures or sounds of all kinds and includes  
23 telephone, wire, radio, computer, computer networks, beepers, pagers and  
24 all other means of communication.

25 Sec. 60. K.S.A. 2020 Supp. 21-5709 is hereby amended to read as  
26 follows: 21-5709. (a) It shall be unlawful for any person to possess  
27 ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal,  
28 iodine, anhydrous ammonia, pressurized ammonia or  
29 phenylpropanolamine, or their salts, isomers or salts of isomers with an  
30 intent to use the product to manufacture a controlled substance.

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

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

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

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

40 (d) It shall be unlawful for any person to purchase, receive or  
41 otherwise acquire at retail any compound, mixture or preparation  
42 containing more than 3.6 grams of pseudoephedrine base or ephedrine  
43 base in any single transaction or any compound, mixture or preparation

1 containing more than nine grams of pseudoephedrine base or ephedrine  
2 base within any 30-day period.

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

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

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

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

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

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

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

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

20 (g) *The provisions of subsection (b) shall not apply to any person*  
21 *registered or licensed pursuant to the Kansas medical marijuana*  
22 *regulation act, section 1 et seq., and amendments thereto, whose*  
23 *possession of such equipment or material is used solely to produce or for*  
24 *the administration of medical marijuana, as defined in section 2, and*  
25 *amendments thereto, in a manner authorized by the Kansas medical*  
26 *marijuana regulation act, section 1 et seq., and amendments thereto.*

27 Sec. 61. K.S.A. 2020 Supp. 21-5710 is hereby amended to read as  
28 follows: 21-5710. (a) It shall be unlawful for any person to advertise,  
29 market, label, distribute or possess with the intent to distribute:

30 (1) Any product containing ephedrine, pseudoephedrine, red  
31 phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia,  
32 pressurized ammonia or phenylpropanolamine or their salts, isomers or  
33 salts of isomers if the person knows or reasonably should know that the  
34 purchaser will use the product to manufacture a controlled substance or  
35 controlled substance analog; or

36 (2) any product containing ephedrine, pseudoephedrine or  
37 phenylpropanolamine, or their salts, isomers or salts of isomers for  
38 indication of stimulation, mental alertness, weight loss, appetite control,  
39 energy or other indications not approved pursuant to the pertinent federal  
40 over-the-counter drug final monograph or tentative final monograph or  
41 approved new drug application.

42 (b) It shall be unlawful for any person to distribute, possess with the  
43 intent to distribute or manufacture with intent to distribute any drug

1 paraphernalia, knowing or under circumstances where one reasonably  
 2 should know that it will be used to manufacture or distribute a controlled  
 3 substance or controlled substance analog in violation of K.S.A. 2020 Supp.  
 4 21-5701 through 21-5717, and amendments thereto.

5 (c) It shall be unlawful for any person to distribute, possess with  
 6 intent to distribute or manufacture with intent to distribute any drug  
 7 paraphernalia, knowing or under circumstances where one reasonably  
 8 should know, that it will be used as such in violation of K.S.A. 2020 Supp.  
 9 21-5701 through 21-5717, and amendments thereto, ~~except subsection (b)~~  
 10 ~~of K.S.A. 2020 Supp. 21-5706(b)~~, and amendments thereto.

11 (d) It shall be unlawful for any person to distribute, possess with  
 12 intent to distribute or manufacture with intent to distribute any drug  
 13 paraphernalia, knowing, or under circumstances where one reasonably  
 14 should know, that it will be used as such in violation of ~~subsection (b)~~ of  
 15 K.S.A. 2020 Supp. 21-5706(b), and amendments thereto.

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

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

18 (A) Drug severity level 5 felony, except as provided in ~~subsection (e)~~  
 19 ~~(2)(B) subparagraph (B)~~; and

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

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

24 (A) Nondrug severity level 9, nonperson felony, except as provided in  
 25 ~~subsection (e)(3)(B) subparagraph (B)~~; and

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

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

30 (A) Class A nonperson misdemeanor, except as provided in  
 31 ~~subsection (e)(4)(B) subparagraph (B)~~; and

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

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

43 (g) *The provisions of subsection (c) shall not apply to any person*

1 *licensed pursuant to the Kansas medical marijuana regulation act, section*  
2 *1 et seq., and amendments thereto, whose distribution or manufacture is*  
3 *used solely to distribute or produce medical marijuana, as defined in*  
4 *section 2, and amendments thereto, in a manner authorized by the Kansas*  
5 *medical marijuana regulation act, section 1 et seq., and amendments*  
6 *thereto.*

7 (h) As used in this section, "or under circumstances where one  
8 reasonably should know" that an item will be used in violation of this  
9 section, shall include, but not be limited to, the following:

10 (1) Actual knowledge from prior experience or statements by  
11 customers;

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

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

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

20 Sec. 62. K.S.A. 2020 Supp. 23-3201 is hereby amended to read as  
21 follows: 23-3201. (a) The court shall determine legal custody, residency  
22 and parenting time of a child in accordance with the best interests of the  
23 child.

24 (b) *The court shall not consider the fact that a parent or a child*  
25 *consumes medical marijuana in accordance with section 10, and*  
26 *amendments thereto, when determining the legal custody, residency or*  
27 *parenting time of a child.*

28 Sec. 63. K.S.A. 2020 Supp. 38-2269 is hereby amended to read as  
29 follows: 38-2269. (a) When the child has been adjudicated to be a child in  
30 need of care, the court may terminate parental rights or appoint a  
31 permanent custodian when the court finds by clear and convincing  
32 evidence that the parent is unfit by reason of conduct or condition which  
33 renders the parent unable to care properly for a child and the conduct or  
34 condition is unlikely to change in the foreseeable future.

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

37 (1) Emotional illness, mental illness, mental deficiency or physical  
38 disability of the parent, of such duration or nature as to render the parent  
39 unable to care for the ongoing physical, mental and emotional needs of the  
40 child;

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

43 (3) the use of intoxicating liquors or narcotic or dangerous drugs of

1 such duration or nature as to render the parent unable to care for the  
2 ongoing physical, mental or emotional needs of the child, *except that the*  
3 *use of medical marijuana in accordance with section 10, and amendments*  
4 *thereto, shall not be considered to render the parent unable to care for the*  
5 *ongoing physical, mental or emotional needs of the child;*

6 (4) physical, mental or emotional abuse or neglect or sexual abuse of  
7 a child;

8 (5) conviction of a felony and imprisonment;

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

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

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

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

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

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

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

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

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

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

34 (d) A finding of unfitness may be made as provided in this section if  
35 the court finds that the parents have abandoned the child, the custody of  
36 the child was surrendered pursuant to K.S.A. 2020 Supp. 38-2282, and  
37 amendments thereto, or the child was left under such circumstances that  
38 the identity of the parents is unknown and cannot be ascertained, despite  
39 diligent searching, and the parents have not come forward to claim the  
40 child within three months after the child is found.

41 (e) If a person is convicted of a felony in which sexual intercourse  
42 occurred, or if a juvenile is adjudicated a juvenile offender because of an  
43 act which, if committed by an adult, would be a felony in which sexual

1 intercourse occurred, and as a result of the sexual intercourse, a child is  
2 conceived, a finding of unfitness may be made.

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

6 (g) (1) If the court makes a finding of unfitness, the court shall  
7 consider whether termination of parental rights as requested in the petition  
8 or motion is in the best interests of the child. In making the determination,  
9 the court shall give primary consideration to the physical, mental and  
10 emotional health of the child. If the physical, mental or emotional needs of  
11 the child would best be served by termination of parental rights, the court  
12 shall so order. A termination of parental rights under the code shall not  
13 terminate the right of a child to inherit from or through a parent. Upon  
14 such termination all rights of the parent to such child, including, such  
15 parent's right to inherit from or through such child, shall cease.

16 (2) If the court terminates parental rights, the court may authorize  
17 adoption pursuant to K.S.A. 2020 Supp. 38-2270, and amendments  
18 thereto, appointment of a permanent custodian pursuant to K.S.A. 2020  
19 Supp. 38-2272, and amendments thereto, or continued permanency  
20 planning.

21 (3) If the court does not terminate parental rights, the court may  
22 authorize appointment of a permanent custodian pursuant to K.S.A. 2020  
23 Supp. 38-2272, and amendments thereto, or continued permanency  
24 planning.

25 (h) If a parent is convicted of an offense as provided in K.S.A. 2020  
26 Supp. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile  
27 offender because of an act which if committed by an adult would be an  
28 offense as provided in K.S.A. 2020 Supp. 38-2271(a)(7), and amendments  
29 thereto, and if the victim was the other parent of a child, the court may  
30 disregard such convicted or adjudicated parent's opinions or wishes in  
31 regard to the placement of such child.

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

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

38 Sec. 64. K.S.A. 2020 Supp. 44-501 is hereby amended to read as  
39 follows: 44-501. (a) (1) Compensation for an injury shall be disallowed if  
40 such injury to the employee results from:

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

42 (B) the employee's willful failure to use a guard or protection against  
43 accident or injury which is required pursuant to any statute and provided

1 for the employee;

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

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

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

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

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

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

28 (ii) *In the case of marijuana or any other form of cannabis, including*  
29 *any cannabis derivatives, compensation shall not be denied if the*  
30 *employee is registered as a patient pursuant to section 8, and amendments*  
31 *thereto, such cannabis or cannabis derivative was used in accordance*  
32 *with the Kansas medical marijuana regulation act, section 1 et seq., and*  
33 *amendments thereto, and there has been no prior incidence of the*  
34 *employee's impairment on the job as a result of the use of such cannabis*  
35 *or cannabis derivative within the previous 24 months.*

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

41 Confirmatory  
42 test cutoff  
43 levels (ng/ml)

1	Marijuana metabolite <sup>1</sup> .....	15
2	Cocaine metabolite <sup>2</sup> .....	150
3	Opiates:	
4	Morphine .....	2000
5	Codeine .....	2000
6	6-Acetylmorphine <sup>4</sup> .....	10 ng/ml
7	Phencyclidine .....	25
8	Amphetamines:	
9	Amphetamine .....	500
10	Methamphetamine <sup>3</sup> .....	500

11 <sup>1</sup> Delta-9-tetrahydrocannabinol-9-carboxylic acid.

12 <sup>2</sup> Benzoyllecgonine.

13 <sup>3</sup> Specimen must also contain amphetamine at a concentration greater  
14 than or equal to 200 ng/ml.

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

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

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

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

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

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

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

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

41 (E) as a result of federal or state law or a federal or state rule or  
42 regulation having the force and effect of law requiring a post-injury testing  
43 program and such required program was properly implemented at the time

1 of testing.

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

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

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

9 (C) the test was performed by a laboratory approved by the United  
10 States department of health and human services or licensed by the  
11 department of health and environment, except that a blood sample may be  
12 tested for alcohol content by a laboratory commonly used for that purpose  
13 by state law enforcement agencies;

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

17 (E) the foundation evidence must establish, beyond a reasonable  
18 doubt, that the test results were from the sample taken from the employee;  
19 and

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

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

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

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

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

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

38 (d) Except as provided in the workers compensation act, no  
39 construction design professional who is retained to perform professional  
40 services on a construction project or any employee of a construction  
41 design professional who is assisting or representing the construction  
42 design professional in the performance of professional services on the site  
43 of the construction project, shall be liable for any injury resulting from the

1 employer's failure to comply with safety standards on the construction  
2 project for which compensation is recoverable under the workers  
3 compensation act, unless responsibility for safety practices is specifically  
4 assumed by contract. The immunity provided by this subsection to any  
5 construction design professional shall not apply to the negligent  
6 preparation of design plans or specifications.

7 (e) An award of compensation for permanent partial impairment,  
8 work disability, or permanent total disability shall be reduced by the  
9 amount of functional impairment determined to be preexisting. Any such  
10 reduction shall not apply to temporary total disability, nor shall it apply to  
11 compensation for medical treatment.

12 (1) Where workers compensation benefits have previously been  
13 awarded through settlement or judicial or administrative determination in  
14 Kansas, the percentage basis of the prior settlement or award shall  
15 conclusively establish the amount of functional impairment determined to  
16 be preexisting. Where workers compensation benefits have not previously  
17 been awarded through settlement or judicial or administrative  
18 determination in Kansas, the amount of preexisting functional impairment  
19 shall be established by competent evidence.

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

22 (A) If the preexisting impairment is the result of injury sustained  
23 while working for the employer against whom workers compensation  
24 benefits are currently being sought, any award of compensation shall be  
25 reduced by the current dollar value attributable under the workers  
26 compensation act to the percentage of functional impairment determined to  
27 be preexisting. The "current dollar value" shall be calculated by  
28 multiplying the percentage of preexisting impairment by the compensation  
29 rate in effect on the date of the accident or injury against which the  
30 reduction will be applied.

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

34 (f) If the employee receives, whether periodically or by lump sum,  
35 retirement benefits under the federal social security act or retirement  
36 benefits from any other retirement system, program, policy or plan ~~which~~  
37 *that* is provided by the employer against which the claim is being made,  
38 any compensation benefit payments which the employee is eligible to  
39 receive under the workers compensation act for such claim shall be  
40 reduced by the weekly equivalent amount of the total amount of all such  
41 retirement benefits, less any portion of any such retirement benefit, other  
42 than retirement benefits under the federal social security act, that is  
43 attributable to payments or contributions made by the employee, but in no

1 event shall the workers compensation benefit be less than the workers  
2 compensation benefit payable for the employee's percentage of functional  
3 impairment. Where the employee elects to take retirement benefits in a  
4 lump sum, the lump sum payment shall be amortized at the rate of 4% per  
5 year over the employee's life expectancy to determine the weekly  
6 equivalent value of the benefits.

7 Sec. 65. K.S.A. 2020 Supp. 44-706 is hereby amended to read as  
8 follows: 44-706. The secretary shall examine whether an individual has  
9 separated from employment for each week claimed. The secretary shall  
10 apply the provisions of this section to the individual's most recent  
11 employment prior to the week claimed. An individual shall be disqualified  
12 for benefits:

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

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

41 (2) the individual left temporary work to return to the regular  
42 employer;

43 (3) the individual left work to enlist in the armed forces of the United

1 States, but was rejected or delayed from entry;

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

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

26 (6) the individual left work to enter training approved under section  
27 236(a)(1) of the federal trade act of 1974, provided the work left is not of a  
28 substantially equal or higher skill level than the individual's past adversely  
29 affected employment, as defined for purposes of the federal trade act of  
30 1974, and wages for such work are not less than 80% of the individual's  
31 average weekly wage as determined for the purposes of the federal trade  
32 act of 1974;

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

37 (8) the individual left work to accept better work; each determination  
38 as to whether or not the work accepted is better work shall include, but  
39 shall not be limited to, consideration of: (A) The rate of pay, the hours of  
40 work and the probable permanency of the work left as compared to the  
41 work accepted; (B) the cost to the individual of getting to the work left in  
42 comparison to the cost of getting to the work accepted; and (C) the  
43 distance from the individual's place of residence to the work accepted in

1 comparison to the distance from the individual's residence to the work left;  
2 (9) the individual left work as a result of being instructed or requested  
3 by the employer, a supervisor or a fellow employee to perform a service or  
4 commit an act in the scope of official job duties which is in violation of an  
5 ordinance or statute;

6 (10) the individual left work because of a substantial violation of the  
7 work agreement by the employing unit and, before the individual left, the  
8 individual had exhausted all remedies provided in such agreement for the  
9 settlement of disputes before terminating. For the purposes of this  
10 paragraph, a demotion based on performance does not constitute a  
11 violation of the work agreement;

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

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

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

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

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

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

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

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

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

35 (ii) a police record documenting the abuse;

36 (iii) documentation that the abuser has been convicted of one or more  
37 of the offenses enumerated in articles 34 and 35 of chapter 21 of the  
38 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of  
39 chapter 21 of the Kansas Statutes Annotated, *and amendments thereto*, or  
40 K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-  
41 6422, and amendments thereto, where the victim was a family or  
42 household member;

43 (iv) medical documentation of the abuse;

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

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

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

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

26 (1) (A) For the purposes of this subsection, "misconduct" is defined as  
 27 a violation of a duty or obligation reasonably owed the employer as a  
 28 condition of employment including, but not limited to, a violation of a  
 29 company rule, including a safety rule, if:

30 ~~(A)~~(i) The individual knew or should have known about the rule;

31 ~~(B)~~(ii) the rule was lawful and reasonably related to the job; and

32 ~~(C)~~(iii) the rule was fairly and consistently enforced.

33 (B) *The term "misconduct":*

34 (i) *Does not include any violation of a duty, obligation or company*  
 35 *rule, if:*

36 (a) *The individual is a registered patient pursuant to section 8, and*  
 37 *amendments thereto; and*

38 (b) *the basis for the violation is the possession of an identification*  
 39 *card issued under section 8, and amendments thereto, or the possession or*  
 40 *use of medical marijuana in accordance with the Kansas medical*  
 41 *marijuana regulation act, section 1 et seq., and amendments thereto; and*

42 (ii) *includes any violation of a duty, obligation or company rule if the*  
 43 *individual ingested marijuana in the workplace, worked while under the*

1 *influence of marijuana or tested positive for a controlled substance.*

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

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

10 (i) The individual was absent or tardy without good cause;

11 (ii) the individual had knowledge of the employer's attendance  
12 expectation; and

13 (iii) the employer gave notice to the individual that future absence or  
14 tardiness may or will result in discharge.

15 (C) For the purposes of this subsection, if an employee disputes being  
16 absent or tardy without good cause, the employee shall present evidence  
17 that a majority of the employee's absences or tardiness were for good  
18 cause. If the employee alleges that the employee's repeated absences or  
19 tardiness were the result of health related issues, such evidence shall  
20 include documentation from a licensed and practicing health care provider  
21 as defined in subsection (a)(1).

22 (3) (A) (i) The term "gross misconduct" as used in this subsection  
23 shall be construed to mean conduct evincing extreme, willful or wanton  
24 misconduct as defined by this subsection. Gross misconduct shall include,  
25 but not be limited to:

26 ~~(i)~~(a) Theft;

27 ~~(ii)~~(b) fraud;

28 ~~(iii)~~(c) intentional damage to property;

29 ~~(iv)~~(d) intentional infliction of personal injury; or

30 ~~(v)~~(e) any conduct that constitutes a felony.

31 (ii) *The term "gross misconduct":*

32 (a) *Does not include any conduct of an individual, if:*

33 (1) *The individual is a registered patient pursuant to section 8, and*  
34 *amendments thereto; and*

35 (2) *the basis for such conduct is the possession of an identification*  
36 *card issued under section 8, and amendments thereto, or the possession or*  
37 *use of medical marijuana in accordance with the Kansas medical*  
38 *marijuana regulation act, section 1 et seq., and amendments thereto; and*

39 (b) *includes any conduct of an individual if the individual ingested*  
40 *marijuana in the workplace, worked while under the influence of*  
41 *marijuana or tested positive for a controlled substance.*

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

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

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

5 (iii) a positive breath alcohol test or a positive chemical test,  
6 provided:

7 (a) The test was either:

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

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

13 (3) requested pursuant to a written policy of the employer of which  
14 the employee had knowledge and was a required condition of  
15 employment;

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

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

21 (b) the test sample was collected either:

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

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

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

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

32 (5) at a time contemporaneous with the events establishing probable  
33 cause;

34 (c) the collecting and labeling of a chemical test sample was  
35 performed by a licensed health care professional or any other individual  
36 certified pursuant to ~~paragraph (b)(3)(A)(iii)(f)~~ *subsection (b)(3)(B)(iii)(f)*  
37 or authorized to collect or label test samples by federal or state law, or a  
38 federal or state rule or regulation having the force or effect of law,  
39 including law enforcement personnel;

40 (d) the chemical test was performed by a laboratory approved by the  
41 United States department of health and human services or licensed by the  
42 department of health and environment, except that a blood sample may be  
43 tested for alcohol content by a laboratory commonly used for that purpose

1 by state law enforcement agencies;

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

6 (f) the breath alcohol test was administered by an individual trained  
7 to perform breath tests, the breath testing instrument used was certified  
8 and operated strictly according to a description provided by the  
9 manufacturers and the reliability of the instrument performance was  
10 assured by testing with alcohol standards; and

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

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

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

17 (b) the test was administered as part of an employee assistance  
18 program or other drug or alcohol treatment program in which the  
19 employee was participating voluntarily or as a condition of further  
20 employment;

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

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

26 (e) there was reasonable suspicion to believe that the individual used,  
27 possessed or was impaired by alcoholic liquor, cereal malt beverage or a  
28 nonprescribed controlled substance while working;

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

30 (C) For purposes of this subsection:

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

33 (ii) "alcoholic liquor" ~~shall be defined~~ *means the same* as provided in  
34 K.S.A. 41-102, and amendments thereto;

35 (iii) "cereal malt beverage" ~~shall be defined~~ *means the same* as  
36 provided in K.S.A. 41-2701, and amendments thereto;

37 (iv) "chemical test" ~~shall include~~ *includes*, but is not limited to, tests  
38 of urine, blood or saliva;

39 (v) "controlled substance" ~~shall be defined~~ *means the same* as  
40 provided in K.S.A. 2020 Supp. 21-5701, and amendments thereto;

41 (vi) "required by law" means required by a federal or state law, a  
42 federal or state rule or regulation having the force and effect of law, a  
43 county resolution or municipal ordinance, or a policy relating to public

1 safety adopted in an open meeting by the governing body of any special  
2 district or other local governmental entity;

3 (vii) "positive breath test"~~shall mean~~ means a test result showing an  
4 alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R.  
5 part 40, if applicable, unless the test was administered as part of an  
6 employee assistance program or other drug or alcohol treatment program  
7 in which the employee was participating voluntarily or as a condition of  
8 further employment, in which case "positive chemical test"~~shall mean~~  
9 means a test result showing an alcohol concentration at or above the levels  
10 provided for in the assistance or treatment program;

11 (viii) "positive chemical test"~~shall mean~~ means a chemical result  
12 showing a concentration at or above the levels listed in K.S.A. 44-501, and  
13 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or  
14 abuse listed therein, unless the test was administered as part of an  
15 employee assistance program or other drug or alcohol treatment program  
16 in which the employee was participating voluntarily or as a condition of  
17 further employment, in which case "positive chemical test"~~shall mean~~  
18 means a chemical result showing a concentration at or above the levels  
19 provided for in the assistance or treatment program.

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

22 (A) The employer discharged the individual after learning the  
23 individual was seeking other work or when the individual gave notice of  
24 future intent to quit, except that the individual shall be disqualified after  
25 the time at which such individual intended to quit and any individual who  
26 commits misconduct after such individual gives notice to such individual's  
27 intent to quit shall be disqualified;

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

- 30 (i) Inefficiency;
- 31 (ii) unsatisfactory performance due to inability, incapacity or lack of  
32 training or experience;
- 33 (iii) isolated instances of ordinary negligence or inadvertence;
- 34 (iv) ~~good-faith~~ *good faith* errors in judgment or discretion; or
- 35 (v) unsatisfactory work or conduct due to circumstances beyond the  
36 individual's control; or

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

39 (c) If the individual has failed, without good cause, to either apply for  
40 suitable work when so directed by the employment office of the secretary  
41 of labor, or to accept suitable work when offered to the individual by the  
42 employment office, the secretary of labor, or an employer, such  
43 disqualification shall begin with the week in which such failure occurred

1 and shall continue until the individual becomes reemployed and has had  
2 earnings from insured work of at least three times such individual's  
3 determined weekly benefit amount. In determining whether or not any  
4 work is suitable for an individual, the secretary of labor, or a person or  
5 persons designated by the secretary, shall consider the degree of risk  
6 involved to health, safety and morals, physical fitness and prior training,  
7 experience and prior earnings, length of unemployment and prospects for  
8 securing local work in the individual's customary occupation or work for  
9 which the individual is reasonably fitted by training or experience, and the  
10 distance of the available work from the individual's residence.  
11 Notwithstanding any other provisions of this act, an otherwise eligible  
12 individual shall not be disqualified for refusing an offer of suitable  
13 employment, or failing to apply for suitable employment when notified by  
14 an employment office, or for leaving the individual's most recent work  
15 accepted during approved training, including training approved under  
16 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying  
17 for suitable employment or continuing such work would require the  
18 individual to terminate approved training and no work shall be deemed  
19 suitable and benefits shall not be denied under this act to any otherwise  
20 eligible individual for refusing to accept new work under any of the  
21 following conditions: (1) If the position offered is vacant due directly to a  
22 strike, lockout or other labor dispute; (2) if the remuneration, hours or  
23 other conditions of the work offered are substantially less favorable to the  
24 individual than those prevailing for similar work in the locality; (3) if as a  
25 condition of being employed, the individual would be required to join or to  
26 resign from or refrain from joining any labor organization; and (4) if the  
27 individual left employment as a result of domestic violence, and the  
28 position offered does not reasonably accommodate the individual's  
29 physical, psychological, safety, or legal needs relating to such domestic  
30 violence.

31 (d) For any week with respect to which the secretary of labor, or a  
32 person or persons designated by the secretary, finds that the individual's  
33 unemployment is due to a stoppage of work which exists because of a  
34 labor dispute or there would have been a work stoppage had normal  
35 operations not been maintained with other personnel previously and  
36 currently employed by the same employer at the factory, establishment or  
37 other premises at which the individual is or was last employed, except that  
38 this subsection (d) shall not apply if it is shown to the satisfaction of the  
39 secretary of labor, or a person or persons designated by the secretary, that:  
40 (1) The individual is not participating in or financing or directly interested  
41 in the labor dispute which caused the stoppage of work; and (2) the  
42 individual does not belong to a grade or class of workers of which,  
43 immediately before the commencement of the stoppage, there were

1 members employed at the premises at which the stoppage occurs any of  
2 whom are participating in or financing or directly interested in the dispute.  
3 If in any case separate branches of work which are commonly conducted  
4 as separate businesses in separate premises are conducted in separate  
5 departments of the same premises, each such department shall, for the  
6 purpose of this subsection be deemed to be a separate factory,  
7 establishment or other premises. For the purposes of this subsection,  
8 failure or refusal to cross a picket line or refusal for any reason during the  
9 continuance of such labor dispute to accept the individual's available and  
10 customary work at the factory, establishment or other premises where the  
11 individual is or was last employed shall be considered as participation and  
12 interest in the labor dispute.

13 (e) For any week with respect to which or a part of which the  
14 individual has received or is seeking unemployment benefits under the  
15 unemployment compensation law of any other state or of the United  
16 States, except that if the appropriate agency of such other state or the  
17 United States finally determines that the individual is not entitled to such  
18 unemployment benefits, this disqualification shall not apply.

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

24 (g) For the period of five years beginning with the first day following  
25 the last week of unemployment for which the individual received benefits,  
26 or for five years from the date the act was committed, whichever is the  
27 later, if the individual, or another in such individual's behalf with the  
28 knowledge of the individual, has knowingly made a false statement or  
29 representation, or has knowingly failed to disclose a material fact to obtain  
30 or increase benefits under this act or any other unemployment  
31 compensation law administered by the secretary of labor. In addition to the  
32 penalties set forth in K.S.A. 44-719, and amendments thereto, an  
33 individual who has knowingly made a false statement or representation or  
34 who has knowingly failed to disclose a material fact to obtain or increase  
35 benefits under this act or any other unemployment compensation law  
36 administered by the secretary of labor shall be liable for a penalty in the  
37 amount equal to 25% of the amount of benefits unlawfully received.  
38 Notwithstanding any other provision of law, such penalty shall be  
39 deposited into the employment security trust fund.

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

1 (i) For any week of unemployment on the basis of service in an  
2 instructional, research or principal administrative capacity for an  
3 educational institution as defined in K.S.A. 44-703(v), and amendments  
4 thereto, if such week begins during the period between two successive  
5 academic years or terms or, when an agreement provides instead for a  
6 similar period between two regular but not successive terms during such  
7 period or during a period of paid sabbatical leave provided for in the  
8 individual's contract, if the individual performs such services in the first of  
9 such academic years or terms and there is a contract or a reasonable  
10 assurance that such individual will perform services in any such capacity  
11 for any educational institution in the second of such academic years or  
12 terms.

13 (j) For any week of unemployment on the basis of service in any  
14 capacity other than service in an instructional, research, or administrative  
15 capacity in an educational institution, as defined in K.S.A. 44-703(v), and  
16 amendments thereto, if such week begins during the period between two  
17 successive academic years or terms if the individual performs such  
18 services in the first of such academic years or terms and there is a  
19 reasonable assurance that the individual will perform such services in the  
20 second of such academic years or terms, except that if benefits are denied  
21 to the individual under this subsection and the individual was not offered  
22 an opportunity to perform such services for the educational institution for  
23 the second of such academic years or terms, such individual shall be  
24 entitled to a retroactive payment of benefits for each week for which the  
25 individual filed a timely claim for benefits and for which benefits were  
26 denied solely by reason of this subsection.

27 (k) For any week of unemployment on the basis of service in any  
28 capacity for an educational institution as defined in K.S.A. 44-703(v), and  
29 amendments thereto, if such week begins during an established and  
30 customary vacation period or holiday recess, if the individual performs  
31 services in the period immediately before such vacation period or holiday  
32 recess and there is a reasonable assurance that such individual will perform  
33 such services in the period immediately following such vacation period or  
34 holiday recess.

35 (l) For any week of unemployment on the basis of any services,  
36 substantially all of which consist of participating in sports or athletic  
37 events or training or preparing to so participate, if such week begins during  
38 the period between two successive sport seasons or similar period if such  
39 individual performed services in the first of such seasons or similar periods  
40 and there is a reasonable assurance that such individual will perform such  
41 services in the later of such seasons or similar periods.

42 (m) For any week on the basis of services performed by an alien  
43 unless such alien is an individual who was lawfully admitted for

1 permanent residence at the time such services were performed, was  
2 lawfully present for purposes of performing such services, or was  
3 permanently residing in the United States under color of law at the time  
4 such services were performed, including an alien who was lawfully present  
5 in the United States as a result of the application of the provisions of  
6 section 212(d)(5) of the federal immigration and nationality act. Any data  
7 or information required of individuals applying for benefits to determine  
8 whether benefits are not payable to them because of their alien status shall  
9 be uniformly required from all applicants for benefits. In the case of an  
10 individual whose application for benefits would otherwise be approved, no  
11 determination that benefits to such individual are not payable because of  
12 such individual's alien status shall be made except upon a preponderance  
13 of the evidence.

14 (n) For any week in which an individual is receiving a governmental  
15 or other pension, retirement or retired pay, annuity or other similar  
16 periodic payment under a plan maintained by a base period employer and  
17 to which the entire contributions were provided by such employer, except  
18 that: (1) If the entire contributions to such plan were provided by the base  
19 period employer but such individual's weekly benefit amount exceeds such  
20 governmental or other pension, retirement or retired pay, annuity or other  
21 similar periodic payment attributable to such week, the weekly benefit  
22 amount payable to the individual shall be reduced, but not below zero, by  
23 an amount equal to the amount of such pension, retirement or retired pay,  
24 annuity or other similar periodic payment which is attributable to such  
25 week; ~~or~~ (2) if only a portion of contributions to such plan were provided  
26 by the base period employer, the weekly benefit amount payable to such  
27 individual for such week shall be reduced, but not below zero, by the  
28 prorated weekly amount of the pension, retirement or retired pay, annuity  
29 or other similar periodic payment after deduction of that portion of the  
30 pension, retirement or retired pay, annuity or other similar periodic  
31 payment that is directly attributable to the percentage of the contributions  
32 made to the plan by such individual; ~~or~~ (3) if the entire contributions to the  
33 plan were provided by such individual, or by the individual and an  
34 employer, or any person or organization, who is not a base period  
35 employer, no reduction in the weekly benefit amount payable to the  
36 individual for such week shall be made under this subsection; or (4)  
37 whatever portion of contributions to such plan were provided by the base  
38 period employer, if the services performed for the employer by such  
39 individual during the base period, or remuneration received for the  
40 services, did not affect the individual's eligibility for, or increased the  
41 amount of, such pension, retirement or retired pay, annuity or other similar  
42 periodic payment, no reduction in the weekly benefit amount payable to  
43 the individual for such week shall be made under this subsection. No

1 reduction shall be made for payments made under the social security act or  
2 railroad retirement act of 1974.

3 (o) For any week of unemployment on the basis of services  
4 performed in any capacity and under any of the circumstances described in  
5 subsection (i), (j) or (k)—~~which~~ *that* an individual performed in an  
6 educational institution while in the employ of an educational service  
7 agency. For the purposes of this subsection, the term "educational service  
8 agency" means a governmental agency or entity which is established and  
9 operated exclusively for the purpose of providing such services to one or  
10 more educational institutions.

11 (p) For any week of unemployment on the basis of service as a school  
12 bus or other motor vehicle driver employed by a private contractor to  
13 transport pupils, students and school personnel to or from school-related  
14 functions or activities for an educational institution, as defined in K.S.A.  
15 44-703(v), and amendments thereto, if such week begins during the period  
16 between two successive academic years or during a similar period between  
17 two regular terms, whether or not successive, if the individual has a  
18 contract or contracts, or a reasonable assurance thereof, to perform  
19 services in any such capacity with a private contractor for any educational  
20 institution for both such academic years or both such terms. An individual  
21 shall not be disqualified for benefits as provided in this subsection for any  
22 week of unemployment on the basis of service as a bus or other motor  
23 vehicle driver employed by a private contractor to transport persons to or  
24 from nonschool-related functions or activities.

25 (q) For any week of unemployment on the basis of services  
26 performed by the individual in any capacity and under any of the  
27 circumstances described in subsection (i), (j), (k) or (o)—~~which~~ *that* are  
28 provided to or on behalf of an educational institution, as defined in K.S.A.  
29 44-703(v), and amendments thereto, while the individual is in the employ  
30 of an employer which is a governmental entity, Indian tribe or any  
31 employer described in section 501(c)(3) of the federal internal revenue  
32 code of 1986 which is exempt from income under section 501(a) of the  
33 code.

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

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

41 (2) the individual is attending approved training as defined in K.S.A.  
42 44-703(s), and amendments thereto; or

43 (3) the individual is attending evening, weekend or limited day time

1 classes, which would not affect availability for work, and is otherwise  
2 eligible under K.S.A. 44-705(c), and amendments thereto.

3 (s) For any week with respect to which an individual is receiving or  
4 has received remuneration in the form of a back pay award or settlement.  
5 The remuneration shall be allocated to the week or weeks in the manner as  
6 specified in the award or agreement, or in the absence of such specificity  
7 in the award or agreement, such remuneration shall be allocated to the  
8 week or weeks in which such remuneration, in the judgment of the  
9 secretary, would have been paid.

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

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

20 (t) (1) Any applicant for or recipient of unemployment benefits who  
21 tests positive for unlawful use of a controlled substance or controlled  
22 substance analog shall be required to complete a substance abuse treatment  
23 program approved by the secretary of labor, secretary of commerce or  
24 secretary for children and families, and a job skills program approved by  
25 the secretary of labor, secretary of commerce or the secretary for children  
26 and families. Subject to applicable federal laws, any applicant for or  
27 recipient of unemployment benefits who fails to complete or refuses to  
28 participate in the substance abuse treatment program or job skills program  
29 as required under this subsection shall be ineligible to receive  
30 unemployment benefits until completion of such substance abuse  
31 treatment and job skills programs. Upon completion of both substance  
32 abuse treatment and job skills programs, such applicant for or recipient of  
33 unemployment benefits may be subject to periodic drug screening, as  
34 determined by the secretary of labor. Upon a second positive test for  
35 unlawful use of a controlled substance or controlled substance analog, an  
36 applicant for or recipient of unemployment benefits shall be ordered to  
37 complete again a substance abuse treatment program and job skills  
38 program, and shall be terminated from unemployment benefits for a period  
39 of 12 months, or until such applicant for or recipient of unemployment  
40 benefits completes both substance abuse treatment and job skills programs,  
41 whichever is later. Upon a third positive test for unlawful use of a  
42 controlled substance or controlled substance analog, an applicant for or a  
43 recipient of unemployment benefits shall be terminated from receiving

1 unemployment benefits, subject to applicable federal law.

2 (2) Any individual who has been discharged or refused employment  
3 for failing a preemployment drug screen required by an employer may  
4 request that the drug screening specimen be sent to a different drug testing  
5 facility for an additional drug screening. Any such individual who requests  
6 an additional drug screening at a different drug testing facility shall be  
7 required to pay the cost of drug screening.

8 (3) *The provisions of this subsection shall not apply to any individual*  
9 *who is a registered patient pursuant to section 8, and amendments thereto,*  
10 *for activities authorized by the Kansas medical marijuana regulation act,*  
11 *section 1 et seq., and amendments thereto.*

12 (u) If the individual was found not to have a disqualifying  
13 adjudication or conviction under K.S.A. 39-970 or 65-5117, and  
14 amendments thereto, was hired and then was subsequently convicted of a  
15 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments  
16 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and  
17 amendments thereto. The disqualification shall begin the day following the  
18 separation and shall continue until after the individual becomes  
19 reemployed and has had earnings from insured work of at least three times  
20 the individual's determined weekly benefit amount.

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

28 Sec. 66. K.S.A. 44-1009 is hereby amended to read as follows: 44-  
29 1009. (a) It shall be an unlawful employment practice:

30 (1) For an employer, because of the race, religion, color, sex,  
31 disability, national origin or ancestry of any person to refuse to hire or  
32 employ such person to bar or discharge such person from employment or  
33 to otherwise discriminate against such person in compensation or in terms,  
34 conditions or privileges of employment; to limit, segregate, separate,  
35 classify or make any distinction in regards to employees; or to follow any  
36 employment procedure or practice which, in fact, results in discrimination,  
37 segregation or separation without a valid business necessity.

38 (2) For a labor organization, because of the race, religion, color, sex,  
39 disability, national origin or ancestry of any person, to exclude or to expel  
40 from its membership such person or to discriminate in any way against any  
41 of its members or against any employer or any person employed by an  
42 employer.

43 (3) For any employer, employment agency or labor organization to

1 print or circulate or cause to be printed or circulated any statement,  
2 advertisement or publication, or to use any form of application for  
3 employment or membership or to make any inquiry in connection with  
4 prospective employment or membership, which expresses, directly or  
5 indirectly, any limitation, specification or discrimination as to race,  
6 religion, color, sex, disability, national origin or ancestry, or any intent to  
7 make any such limitation, specification or discrimination, unless based on  
8 a bona fide occupational qualification.

9 (4) For any employer, employment agency or labor organization to  
10 discharge, expel or otherwise discriminate against any person because such  
11 person has opposed any practices or acts forbidden under this act or  
12 because such person has filed a complaint, testified or assisted in any  
13 proceeding under this act.

14 (5) For an employment agency to refuse to list and properly classify  
15 for employment or to refuse to refer any person for employment or  
16 otherwise discriminate against any person because of such person's race,  
17 religion, color, sex, disability, national origin or ancestry; or to comply  
18 with a request from an employer for a referral of applicants for  
19 employment if the request expresses, either directly or indirectly, any  
20 limitation, specification or discrimination as to race, religion, color, sex,  
21 disability, national origin or ancestry.

22 (6) For an employer, labor organization, employment agency, or  
23 school which provides, coordinates or controls apprenticeship, on-the-job,  
24 or other training or retraining program, to maintain a practice of  
25 discrimination, segregation or separation because of race, religion, color,  
26 sex, disability, national origin or ancestry, in admission, hiring,  
27 assignments, upgrading, transfers, promotion, layoff, dismissal,  
28 apprenticeship or other training or retraining program, or in any other  
29 terms, conditions or privileges of employment, membership,  
30 apprenticeship or training; or to follow any policy or procedure which, in  
31 fact, results in such practices without a valid business motive.

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

35 (8) For an employer, labor organization, employment agency or joint  
36 labor-management committee to:

37 (A) Limit, segregate or classify a job applicant or employee in a way  
38 that adversely affects the opportunities or status of such applicant or  
39 employee because of the disability of such applicant or employee;

40 (B) participate in a contractual or other arrangement or relationship,  
41 including a relationship with an employment or referral agency, labor  
42 union, an organization providing fringe benefits to an employee or an  
43 organization providing training and apprenticeship programs that has the

1 effect of subjecting a qualified applicant or employee with a disability to  
2 the discrimination prohibited by this act;

3 (C) utilize standards criteria, or methods of administration that have  
4 the effect of discrimination on the basis of disability or that perpetuate the  
5 discrimination of others who are subject to common administrative  
6 control;

7 (D) exclude or otherwise deny equal jobs or benefits to a qualified  
8 individual because of the known disability of an individual with whom the  
9 qualified individual is known to have a relationship or association;

10 (E) not make reasonable accommodations to the known physical or  
11 mental limitations of an otherwise qualified individual with a disability  
12 who is an applicant or employee, unless such employer, labor organization,  
13 employment agency or joint labor-management committee can  
14 demonstrate that the accommodation would impose an undue hardship on  
15 the operation of the business thereof;

16 (F) deny employment opportunities to a job applicant or employee  
17 who is an otherwise qualified individual with a disability, if such denial is  
18 based on the need to make reasonable accommodation to the physical or  
19 mental impairments of the employee or applicant;

20 (G) use qualification standards, employment tests or other selection  
21 criteria that screen out or tend to screen out an individual with a disability  
22 or a class of individuals with disabilities unless the standard, test or other  
23 selection criteria, as used, is shown to be job-related for the position in  
24 question and is consistent with business necessity; or

25 (H) fail to select and administer tests concerning employment in the  
26 most effective manner to ensure that, when such test is administered to a  
27 job applicant or employee who has a disability that impairs sensory,  
28 manual or speaking skills, the test results accurately reflect the skills,  
29 aptitude or whatever other factor of such applicant or employee that such  
30 test purports to measure, rather than reflecting the impaired sensory,  
31 manual or speaking skills of such employee or applicant-~~(, except where~~  
32 such skills are the factors that the test purports to measure).

33 (9) For any employer to:

34 (A) Seek to obtain, to obtain or to use genetic screening or testing  
35 information of an employee or a prospective employee to distinguish  
36 between or discriminate against or restrict any right or benefit otherwise  
37 due or available to an employee or a prospective employee; or

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

40 (10) (A) *For an employer, because a person is a registered patient or*  
41 *caregiver pursuant to section 8, and amendments thereto, or possesses or*  
42 *uses medical marijuana in accordance with the Kansas medical marijuana*  
43 *regulation act, section 1 et seq., and amendments thereto, to:*

1       (i) Refuse to hire or employ a person;  
2       (ii) bar or discharge such person from employment; or  
3       (iii) otherwise discriminate against such person in compensation or  
4 in terms, conditions or privileges of employment without a valid business  
5 necessity.

6       (B) For a labor organization, because a person is a registered patient  
7 or caregiver pursuant to section 8, and amendments thereto, or possesses  
8 or uses medical marijuana in accordance with the Kansas medical  
9 marijuana regulation act, section 1 et seq., and amendments thereto, to  
10 exclude or expel such person from its membership.

11       (C) Nothing in this paragraph shall be construed to prohibit a person  
12 from taking any action necessary to procure or retain any monetary  
13 benefit provided under federal law, or any rules and regulations adopted  
14 thereunder; or to obtain or maintain any license, certificate, registration  
15 or other legal status issued or bestowed under federal law, or any rules  
16 and regulations adopted thereunder.

17       (D) Nothing in this paragraph shall be construed to provide a cause  
18 of action against an employer for wrongful discharge or discrimination for  
19 the unlawful use of marijuana.

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

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

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

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

35       (3) For any person, to refuse, deny, make a distinction, directly or  
36 indirectly, or discriminate in any way against persons because of the race,  
37 religion, color, sex, disability, national origin or ancestry of such persons  
38 in the full and equal use and enjoyment of the services, facilities,  
39 privileges and advantages of any institution, department or agency of the  
40 state of Kansas or any political subdivision or municipality thereof.

41       Sec. 67. K.S.A. 44-1015 is hereby amended to read as follows: 44-  
42 1015. As used in this act, unless the context otherwise requires:

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

- 1 (b) "Real property" means and includes:  
2 (1) All vacant or unimproved land; and  
3 (2) any building or structure ~~which~~ *that* is occupied or designed or  
4 intended for occupancy, or any building or structure having a portion  
5 thereof ~~which~~ *that* is occupied or designed or intended for occupancy.
- 6 (c) "Family" includes a single individual.
- 7 (d) "Person" means an individual, corporation, partnership,  
8 association, labor organization, legal representative, mutual company,  
9 joint-stock company, trust, unincorporated organization, trustee, trustee in  
10 bankruptcy, receiver and fiduciary.
- 11 (e) "To rent" means to lease, to sublease, to let and otherwise to grant  
12 for a consideration the right to occupy premises not owned by the  
13 occupant.
- 14 (f) "Discriminatory housing practice" means any act that is unlawful  
15 under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto, *or*  
16 *section 54, and amendments thereto.*
- 17 (g) "Person aggrieved" means any person who claims to have been  
18 injured by a discriminatory housing practice or believes that such person  
19 will be injured by a discriminatory housing practice that is about to occur.
- 20 (h) "Disability" ~~has the meaning provided by~~ *means the same as*  
21 *defined in K.S.A. 44-1002, and amendments thereto.*
- 22 (i) "Familial status" means having one or more individuals less than  
23 18 years of age domiciled with:  
24 (1) A parent or another person having legal custody of such  
25 individual or individuals; or  
26 (2) the designee of such parent or other person having such custody,  
27 with the written permission of such parent or other person.
- 28 Sec. 68. K.S.A. 2020 Supp. 65-1120 is hereby amended to read as  
29 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may  
30 deny, revoke, limit or suspend any license or authorization to practice  
31 nursing as a registered professional nurse, as a licensed practical nurse, as  
32 an advanced practice registered nurse or as a registered nurse anesthetist  
33 that is issued by the board or applied for under this act, or may require the  
34 licensee to attend a specific number of hours of continuing education in  
35 addition to any hours the licensee may already be required to attend or  
36 may publicly or privately censure a licensee or holder of a temporary  
37 permit or authorization, if the applicant, licensee or holder of a temporary  
38 permit or authorization is found after hearing:  
39 (1) To be guilty of fraud or deceit in practicing nursing or in  
40 procuring or attempting to procure a license to practice nursing;  
41 (2) to have been guilty of a felony or to have been guilty of a  
42 misdemeanor involving an illegal drug offense unless the applicant or  
43 licensee establishes sufficient rehabilitation to warrant the public trust,

1 except that notwithstanding K.S.A. 74-120, and amendments thereto, no  
2 license or authorization to practice nursing as a licensed professional  
3 nurse, as a licensed practical nurse, as an advanced practice registered  
4 nurse or registered nurse anesthetist shall be granted to a person with a  
5 felony conviction for a crime against persons as specified in article 34 of  
6 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article  
7 54 of chapter 21 of the Kansas Statutes Annotated, *and amendments*  
8 *thereto*, or K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and  
9 amendments thereto;

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

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

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

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

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

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

25 (9) to have a license to practice nursing as a registered nurse or as a  
26 practical nurse denied, revoked, limited or suspended, or to be publicly or  
27 privately censured, by a licensing authority of another state, agency of the  
28 United States government, territory of the United States or country or to  
29 have other disciplinary action taken against the applicant or licensee by a  
30 licensing authority of another state, agency of the United States  
31 government, territory of the United States or country. A certified copy of  
32 the record or order of public or private censure, denial, suspension,  
33 limitation, revocation or other disciplinary action of the licensing authority  
34 of another state, agency of the United States government, territory of the  
35 United States or country shall constitute prima facie evidence of such a  
36 fact for purposes of this paragraph~~(9)~~; or

37 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to  
38 its repeal, or K.S.A. 2020 Supp. 21-5407, and amendments thereto, as  
39 established by any of the following:

40 (A) A copy of the record of criminal conviction or plea of guilty for a  
41 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2020  
42 Supp. 21-5407, and amendments thereto.

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

1 violating an injunction issued under K.S.A. 2020 Supp. 60-4404, and  
2 amendments thereto.

3 (C) A copy of the record of a judgment assessing damages under  
4 K.S.A. 2020 Supp. 60-4405, and amendments thereto.

5 (b) *Proceedings*. Upon filing of a sworn complaint with the board  
6 charging a person with having been guilty of any of the unlawful practices  
7 specified in subsection (a), two or more members of the board shall  
8 investigate the charges, or the board may designate and authorize an  
9 employee or employees of the board to conduct an investigation. After  
10 investigation, the board may institute charges. If an investigation, in the  
11 opinion of the board, reveals reasonable grounds for believing the  
12 applicant or licensee is guilty of the charges, the board shall fix a time and  
13 place for proceedings, which shall be conducted in accordance with the  
14 provisions of the Kansas administrative procedure act.

15 (c) *Witnesses*. No person shall be excused from testifying in any  
16 proceedings before the board under this act or in any civil proceedings  
17 under this act before a court of competent jurisdiction on the ground that  
18 such testimony may incriminate the person testifying, but such testimony  
19 shall not be used against the person for the prosecution of any crime under  
20 the laws of this state except the crime of perjury as defined in K.S.A. 2020  
21 Supp. 21-5903, and amendments thereto.

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

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

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

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

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

43 (f) *Criminal justice information*. The board upon request shall receive

1 from the Kansas bureau of investigation such criminal history record  
2 information relating to arrests and criminal convictions as necessary for  
3 the purpose of determining initial and continuing qualifications of  
4 licensees of and applicants for licensure by the board.

5 (g) *Medical marijuana exemption. The board shall not:*

6 (1) *Deny, revoke, limit or suspend the license of any licensee or*  
7 *publicly or privately censure any licensee for any actions as a registered*  
8 *patient or caregiver pursuant to section 8, and amendments thereto,*  
9 *including whether the licensee possesses or has possessed, or uses or has*  
10 *used medical marijuana in accordance with the Kansas medical*  
11 *marijuana regulation act, section 1 et seq., and amendments thereto; or*

12 (2) *deny, revoke, limit or suspend an advanced practice registered*  
13 *nurse's license or publicly or privately censure an advanced practice*  
14 *registered nurse for any of the following:*

15 (A) *The advanced practice registered nurse has:*

16 (i) *Advised a patient about the possible benefits and risks of using*  
17 *medical marijuana; or*

18 (ii) *advised a patient that using medical marijuana may mitigate the*  
19 *patient's symptoms; or*

20 (B) *the advanced practice registered nurse is a registered patient or*  
21 *caregiver pursuant to section 8, and amendments thereto, possesses or has*  
22 *possessed, or uses or has used medical marijuana in accordance with the*  
23 *Kansas medical marijuana regulation act, section 1 et seq., and*  
24 *amendments thereto.*

25 Sec. 69. K.S.A. 65-28b08 is hereby amended to read as follows: 65-  
26 28b08. (a) The board may deny, revoke, limit or suspend any license or  
27 authorization issued to a certified nurse-midwife to engage in the  
28 independent practice of midwifery that is issued by the board or applied  
29 for under this act, or may publicly censure a licensee or holder of a  
30 temporary permit or authorization, if the applicant or licensee is found  
31 after a hearing:

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

35 (2) to have been found guilty of a felony or to have been found guilty  
36 of a misdemeanor involving an illegal drug offense unless the applicant or  
37 licensee establishes sufficient rehabilitation to warrant the public trust,  
38 except that notwithstanding K.S.A. 74-120, and amendments thereto, no  
39 license or authorization to practice and engage in the independent practice  
40 of midwifery shall be granted to a person with a felony conviction for a  
41 crime against persons as specified in article 34 of chapter 21 of the Kansas  
42 Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the  
43 Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2020 Supp.

1 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

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

4 (4) to be unable to practice the healing arts with reasonable skill and  
5 safety by reason of impairment due to physical or mental illness or  
6 condition or use of alcohol, drugs or controlled substances. All  
7 information, reports, findings and other records relating to impairment  
8 shall be confidential and not subject to discovery or release to any person  
9 or entity outside of a board proceeding. The provisions of this paragraph  
10 providing confidentiality of records shall expire on July 1, 2022, unless the  
11 legislature reviews and reenacts such provisions pursuant to K.S.A. 45-  
12 229, and amendments thereto, prior to July 1, 2022;

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

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

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

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

33 (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its  
34 repeal, or K.S.A. 2020 Supp. 21-5407, and amendments thereto, as  
35 established by any of the following:

36 (A) A copy of the record of criminal conviction or plea of guilty to a  
37 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2020  
38 Supp. 21-5407, and amendments thereto;

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

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

1 (b) No person shall be excused from testifying in any proceedings  
 2 before the board under this act or in any civil proceedings under this act  
 3 before a court of competent jurisdiction on the ground that such testimony  
 4 may incriminate the person testifying, but such testimony shall not be used  
 5 against the person for the prosecution of any crime under the laws of this  
 6 state, except the crime of perjury as defined in K.S.A. 2020 Supp. 21-  
 7 5903, and amendments thereto.

8 (c) *The board shall not deny, revoke, limit or suspend any license or*  
 9 *authorization issued to a certified nurse-midwife or publicly censure a*  
 10 *certified nurse-midwife upon any of the following:*

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

12 (A) *Advised a patient about the possible benefits and risks of using*  
 13 *medical marijuana; or*

14 (B) *advised the patient that using medical marijuana may mitigate*  
 15 *the patient's symptoms; or*

16 (2) *the certified nurse-midwife is a registered patient or caregiver*  
 17 *pursuant to section 8, and amendments thereto, possesses or has*  
 18 *possessed, or uses or has used medical marijuana in accordance with the*  
 19 *Kansas medical marijuana regulation act, section 1 et seq., and*  
 20 *amendments thereto.*

21 (d) As used in this section, "professional incompetency" means:

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

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

28 (3) a pattern of practice or other behavior ~~which~~ that demonstrates a  
 29 manifest incapacity or incompetence to engage in the independent practice  
 30 of midwifery.

31 ~~(d)~~(e) The board, upon request, shall receive from the Kansas bureau  
 32 of investigation such criminal history record information relating to arrests  
 33 and criminal convictions, as necessary, for the purpose of determining  
 34 initial and continuing qualifications of licensees and applicants for  
 35 licensure by the board.

36 ~~(e)~~ The provisions of this section shall become effective on January 1,  
 37 2017.

38 Sec. 70. K.S.A. 79-5201 is hereby amended to read as follows: 79-  
 39 5201. As used in ~~this act~~ *article 52 of chapter 79 of the Kansas Statutes*  
 40 *Annotated, and amendments thereto:*

41 (a) ~~"Marijuana" means any marijuana, whether real or counterfeit, as~~  
 42 ~~defined by K.S.A. 2020 Supp. 21-5701, and amendments thereto, which is~~  
 43 ~~held, possessed, transported, transferred, sold or offered to be sold in~~

1 violation of the laws of Kansas;

2 (b)—"Controlled substance" means any drug or substance, whether real  
3 or counterfeit, as defined by K.S.A. 2020 Supp. 21-5701, and amendments  
4 thereto, ~~which~~ *that* is held, possessed, transported, transferred, sold or  
5 offered to be sold in violation of the laws of Kansas. Such term shall not  
6 include marijuana;

7 (e)(b) "dealer" means any person who, in violation of Kansas law,  
8 manufactures, produces, ships, transports or imports into Kansas or in any  
9 manner acquires or possesses more than 28 grams of marijuana, or more  
10 than one gram of any controlled substance, or 10 or more dosage units of  
11 any controlled substance ~~which~~ *that* is not sold by weight;

12 (d)(c) "domestic marijuana plant" means any cannabis plant at any  
13 level of growth ~~which~~ *that* is harvested or tended, manicured, irrigated,  
14 fertilized or where there is other evidence that it has been treated in any  
15 other way in an effort to enhance growth;

16 (d) "*marijuana*" means any marijuana, whether real or counterfeit,  
17 as defined in K.S.A. 2020 Supp. 21-5701, and amendments thereto, that is  
18 held, possessed, transported, transferred, sold or offered for sale in  
19 violation of the laws of Kansas; and

20 (e) "*medical marijuana*" means the same as defined in section 2, and  
21 amendments thereto.

22 Sec. 71. K.S.A. 79-5210 is hereby amended to read as follows: 79-  
23 5210. Nothing in this act requires persons registered under article 16 of  
24 chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*, or  
25 otherwise lawfully in possession of marijuana, *medical marijuana* or a  
26 controlled substance to pay the tax required under this act.

27 Sec. 72. K.S.A. 44-1009, 44-1015, 65-28b08, 79-5201 and 79-5210  
28 and K.S.A. 2020 Supp. 19-101a, 21-5703, 21-5705, 21-5706, 21-5707, 21-  
29 5709, 21-5710, 23-3201, 38-2269, 44-501, 44-706 and 65-1120 are hereby  
30 repealed.

31 Sec. 73. This act shall take effect and be in force from and after its  
32 publication in the statute book.