

2022 South Dakota Legislature

House Bill 1045**AMENDMENT 1045G FOR THE INTRODUCED BILL**

1 **An Act to to provide for the use and regulated sale of marijuana, and to**
2 **imposeincrease a tax on the ~~gross receipts of all sales~~ sale of marijuana, and**
3 **to distribute a ~~portion of~~ that revenue to counties.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **~~Section 1. That chapter 10-45 be amended with a NEW SECTION:~~**

6

7 ~~The department shall appropriate may expend so much of the revenue collected pursuant to~~
8 ~~section 1 section 4 of this Act to cover the costs incurred by the department in carrying out~~
9 ~~its duties to collect the revenue pursuant to section 1 section 4 of this Act.~~

10 ~~If the remaining revenue does not exceed ten million dollars in a tax year, the remaining~~
11 ~~revenue must be deposited into the state general fund.~~

12 ~~If the remaining revenue exceeds ten million dollars in a tax year, fiftyFifty percent of the~~
13 ~~remaining revenue must be divided proportionally amongst the counties based on where the~~
14 ~~revenue was generated. The revenue must be distributed to the county by September first of~~
15 ~~each year to be used for the construction, repair, and renovation of courthouses, jails, county~~
16 ~~roads, bridges, with any revenue not used for these purposes to be used to reduce the~~
17 ~~property tax levy in the county. The remaining fifty percent of revenue must be deposited~~
18 ~~into the state general fund purposes set forth in section 2 of this Act.~~

19 **Section 1. That chapter 10-45 be amended with a NEW SECTION:**

20 Each county shall use the revenue distributed under ~~section 2~~ section 4 of this Act
21 for necessary expenses incurred by the county under the provisions of chapters 7-12, 7-
22 16, 7-16A, and 23A-40.

1 **Section 2. That a NEW SECTION be added to title 10:**

2 Terms used in this chapter mean:

3 ~~(1) "Average Market Rate," the average prices as determined by the department,~~
4 ~~pursuant to section 4 of this Act, based on all marijuana sold or transferred from~~
5 ~~manufacturers to unaffiliated marijuana facilities.~~

6 ~~(2)(1) "Dispensary," a licensed entity that acquires, possesses, stores, delivers, transfers,~~
7 ~~transports, sells, supplies, or dispenses marijuana, marijuana products, and~~
8 ~~related supplies to a consumer;~~

9 ~~(3) "Manufacturer," a licensed entity that acquires, possesses, manufactures, delivers,~~
10 ~~transfers, transports, supplies, or sells marijuana products to a marijuana facility;~~

11 ~~(4) "Marijuana facility," an entity licensed to cultivate, test, manufacture, or dispense~~
12 ~~marijuana or marijuana products;~~

13 ~~(5)(2) "Marijuana," as defined in § 22-42-1;~~

14 ~~(6)(3) "Marijuana concentrate," the resin extracted from any part of a marijuana plant~~
15 ~~and every compound, manufacture, salt, derivative, mixture, or preparation from~~
16 ~~such resin;~~

17 ~~(6)(4) "Marijuana product," any product infused with marijuana concentrate and intended~~
18 ~~for use or consumption by humans.~~

19 **Section 3. That a NEW SECTION be added to title 10:**

20 ~~There is hereby levied an excise tax on the first sale or transfer of unprocessed~~
21 ~~marijuana by a marijuana cultivation facility, at a rate of fifteen percent of the average~~
22 ~~market rate of the unprocessed marijuana if the transaction is between affiliated~~
23 ~~marijuana business licensees. There is levied a tax on the first sale or transfer of~~
24 ~~unprocessed marijuana by a marijuana cultivation facility, at a rate of fifteen percent of~~
25 ~~the contract price for unprocessed marijuana if the transaction is between unaffiliated~~
26 ~~retail marijuana business licensees. Marijuana excise tax shall also be calculated as fifteen~~
27 ~~percent of the contract price when the first transfer of marijuana that has been harvested~~
28 ~~for sale at a retail marijuana store or extraction by a marijuana product manufacturing~~
29 ~~facility is between unaffiliated retail marijuana cultivation facilities. The tax shall be~~
30 ~~imposed at the time when the marijuana cultivation facility first sells or transfers~~
31 ~~unprocessed marijuana from the marijuana cultivation facility to a marijuana product~~
32 ~~manufacturing facility or a marijuana store. This tax is in lieu of the tax imposed pursuant~~
33 ~~to § 10-45-2. The Department shall establish, by rules adopted under chapter 1-26, the~~

1 ~~method for calculating the average market rate.~~ There is imposed an excise tax at the
2 ~~rate of eight and one-half percent on the gross receipts from the sale of marijuana,~~
3 ~~marijuana concentrate, and marijuana products by a dispensary. The excise tax imposed~~
4 ~~under this chapter does not apply to gross receipts from the sale of marijuana, marijuana~~
5 ~~concentrate, and marijuana products to a cardholder as defined in § 34-20G-1(6).~~

6 **Section 4. That a NEW SECTION be added to title 10:**

7 ~~Each manufacturer liable for the payment of taxes levied under this chapter shall~~
8 ~~file with the secretary of revenue a return, on a form prescribed by the secretary, showing~~
9 ~~the kind and quantity of marijuana manufactured, received, and in the manufacturer's~~
10 ~~possession, together with the names of the persons from whom received, the amount of~~
11 ~~tax due, and any other information prescribed by the secretary. The return, covering the~~
12 ~~period of one calendar month, together with payment of the tax due, must be transmitted~~
13 ~~to the Department of Revenue on or before the twenty fifth day of the second month~~
14 ~~following the close of the reporting period. A violation of this section is a Class 1~~
15 ~~misdemeanor. The excise tax revenue collected pursuant to section 3 of this Act must be~~
16 ~~divided proportionally amongst the counties based on where the revenue was generated.~~
17 ~~The revenue must be distributed to the county by September first of each year to be used~~
18 ~~for the purposes set forth in section 1 of this Act.~~

19 **Section 5. That a NEW SECTION be added to title 10:**

20 ~~Any manufacturer required to file returns or reports under this chapter, who fails~~
21 ~~to file a return or report or pay the tax when due, is subject to interest and penalty at the~~
22 ~~rates set forth in § 10-59-6. For reasonable cause shown, the secretary of revenue may~~
23 ~~reduce or eliminate the penalty. If any manufacturer files a false or fraudulent return, an~~
24 ~~amount equal to the tax evaded, or attempted to be evaded, shall be added to the tax.~~
25 ~~Penalty and interest are considered the same as tax for the purposes of collection and~~
26 ~~enforcement, including liens, distress warrants, and criminal violations. Any payment~~
27 ~~received for taxes, penalty, or interest is applied first to tax, beginning with the oldest~~
28 ~~delinquency, then to interest, and then to penalty. No court may enjoin the collection of~~
29 ~~the tax or civil penalty. The excise tax imposed under section 3 of this Act shall be collected~~
30 ~~and remitted pursuant to chapter 10-45 and administered pursuant to chapter 10-59~~

31 **Section 7. That a NEW SECTION be added to title 10:**

1 ~~Any manufacturer liable for the payment of the taxes shall keep, in current and available form~~
2 ~~on the licensed premises, records of all purchases, sales, quantities on hand, and any other~~
3 ~~information the secretary of revenue may prescribe by rule promulgated pursuant to chapter~~
4 ~~1-26. The secretary of revenue may require from a manufacturer any report necessary to~~
5 ~~administer the requirements of this chapter. The secretary may require the production of any~~
6 ~~book, record, document, invoice, and voucher kept, maintained, received, or issued by the~~
7 ~~manufacturer in connection with the manufacturer's business that, in the judgment of the~~
8 ~~secretary, may be necessary to administer and discharge the secretary's duties, to secure the~~
9 ~~maximum of revenue to be paid, and to carry out the requirements of this chapter. A violation~~
10 ~~of this section is a Class 1 misdemeanor.~~

11 **Section 6. That a NEW SECTION be added to title 10:**

12 There is hereby created within the state treasury the marijuana fund into which all
13 funds collected under this chapter shall be deposited.

14 **Section 7. That § 22-42-1 be AMENDED:**

15 **22-42-1.** Terms used in this chapter mean:

- 16 (1) "Controlled drug or substance," a drug or substance, or an immediate precursor of
17 a drug or substance, listed in Schedules I through IV. The term includes an altered
18 state of a drug or substance listed in Schedules I through IV absorbed into the
19 human body;
- 20 (2) "Counterfeit substance," a controlled drug or substance which, or the container of
21 labeling of which, without authorization, bears the trade-mark, trade name, or
22 other identifying mark, imprint, number, or device, or any likeness thereof, of a
23 manufacturer, distributor, or dispenser other than the person or persons who
24 manufactured, distributed, or dispensed such substance and which thereby falsely
25 purports or is represented to be the product of, or to have been distributed by,
26 such other manufacturer, distributor, or dispenser;
- 27 (3) "Deliver" ~~or "delivery,"~~ the actual or constructive transfer of a controlled drug,
28 substance, or marijuana whether or not there exists an agency relationship;
- 29 (4) "Dispense," to deliver a controlled drug or substance to the ultimate user or human
30 research subject by or pursuant to the lawful order of a practitioner, including the
31 prescribing, administering, packaging, labeling, or compounding necessary to
32 prepare the substance for such delivery, and a dispenser is one who dispenses;

- 1 (5) "Distribute," to deliver a controlled drug, substance, or marijuana. Distribution
2 means the delivery of a controlled drug, substance, or marijuana;
- 3 (6) "Equivalent weight" the weight that a given quantity of marijuana products counts
4 against a quantity of marijuana;
- 5 ~~(6)~~(7) "Manufacture," the production, preparation, propagation, compounding, or
6 processing of a controlled drug or substance, either directly or indirectly by
7 extraction from substances of natural origin, or independently by means of
8 chemical synthesis or by a combination of extraction and chemical synthesis. A
9 manufacturer includes any person who packages, repackages, or labels any
10 container of any controlled drug or substance, except practitioners who dispense
11 or compound prescription orders ~~for delivery to deliver~~ to the ultimate user;
- 12 ~~(7)~~(8) "Marijuana," all parts of any plant of the genus cannabis, whether growing or not,
13 in its natural and unaltered state, except for drying or curing and crushing or
14 crumbling. ~~The term includes an altered state of marijuana absorbed into the~~
15 ~~human body.~~ The term does not include fiber produced from the mature stalks of
16 such plant, or oil or cake made from the seeds of such plant. The term does not
17 include the plant Cannabis sativa L. and any part of that plant, including the seeds
18 thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts
19 of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol
20 concentration of not more than three-tenths of one percent on a dry weight basis;
- 21 (9) "Marijuana concentrate," the resin extracted from any part of a marijuana plant
22 and every compound, manufacture, salt, derivative, mixture, or preparation from
23 such resin;
- 24 (10) "Marijuana products," products infused with marijuana concentrate and intended
25 for use or consumption by humans;
- 26 ~~(8)~~(11) "Practitioner," a doctor of medicine, osteopathy, podiatry, dentistry,
27 optometry, or veterinary medicine licensed to practice his profession, or
28 pharmacists licensed to practice their profession; physician's assistants certified to
29 practice their profession; government employees acting within the scope of their
30 employment; and persons permitted by certificates issued by the Department of
31 Health to distribute, dispense, conduct research with respect to, or administer a
32 substance controlled by chapter 34-20B;
- 33 ~~(9)~~(12) "Precursor" or "immediate precursor," a substance which the Department of
34 Health has found to be and by rule designates as being a principal compound
35 commonly used or produced primarily for use, and which is an immediate chemical

1 intermediary used or likely to be used, in the manufacture of a controlled drug or
2 substance, the control of which is necessary to prevent, curtail, or limit such
3 manufacture;

4 ~~(10)~~(13) "Schedule I," "Schedule II," "Schedule III," and "Schedule IV," those
5 schedules of drugs, substances, and immediate precursors listed in chapter 34-
6 20B;

7 ~~(11)~~(14) "Ultimate user," a person who lawfully possesses a controlled drug or
8 substance for that person's own use or for the use of a member of that person's
9 household or for administration to an animal owned by that person or by a member
10 of that person's household.

11 **Section 8. That § 22-42-6 be AMENDED:**

12 ~~22-42-6. No person may knowingly possess marijuana. No person under the age~~
13 ~~of twenty-one may knowingly possess marijuana. It is a Class 1~~Class 2 ~~misdemeanor for~~
14 ~~any person under the age of twenty-one to possess two ounces of marijuana or marijuana~~
15 ~~in quantities less than four ounces of marijuana, including an equivalent weight of~~
16 ~~marijuana products. It is a Class 6 felony for any person under the age of twenty-one to~~
17 ~~possess four or more ounces of marijuana, including an equivalent weight of marijuana~~
18 ~~products. It is a Class 2 misdemeanor for any person twenty-one or older to possess more~~
19 ~~than one ounce but less than four ounces of marijuana, including an equivalent weight of~~
20 ~~marijuana products. It is a Class 6 felony~~Class 1 ~~misdemeanor for any person twenty-one~~
21 ~~or older to possess more than two ounces of marijuana but less than one-half pound~~four
22 to sixteen ounces ~~of marijuana, including an equivalent weight of marijuana products. It~~
23 ~~is a Class 5~~Class 6 ~~felony for any person twenty-one or older to possess one-half pound~~
24 ~~but less than one pound more than sixteen ounces of marijuana, including an equivalent~~
25 ~~weight of marijuana products. It is a Class 4 felony to possess one to ten pounds of~~
26 ~~marijuana. It is a Class 3 felony to possess more than ten pounds of marijuana. A civil~~
27 ~~penalty may be imposed, in addition to any criminal penalty, upon a conviction of a~~
28 ~~violation of this section not to exceed ten thousand dollars. This section does not apply to~~
29 ~~any person licensed or registered with the state to undertake an activity involving the~~
30 ~~possession of marijuana or marijuana products who acts in compliance with the~~
31 authorizing law.

32 **Section 9. That § 22-42-7 be AMENDED:**

1 **22-42-7.** ~~The distribution, or possession with intent to distribute, of less than one-~~
2 ~~half ounce of marijuana without consideration is a Class 1 misdemeanor; otherwise, the~~
3 ~~distribution, or possession with intent to distribute, for consideration, of marijuana in~~
4 ~~quantities one ounce or less than four ounces of marijuana, including an equivalent weight~~
5 ~~of marijuana products, to any person twenty-one or older is a Class 6 felony~~Class 1
6 ~~misdemeanor.~~ The distribution, or possession with intent to distribute, of ~~more than one~~
7 ~~ounce~~four ounces but less than ~~one-half~~ one pound of marijuana, including an equivalent
8 ~~weight of marijuana products, to a person twenty-one or older is a Class 5~~Class 6 felony.
9 The distribution, or possession with intent to distribute, of ~~one-half pound but less than~~
10 ~~one pound~~ or more of marijuana, including an equivalent weight of marijuana products,
11 ~~to a person twenty-one or older, is a Class 4~~Class 5 felony. ~~The distribution, or possession~~
12 ~~with intent to distribute, of one pound or more of marijuana is a Class 3 felony. The~~
13 ~~distribution, or possession with intent to distribute of marijuana, of less than one-half~~
14 ~~ounce of marijuana, including an equivalent weight of marijuana products, to a minor any~~
15 ~~person under the age of twenty-one without consideration is a Class 6 felony~~Class 1
16 ~~misdemeanor; otherwise, the distribution, or possession with intent to distribute, of one~~
17 ~~ounce~~ four ounces or less of marijuana, including an equivalent weight of marijuana
18 ~~products, to a minor any person under the age of twenty-one is a Class 5~~Class 6 felony.
19 The distribution, or possession with intent to distribute, of more than ~~one ounce~~ four
20 ~~ounces~~ but less than ~~one-half~~ one pound of marijuana, including an equivalent weight of
21 ~~marijuana products, to a minor any person under the age of twenty-one is a Class 4~~Class
22 5 felony. ~~The distribution, or possession with intent to distribute, of one-half pound but~~
23 ~~less than one pound of marijuana to a minor is a Class 3 felony. The distribution, or~~
24 ~~possession with intent to distribute, of one pound or more of marijuana, including an~~
25 ~~equivalent weight of marijuana products, to a minor any person under the age of twenty-~~
26 ~~one is a Class 2~~Class 4 felony. ~~A first conviction of a felony under this section shall be~~
27 ~~punished by a mandatory sentence in the state penitentiary or county jail of at least thirty~~
28 ~~days, which sentence may not be suspended. A second or subsequent conviction of a~~
29 ~~felony under this section shall be punished by a mandatory sentence of at least one year.~~
30 ~~Conviction of a Class 1 misdemeanor under this section shall be punished by a mandatory~~
31 ~~sentence in county jail of not less than fifteen days, which sentence may not be~~
32 ~~suspended. A civil penalty, not to exceed ten thousand dollars, may be imposed, in~~
33 ~~addition to any criminal penalty, upon a conviction of a felony violation of this section.~~
34 This section does not apply to any person licensed or registered with the state to undertake

1 an activity involving the distribution, or possession with intent to distribute, of marijuana
2 or marijuana products who acts in compliance with the authorizing law.

3 **Section 10. That chapter 22-42 be amended with a NEW SECTION:**

4 The equivalent weight of the following marijuana products to one ounce of
5 marijuana is:

6 (1) Eight grams net weight of marijuana concentrate in smokable form;

7 (2) Eight grams net weight of vaporizer pens or cartridges;

8 (3) Eight hundred milligrams delta-9 tetrahydrocannabinol in edibles, excluding oils;

9 (4) Five grams net weight of oils in oral dosage syringe or capsule form;

10 (5) Twelve fluid ounces of liquid topical application, including ointment, cream, or
11 lotion;

12 (6) One ounce of dried topical application, included dried plant material or powder; or

13 (7) Eight hundred milligrams delta-9 tetrahydrocannabinol in transdermal patches.

14 **Section 11. That § 22-42-15 be AMENDED:**

15 **22-42-15.** Any person who intentionally ingests, inhales, or otherwise takes into
16 the body any substance, except marijuana, marijuana concentrate, marijuana products,
17 or alcoholic beverages as defined in § 35-1-1, for purposes of becoming intoxicated,
18 unless such substance is prescribed by a practitioner of the medical arts lawfully practicing
19 within the scope of the practitioner's practice, is guilty of a Class 1 misdemeanor. The
20 venue for a violation of this section exists in either the jurisdiction in which the substance
21 was ingested, inhaled, or otherwise taken into the body or the jurisdiction in which the
22 substance was detected in the body of the accused.

23 **Section 12. That § 22-42-24 be AMENDED:**

24 **22-42-24.** While a motor vehicle is located upon a public highway or the right-of-
25 way of a public highway, it is a Class 2 misdemeanor if any person operating or in actual
26 physical control of a motor vehicle smokes or consumes marijuana, ~~or~~ marijuana
27 concentrate, or marijuana products while the vehicle is being operated. ~~For purposes of~~
28 ~~this section and § 22-42-25, marijuana concentrate is the resin extracted from any part~~
29 ~~of a marijuana plant and every compound, manufacture, salt, derivative, mixture, or~~
30 ~~preparation from such resin.~~

31 **Section 13. That chapter 22-42 be amended with a NEW SECTION:**

1 No person may smoke, eat, consume, or vape marijuana, marijuana concentrate,
2 or marijuana products in any public place. A violation of this section is a Class 2
3 misdemeanor. A second or subsequent violation is a Class 1 misdemeanor.

4 **Section 14. That chapter 22-42 be amended with a NEW SECTION:**

5 An employer may prohibit an employee from ingesting cannabis on the work site
6 during work hours. An employer may prohibit an employee from performing work duties
7 while under the influence of cannabis.

8 **Section 15. That § 22-42A-3 be AMENDED:**

9 **22-42A-3.** No person, knowing the drug--related nature of the object, may use or
10 ~~to~~ possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow,
11 harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack,
12 repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the
13 human body any controlled substance ~~or marijuana~~ in violation of this chapter. Any person
14 who violates any provision of this section is guilty of a Class 2 misdemeanor.

15 **Section 16. That § 22-42A-4 be AMENDED:**

16 **22-42A-4.** No person, knowing the drug related nature of the object, may deliver,
17 possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia,
18 knowing, or under circumstances where one reasonably should know, that it will be used
19 to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
20 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
21 inhale, or otherwise introduce into the human body a controlled substance ~~or marijuana~~
22 in violation of this chapter. Any person who violates any provision of this section is guilty
23 of a Class 6 felony.

24 **Section 17. That chapter 22-42A be amended with a NEW SECTION:**

25 For the purposes of this chapter, marijuana, marijuana concentrate, and marijuana
26 products, as defined in § 22-42-1, are not controlled substances.

27 **Section 18. That § 34-20B-1 be AMENDED:**

28 **34-20B-1.** Terms as used in this chapter mean:

- 1 (1) "Administer," to deliver a controlled drug or substance to the ultimate user or
2 human research subject by injection, inhalation, or ingestion, or by any other
3 means;
- 4 (2) "Agent," an authorized person who acts on behalf of or at the direction of a
5 manufacturer, distributor, or dispenser and includes a common or contract carrier,
6 public warehouseman, or employee thereof;
- 7 (3) "Control," to add, remove, or change the placement of a drug, substance, or
8 immediate precursor under §§ 34-20B-27 and 34-20B-28;
- 9 (4) "Counterfeit substance," a controlled drug or substance which, or the container or
10 labeling of which, without authorization, bears the trademark, trade name, or other
11 identifying mark, imprint, number, or device, or any likeness thereof, of a
12 manufacturer, distributor, or dispenser other than the person or persons who
13 manufactured, distributed, or dispensed such substance and which thereby falsely
14 purports or is represented to be the product of, or to have been distributed by,
15 such other manufacturer, distributor, or dispenser;
- 16 (5) "Deliver" or "delivery," the actual, constructive, or attempted transfer of a
17 controlled drug, or substance, ~~or marijuana~~ whether or not there exists an agency
18 relationship;
- 19 (6) "Department," the Department of Health created by chapter 1-43;
- 20 (7) "Dispense," to deliver a controlled drug or substance to the ultimate user or human
21 research subject by or pursuant to the lawful order of a practitioner, including the
22 prescribing, administering, packaging, labeling, or compounding necessary to
23 prepare the substance for such delivery, and a dispenser is one who dispenses;
- 24 (8) "Distribute," to deliver a controlled drug, or substance, ~~or marijuana~~. A distributor
25 is a person who delivers a controlled drug, or substance, ~~or marijuana~~;
- 26 ~~(9) "Hashish," the resin extracted from any part of any plant of the genus cannabis that~~
27 ~~contains a delta-9 tetrahydrocannabinol concentration of more than three tenths~~
28 ~~of one percent on a dry weight basis;~~
- 29 ~~(10)~~(9) "Imprisonment," imprisonment in the state penitentiary unless the penalty
30 specifically provides for imprisonment in the county jail;
- 31 ~~(11)~~(10) "Manufacture," the production, preparation, propagation, compounding, or
32 processing of a controlled drug or substance, either directly or indirectly by
33 extraction from substances of natural origin, or independently by means of
34 chemical synthesis or by a combination of extraction and chemical synthesis. A
35 manufacturer includes any person who packages, repackages, or labels any

1 container of any controlled drug or substance, except practitioners who dispense
2 or compound prescription orders for delivery to the ultimate consumer;

3 ~~(12)~~ "Marijuana," all parts of any plant of the genus *cannabis*, whether growing or not;
4 the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or
5 preparation of such plant or its seeds. The term does not include fiber produced
6 from the mature stalks of the plant, or oil or cake made from the seeds of the
7 plant, or the resin when extracted from any part of the plant or cannabidiol in a
8 drug product approved by the United States Food and Drug Administration. The
9 term does not include the plant *Cannabis sativa* L. and any part of that plant,
10 including the seeds thereof and all derivatives, extracts, cannabinoids, isomers,
11 acids, salts, and salts of isomers, whether growing or not, with a delta-9
12 tetrahydrocannabinol concentration of not more than three tenths of one percent
13 on a dry weight basis;

14 ~~(13)~~(11) "Narcotic drug," any of the following, whether produced directly or indirectly
15 by extraction from substances of vegetable origin or independently by means of
16 chemical synthesis, or by a combination of extraction and chemical synthesis:

17 (a) Opium, coca leaves, and opiates;

18 (b) A compound, manufacture, salt, derivative, or preparation of opium, coca
19 leaves, or opiates;

20 (c) A substance (and any compound, manufacture, salt, derivative, or
21 preparation thereof) which is chemically identical with any of the substances
22 referred to in subsections (a) and (b) of this subdivision;

23 except that the term, narcotic drug, as used in this chapter does not include
24 decocainized coca leaves or extracts of coca leaves, which extracts do not contain
25 cocaine or ecgonine;

26 ~~(14)~~(12) "Opiate" or "Opioid," any controlled drug or substance having an addiction-
27 sustaining liability similar to morphine or being capable of conversion into a drug
28 having such addiction-forming or addiction-sustaining liability;

29 ~~(15)~~(13) "Opium poppy," the plant of the species *papaver somniferum* L., except the
30 seeds thereof;

31 ~~(16)~~(14) "Person," any corporation, association, limited liability company, partnership
32 or one or more individuals;

33 ~~(17)~~(15) "Poppy straw," all parts, except the seeds, of the opium poppy, after mowing;

34 ~~(18)~~(16) "Practitioner," a doctor of medicine, osteopathy, podiatry, optometry,
35 dentistry, or veterinary medicine licensed to practice their profession, or

1 pharmacists licensed to practice their profession; physician assistants certified to
2 practice their profession; certified nurse practitioners, certified nurse midwives,
3 and certified registered nurse anesthetists to practice their profession; government
4 employees acting within the scope of their employment; and persons permitted by
5 certificates issued by the department to distribute, dispense, conduct research with
6 respect to, or administer a substance controlled by this chapter;

7 ~~(19)~~(17) "Prescribe," an order of a practitioner for a controlled drug or substance.

8 ~~(20)~~(18) "Production," the manufacture, planting, cultivation, growing, or harvesting
9 of a controlled drug or substance;

10 ~~(21)~~(19) "State," the State of South Dakota;

11 ~~(22)~~(20) "Ultimate user," a person who lawfully possesses a controlled drug or
12 substance for personal use or for the use of a member of the person's household
13 or for administration to an animal owned by the person or by a member of the
14 person's household;

15 ~~(23)~~(21) "Controlled substance analogue," any of the following:

16 (a) A substance that differs in its chemical structure to a controlled substance
17 listed in or added to the schedule designated in schedule I or II only by
18 substituting one or more hydrogens with halogens or by substituting one
19 halogen with a different halogen; or

20 (b) A substance that is an alkyl homolog of a controlled substance listed in or
21 added to schedule I or II; or

22 (c) A substance intended for human consumption; and

23 (i) The chemical structure of which is substantially similar to the chemical
24 structure of a controlled substance in schedule I or II;

25 (ii) Which has a stimulant, depressant, or hallucinogenic effect on the
26 central nervous system that is substantially similar to or greater than
27 the stimulant, depressant, or hallucinogenic effect on the central
28 nervous system of a controlled substance in schedule I or II; or

29 (iii) With respect to a particular person, which such person represents or
30 intends to have a stimulant, depressant, or hallucinogenic effect on
31 the central nervous system that is substantially similar to or greater
32 than the stimulant, depressant, or hallucinogenic effect on the
33 central nervous system of a controlled substance in schedule I or II;

34 However, the term, controlled substance analogue, does not include a controlled
35 substance or any substance for which there is an approved new drug application.

1 **Section 19. That § 34-20B-14 be AMENDED:**

2 **34-20B-14.** Any material, compound, mixture, or preparation which contains any
3 quantity of the following hallucinogenic substances, their salts, isomers, and salts of
4 isomers, is included in Schedule I, unless specifically excepted, whenever the existence of
5 such salts, isomers, and salts of isomers is possible within the specific chemical
6 designation:

7 (1) Bufotenine;

8 (2) Diethyltryptamine (DET);

9 (3) Dimethyltryptamine (DMT);

10 (4) 5-methoxy-N, N-Dimethyltryptamine (5-MeO-DMT);

11 (5) 5-methoxy-3, 4-methylenedioxy amphetamine;

12 (6) 4-bromo-2, 5-dimethoxyamphetamine;

13 (7) 4-methoxyamphetamine;

14 (8) 4-methoxymethamphetamine;

15 (9) 4-methyl-2, 5-dimethoxyamphetamine;

16 ~~(10) Hashish and hash oil;~~

17 ~~(11)~~(10) Ibogaine;

18 ~~(12)~~(11) Lysergic acid diethylamide;

19 ~~(13)~~(12) Mescaline;

20 ~~(14)~~(13) N-ethyl-3-piperidyl benzilate;

21 ~~(15)~~(14) N-methyl-3-piperidyl benzilate;

22 ~~(16)~~(15) 1-(-(2-thienyl)cyclohexyl) piperidine (TCP);

23 ~~(17)~~(16) Peyote, except that when used as a sacramental in services of the Native
24 American church in a natural state which is unaltered except for drying or curing
25 and cutting or slicing, it is hereby excepted;

26 ~~(18)~~(17) Psilocybin;

27 ~~(19)~~(18) Psilocyn;

28 ~~(20) Tetrahydrocannabinol, other than that~~

29 ~~which occurs in industrial hemp as defined in § 38-35-1 or marijuana in its natural and~~
30 ~~unaltered state, including any compound, except nabilone or compounds listed~~
31 ~~under a different schedule, structurally derived from 6,6' dimethyl-~~
32 ~~benzo[c]chromene by substitution at the 3 position with either alkyl (C3 to C8),~~
33 ~~methyl cycloalkyl, or adamantyl groups, whether or not the compound is further~~
34 ~~modified in any of the following ways:~~

35 ~~(a) By partial to complete saturation of the C ring; or~~

- 1 ~~(b) By substitution at the 1 position with a hydroxyl or methoxy group; or~~
2 ~~(c) By substitution at the 9 position with a hydroxyl, methyl, or methylhydroxyl group;~~
3 ~~or~~
4 ~~(d) By modification of the possible 3-alkyl group with a 1,1' dimethyl moiety, a 1,1'~~
5 ~~cyclic moiety, an internal methylene group, an internal acetylene group, or a~~
6 ~~terminal halide, cyano, azido, or dimethylcarboxamido group.~~
7 ~~Some trade and other names: JWH 051; JWH 057; JWH 133; JWH 359; HHC; AM-~~
8 ~~087; AM 411; AM 855, AM 905; AM 906; AM 2389; HU 210; HU 211; HU 243;~~
9 ~~HU 336;~~
- 10 ~~(21)~~(19) 3, 4, 5-trimethoxy amphetamine;
11 ~~(22)~~(20) 3, 4-methylenedioxy amphetamine;
12 ~~(23)~~(21) 3-methoxyamphetamine;
13 ~~(24)~~(22) 2, 5-dimethoxyamphetamine;
14 ~~(25)~~(23) 2-methoxyamphetamine;
15 ~~(26)~~(24) 2-methoxymethamphetamine;
16 ~~(27)~~(25) 3-methoxymethamphetamine;
17 ~~(28)~~(26) Phencyclidine;
18 ~~(29)~~(27) 3, 4-methylenedioxymethamphetamine (MDMA);
19 ~~(30)~~(28) 3, 4-methylenedioxy-N-ethylamphetamine;
20 ~~(31)~~(29) N-hydroxy-3, 4-methylenedioxyamphetamine;
21 ~~(32)~~(30) 4-methylaminorex (also known as 2-Amino-4-methyl/x-5-phenyl-2-
22 oxazoline);
23 ~~(33)~~(31) 2,5 Dimethoxy-4-ethylamphetamine;
24 ~~(34)~~(32) N,N-Dimethylamphetamine;
25 ~~(35)~~(33) 1-(1-(2-thienyl)cyclohexyl)pyrrolidine;
26 ~~(36)~~(34) Aminorex;
27 ~~(37)~~(35) Cathinone and other variations, defined as any compound, material, mixture,
28 preparation or other product unless listed in another schedule or an approved FDA
29 drug (e.g. bupropion, pyrovalerone), structurally derived from 2-aminopropan-1-
30 one by substitution at the 1-position with either phenyl, naphthyl, or thiophene
31 ring systems, whether or not the compound is further modified in any of the
32 following ways:
33 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,
34 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further
35 substituted in the ring system by one or more other univalent substituents;

- 1 (b) By substitution at the 3-position with an acyclic alkyl substituent;
 2 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
 3 methoxybenzyl groups or by inclusion of the 2-amino nitrogen atom in a
 4 cyclic structure.

5 Some trade or other names: methcathinone, 4-methyl-N-methylcathinone
 6 (mephedrone); 3,4-methylenedioxy-N-methylcathinone (methydone); 3,4-
 7 methylenedioxypropylcathinone (MDPV); Naphthylpropylcathinone (naphyrone); 4-
 8 fluoromethcathinone (flephedrone); 4-methoxymethcathinone (methedrone; Bk-
 9 PMMA); Ethcathinone (N-Ethylcathinone); 3,4-methylenedioxyethcathinone
 10 (ethylone); Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (butylone); N,N-
 11 dimethylcathinone (metamfepramone); Alpha-pyrrolidinopropiophenone (alpha-
 12 PPP); 4-methoxy-alpha-pyrrolidinopropiophenone (MOPPP); 3,4-
 13 methylenedioxyalphapyrrolidinopropiophenone (MDPPP); Alpha-
 14 pyrrolidinovalerophenone (alpha-PVP); 3-fluoromethcathinone; 4'-Methyl-alpha-
 15 pyrrolidinobutiophenone (MPBP); Methyl- α -pyrrolidinopropiophenone
 16 (MPPP); Methyl- α -pyrrolidino-hexanophenone (MPHP); Buphedrone; Methyl-
 17 N-ethylcathinone; Pentedrone; Dimethylmethcathinone (DMMC);
 18 Dimethylethcathinone (DMEC); Methylenedioxymethcathinone (MDMC);
 19 Pentylone; Ethylethcathinone; Ethylmethcathinone; Fluoroethcathinone; methyl-
 20 alpha-pyrrolidinobutiophenone (MPBP); Methylcathinone (MEC); Methylenedioxy-
 21 alpha-pyrrolidinobutiophenone (MDPBP); Methoxymethcathinone (MOMC);
 22 Methylbuphedrone (MBP); Benzedrone (4-MBC); Dibutylone (DMBDB);
 23 Dimethylone (MDDMA); Diethylcathinone; Eutylone (EBDB); N-ethyl-N-
 24 Methylcathinone; N-ethylbuphedrone, 1-(1,3-benzodioxol-5-yl)-2-
 25 (ethylamino)pentan-1-one (N-Ethylpentylone); 4'-Methyl-alpha-
 26 pyrrolidinopropiophenone (4-MEPPP, MPPP or MaPPP); alpha-
 27 Pyrrolidinobutiophenone (α ;PBP); 1-(1,3-benzodioxol-5-yl)-2-(tert-
 28 butylamino)propan-1-one (Tertylone); 1-(1,3-benzodioxol-5-yl)-2-
 29 (ethylamino)hexan-1-one (N-ethyl Hexylone); 1-(1,3-benzodioxol-5-yl)-2-
 30 (methylamino)pentan-1-one (Pentylone);
 31 ~~(38)~~(36) 2,5-Dimethoxy-4-ethylamphetamine (DOET);
 32 ~~(39)~~(37) Alpha-ethyltryptamine;
 33 ~~(40)~~(38) 4-Bromo-2,5-dimethoxy phenethylamine;
 34 ~~(41)~~(39) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7);
 35 ~~(42)~~(40) 1-(3-trifluoromethylphenyl) piperazine (TFMPP);

- 1 ~~(43)~~(41) Alpha-methyltryptamine (AMT);
2 ~~(44)~~(42) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);
3 ~~(45)~~(43) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);
4 ~~(46)~~(44) Synthetic cannabinoids. Any material, compound, mixture, or preparation
5 that is not listed as a controlled substance in another schedule, is not an FDA-
6 approved drug, and contains any quantity of the following substances, their salts,
7 isomers (whether optical, positional, or geometric), homologues, modifications of
8 the indole ring by nitrogen heterocyclic analog substitution or nitrogen heterocyclic
9 analog substitution of the phenyl, benzyl, naphthyl, adamantly, cyclopropyl, cumyl,
10 or propionaldehyde structure, and salts of isomers, homologues, and modifications,
11 unless specifically excepted, whenever the existence of these salts, isomers,
12 homologues, modifications, and salts of isomers, homologues, and modifications is
13 possible within the specific chemical designation:

- 14 (a) Naphthoylindoles. Any compound containing a 2-(1-naphthoyl)indole or 3-
15 (1-naphthoyl)indole structure with substitution at the nitrogen atom of the
16 indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
17 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, cyanoalkyl, 1-
18 (N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl,
19 (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not
20 further substituted on the indole ring to any extent and whether or not
21 substituted on the naphthyl ring to any extent.

22 Some trade or other names: JWH-015; 1-pentyl-3-(1-naphthoyl)indole
23 (JWH-018); 1-hexyl-3-(1-naphthoyl)indole (JWH-019); 1-butyl-3-(1-
24 naphthoyl)indole (JWH-073); 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole
25 (JWH-081); 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122); 1-[2-(4-
26 morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200); JWH-210; JWH-398;
27 1-pentyl-3-(1-naphthoyl)indole (AM-678); 1-(5-fluoropentyl)-3-(1-
28 naphthoyl)indole (AM-2201); WIN 55-212; JWH-004; JWH-007; JWH-009;
29 JWH-011; JWH-016; JWH-020; JWH-022; JWH-046; JWH-047; JWH-048;
30 JWH-049; JWH-050; JWH-070; JWH-071; JWH-072; JWH-076; JWH-079;
31 JWH-080; JWH-082; JWH-094; JWH-096; JWH-098; JWH-116; JWH-120;
32 JWH-148; JWH-149; JWH-164; JWH-166; JWH-180; JWH-181; JWH-182;
33 JWH-189; JWH-193; JWH-198; JWH-211; JWH-212; JWH-213; JWH-234;
34 JWH-235; JWH-236; JWH-239; JWH-240; JWH-241; JWH-258; JWH-262;
35 JWH-386; JWH-387; JWH-394; JWH-395; JWH-397; JWH-399; JWH-400;

1 JWH-412; JWH-413; JWH-414; JWH-415; JWH-424; AM-678; AM-1220;
2 AM-1221; AM-1235; AM-2232, THJ-2201;

3 (b) Naphthylmethyloindoles. Any compound containing a 1H-indol-2-yl-(1-
4 naphthyl)methane or 1H-indol-3-yl-(1-naphthyl)methane structure with
5 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
6 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
7 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, cyanoalkyl, 1-(N-methyl-2-
8 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-
9 4-yl)methyl, benzyl, or halobenzyl group, whether or not further substituted
10 on the indole ring to any extent and whether or not substituted on the
11 naphthyl ring to any extent.

12 Some trade or other names: JWH-175; JWH-184; JWH-185; JWH-192;
13 JWH-194; JWH-195; JWH-196; JWH-197; JWH-199;

14 (c) Phenylacetyloindoles. Any compound containing a 2-phenylacetyloindole or 3-
15 phenylacetyloindole structure with substitution at the nitrogen atom of the
16 indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
17 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, cyanoalkyl, 1-
18 (N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl,
19 (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not
20 further substituted on the indole ring to any extent and whether or not
21 substituted on the phenyl ring to any extent.

22 Some trade or other names: 1-cyclohexylethyl-3-(2-
23 methoxyphenylacetyl)indole (SR-18); 1-cyclohexylethyl-3-(2-
24 methoxyphenylacetyl)indole (RCS-8); 1-pentyl-3-(2-
25 methoxyphenylacetyl)indole (JWH-250); 1-pentyl-3-(2-
26 chlorophenylacetyl)indole (JWH-203); JWH-167; JWH-201; JWH-202; JWH-
27 204; JWH-205; JWH-206; JWH-207; JWH-208; JWH-209; JWH-237; JWH-
28 248; JWH-249; JWH-251; JWH-253; JWH-302; JWH-303; JWH-304; JWH-
29 305; JWH-306; JWH-311; JWH-312; JWH-313; JWH-314; JWH-315; JWH-
30 316; Cannabipiperidiethanone;

31 (d) Benzoyloindoles. Any compound containing a 2-(benzoyl)indole or 3-
32 (benzoyl)indole structure with substitution at the nitrogen atom of the
33 indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
34 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, cyanoalkyl, 1-
35 (N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl,

1 (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl group, whether or not
2 further substituted on the indole ring to any extent and whether or not
3 substituted on the phenyl ring to any extent.

4 Some trade or other names: 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole
5 (AM-694); 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19); Pravadoline
6 (WIN 48,098); 1-pentyl-3-[(4-methoxy)-benzoyl]indole (RCS-4); AM-630;
7 AM-661; AM-2233; AM-1241;

- 8 (e) Naphthoylpyrroles. Any compound containing a 2-(1-naphthoyl)pyrrole or 3-
9 (1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the
10 pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
11 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl,
12 cyanoalkyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
13 morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl
14 group, whether or not further substituted on the pyrrole ring to any extent
15 and whether or not substituted on the naphthyl ring to any extent.

16 Some trade or other names: JWH-307; JWH-030; JWH-031; JWH-145;
17 JWH-146; JWH-147; JWH-150; JWH-156; JWH-242; JWH-243; JWH-244;
18 JWH-245; JWH-246; JWH-292; JWH-293; JWH-308; JWH-309; JWH-346;
19 JWH-348; JWH-363; JWH-364; JWH-365; JWH-367; JWH-368; JWH-369;
20 JWH-370; JWH-371; JWH-373; JWH-392;

- 21 (f) Naphthylmethylindenes. Any compound containing a naphthylideneindene
22 structure with substitution at the 3-position of the indene ring by an alkyl,
23 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
24 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, cyanoalkyl, 1-(N-methyl-2-
25 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-
26 4-yl)methyl, benzyl, or halobenzyl group, whether or not further substituted
27 on the indene ring to any extent and whether or not substituted on the
28 naphthyl ring to any extent.

29 Some trade or other names: JWH-171; JWH-176; JWH-220;

- 30 (g) Cyclohexylphenols. Any compound containing a 2-(3-
31 hydroxycyclohexyl)phenol structure with substitution at the 5-position of
32 the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
33 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-
34 morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-

- 1 morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl
2 group, whether or not substituted on the cyclohexyl ring to any extent.
3 Some trade or other names: 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-
4 hydroxycyclohexyl]-phenol (CP 47, 497 and homologues, which includes
5 C8); cannabicyclohexanol; CP-55,490; CP-55,940; CP-56,667
- 6 (h) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)
7 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol. Some trade or other names:
8 HU-210;
- 9 (i) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-
10 benzoxazin-6-yl]-1-naphthalenyl. Some trade or other names: WIN 55, 212-
11 2;
- 12 (j) Substituted Acetylindoles. Any compound containing a 2-acetyl indole or 3-
13 acetyl indole structure substituted at the acetyl by replacement of the
14 methyl group with a tetramethylcyclopropyl, adamantyl, benzyl, cumyl, or
15 propionaldehyde substituent whether or not further substituted on the
16 tetramethylcyclopropyl, adamantyl, benzyl, cumyl, or propionaldehyde
17 substituent to any extent and whether or not further substituted at the
18 nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl,
19 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-
20 morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
21 morpholinyl)methyl, (tetrahydropyran-4-yl)methyl, benzyl, or halobenzyl
22 group whether or not further substituted on the indole ring to any extent.
23 Some trade and or names: (1-Pentylindol-3-yl)-(2,2,3,3-
24 tetramethylcyclopropyl)methanone (UR-144); (1-(5-fluoropentyl)indol-3-
25 yl)-(2,2,3,3-tetramethylcyclopropyl)methanone (XLR-11); (1-(2-
26 morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-
27 tetramethylcyclopropyl)methanone (A-796,260); 1-[(N-methylpiperidin-2-
28 yl)methyl]-3-(adamant-1-oyl)indole (AM-1248); 1-Pentyl-3-(1-
29 adamantoyl)indole (AB-001 and JWH-018 adamantyl analog); AM-679;
- 30 (k) Substituted Carboxamide Indole. Any compound containing a 2-carboxamide
31 indole or 3-carboxamide indole structure substituted at the nitrogen of the
32 carboxamide with a tetramethylcyclopropyl, naphthyl, adamantyl, cumyl,
33 phenyl, or propionaldehyde substituent, whether or not further substituted
34 on the tetramethylcyclopropyl, adamantyl, cumyl, naphthyl, phenyl, or
35 propionaldehyde substituent to any extent and whether or not further

1 substituted at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
2 cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
3 piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-
4 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, (tetrahydropyran-
5 4-yl)methyl, benzyl, or halobenzyl group whether or not further substituted
6 on the indole ring to any extent.

7 Some trade and other names: JWH-018 adamantyl carboxamide; STS-135;
8 MN-18; 5-Fluoro-MN-18, 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-
9 pyrrolo[2,3-b]pyridine-3-carboxamide (5F-CUMYL-P7AICA) ; N-
10 (Adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5F-
11 APINACA); methyl (2R)-2-[[1-(5-fluoropentyl)indazole-3-carbonyl]amino]-
12 3,3-dimethylbutanoate (5F-ADB); N-(1-amino-3-methyl-1-oxobutan-2-yl)-
13 1-(cyclohexylmethyl)indazole-3-carboxamide (AB-CHMINACA); 1-(4-
14 cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (4-CN-
15 CUMYL-BUTINACA); N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-
16 (cyclohexylmethyl)indazole-3-carboxamide (ADB-CHMINACA or MAB-
17 CHMINACA); methyl (2S)-2-[[1-[4-fluorophenyl)methyl]indazole-3-
18 carbonyl]amino]-3,3-dimethylbutanoate (MDMB-FUBINACA); methyl 2-(1-
19 (cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate (MMB-
20 CHMICA); methyl (2S)-2-[[1-[4-fluorophenyl)methyl]indazole-3-
21 carbonyl]amino]-3-methylbutanoate (AMB-FUBINACA); Methyl 2-(1-(5-
22 fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5F-AMB);
23 methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-
24 dimethylbutanoate (5F-MDMB-PICA); methyl (S)-3,3-dimethyl-2-[[1-(pent-
25 4-enyl)indazole-3-carbonyl]amino]butanoate (MDMB-4en-PINACA); methyl
26 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate
27 (4F-MDMB-BUTINACA);

- 28 (I) Substituted Carboxylic Acid Indole. Any compound containing a 1H-indole-2-
29 carboxylic acid or 1H-indole-3-carboxylic acid substituted at the hydroxyl
30 group of the carboxylic acid with a phenyl, benzyl, naphthyl, adamantyl,
31 cyclopropyl, quinolinyl, isquinolinyl, cumyl, or propionaldehyde substituent
32 whether or not further substituted on the phenyl, benzyl, naphthyl,
33 adamantyl, cyclopropyl, cumyl, quinolinyl, isquinolinyl, or propionaldehyde
34 substituent to any extent and whether or not further substituted at the
35 nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl,

1 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-
2 morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
3 morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group
4 whether or not further substituted on the indole ring to any extent.

5 Some trade and other names: Naphthalen-1-yl 1-(5-fluoropntyl)-1H-indole-
6 3-carboxylate (NM2201);

7 ~~(47)~~(45) 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine) (MDAI);

8 ~~(48)~~(46) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

9 ~~(49)~~(47) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D);

10 ~~(50)~~(48) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);

11 ~~(51)~~(49) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);

12 ~~(52)~~(50) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2);

13 ~~(53)~~(51) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4);

14 ~~(54)~~(52) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);

15 ~~(55)~~(53) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);

16 ~~(56)~~(54) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P);

17 ~~(57)~~(55) Substituted phenethylamine. Any compound, unless specifically exempt,
18 listed as a controlled substance in another schedule or an approved FDA drug,
19 structurally derived from phenylethan-2-amine by substitution on the phenyl ring
20 in any of the following ways, that is to say--by substitution with a fused
21 methylenedioxy, fused furan, or fused tetrahydrofuran ring system; by substitution
22 with two alkoxy groups; by substitution with one alkoxy and either one fused furan,
23 tetrahydrofuran, or tetrahydropyran ring system; by substitution with two fused
24 ring systems from any combination of the furan, tetrahydrofuran, or
25 tetrahydropyran ring systems; whether or not the compound is further modified in
26 any of the following ways:

27 (a) By substitution on the phenyl ring by any halo, hydroxyl, alkyl,
28 trifluoromethyl, alkoxy, or alkylthio groups;

29 (b) By substitution on the 2-position by any alkyl groups; or

30 (c) By substitution on the 2-amino nitrogen atom with acetyl, alkyl, dialkyl,
31 benzyl, methoxybenzyl, or hydroxybenzyl groups.

32 Some trade and other names: 2-(2,5-dimethoxy-4-
33 (methylthio)phenyl)ethanamine (2C-T or 4-methylthio-2,5-
34 dimethoxyphenethylamine); 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine
35 (DOI or 2, 5-Dimethoxy-4-iodoamphetamine); 1-(4-Bromo-2,5-

1 dimethoxyphenyl)-2-aminopropane (DOB or 2,5-Dimethoxy-4-
2 bromoamphetamine); 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (DOC
3 or 2,5-Dimethoxy-4-chloroamphetamine); 2-(4-bromo-2,5-dimethoxyphenyl)-N-
4 [(2-methoxyphenyl)methyl]ethanamine (2C-B-NBOMe; 25B-NBOMe or 2,5-
5 Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine); 2-(4-iodo-2,5-
6 dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2C-I-NBOMe; 25I-
7 NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine); N-(2-
8 Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (Mescaline-NBOMe or 3,4,5-
9 trimethoxy-(2-methoxybenzyl)phenethylamine); 2-(4-chloro-2,5-
10 dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2C-C-NBOMe; 25C-
11 NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine); 2-(7-
12 Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (2CB-5-hemiFLY);
13 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (2C-B-
14 FLY); 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-
15 yl)ethanamine (2C-B-butterFLY); -(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-
16 tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane (2C-B-FLY-NBOMe);
17 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (bromo-
18 benzodifuranyl-isopropylamine or bromo-dragonFLY); -(2-Hydroxybenzyl)-4-iodo-
19 2,5-dimethoxyphenethylamine (2C-I-NBOH or 25I-NBOH); 5-(2-
20 Aminopropyl)benzofuran (5-APB); 6-(2-Aminopropyl)benzofuran (6-APB); 5-(2-
21 Aminopropyl)-2,3-dihydrobenzofuran (5-APDB); 6-(2-Aminopropyl)-2,3-
22 dihydrobenzofuran (6-APDB);

23 ~~(58)~~(56) Substituted tryptamines. Any compound, unless specifically exempt, listed as
24 a controlled substance in another schedule or an approved FDA drug, structurally
25 derived from 2-(1H-indol-3-yl)ethanamine (i.e, tryptamine) by mono- or di-
26 substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of
27 the amino nitrogen atom in a cyclic structure whether or not the compound is
28 further substituted at the alpha-position with an alkyl group or whether or not
29 further substituted on the indole ring to any extent with any alkyl, alkoxy, halo,
30 hydroxyl, or acetoxy groups.

31 Some trade and other names: 5-methoxy-N,N-diallyltryptamine (5-MeO-DALT); 4-
32 acetoxy-N,N-dimethyltryptamine (4-AcO-DMT or O-Acetylpsilocin); 4-hydroxy-N-
33 methyl-N-ethyltryptamine (4-HO-MET); 4-hydroxy-N,N-diisopropyltryptamine (4-
34 HO-DIPT); 5-methoxy-N-methyl-N-isopropyltryptamine (5-MeO-MiPT);

35 ~~(59)~~(57) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone (CB-13);

- 1 ~~(60)~~(58) N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide (AKB 48);
- 2 ~~(61)~~(59) 1-(4-Fluorophenyl)piperazine (pFPP);
- 3 ~~(62)~~(60) 1-(3-Chlorophenyl)piperazine (mCPP);
- 4 ~~(63)~~(61) 1-(4-Methoxyphenyl)piperazine (pMeOPP);
- 5 ~~(64)~~(62) 1,4-Dibenzylpiperazine (DBP);
- 6 ~~(65)~~(63) Isopentedrone;
- 7 ~~(66)~~(64) Fluoromethamphetamine;
- 8 ~~(67)~~(65) Fluoroamphetamine;
- 9 ~~(68)~~(66) Fluorococaine;
- 10 ~~(69)~~(67) 1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid (PB-22);
- 11 ~~(70)~~(68) 1-(5-fluoropentyl)-8-quinolinyl ester-1H-indole-3-carboxylic acid (5 Fluoro-
- 12 PB-22);
- 13 ~~(71)~~(69) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-
- 14 carboxamide (AB-PINACA);
- 15 ~~(72)~~(70) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-
- 16 carboxamide (5 Fluoro-AB-PINACA);
- 17 ~~(73)~~(71) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-
- 18 carboxamide (AB-FUBINACA);
- 19 ~~(74)~~(72) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-
- 20 carboxamide (ADB-PINACA (ADBICA));
- 21 ~~(75)~~(73) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-
- 22 carboxamide (5 Fluoro-ADB-PINACA (5 Fluoro-ADBICA)); and
- 23 ~~(76)~~(74) N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-
- 24 3-carboxamide (ADB-FUBINACA).

25 **Section 20. That § 34-20G-74 be AMENDED:**

26 **34-20G-74.** In addition to any other penalty under law, a medical cannabis

27 establishment or an agent of a medical cannabis establishment who intentionally sells or

28 otherwise transfers cannabis in exchange for anything of value to a person other than a

29 cardholder, a nonresident cardholder, a person under the age of twenty-one, or to a

30 medical cannabis establishment or its agent is guilty of a Class 6 felony. A person convicted

31 under this section may not continue to be affiliated with the medical cannabis

32 establishment and is disqualified from any future affiliation with any medical cannabis

33 establishment under this chapter.

1 **Section 21. That a NEW SECTION be added to title 34:**

2 Terms used in this chapter mean:

- 3 (1) "Cultivator," an entity licensed pursuant to this chapter that acquires, possesses,
4 cultivates, delivers, transfers, transports, supplies, or sells marijuana and related
5 supplies to a marijuana facility;
- 6 (2) "Dispensary," an entity licensed pursuant to this chapter that acquires, possesses,
7 stores, delivers, transfers, transports, sells, supplies, or dispenses marijuana,
8 marijuana products, and related supplies to a consumer;
- 9 (3) "Immature plant," a nonflowering marijuana plant that is no taller than twelve
10 inches and no wider than twelve inches; is produced from a cutting, clipping, or
11 seedling; and is in a cultivating container;
- 12 (4) "Manufacturer," an entity licensed pursuant to this chapter that acquires,
13 possesses, manufactures, delivers, transfers, transports, supplies, or sells
14 marijuana products to a marijuana facility;
- 15 (5) "Marijuana," as defined in § 22-42-1;
- 16 (6) "Marijuana facility," an entity licensed pursuant to this chapter to cultivate, test,
17 manufacture, or dispense marijuana or marijuana products;
- 18 (7) "Marijuana product," any product infused with marijuana concentrate, as defined
19 in § 22-42-1, and intended for use or consumption by humans;
- 20 (8) "Testing facility," an independent entity registered with the Department of
21 Revenue pursuant to this chapter to analyze the safety and potency of marijuana
22 and marijuana products.

23 **Section 22. That a NEW SECTION be added to title 34:**

24 Neither the secretary of revenue nor any employee of the Department of Revenue
25 whose duties include the licensing of marijuana facilities or regulation of marijuana facility
26 licensees may have any interest, financial or otherwise, in the production, transportation,
27 storage, or sale of marijuana or marijuana products.

28 **Section 23. That a NEW SECTION be added to title 34:**

29 The secretary of revenue shall prescribe the forms for any application for a license
30 provided in this chapter. The application must contain information required by the
31 secretary and necessary to determine the eligibility of the applicant.

1 **Section 24. That a NEW SECTION be added to title 34:**

2 An applicant for a manufacturer, cultivator, or dispensary license under this chapter
3 must initially submit the application to the secretary of revenue.

4 **Section 25. That a NEW SECTION be added to title 34:**

5 After submitting an application under section 26 of this Act, the applicant for a
6 manufacturer, cultivator, or dispensary license shall submit the application to the
7 governing body of the municipality in which the applicant intends to operate, or if outside
8 the corporate limits of a municipality, to the governing body of the county in which the
9 applicant intends to operate. The governing body may charge a reasonable fee that must
10 accompany the application. The license fee shall be retained by the local governing body
11 in which the license shall be issued. If the application is rejected, the fee shall be promptly
12 returned to the applicant.

13 The governing body may approve the application for a manufacturer, cultivator, or
14 dispensary if the governing body deemed the applicant and the proposed location suitable.

15 **Section 26. That a NEW SECTION be added to title 34:**

16 Any applicant for a manufacturer, cultivator, or dispensary license under this
17 chapter shall include the applicant's signed affirmation that the premises to be licensed,
18 for the purposes of search and seizure laws of the state and any ordinances of the county
19 or municipality where the license is issued, are considered public premises. In addition,
20 the affirmation must state:

21 (1) The premises and all buildings, safes, cabinets, lockers, and storerooms on the
22 premises are at all times, on demand of the secretary of revenue, the attorney
23 general, or officers charged with law enforcement in the county or municipality,
24 open to inspection;

25 (2) All of the applicant's records and books dealing with the sale and ownership of
26 marijuana are open to the persons specified in subdivision (1) for inspection; and

27 (3) The application and license issued on the application is a contract between the
28 applicant and the state and the county or municipality having jurisdiction, entitling
29 the state and the county or municipality, for the purpose of enforcing the law,
30 rules, and ordinances, to inspect the applicant's premises and books at any time.

31 **Section 27. That a NEW SECTION be added to title 34:**

1 No license for a marijuana manufacturer, cultivator, or dispensary license may be
2 issued to an applicant until a public hearing is conducted pursuant to this chapter.

3 **Section 28. That a NEW SECTION be added to title 34:**

4 The governing body of any incorporated municipality or county presented with an
5 application for a manufacturer, cultivator, or dispensary license shall fix the time and place
6 for the governing body's hearing on the application. The finance officer or county auditor
7 shall publish one notice, at least one week before the hearing, in the official newspaper of
8 the municipality or county:

9 (1) With the heading "Notice of Hearing Upon Applications for Marijuana Facility;"

10 (2) That states the time and place when and where the applications will be considered;
11 and

12 (3) That states that any person interested in the approval or rejection of any
13 application may appear and be heard.

14 At the hearing, the body shall consider the application and any support or objection
15 to the application before making a final decision on the application.

16 **Section 29. That a NEW SECTION be added to title 34:**

17 If the governing body of the municipality or county does not approve the
18 application, the governing body shall endorse on the application the reasons for the denial
19 and return the application and fee to the applicant. No further application may be received
20 from the applicant until after the expiration of one year from the date of a denied
21 application. However, if the body denied the application based on the suitability of the
22 location for the license, no further application may be received from the applicant until
23 after three months from the date of the denied application, if the subsequent application
24 is for a different location.

25 **Section 30. That a NEW SECTION be added to title 34:**

26 If the governing body of the municipality or county approves the application, the
27 governing body shall endorse the approval on the application. The licensee is entitled to
28 operate under the license for the succeeding licensing year. The license fee must be
29 deposited in the general fund of the municipality or county.

30 **Section 31. That a NEW SECTION be added to title 34:**

1 Any manufacturer, cultivator, or dispensary licensee under this chapter shall be a
2 person of good moral character and never convicted of a felony. If the licensee is a
3 corporation, the managing officers of the corporation must meet the same qualifications.

4 **Section 32. That a NEW SECTION be added to title 34:**

5 Any manufacturer, cultivator, or dispensary licensee under this chapter shall be
6 the owner or actual lessee of the premises where the business is conducted, and the sole
7 owner of the business operated under the license.

8 **Section 33. That a NEW SECTION be added to title 34:**

9 The secretary of revenue, in compliance with chapter 1-26, may revoke or suspend
10 any manufacturer, cultivator, or dispensary license issued under this chapter upon proof
11 of violation by the licensee, by the licensee's agents or employees, or by the manager or
12 contractual operators of the cultivator, manufacturer, or dispensary facility or their agents
13 or employees operating under a county or municipal license, of:

14 (1) Any provision of this chapter;

15 (2) Any rule promulgated pursuant to this chapter; or

16 (3) Any ordinance or regulation relevant to marijuana control adopted by the political
17 subdivision issuing the license.

18 For any licensee with multiple marijuana facility licenses for the same premises,
19 upon suspension or revocation of any license pursuant to this chapter for that premises,
20 the licensee shall cease operation under all marijuana facility licenses held by the licensee
21 for that same premises for the same period as the suspension or revocation.

22 **Section 34. That a NEW SECTION be added to title 34:**

23 No dispensary license may be revoked or suspended by the secretary of revenue
24 because of a violation of any statute, ordinance, rule, or regulation prohibiting the sale or
25 service of marijuana to a person under the age of twenty-one years if the violation was
26 committed by an employee or agent of the dispensary licensee and the licensee has not
27 had more than one violation of any statute, ordinance, rule, or regulation prohibiting the
28 sale or service of marijuana to a person under the age of twenty-one years on the premises
29 where the violation occurred in the previous twenty-four months.

30 If the licensee meets the requirements of the conditions of this section, the
31 secretary shall impose a civil penalty of one thousand dollars for a first violation and two

1 thousand dollars for a second violation. However, if the employee or agent has not been
2 certified by a nationally recognized training program approved by the Department of
3 Revenue that provides instruction on techniques to prevent persons under the age of
4 twenty-one years from purchasing or consuming marijuana, the secretary shall impose a
5 civil penalty of two thousand dollars for a first violation and four thousand dollars for a
6 second violation.

7 A licensee may request an administrative hearing pursuant to chapter 1-26 to
8 contest the imposition of a civil penalty.

9 An agent of a dispensary convicted under § 22-42-7 may not continue to be
10 affiliated with a dispensary and is disqualified from any future affiliation with any
11 marijuana facility under this chapter.

12 **Section 35. That a NEW SECTION be added to title 34:**

13 The governing body of a municipality or county may recommend to the secretary
14 of revenue following a hearing that any manufacturer, cultivator, or dispensary license
15 issued under this chapter be suspended or revoked for violation of any of the provisions
16 of this chapter or for violations of any ordinance or regulation of the governing body
17 relevant to marijuana control that occurs on the premises of the licensee. Upon receipt of
18 the recommendation, the secretary shall proceed as provided in this chapter.

19 **Section 36. That a NEW SECTION be added to title 34:**

20 Any action taken by the governing body of a municipality or county pursuant to
21 this chapter that requires a public hearing shall be noticed to the licensee, at the address
22 given on the license, at least thirty days in advance of the date set for public hearing. The
23 finance officer or the county auditor shall publish the notice of hearing in the official
24 newspaper of the municipality or county at least one week before the hearing, in a form
25 approved by the governing body.

26 **Section 37. That a NEW SECTION be added to title 34:**

27 If the secretary of revenue receives information of a violation by any manufacturer,
28 cultivator, or dispensary licensee of any provision of this chapter, the secretary must
29 investigate the alleged violation. If there is substantial evidence to support a violation of
30 any provision of this chapter, the secretary must proceed in accordance with this chapter.

31 **Section 38. That a NEW SECTION be added to title 34:**

1 A manufacturer, cultivator, or dispensary applicant or licensee under this chapter
2 or any interested person or governing body has a right to a hearing in relation to any
3 action taken upon the application or license. The hearing must occur, under the provisions
4 of chapter 1-26, in the municipality or county with jurisdiction over the license.

5 **Section 39. That a NEW SECTION be added to title 34:**

6 No manufacturer, cultivator, or dispensary licensee under this chapter, whose
7 license is revoked, may be granted any license under this chapter for one year after the
8 revocation. If any relative of any such former licensee or any of the former licensee's
9 employees or former employees, applies for any such license before the one-year period
10 has elapsed, the license may be granted only upon affirmative and satisfactory proof that
11 the former licensee has no interest in the business.

12 **Section 40. That a NEW SECTION be added to title 34:**

13 Upon service of the secretary of revenue's order for revocation of the cultivator,
14 manufacturer, or dispensary license on the licensee, all of the licensee's rights under the
15 license terminate, except in the event of a stay on appeal.

16 **Section 41. That a NEW SECTION be added to title 34:**

17 No manufacturer, cultivator, or dispensary license granted pursuant to this chapter
18 may be issued unless the applicant has first obtained a sales tax license pursuant to
19 chapter 10-45, if applicable, or a use tax license pursuant to chapter 10-46, if applicable.

20 **Section 42. That a NEW SECTION be added to title 34:**

21 The governing body of a municipality or county may, by ordinance, prohibit the
22 locating of marijuana facilities within its jurisdiction.

23 **Section 43. That a NEW SECTION be added to title 34:**

24 Any cultivator, manufacturer, or dispensary licensee or employee of a licensee who
25 is charged with a felony offense involving a minor, a crime of violence pursuant to
26 subdivision 22-1-2(9), or a felony drug-related offense, on the licensed premises may, as
27 a condition of bond, be prohibited from entering onto the licensed premises.

28 **Section 44. That a NEW SECTION be added to title 34:**

1 No marijuana facility may employ any person under the age of twenty-one, or any
2 person with a conviction for a violation of §§ 22-42-2, 22-42-3, 22-42-4, 22-42-4.3, or
3 22-42-7 within the last ten years.

4 **Section 45. That a NEW SECTION be added to title 34:**

5 All cultivation, manufacturing, and packaging of marijuana or marijuana products
6 must take place at the licensed premises. The licensed premises may only be accessed by
7 agents of the marijuana facility, emergency personnel, and adults who are twenty-one
8 years of age and older who are accompanied by a marijuana facility agent.

9 **Section 46. That a NEW SECTION be added to title 34:**

10 A marijuana facility shall implement appropriate security measures designed to
11 deter and prevent theft of marijuana or marijuana products and unauthorized entrance
12 into any area containing marijuana or marijuana products.

13 **Section 47. That a NEW SECTION be added to title 34:**

14 No person under the age of twenty-one may enter a dispensary. A dispensary shall
15 verify the age of every person who enters through a valid government-issued identification
16 card. Each dispensary shall record the name of each person purchasing marijuana or
17 marijuana products from the dispensary. The records kept by a dispensary pursuant to
18 this section are subject to search only through a valid search warrant issued by a judicial
19 officer. A dispensary may not sell or otherwise transfer the records kept pursuant to this
20 section to any person for promotional purposes.

21 **Section 48. That a NEW SECTION be added to title 34:**

22 A marijuana facility may not manufacture or dispense marijuana products made in
23 the shape of a person, animal, insect, fruit, or any other likeness designed to be appealing
24 to a person under the age of twenty-one.

25 **Section 49. That a NEW SECTION be added to title 34:**

26 A cultivator shall cultivate marijuana within a secure, indoor facility out of view of
27 the public.

28 **Section 50. That a NEW SECTION be added to title 34:**

- 1 A marijuana facility may not engage in advertising that:
- 2 (1) Is false or misleading;
- 3 (2) Promotes overconsumption of marijuana or marijuana products;
- 4 (3) Depicts the actual consumption of marijuana or marijuana products;
- 5 (4) Depicts a person under the age of twenty-one consuming marijuana or marijuana
- 6 products;
- 7 (5) Makes any health, therapeutic, or medicinal claims about marijuana or marijuana
- 8 products; or
- 9 (6) Is designed in a way that is likely to appeal to a person under the age of twenty-
- 10 one or includes cartoons, animals, children, or any other likeness to images,
- 11 characters, or phrases that are designed in any manner to be appealing or to
- 12 encourage consumption of marijuana or marijuana products by a person under the
- 13 age of twenty-one.

14 **Section 51. That a NEW SECTION be added to title 34:**

15 Any person who, in any application, report, or statement, knowingly makes a false

16 statement as to any matter required by any provision of this chapter or any administrative

17 rule promulgated pursuant to this chapter is guilty of a Class 6 felony.

18 **Section 52. That a NEW SECTION be added to title 34:**

19 It is a Class 1 misdemeanor for any person to purchase or otherwise acquire

20 marijuana or marijuana products from a dispensary and to give or resell the marijuana or

21 marijuana products to any person under the age of twenty-one years. A second or

22 subsequent conviction under this section is a Class 6 felony. This section does not apply

23 to any person registered with the state to undertake an activity involving the distribution,

24 or possession with intent to distribute, of marijuana or marijuana products who acts in

25 compliance with the authorizing law.

26 **Section 53. That a NEW SECTION be added to title 34:**

27 This chapter does not limit or affect laws that prohibit or otherwise regulate:

28 (1) Possession or consumption of marijuana or marijuana products or possession of

29 marijuana or marijuana product paraphernalia on the grounds of any preschool,

30 school, in a school bus;

- 1 (2) Possession or consumption of marijuana or marijuana products on the grounds of
2 any correctional facility;
- 3 (3) Consumption of marijuana or marijuana products as part of a criminal penalty
4 diversion program;
- 5 (4) Conduct that endangers others; or
- 6 (5) Undertaking any task under the influence of marijuana or marijuana products, if
7 doing so would constitute negligence or professional malpractice.

8 **Section 54. That a NEW SECTION be added to title 34:**

9 This chapter does not:

- 10 (1) Require that an employer permit or accommodate conduct allowed by this chapter;
- 11 (2) Affect an employer's ability to restrict the use of marijuana or marijuana products
12 by employees;
- 13 (3) Limit the right of a person who occupies, owns, or controls private property from
14 prohibiting or otherwise regulating conduct permitted by this chapter on or in that
15 property; or
- 16 (4) Limit the ability of the state or local government to prohibit or restrict any conduct
17 otherwise permitted under this chapter within a building owned, leased, or
18 occupied by the state or local government.

19 **Section 55. That a NEW SECTION be added to title 34:**

20 The rights provided by this chapter do not apply to the extent that they conflict
21 with an employer's obligations under federal law or regulation or to the extent that they
22 would disqualify an employer from a monetary or licensing-related benefit under federal
23 law or regulation.

24 **Section 56. That a NEW SECTION be added to title 34:**

25 The Department of Revenue may promulgate rules pursuant to chapter 1-26:

- 26 (1) Governing the transportation of marijuana and marijuana products to ensure
27 health, safety, and accurate documentation;
- 28 (2) Governing how the department shall evaluate, register, and revoke the registration
29 of testing facilities to ensure the health and safety of consumers of marijuana and
30 marijuana products;

- 1 (3) Governing marijuana facilities to ensure the health and safety of consumers and
2 prevent diversion and theft, including:
3 (a) Oversight requirements;
4 (b) Record-keeping requirements;
5 (c) Security requirements, including lighting, physical security, and alarm
6 requirements;
7 (d) Health and safety regulations, including restrictions on the use of pesticides
8 that are injurious to human health;
9 (e) Standards for the manufacture of marijuana products and indoor cultivation
10 of marijuana by a cultivator;
11 (f) Requirements for the storage of marijuana and marijuana products;
12 (g) Employment and training requirements, including requiring that each
13 marijuana facility create an identification badge for each agent;
14 (h) Standards for the safe manufacture of marijuana products;
15 (i) Procedures for the safe packaging and labeling of marijuana and marijuana
16 products; and
17 (j) Testing requirements for marijuana and marijuana products, certification
18 standards for testing facilities, including requirements for equipment and
19 qualifications for personnel;
20 (4) Establishing labeling requirements for marijuana and marijuana products, including
21 requiring labels to include the following:
22 (a) The tetrahydrocannabinol concentration level and length of time it typically
23 takes for marijuana or a marijuana product to take effect;
24 (b) Disclosing ingredients and possible allergens;
25 (c) A nutritional fact panel; and
26 (d) Requiring that edible marijuana products be clearly identifiable, when
27 practicable, with a standard symbol indicating that it contains marijuana;
28 (5) Establishing packaging requirements for marijuana and marijuana products,
29 including that packaging be childproof and resealable;
30 (6) Establishing a seed to sale tracking system to ensure that marijuana plants are
31 tracked from seeds or from the immature plant stage for immature plants produced
32 from a cutting or clipping through cultivation, manufacturing, testing, and
33 packaging before sale in a dispensary; and

- 1 (7) Establishing a requirement that dispensaries conspicuously post warnings to
2 consumers regarding the legal possession limits for marijuana and marijuana
3 products under chapter 22-42 and establishing:
4 (a) Required language;
5 (b) Sign dimensions, font size, and font type; and
6 (c) Acceptable locations for such signage.
7 A violation of a required or prohibited action under any rule authorized by this
8 section is a Class 2 misdemeanor.

9 **Section 57. That a NEW SECTION be added to title 34:**

10 If an individual licensee under this title dies, the personal representative of the
11 deceased licensee may succeed to all of the rights of the deceased licensee under the
12 license. By operating under the license, the personal representative agrees to all of the
13 terms and conditions of the license and is subject to all of the liabilities and responsibilities
14 of the licensee. Any bond executed under this title includes the personal representative as
15 a principal if the license passes to the personal representative.

16 **Section 58. That a NEW SECTION be added to title 34:**

17 Any license granted under this title may be transferred to a new location or to
18 another person. If the transfer is to another person, the licensee shall show in writing,
19 under oath, that the licensee has made a bulk sale of the business operated under the
20 license. The bulk sale may be conditioned upon the granting of a transfer of the license.
21 The transferee shall make an application exactly as an original applicant, and the
22 application shall be acted upon in the same manner as an original application. No transfer
23 of any license to another person may be granted until all taxes incurred by the transferor
24 as a result of the operation of the licensed premises, including municipal and state sales
25 and use taxes, state reemployment assistance or unemployment insurance tax, or any
26 other state tax, are paid or are not delinquent. No transfer of any license to another person
27 may be granted until all property taxes which are the liability of the licensee levied on the
28 licensed premises are paid or are not delinquent. No transfer of any license may be granted
29 from an Indian tribe operating in Indian country controlled by the Indian tribe or from an
30 enrolled tribal member operating in Indian country controlled by the enrolled tribal
31 member's tribe until all use tax incurred as a result of the operation of the licensed
32 premises by nonmembers, and any other state tax, has been remitted or is not delinquent.
33 If the transfer is to a new location, the licensee shall make application showing all the

1 relevant facts for the new location. The application shall be acted upon in the same manner
2 as an original application. If a license is transferred, a fee of one hundred fifty dollars is
3 required to continue the unexpired portion of the license.

4 **Section 59. That a NEW SECTION be added to title 34:**

5 Any licensee authorized to conduct marijuana sales, upon termination of the
6 license, may at any time within thirty days after the termination of the license sell the
7 whole or any part of the marijuana included in the licensee's stock in trade at the time of
8 the termination to any entity licensed to sell the marijuana purchased.

9 **Section 60. That a NEW SECTION be added to title 34:**

10 The department shall maintain on its public internet website, a directory listing all
11 nationally recognized marijuana training programs that are approved by the department.
12 Any licensee making a prohibited sale or service of marijuana to a person under the age
13 of twenty-one years has the burden of proof to show that the licensee's employees have
14 attended an approved marijuana training program to be eligible for any reduction in the
15 penalty imposed for the violation.

16 **Section 61. That a NEW SECTION be added to title 34:**

17 If a violation is established in any proceeding under this title, but the secretary
18 determines due to the nature and the circumstances of the violation, a suspension of the
19 license is adequate, the secretary may, instead of revoking the license, suspend the
20 license for a period not exceeding sixty days. During the period of the suspension, the
21 licensee may not exercise any rights or privileges under the license. The secretary may,
22 in lieu of suspending or revoking the license, accept a monetary settlement of any
23 proceeding under this title. The amount of the settlement may not exceed seventy-five
24 thousand dollars. The secretary may also recover the actual costs of investigation and
25 prosecution.

26 **Section 62. That chapter 10-52 be amended with a NEW SECTION:**

27 In lieu of any tax imposed under chapter 10-52A, there is imposed an excise tax
28 at the rate of five percent on the gross receipts from the sale of marijuana, marijuana
29 concentrate, and marijuana products by a dispensary.

1 **Section 63. That chapter 10-52 be amended with a NEW SECTION:**

2 The excise tax revenue collected pursuant to section 62 of this Act must be divided
3 proportionally amongst the municipalities based on where the revenue was generated. All
4 moneys received and collected on behalf of a municipality by the department, pursuant to
5 section 62 of this Act, shall be credited to a special municipal tax fund and after deducting
6 the amount of refunds made, the amounts necessary to defray the cost of collecting the
7 tax, and the administrative expenses incident thereto, shall be paid within thirty days after
8 collection to the municipality entitled thereto.

9 **Section 64. That chapter 10-45 be amended with a NEW SECTION:**

10 In lieu of any other tax imposed under this chapter, there is imposed an excise tax
11 at the rate of one and one-half percent on the gross receipts from the sale of marijuana,
12 marijuana concentrate, and marijuana products by a dispensary.

13 **Section 65. That chapter 10-45 be amended with a NEW SECTION:**

14 The excise tax revenue collected pursuant to section 64 of this Act must be
15 distributed to the marijuana fund.

16 **Section 66. That chapter 10-45 be amended with a NEW SECTION:**

17 The excise taxes imposed under sections 3, 62, and 64 of this Act shall be collected
18 and remitted pursuant to chapter 10-45 and administered pursuant to chapter 10-59.

19 **Section 67.** Provisions of this Act become effective on approval by the voters of an initiated
20 measure to legalize possession, use, and distribution of marijuana and marijuana
21 paraphernalia for persons twenty-one years of age or older.