

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 588

Introduced by Wishart, 27.

Read first time January 17, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to cannabis; to amend sections 28-439,
2 60-6,211.08, 77-2701.48, 77-2704.09, and 77-4303, Reissue Revised
3 Statutes of Nebraska, and sections 28-416, 71-2454, and 77-27,132,
4 Revised Statutes Cumulative Supplement, 2022; to adopt the Medicinal
5 Cannabis Act; to provide civil and criminal penalties; to create a
6 fund; to change provisions relating to controlled substances, open
7 containers, the prescription drug monitoring system, and taxation;
8 to harmonize provisions; to provide operative dates; to repeal the
9 original sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 78 of this act shall be known and may be
2 cited as the Medicinal Cannabis Act.

3 Sec. 2. For purposes of the Medicinal Cannabis Act, the definitions
4 found in sections 3 to 27 of this act apply.

5 Sec. 3. Allowable amount of cannabis means:

6 (1) Two and one-half ounces or less of cannabis in any form other
7 than a cannabis product;

8 (2) Cannabis products containing no more than two thousand
9 milligrams of delta-9-tetrahydrocannabinol; or

10 (3) A specific greater amount authorized by a medical necessity
11 waiver pursuant to subdivision (3) of section 39 of this act.

12 Sec. 4. Bona fide practitioner-patient relationship means:

13 (1) A health care practitioner and patient have a treatment or
14 consulting relationship, during the course of which the health care
15 practitioner has completed an assessment of the patient's medical history
16 and current medical condition, including an appropriate examination; and

17 (2) The health care practitioner has consulted with the patient with
18 respect to the patient's qualifying medical condition.

19 Sec. 5. (1) Cannabis means any species of the cannabis plant, or
20 any mixture or preparation of any species of the cannabis plant,
21 including whole plant extracts and resins. Cannabis includes cannabis
22 products.

23 (2) Cannabis does not include (a) any prescription drug approved
24 under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
25 355, as such section existed on January 1, 2023, or (b) hemp or hemp
26 products as allowed under the Nebraska Hemp Farming Act.

27 Sec. 6. (1) Cannabis accessory means any delivery device or related
28 supplies and educational materials used in the administration of cannabis
29 as allowed under the Medicinal Cannabis Act.

30 (2) Cannabis accessory does not include a bong, pipe, rolling paper,
31 or other paraphernalia that is used to smoke cannabis in violation of

1 section 57 of this act.

2 Sec. 7. (1) Cannabis product means a product (a) that is infused
3 with cannabis or an extract thereof or that consists of cannabis resin or
4 extract and (b) that is intended for use or consumption by humans.

5 (2) Cannabis product includes, but is not limited to, a concentrate,
6 a topical product, an ointment, an oil, a pill, or a tincture. Cannabis
7 product does not include an edible cannabis product, except for a pill.

8 Sec. 8. Certified patient means a Nebraska resident who:

9 (1)(a) Has been issued a written certification within the past
10 ninety days;

11 (b) Is not prohibited from participating pursuant to section 54 of
12 this act;

13 (c) Has signed a disclosure form if the department has provided a
14 disclosure form on its web site; and

15 (d) In the case of a patient younger than eighteen years of age, has
16 an affidavit which is signed by the patient's parent or legal guardian
17 with responsibility for health care decisions for the patient, which
18 states that the parent or legal guardian grants permission for the
19 patient's medicinal use of cannabis, and which states that the parent or
20 legal guardian agrees to control the use of cannabis by the patient; or

21 (2) Is enrolled in the registry program.

22 Sec. 9. Department means the Cannabis Enforcement Department.

23 Sec. 10. Designated caregiver means:

24 (1) In the case of a person who is not the parent or legal guardian
25 of a patient, a natural person who:

26 (a) Is at least twenty-one years of age;

27 (b) Has been designated by a patient to assist the patient with the
28 medicinal use of cannabis in a sworn and signed affidavit, signed by the
29 patient, that affirms that the person is the only person serving as a
30 caregiver for the patient unless more than one designated caregiver is
31 authorized by the department as provided in section 34 of this act; and

1 (c) Is not prohibited from participating in the registry program
2 pursuant to section 54 of this act;

3 (2) The parent or legal guardian of a patient if not prohibited from
4 participating in the registry program pursuant to section 54 of this act;
5 or

6 (3) A health care facility as defined in section 71-413 or a home
7 health agency as defined in section 71-417 if the facility or agency has
8 registered with the department and agreed to serve as a designated
9 caregiver.

10 Sec. 11. Dispensary means an entity registered by the department to
11 acquire, possess, or dispense cannabis, cannabis products, and cannabis
12 accessories.

13 Sec. 12. Felony offense means a violation of Nebraska or federal
14 law that is a felony or of another state's law which would be a felony if
15 committed in Nebraska, regardless of the sentence imposed. Felony offense
16 does not include an offense that consists of conduct for which the
17 Medicinal Cannabis Act would likely have prevented a conviction, except
18 that the conduct either occurred prior to the operative date of this
19 section or was prosecuted by an authority other than this state.

20 Sec. 13. Health care practitioner means a person licensed (1) under
21 the Medicine and Surgery Practice Act to practice medicine and surgery or
22 osteopathic medicine and surgery, (2) under the Medicine and Surgery
23 Practice Act to practice as a physician assistant, or (3) under the
24 Advanced Practice Registered Nurse Practice Act to practice as a nurse
25 practitioner.

26 Sec. 14. Laboratory means a person or entity registered by the
27 department to test cannabis for potency and contaminants.

28 Sec. 15. (1) Medicinal use includes the acquisition,
29 administration, delivery, possession, preparation, transfer,
30 transportation, or use of cannabis, cannabis products, or cannabis
31 accessories relating to the administration of cannabis to treat or

1 alleviate a patient's qualifying medical condition or symptoms associated
2 with the patient's qualifying medical condition.

3 (2) Medicinal use does not include:

4 (a) The cultivation of cannabis unless the cultivation is done by a
5 producer; or

6 (b) The extraction of resin from cannabis by solvent extraction
7 unless the extraction is done by a processor.

8 Sec. 16. Nonresident caregiver means a person who:

9 (1) Is the parent, legal guardian, conservator, or other person with
10 authority to consent to the medical treatment of a patient who has been
11 diagnosed with a qualifying medical condition;

12 (2) Is not a resident of Nebraska or has been a resident of Nebraska
13 for less than forty-five days; and

14 (3) Holds a currently valid registry verification or its equivalent
15 under the laws of another state, district, territory, commonwealth,
16 insular possession of the United States, or country recognized by the
17 United States that allows the person to assist a patient to use cannabis
18 for medicinal purposes in the jurisdiction of issuance.

19 Sec. 17. Nonresident patient means a person who:

20 (1) Has been diagnosed with a qualifying medical condition;

21 (2) Is not a resident of Nebraska or has been a resident of Nebraska
22 for less than forty-five days; and

23 (3) Holds a currently valid registry verification or its equivalent
24 under the laws of another state, district, territory, commonwealth,
25 insular possession of the United States, or country recognized by the
26 United States that allows the person to use cannabis for medicinal
27 purposes in the jurisdiction of issuance.

28 Sec. 18. Participating health care practitioner means a health care
29 practitioner who (1) is treating a certified patient and (2) complies
30 with the requirements of section 37 of this act.

31 Sec. 19. Patient registry number means a unique identification

1 number assigned by the department to a patient enrolled in the registry
2 program.

3 Sec. 20. Process means to process harvested cannabis materials into
4 cannabis products or concentrated cannabis.

5 Sec. 21. Processor means a person registered by the department to
6 process cannabis in this state.

7 Sec. 22. (1) Produce means to manufacture, plant, cultivate, grow,
8 or harvest cannabis.

9 (2) Produce does not include:

10 (a) The drying of cannabis by a processor if the processor is not
11 otherwise producing cannabis; or

12 (b) The cultivation and growing of an immature cannabis plant by a
13 processor if the processor purchased or otherwise received the plant from
14 a producer.

15 Sec. 23. Producer means a person registered by the department to
16 produce cannabis in this state.

17 Sec. 24. Qualifying medical condition means a current diagnosis of
18 any of the following conditions:

19 (1) Amyotrophic lateral sclerosis;

20 (2) Autism with frequent or severe self-injurious or aggressive
21 behavior;

22 (3) Cancer;

23 (4) Crohn's disease or ulcerative colitis;

24 (5) Epilepsy or epileptic seizures;

25 (6) Glaucoma;

26 (7) Hepatitis C that causes moderate to severe nausea or cachexia;

27 (8) Human immunodeficiency virus or acquired immune deficiency
28 syndrome;

29 (9) Huntington's disease;

30 (10) Parkinson's disease;

31 (11) Spinal cord injury or disease with residual neurological

1 deficits;

2 (12) Terminal illness with a probable life expectancy of under one
3 year;

4 (13) Tourette's syndrome;

5 (14) A serious medical condition, or the treatment of a serious
6 medical condition, that causes severe nausea or cachexia;

7 (15) Severe and persistent muscle spasms caused by multiple
8 sclerosis, spinal cord injury, or muscular dystrophy; or

9 (16) Severe or chronic pain lasting longer than six months that is
10 not adequately managed, in the opinion of a health care practitioner,
11 despite treatment attempts using (a) conventional medications other than
12 opioids or opiates or (b) physical interventions.

13 Sec. 25. Registry program means the voluntary patient registry
14 established under the Medicinal Cannabis Act.

15 Sec. 26. Registry verification means the verification provided by
16 the department that a patient is enrolled in the registry program
17 pursuant to subsection (5) of section 35 of this act.

18 Sec. 27. Written certification means a document that is made in
19 accordance with sections 37 and 39 of this act and that states that a
20 patient has been diagnosed with a qualifying medical condition.

21 Sec. 28. (1) Nothing in the Medicinal Cannabis Act permits any
22 person to engage in or prevents the imposition of any civil, criminal, or
23 other penalties for:

24 (a) Undertaking any task that would constitute negligence or
25 professional malpractice due to the use of cannabis;

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

27 (i) On a school bus or van;

28 (ii) On the grounds of any preschool or primary or secondary school
29 except as provided in section 29 of this act;

30 (iii) In any jail, adult or juvenile correctional facility, or youth
31 rehabilitation and treatment center; or

1 (iv) On the grounds of any child care facility or home daycare
2 except as provided in section 29 of this act;

3 (c) Inhaling cannabis by means of vaporization:

4 (i) Where the vapor would be inhaled by a nonpatient minor child; or

5 (ii) In any public place, including any indoor or outdoor area used
6 by or open to the general public or a place of employment as defined in
7 section 71-5724, other than with an aerosol inhaler;

8 (d) Inhaling or consuming cannabis in a motor vehicle;

9 (e) Having a container or package of cannabis within the passenger
10 area of a motor vehicle in violation of section 60-6,211.08; or

11 (f) Operating, navigating, or being in actual physical control of
12 any motor vehicle, aircraft, train, or motorboat, or working on
13 transportation property, equipment, or facilities, while under the
14 influence of cannabis.

15 (2) Nothing in the Medicinal Cannabis Act:

16 (a) Requires an employer to permit or accommodate the growing,
17 possession, consumption, use, distribution, display, transfer,
18 transportation, or sale of cannabis;

19 (b) Affects the ability of an employer to restrict the use of
20 cannabis by employees;

21 (c) Requires any employer to accommodate the medicinal use of
22 cannabis; or

23 (d) Requires the medical assistance program or any employer or
24 insurance carrier pursuant to the Nebraska Workers' Compensation Act to
25 reimburse a person for costs associated with the medicinal use of
26 cannabis.

27 (3) Nothing in the Medicinal Cannabis Act shall be construed to:

28 (a) Prohibit an employer from including in any contract a provision
29 prohibiting the use of cannabis;

30 (b) Permit a cause of action against an employer for wrongful
31 discharge or discrimination;

1 (c) Prohibit a person, an employer, a corporation, or any other
2 entity which occupies, owns, or controls property from prohibiting or
3 otherwise regulating the growing, possession, consumption, use,
4 distribution, display, transfer, transportation, or sale of cannabis, on
5 or in that property; or

6 (d) Prohibit an employer from establishing and enforcing a drug-
7 testing policy, drug-free workplace policy, or zero-tolerance drug
8 policy.

9 (4) An employee who is discharged from employment for misconduct
10 relating to (a) the consumption or use of cannabis, (b) working while
11 under the influence of cannabis, or (c) testing positive for a controlled
12 substance shall be disqualified from receiving benefits under the
13 Employment Security Law as provided in section 48-628.10.

14 Sec. 29. (1) Any school, health care facility or health care
15 service licensed pursuant to the Health Care Facility Licensure Act,
16 licensed child care facility as defined in section 43-4308, or foster
17 care facility as defined in section 43-1301 may adopt reasonable
18 restrictions on the use of cannabis by students, residents, or persons
19 receiving care or services, including that:

20 (a) The school, facility, or service and agents thereof are not
21 responsible for providing the cannabis;

22 (b) Cannabis may not be inhaled using vaporization other than with
23 an aerosol inhaler; and

24 (c) Cannabis may be consumed only in a place specified by the
25 school, facility, or service.

26 (2) Nothing in this section requires a school, facility, or service
27 listed in subsection (1) of this section to adopt restrictions on the
28 medicinal use of cannabis.

29 (3) A school, facility, or service listed in subsection (1) of this
30 section shall not unreasonably limit a patient's access to or use of
31 cannabis authorized under the Medicinal Cannabis Act unless failing to do

1 so would cause the school, facility, or service to lose a monetary or
2 license-related benefit under federal law or regulations.

3 Sec. 30. (1) Nothing in the Medicinal Cannabis Act allows the
4 medical assistance program established pursuant to the Medical Assistance
5 Act to reimburse an enrollee or a provider under the medical assistance
6 program for costs associated with the medicinal use of cannabis. The
7 medical assistance program shall continue to provide coverage for all
8 other services related to treatment of an enrollee's qualifying medical
9 condition if the service is covered under the medical assistance program.

10 (2) Nothing in the Medicinal Cannabis Act requires a private insurer
11 to reimburse an insured or any other person for costs associated with the
12 medicinal use of cannabis. The private insurer shall continue to provide
13 coverage for all services related to treatment of an insured's qualifying
14 medical condition if the service is covered under the insurance policy.

15 Sec. 31. (1) The department shall establish and maintain a
16 voluntary registry program for patients and caregivers. The registry
17 shall include (a) the name, address, and telephone number of each patient
18 voluntarily enrolling in the registry program, (b) the participating
19 health care practitioner for the patient, and (c) the designated
20 caregiver for the patient, if any.

21 (2) The registry program shall assign a patient registry number to
22 each certified patient who voluntarily registers. The patient registry
23 number shall be a random, unique ten-digit alphanumeric identification
24 number.

25 (3) A patient may apply to the department for enrollment in the
26 registry program by submitting an application pursuant to section 34 of
27 this act. The department shall ensure that the application and related
28 information are kept confidential to protect the privacy of the
29 applicant.

30 Sec. 32. (1) A certified patient or nonresident patient may engage
31 in the medicinal use of cannabis.

1 (2) A certified patient or designated caregiver shall not be subject
2 to citation, arrest, prosecution, or penalty in any manner, or denied any
3 right or privilege, including, but not limited to, any civil penalty or
4 disciplinary action by a court or occupational or professional licensing
5 board, for:

6 (a) The medicinal use of cannabis pursuant to the Medicinal Cannabis
7 Act if the certified patient or designated caregiver (i) does not possess
8 more than the allowable amount of cannabis and (ii) is in possession of
9 (A) the patient's written certification or a copy of the patient's
10 written certification and, in the case of a designated caregiver, any
11 affidavit required by section 8 or 10 of this act or (B) the patient's
12 valid registry verification;

13 (b) Reimbursement by a certified patient to the patient's designated
14 caregiver for direct costs incurred by the designated caregiver for
15 assisting with the certified patient's medicinal use of cannabis;

16 (c) Transferring cannabis to a laboratory for testing; or

17 (d) Compensating a dispensary or a laboratory for goods or services
18 provided.

19 (3) A nonresident patient or nonresident caregiver shall not be
20 subject to citation, arrest, prosecution, or penalty in any manner, or
21 denied any right or privilege, including, but not limited to, any civil
22 penalty or disciplinary action by a business or occupational or
23 professional licensing board, for transporting, purchasing, possessing,
24 or using cannabis pursuant to the Medicinal Cannabis Act if the
25 nonresident patient or nonresident caregiver does not possess more than
26 an allowable amount of cannabis and the nonresident patient or
27 nonresident caregiver is in possession of any documentation required by
28 section 16 or 17 of this act.

29 (4) There is a presumption that a certified patient, designated
30 caregiver, nonresident patient, or nonresident caregiver is engaged in
31 the medicinal use of cannabis pursuant to the Medicinal Cannabis Act if

1 the person possesses (a) an amount of cannabis that does not exceed the
2 allowable amount and (b) the documentation required by this section. The
3 presumption may be rebutted by evidence that conduct related to cannabis
4 was not for the purpose of treating or alleviating a certified patient's
5 or nonresident patient's qualifying medical condition or symptoms
6 associated with the certified patient's or nonresident patient's
7 qualifying medical condition pursuant to the Medicinal Cannabis Act.

8 (5) If a certified patient, designated caregiver, nonresident
9 patient, or nonresident caregiver is cited, arrested, or prosecuted for
10 possession or consumption of an allowable amount of cannabis at a time
11 when the person does not have in such person's possession the
12 documentation required by this section, the prosecution, civil offense,
13 or disciplinary proceeding shall be immediately dismissed upon production
14 and verification of the documentation.

15 Sec. 33. No person may be subject to arrest, prosecution, or
16 penalty in any manner, or denied any right or privilege, including any
17 civil penalty or disciplinary action by a court or occupational or
18 professional licensing board, for:

19 (1) Providing or selling cannabis accessories to a certified
20 patient, designated caregiver, nonresident patient, nonresident
21 caregiver, dispensary, producer, processor, or laboratory;

22 (2) Being in the presence or vicinity of the medicinal use of
23 cannabis that is permitted under the Medicinal Cannabis Act;

24 (3) Allowing the person's property to be used for activities that
25 are permitted under the Medicinal Cannabis Act; or

26 (4) Assisting a certified patient or nonresident patient with the
27 act of using or administering cannabis as permitted under the Medicinal
28 Cannabis Act.

29 Sec. 34. (1) The department shall develop an application for
30 patient enrollment in the registry program. The application shall be
31 available to the patient and given to participating health care

1 practitioners in Nebraska. The application shall include:

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

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

5 (c) The name, mailing address, and date of birth of the patient's
6 designated caregiver, if any;

7 (d) A copy of the written certification;

8 (e) If the patient requests more than one designated caregiver at
9 any given time, documentation demonstrating that a greater number of
10 designated caregivers is needed due to the patient's age or medical
11 condition;

12 (f) All other signed affidavits and enrollment forms required by the
13 department under the Medicinal Cannabis Act, including, but not limited
14 to, the disclosure form required under subsection (3) of this section and
15 the informed consent form as required under subsection (4) of this
16 section; and

17 (g) An oath, affirmation, or statement to the effect that its
18 representations are true as far as the patient executing the application
19 knows or should know.

20 (2) In order to renew a certified patient's registry verification,
21 the certified patient shall submit a written certification on an annual
22 basis which is dated within ninety days prior to submission.

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

26 (a) A statement that the department, or any employee of any state
27 agency, may not be held criminally liable for any injury, loss of
28 property, personal injury, or death caused by any act or omission while
29 acting within the respective scope of office or employment under the
30 Medicinal Cannabis Act; and

31 (b) The patient's acknowledgment that enrollment in the registry

1 program is conditional on the patient's agreement to comply with the
2 Medicinal Cannabis Act.

3 (4) The department shall require a patient to give written, informed
4 consent for the use of the cannabis. Written, informed consent shall
5 consist of a signed disclosure and consent form executed by the patient,
6 or the patient's parent or legal guardian if the patient is a minor,
7 that:

8 (a) Contains a statement that the patient's health insurance carrier
9 is not obligated to pay for any care or treatments consequent to the use
10 of cannabis; and

11 (b) Makes clear that the patient understands that the patient is
12 liable for all expenses consequent to the use of cannabis.

13 Sec. 35. (1) Within thirty days after receipt of an application and
14 signed disclosure and consent forms, the department shall give notice of
15 denial under subsection (2) of this section or enroll the patient in the
16 registry program and issue the certified patient and the designated
17 caregiver, if applicable, a registry verification. A patient's enrollment
18 in the registry program shall only be denied if the patient:

19 (a) Does not submit a written certification;

20 (b) Has not signed and returned to the department the disclosure and
21 consent forms required under subsections (3) and (4) of section 34 of
22 this act;

23 (c) Does not provide the information required under the Medicinal
24 Cannabis Act;

25 (d) Has previously been removed from the registry program for a
26 violation of section 54, 55, 56, 57, or 58 of this act; or

27 (e) Provides false information under the act.

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

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

1 (4) A patient's enrollment in the registry program shall only be
2 revoked if a patient violates section 54, 55, 56, 57, or 58 of this act,
3 provides false information under the act, or upon the death of the
4 patient.

5 (5) The department shall develop a registry verification to provide
6 to the patient and to the dispensary. The registry verification may be in
7 the form of a registry identification card. The registry verification
8 shall include:

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

10 (b) The patient registry number assigned to the patient; and

11 (c) The name, mailing address, and date of birth of the patient's
12 designated caregiver, if any.

13 Sec. 36. (1) The department shall register a person as a designated
14 caregiver for a patient if the person signs a statement agreeing to serve
15 as the designated caregiver. For a caregiver which is not a natural
16 person, the agreement shall be signed by the chief executive officer or
17 chief operating officer of the entity.

18 (2) As a condition of registration as a designated caregiver, the
19 department shall require the person to:

20 (a) For a natural person:

21 (i) Be at least twenty-one years of age or the parent or legal
22 guardian of the patient;

23 (ii) Agree to only possess cannabis for purposes of assisting the
24 patient; and

25 (iii) Agree that if the application is approved, the person will not
26 be a designated caregiver for more than one patient unless each of such
27 patients reside in the same residence; or

28 (b) If the caregiver is not a natural person:

29 (i) Agree that any person who is assisting the patient is at least
30 twenty-one years of age; and

31 (ii) Agree that possession and use of cannabis at the location of

1 the caregiver is authorized under the Medicinal Cannabis Act.

2 (3) The department shall adopt and promulgate rules and regulations
3 governing entities that serve as designated caregivers under subdivision
4 (3) of section 10 of this act, including:

5 (a) Limiting the number of individuals who may transport and
6 administer cannabis on behalf of the entity to a reasonably necessary
7 number of individuals who have undergone appropriate training; and

8 (b) Requiring the name and date of birth of each individual who may
9 transport or administer cannabis on behalf of the entity to be filed with
10 the department.

11 Sec. 37. (1) Prior to a patient's enrollment in the registry
12 program, a participating health care practitioner shall determine, in the
13 medical judgment of the participating health care practitioner, whether a
14 patient suffers from a qualifying medical condition and, if so
15 determined, provide the patient with a written certification. A
16 participating health care practitioner shall not issue more than one
17 thousand one hundred written certifications in a calendar year or more
18 than two hundred seventy-five written certifications in any ninety-day
19 period.

20 (2) Nothing in this section requires a health care practitioner to
21 (a) participate under the Medicinal Cannabis Act or (b) provide
22 recommendations, limitations, or restrictions regarding dosage or the
23 form of cannabis on a patient's certification.

24 (3)(a) Except as provided in subdivision (c) of this subsection, a
25 health care practitioner shall complete a minimum of eight hours of
26 continuing medical education courses approved by the Medicinal Cannabis
27 Board prior to issuing a certification. The courses shall include
28 education on the risks and benefits of cannabis used for medicinal
29 purposes, substance abuse disorder, and best practices for pain
30 management.

31 (b) A health care practitioner who recommends cannabis to at least

1 twenty-five patients shall comply with any additional continuing medical
2 education course requirements required by the Medicinal Cannabis Board.

3 (c) Until three months after the Medicinal Cannabis Board approves a
4 continuing medical education course that satisfies the requirements of
5 subdivision (a) of this subsection, a health care practitioner who
6 recommends cannabis to patients may instead complete a medicinal cannabis
7 continuing education course of at least eight hours that has been
8 approved by a medicinal cannabis program in another state, subject to
9 approval by the board.

10 (4) A participating health care practitioner shall not knowingly
11 issue a written certification to a person who is pregnant.

12 (5) Each written certification shall be dated and signed by a
13 participating health care practitioner, shall state that the patient has
14 been diagnosed with a qualifying medical condition, shall affirm that it
15 was made in the course of a bona fide practitioner-patient relationship
16 and in accordance with this section, shall affirm that the health care
17 practitioner checked the prescription drug monitoring system established
18 in section 71-2454 prior to recommending cannabis, and shall include an
19 acknowledgement signed by the health care practitioner that:

20 (a) The participating health care practitioner and patient have a
21 bona fide practitioner-patient relationship;

22 (b) The participating health care practitioner conducted an
23 evaluation of the patient and collected the patient's relevant clinical
24 history. At a minimum, the evaluation of a patient prior to the issuance
25 of a written certification shall include:

26 (i) Except in the case of a terminally ill patient, an assessment
27 for alcohol and substance abuse;

28 (ii) Except in the case of a terminally ill patient, an assessment
29 of whether the patient or the patient's immediate family has a history of
30 schizophrenia or psychotic disorders;

31 (iii) A physical examination; and

1 (iv) In cases in which the patient indicates that the patient may
2 become pregnant within the next twelve months, a discussion of any risks
3 of cannabis related to pregnancy; and

4 (c) That the health care practitioner checked the prescription drug
5 monitoring system established in section 71-2454 prior to recommending
6 cannabis.

7 (6) Any written certification issued twenty days or more after the
8 department notifies health care practitioners that a standardized written
9 certification form is available on its web site in accordance with
10 section 39 of this act shall be issued on the form.

11 (7) A participating health care practitioner shall not:

12 (a) Accept, solicit, or offer any form of pecuniary remuneration
13 from or to a dispensary;

14 (b) Offer a discount or any other thing of value to a certified
15 patient who uses or agrees to use a particular dispensary;

16 (c) Examine a patient at a location where cannabis, cannabis
17 products, or cannabis accessories are sold; or

18 (d) Hold an economic interest in a dispensary, processor, or
19 producer.

20 (8) If the department or Medicinal Cannabis Board has reasonable
21 cause to believe that a health care practitioner has violated this
22 section, the department or Medicinal Cannabis Board may refer the matter
23 to the Department of Health and Human Services for an investigation and
24 determination. If the Medicinal Cannabis Board finds that the health care
25 practitioner violated this section, the board may direct the Cannabis
26 Enforcement Department to restrict the health care practitioner's
27 authority to recommend the use of cannabis or act as a participating
28 health care practitioner. This restriction may be in addition to any
29 sanction imposed by the Department of Health and Human Services.

30 (9) A participating health care practitioner shall not be subject to
31 arrest, prosecution, or penalty in any manner, or denied any right or

1 privilege, including, but not limited to, civil penalty or disciplinary
2 action by the Department of Health and Human Services or by any other
3 occupational or professional licensing board, solely for providing a
4 written certification or for stating that, in the health care
5 practitioner's professional opinion, a patient is likely to receive
6 therapeutic or palliative benefit from the medicinal use of cannabis to
7 treat or alleviate the patient's qualifying medical condition or symptoms
8 associated with the medical condition. Nothing in the Medicinal Cannabis
9 Act prevents a practitioner from being sanctioned for:

10 (a) Issuing a written certification to a patient with whom the
11 practitioner does not have a bona fide practitioner-patient relationship;

12 (b) Failing to properly evaluate a patient's medical condition; or

13 (c) Any other violation of this section.

14 Sec. 38. A pharmacist shall not be subject to arrest, prosecution,
15 or penalty in any manner, or denied any right or privilege, including,
16 but not limited to, civil penalty or disciplinary action by the
17 Department of Health and Human Services or by any other occupational or
18 professional licensing board, solely for providing cannabis or related
19 advice in accordance with the Medicinal Cannabis Act. The Medicinal
20 Cannabis Act does not prevent a pharmacist from being sanctioned for
21 violating the act or negligently providing advice that is counter to
22 information provided by the cannabis continuing education course approved
23 pursuant to section 43 of this act.

24 Sec. 39. The department shall:

25 (1) Create and provide a written certification form to be used by a
26 participating health care practitioner;

27 (2) Give notice of the written certification form created pursuant
28 to subdivision (1) of this section to health care practitioners in
29 Nebraska who are eligible to serve as participating health care
30 practitioners and explain the purposes and requirements of the Medicinal
31 Cannabis Act;

1 (3) Develop requirements for a medical necessity waiver allowing a
2 certified patient to apply to possess a greater quantity of cannabis than
3 allowed under subdivision (1) or (2) of section 3 of this act if the
4 patient demonstrates that a greater quantity is needed due to factors
5 which may include the medical condition of the patient, the mode of
6 administration of cannabis used by the patient, transportation
7 difficulties faced by the patient, and the distance of the patient's
8 residence from dispensaries;

9 (4) Provide for at least three tiers of producers, based on the size
10 of the facility or the number of plants cultivated. Security regulations
11 and licensing fees shall vary by tier;

12 (5) Develop security and record-keeping requirements for the
13 delivery of cannabis from dispensaries to a certified patient, designated
14 caregiver, nonresident patient, or nonresident caregiver; and

15 (6) Develop requirements for a financial hardship waiver allowing a
16 certified patient to apply to purchase cannabis at a discount. The
17 requirements for a financial hardship waiver shall include consideration
18 of household income, wealth, and financial need, including consideration
19 of ongoing medical costs related to the patient's qualifying medical
20 condition. The department may develop restrictions to limit the amount of
21 cannabis that a certified patient may purchase at a discount, directly or
22 through the patient's designated caregiver, to an allowable amount of
23 cannabis every thirty days. The restrictions may require a certified
24 patient to designate a single dispensary each month at which the
25 certified patient may purchase cannabis at a discount.

26 Sec. 40. (1) Except as otherwise provided in section 47 of this
27 act, the department shall register up to ten producers and all qualifying
28 processors which apply for registration in each congressional district in
29 Nebraska for the production and processing of all cannabis within
30 Nebraska by November 1, 2024, unless the Medicinal Cannabis Board extends
31 the deadline under section 45 of this act. The department shall register

1 producers which comply with subsection (2) of this section and shall
2 register processors which comply with subsection (3) of this section. The
3 department may register an applicant as both a producer and a processor.
4 The registration as a producer or processor shall be valid until November
5 1 of the calendar year following the date of registration and shall be
6 renewed by November 1 of each year upon application, payment of the
7 annual fee established pursuant to section 61 of this act, and compliance
8 with the Medicinal Cannabis Act and the rules and regulations adopted and
9 promulgated under the act. The department shall renew a registration of a
10 producer or processor subject to the same conditions as required for
11 initial registration. The department shall continue to accept
12 applications for registration for producers after November 1, 2024, for
13 any congressional district which does not have a registered producer by
14 such date.

15 (2)(a) As a condition for registration prior to November 1, 2024, a
16 producer shall agree to:

17 (i) Begin supplying cannabis to processors and dispensaries on or
18 before May 1, 2025, unless extended by the Medicinal Cannabis Board; and

19 (ii) Otherwise be in compliance with the Medicinal Cannabis Act and
20 the rules and regulations adopted and promulgated under the act.

21 (b) As a condition for registration on and after November 1, 2024, a
22 producer shall agree to supply cannabis to processors and dispensaries in
23 compliance with the Medicinal Cannabis Act and otherwise be in compliance
24 with the act and the rules and regulations adopted and promulgated under
25 the act.

26 (3)(a) As a condition for registration, a processor shall agree to
27 comply with the Medicinal Cannabis Act and the rules and regulations
28 adopted and promulgated under the act.

29 (b) The department shall register a processor that submits a
30 qualifying application in compliance with the Medicinal Cannabis Act and
31 local regulations.

1 Sec. 41. (1) A producer of cannabis shall provide a reliable and
2 ongoing supply of cannabis needed for the registry program.

3 (2) The cultivation, harvesting, manufacturing, packaging, or
4 processing of cannabis shall occur at the physical address of the
5 producer or processor provided to the department on the registration
6 application.

7 (3) A processor shall contract with a laboratory for purposes of
8 testing cannabis processed by the processor as to chemical composition,
9 contamination, and consistency. The choice of laboratory is subject to
10 approval by the department. The laboratory shall report testing results
11 to the processor in a manner determined by the department.

12 (4) Each producer that sells cannabis to dispensaries shall contract
13 with a laboratory to test cannabis produced by the producer as to
14 chemical composition, contamination, and consistency. The choice of
15 laboratory is subject to approval by the department. The laboratory shall
16 report testing results to the producer in a manner determined by the
17 department.

18 Sec. 42. Each processor shall assign a tracking number to any
19 cannabis distributed by the processor. A processor shall require any
20 employee of the processor who is transporting cannabis to carry
21 identification showing that the person is an employee of the processor.
22 An employee of a processor shall not transport cannabis outside the State
23 of Nebraska.

24 Sec. 43. (1) Except as otherwise provided in section 47 of this
25 act, the department shall register up to three dispensaries in each
26 congressional district in Nebraska for the dispensing and sale of all
27 cannabis for medicinal use within Nebraska by November 1, 2024, unless
28 the Medicinal Cannabis Board extends the deadline under section 45 of
29 this act. The department shall register a dispensary which complies with
30 subsection (2) of this section based on the factors in subsection (3) of
31 this section. The registration shall be valid until November 1 of the

1 calendar year following the date of registration and shall be renewed by
2 November 1 of each year upon application, payment of the annual fee
3 established pursuant to section 61 of this act, and compliance with the
4 Medicinal Cannabis Act and the rules and regulations adopted and
5 promulgated under the act. The department shall renew registrations based
6 on the factors in subsection (3) of this section. The department shall
7 continue to accept applications for registration after November 1, 2024,
8 for any congressional district which does not have three dispensaries by
9 such date.

10 (2)(a) As a condition for registration prior to November 1, 2024, a
11 dispensary shall agree to:

12 (i) Begin supplying cannabis for medicinal use on or before May 1,
13 2025;

14 (ii) Provide a discount of at least ten percent to each certified
15 patient who has a financial hardship waiver. The discount may be limited
16 to an allowable amount of cannabis each thirty days; and

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

19 (b) As a condition for registration on and after November 1, 2024, a
20 dispensary shall agree to:

21 (i) Supply cannabis for medicinal use in compliance with the
22 Medicinal Cannabis Act;

23 (ii) Provide a discount of at least ten percent to each certified
24 patient who has a financial hardship waiver. The discount may be limited
25 to an allowable amount of cannabis each thirty days; and

26 (iii) Comply with the Medicinal Cannabis Act and the rules and
27 regulations adopted and promulgated under the act.

28 (3) The department shall consider the following factors when
29 determining whether to register a dispensary:

30 (a) The technical expertise of the dispensary in distributing
31 cannabis to patients;

- 1 (b) The qualifications of the employees of the dispensary;
- 2 (c) The long-term financial stability of the dispensary; and
- 3 (d) The ability to provide appropriate security measures on the
- 4 premises of the dispensary.

5 (4)(a) Each dispensary shall contract with or employ at least one
6 pharmacist who is licensed under the Pharmacy Practice Act and who has
7 completed at least fifteen hours of continuing education on the medicinal
8 use of cannabis, which has been approved by the Medicinal Cannabis Board.
9 The pharmacist shall be available to patients and dispensary staff, in
10 person or by telemedicine, during business hours to advise and educate
11 patients and to consult about appropriate dosing. The pharmacist or his
12 or her designee shall:

13 (i) Prior to dispensing any cannabis, check the prescription drug
14 monitoring system established in section 71-2454; and

15 (ii) Daily submit information regarding each dispensation of
16 cannabis to such prescription drug monitoring system.

17 (b) Dispensary staff shall notify certified patients, designated
18 caregivers, nonresident patients, and nonresident caregivers of the
19 availability of the pharmacist to provide a consultation at no additional
20 charge at each sale of cannabis.

21 (c) The continuing education for pharmacists shall include
22 information on drug interactions, dosages for various cannabis
23 preparations, counter-indications, and the risks and benefits of
24 cannabis. Each dispensary staff member who provides cannabis to a
25 certified patient, a designated caregiver, a nonresident patient, or a
26 nonresident caregiver shall complete a four-hour cannabis education
27 course approved by the Medicinal Cannabis Board prior to providing
28 cannabis to a certified patient, a designated caregiver, a nonresident
29 patient, or a nonresident caregiver.

30 Sec. 44. (1) The department shall register all qualifying
31 independent testing laboratories which apply for registration in Nebraska

1 for the testing of all cannabis within Nebraska by January 1, 2025,
2 unless the Medicinal Cannabis Board extends the deadline under section 45
3 of this act. The department shall register all qualifying independent
4 testing laboratories which comply with subsections (2) through (4) of
5 this section. The registration shall be valid until November 1 of the
6 calendar year following the date of registration and shall be renewed by
7 November 1 of each year upon application, payment of the annual fee
8 established pursuant to section 61 of this act, and compliance with the
9 Medicinal Cannabis Act and the rules and regulations adopted and
10 promulgated under the act. The department shall renew a registration of a
11 laboratory subject to the same conditions as required for initial
12 registration. The department shall continue to accept applications for
13 registration after January 1, 2025.

14 (2)(a) As a condition for registration prior to January 1, 2025, a
15 laboratory shall agree to:

16 (i) Begin testing cannabis on or before May 1, 2025, unless extended
17 by the Medicinal Cannabis Board; and

18 (ii) Otherwise be in compliance with the Medicinal Cannabis Act and
19 the rules and regulations adopted and promulgated under the act.

20 (b) As a condition for registration on and after January 1, 2025, a
21 laboratory shall agree to test cannabis in compliance with the Medicinal
22 Cannabis Act and otherwise be in compliance with the act and the rules
23 and regulations adopted and promulgated under the act.

24 (3) No individual may register as a laboratory if the individual is
25 registered as or holds an ownership interest in a producer, processor, or
26 dispensary. No entity may register as a laboratory if an individual or
27 entity who holds an interest in the entity holds an ownership interest in
28 a producer, processor, or dispensary. No individual or entity which
29 registers as a laboratory or holds an ownership interest in a laboratory
30 may register as or hold an ownership interest in a producer, processor,
31 or dispensary.

1 (4) The following individuals associated with a laboratory shall be
2 residents of Nebraska who have resided in the state for the two years
3 immediately prior to the date of application:

4 (a) The individual signing the application for licensure of the
5 laboratory; and

6 (b) Sixty percent of the individuals owning an interest in the
7 laboratory on the date of application.

8 (5) A laboratory shall report testing results to a producer,
9 processor, or dispensary in a manner determined by the department.

10 (6) The department shall adopt and promulgate rules and regulations
11 for a laboratory to test cannabis, cannabis products, and cannabis
12 accessories. The department shall provide standards for registration and
13 may adopt accreditation standards based on standards of the International
14 Organization for Standardization. The testing requirements shall include:

15 (a) Determining accurately, with respect to cannabis and cannabis
16 products intended for sale in Nebraska:

17 (i) The concentration of tetrahydrocannabinol and cannabidiol;

18 (ii) The presence and identification of mold and fungus;

19 (iii) The composition; and

20 (iv) The presence of chemicals, including, but not limited to,
21 pesticides, herbicides, or growth regulators; and

22 (b) Demonstrating the validity and accuracy of the methods used to
23 test cannabis and cannabis products.

24 Sec. 45. (1) The department shall, by November 1, 2024, adopt and
25 promulgate rules and regulations necessary for a dispensary to begin
26 dispensing cannabis for medicinal use and shall publish notice of the
27 proposed rules and regulations prior to May 1, 2024.

28 (2) The department shall, by September 1, 2024, advise the public
29 and the Medicinal Cannabis Board if the department is unable to register
30 producers and processors by November 1, 2024. The department shall
31 provide a written statement as to the reason or reasons the deadline will

1 not be met. Upon request of the department, the board shall extend the
2 deadline by six months but may not extend the deadline more than once.

3 (3) If notified by a producer that distribution to processors and
4 dispensaries may not begin by May 1, 2025, the department shall advise
5 the public and the board. Upon notification by the department, the board
6 shall extend the deadline by six months but may not extend the deadline
7 more than once.

8 (4) The department shall, by November 1, 2024, advise the public and
9 the Medicinal Cannabis Board if the department is unable to register
10 laboratories by January 1, 2025. The department shall provide a written
11 statement as to the reason or reasons the deadline will not be met. Upon
12 request of the department, the board shall extend the deadline by six
13 months but may not extend the deadline more than once.

14 Sec. 46. (1) Prior to dispensing any cannabis, a dispensary shall:

15 (a) Verify that the person requesting the distribution of cannabis
16 is a certified patient, a designated caregiver, a nonresident patient, or
17 a nonresident caregiver using verification procedures prescribed by the
18 department;

19 (b) Assign a tracking number to any cannabis dispensed from the
20 dispensary;

21 (c) Properly package cannabis in compliance with the federal Poison
22 Prevention Packaging Act of 1970, regarding child resistant packaging and
23 exemptions for packaging for elderly patients, and label dispensed
24 cannabis with a list of all active ingredients and individually
25 identifying information, including:

26 (i) The name of the certified patient or nonresident patient;

27 (ii) For a certified patient, the patient registry number;

28 (iii) The chemical composition of the cannabis;

29 (iv) The recommended dosage or quantity of the cannabis, if any;

30 (v) The date the cannabis is dispensed; and

31 (vi) The name and address of the dispensary; and

1 (d) Provide an informational document containing warnings as
2 prescribed by section 75 of this act.

3 (2) Dispensed cannabis shall be packaged in a manner that makes it
4 apparent if the packaging has been opened.

5 (3) A dispensary shall take back any unused cannabis and dispose of
6 it in accordance with rules and regulations adopted and promulgated by
7 the department.

8 Sec. 47. (1) Each producer, processor, dispensary, and laboratory
9 shall disclose its proposed location to the department during the
10 registration process. A county, city, or village governing body may adopt
11 a resolution or ordinance prohibiting the operation of a producer,
12 processor, dispensary, or laboratory or all four within its jurisdiction
13 and may adopt zoning regulations that reasonably limit a producer,
14 processor, dispensary, or laboratory to certain areas within its
15 jurisdiction. If all jurisdictions within a congressional district adopt
16 a prohibition on the operation of producers, the department may register
17 an additional producer in another congressional district. If all
18 jurisdictions within a congressional district adopt a prohibition on the
19 operation of a dispensary, the department may register up to three
20 additional dispensaries in another congressional district or up to two
21 additional dispensaries in each of the other congressional districts.

22 (2)(a) A dispensary shall not conduct any cultivation, harvesting,
23 manufacturing, or processing of cannabis.

24 (b) The operating documents of a dispensary shall include:

25 (i) Procedures for the oversight of the dispensary and procedures to
26 ensure accurate record keeping; and

27 (ii) Procedures for the implementation of appropriate security
28 measures to deter and prevent the theft of cannabis and unauthorized
29 entrance into areas containing cannabis.

30 (3) The operating documents of a producer, processor, or laboratory
31 shall include:

1 (a) Procedures for the oversight of the producer, processor, or
2 laboratory and procedures to ensure accurate record keeping; and

3 (b) Procedures for the implementation of appropriate security
4 measures to deter and prevent the theft of cannabis and unauthorized
5 entrance into areas containing cannabis.

6 (4) Each producer, processor, dispensary, and laboratory shall
7 implement security requirements, including requirements for protection of
8 its location by a fully operational security alarm system, facility
9 access controls, perimeter intrusion detection systems, and a personnel
10 identification system.

11 (5) A producer, processor, dispensary, or laboratory shall not share
12 office space with or refer patients to a participating health care
13 practitioner.

14 (6) A producer, processor, dispensary, or laboratory shall not
15 permit any person to consume cannabis on the property of the producer,
16 processor, dispensary, or laboratory.

17 (7) A producer, processor, dispensary, or laboratory is subject to
18 reasonable inspection by the department or its designee.

19 (8)(a) No producer, processor, dispensary, or laboratory shall
20 employ any person who is under twenty-one years of age or who has been
21 convicted of a felony offense. Each employee of a producer, processor,
22 dispensary, or laboratory shall complete a criminal history record
23 information check before the employee may begin working with the
24 producer, processor, dispensary, or laboratory.

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

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

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

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

13 (9) No producer, processor, dispensary, or laboratory may operate in
14 any location within one thousand feet of a public or private school
15 existing before the date of the initial registration of the producer,
16 processor, dispensary, or laboratory with the department, except that the
17 department may reduce the distance to five hundred feet in instances
18 where it is allowed by local law and reasonably necessary to provide
19 adequate access to certified patients.

20 (10) A producer, processor, dispensary, or laboratory shall comply
21 with reasonable restrictions set by the department relating to signage,
22 marketing, display, and advertising of cannabis and shall comply with
23 local zoning regulations.

24 Sec. 48. (1) Subject to section 28 of this act, the following
25 activities are authorized under the Medicinal Cannabis Act and shall not
26 be grounds for citation, arrest, prosecution, or penalty in any manner,
27 or denial of any right or privilege, including any civil penalty or
28 disciplinary action by a court or occupational or professional licensing
29 board:

30 (a) Use or possession of an allowable amount of cannabis and
31 cannabis accessories by a certified patient or a nonresident patient or

1 possession of an allowable amount of cannabis and cannabis accessories by
2 a designated caregiver or a nonresident caregiver;

3 (b) Possession or sale of cannabis or cannabis accessories by a
4 producer, processor, dispensary, or employees of a producer, processor,
5 or dispensary;

6 (c) Possession of cannabis by a laboratory conducting testing on
7 cannabis or employees of the laboratory; and

8 (d) Possession of cannabis or cannabis accessories by any person
9 while carrying out the duties required under the Medicinal Cannabis Act.

10 (2) Cannabis and cannabis accessories obtained and distributed
11 pursuant to the Medicinal Cannabis Act and associated property are not
12 subject to forfeiture under section 28-431.

13 (3) The department, the department's staff, the department's agents
14 or contractors, and participating health care practitioners are not
15 subject to any civil or disciplinary penalties by any business,
16 occupational, or professional licensing board or entity, solely for
17 participation in the registry program under the Medicinal Cannabis Act.
18 Nothing in this section prevents a professional licensing board from
19 taking action in response to violations of any other provision of law.

20 (4) A holder of a professional or occupational license may not be
21 subject to professional discipline solely for providing advice or
22 services related to cannabis activities that are allowed pursuant to the
23 Medicinal Cannabis Act.

24 (5) State and local law enforcement authorities are prohibited from
25 accessing the registry program under the Medicinal Cannabis Act except
26 (a) when acting pursuant to a search warrant or (b) to verify a person's
27 assertion that such person is a patient or registered designated
28 caregiver in the registry program.

29 (6) No state or local official, including an employee or agent of
30 the department, may disclose to federal authorities, including the Bureau
31 of Alcohol, Tobacco, Firearms and Explosives of the United States

1 Department of Justice, any identifying information regarding
2 participation in the registry program or the Medicinal Cannabis Act.

3 (7) The registry program shall only allow direct access by law
4 enforcement and dispensary staff by verifying a patient registry number,
5 not by inputting names.

6 (8) Any person who violates subsection (5), (6), or (7) of this
7 section is guilty of a Class I misdemeanor.

8 (9) No information contained in a report, document, or registry
9 produced or received under the Medicinal Cannabis Act or obtained from a
10 patient under the act may be admitted as evidence for the prosecution in
11 a criminal proceeding unless independently obtained or in connection with
12 a proceeding involving a violation of the act.

13 (10) An attorney shall not be subject to disciplinary action for
14 providing legal assistance to a certified patient, a designated
15 caregiver, a nonresident patient, a nonresident caregiver, or a
16 prospective or registered producer, processor, dispensary, or laboratory
17 or to others related to activity that is not subject to criminal
18 penalties under state law pursuant to the Medicinal Cannabis Act.

19 (11) Possession of a registry verification, an application for
20 enrollment in the registry program, or a written certification and
21 related documentation by a person entitled to possess or apply for
22 enrollment in the registry program does not constitute probable cause or
23 reasonable suspicion, nor shall it be used to support a search of the
24 person or property of the person possessing or applying for the registry
25 verification or otherwise subject the person or property of the person to
26 inspection by any governmental agency.

27 (12) The governing body of a county, city, or village shall not
28 prohibit the delivery of cannabis or cannabis accessories for use under
29 the Medicinal Cannabis Act either expressly or through the enactment of
30 ordinances or regulations that make the delivery impracticable in the
31 respective jurisdiction.

1 Sec. 49. Activities related to cannabis and cannabis accessories
2 shall be lawful as long as they are conducted in accordance with the
3 Medicinal Cannabis Act.

4 Sec. 50. (1) Contracts related to cannabis or cannabis accessories
5 for use under the Medicinal Cannabis Act, that are entered into by
6 certified patients, designated caregivers, nonresident patients,
7 nonresident caregivers, dispensaries, producers, processors,
8 laboratories, or agents of dispensaries, producers, processors, or
9 laboratories, and those who allow property to be used by those persons,
10 shall be enforceable.

11 (2) No contract described in subsection (1) of this section that is
12 exempt from criminal penalties by the Medicinal Cannabis Act shall be
13 unenforceable on the basis that activities related to cannabis are
14 prohibited by federal law.

15 Sec. 51. (1) No school or landlord may refuse to enroll or lease to
16 and may not otherwise penalize a person solely for the person's status as
17 a certified patient or nonresident patient unless failing to do so would
18 violate federal law or regulations or cause the school or landlord to
19 lose a monetary or licensing-related benefit under federal law or
20 regulations.

21 (2) For purposes of medical care, including organ transplants, the
22 use of cannabis under the Medicinal Cannabis Act by a certified patient
23 or nonresident patient does not constitute the use of an illicit
24 substance or otherwise disqualify a certified patient or nonresident
25 patient from needed medical care.

26 (3) A person shall not be denied custody of a minor child or
27 visitation rights or parenting time with a minor child solely based on
28 the person's status as a certified patient or nonresident patient.

29 Sec. 52. (1) No state or local agency shall restrict, revoke,
30 suspend, or otherwise infringe upon a person's right to own or possess a
31 firearm or ammunition based on the person's status as a certified

1 patient, designated caregiver, nonresident patient, or nonresident
2 caregiver or for conduct allowed under the Medicinal Cannabis Act.

3 (2) No state or local agency shall restrict, revoke, suspend, or
4 otherwise infringe upon a person's right to receive any related firearms
5 certification based on the person's status as a certified patient,
6 designated caregiver, nonresident patient, or nonresident caregiver or
7 for conduct allowed under the Medicinal Cannabis Act.

8 (3) No state or local agency shall provide any assistance, including
9 information, to federal authorities who may use the information to
10 restrict, revoke, suspend, or otherwise infringe upon a person's right to
11 own or possess a firearm or ammunition based on the person's status as a
12 certified patient, designated caregiver, nonresident patient, or
13 nonresident caregiver or for conduct allowed under the Medicinal Cannabis
14 Act.

15 (4) No state or local agency shall provide any assistance, including
16 information, to federal authorities who may use the information to
17 restrict a person's benefits or rights under federal law based on the
18 person's status as a certified patient, designated caregiver, nonresident
19 patient, or nonresident caregiver or for conduct allowed under the
20 Medicinal Cannabis Act.

21 Sec. 53. (1) The department may on its own motion or upon receipt
22 of a complaint, after investigation and opportunity for a public hearing
23 at which a producer, processor, dispensary, or laboratory has been
24 afforded an opportunity to be heard, suspend or revoke the registration
25 of the producer, processor, dispensary, or laboratory for multiple
26 negligent or knowing violations or for a willful and knowing violation,
27 by the registrant or any of its agents, of the Medicinal Cannabis Act or
28 any rules and regulations adopted and promulgated pursuant to the act.

29 (2) The department shall immediately prohibit any further
30 participation under the Medicinal Cannabis Act by an employee, a
31 principal, or a director of a producer, processor, dispensary, or

1 laboratory who sells cannabis to a person who is not allowed to possess
2 cannabis under the Medicinal Cannabis Act.

3 (3) The department shall maintain a list of employees, principals,
4 or directors and former employees, principals, or directors of producers,
5 processors, dispensaries, or laboratories who are prohibited from further
6 participation under the Medicinal Cannabis Act and share it with state
7 and local law enforcement, producers, processors, dispensaries, and
8 laboratories. The list shall include the date of birth, the full name,
9 and the last-known address for each person listed.

10 Sec. 54. (1) The department shall immediately revoke the registry
11 verification, including any identification card, of a certified patient
12 who sells or knowingly provides cannabis to a person who is not allowed
13 to possess cannabis for medicinal use under the Medicinal Cannabis Act.
14 The department shall immediately revoke the designation of a designated
15 caregiver who sells or knowingly provides cannabis to a person who is not
16 allowed to possess cannabis for medicinal use under the act.

17 (2) The department may revoke the registry verification, including
18 any identification card, of a certified patient or the designation of a
19 designated caregiver or prohibit any further participation under the
20 Medicinal Cannabis Act by a certified patient, designated caregiver,
21 nonresident patient, or nonresident caregiver who knowingly commits
22 multiple unintentional violations or who commits a knowing and
23 intentional violation of the act.

24 (3) A certified patient, designated caregiver, nonresident patient,
25 or nonresident caregiver who is disqualified from further participation
26 under the Medicinal Cannabis Act is not allowed to possess cannabis under
27 the act.

28 (4) The department shall maintain a list of former certified
29 patients, designated caregivers, nonresident patients, and nonresident
30 caregivers who are prohibited from further participation under the
31 Medicinal Cannabis Act and share it with state and local law enforcement,

1 producers, processors, dispensaries, and laboratories. The list shall
2 include the date of birth, the full name, and the last-known address for
3 each person listed.

4 (5) The department shall notify the authority which issues the
5 registry verification or similar documentation in the state in which a
6 nonresident patient is authorized to use cannabis for medicinal purposes
7 if a nonresident patient or nonresident caregiver violates the Medicinal
8 Cannabis Act or the rules and regulations adopted and promulgated under
9 the act.

10 Sec. 55. (1) In addition to any other applicable penalty, a
11 dispensary or an agent of a dispensary who intentionally transfers or
12 dispenses cannabis to a person other than a laboratory, a dispensary, a
13 certified patient, a designated caregiver, a nonresident patient, or a
14 nonresident caregiver may be prosecuted for a violation of section
15 28-416. A person convicted under this section shall not continue to be
16 affiliated with the dispensary and is disqualified from further
17 participation under the Medicinal Cannabis Act.

18 (2) In addition to any other applicable penalty, a producer, a
19 processor, or an agent of a producer or processor who intentionally
20 transfers or dispenses cannabis to a person other than a producer, a
21 processor, a laboratory, or a dispensary may be prosecuted for a
22 violation of section 28-416. A person convicted under this section shall
23 not continue to be affiliated with the producer or processor and is
24 disqualified from further participation under the Medicinal Cannabis Act.

25 Sec. 56. In addition to any other applicable penalty provided by
26 law, a certified patient, designated caregiver, nonresident patient, or
27 nonresident caregiver who intentionally transfers cannabis to a person
28 other than a certified patient, designated caregiver, nonresident
29 patient, or nonresident caregiver as authorized by the Medicinal Cannabis
30 Act may be prosecuted for a violation of section 28-416.

31 Sec. 57. (1) It is unlawful for a certified patient to smoke

1 cannabis or use a device to facilitate the smoking of cannabis. A
2 violation of this section is an infraction subject to sections 29-422 to
3 29-438.

4 (2) For purposes of this section:

5 (a) Smoke includes the inhalation of smoke caused by the combustion
6 of cannabis that causes burning and includes the inhalation of cannabis
7 by means of vaporization in which cannabis is heated below the point of
8 combustion; and

9 (b) Smoke does not include the use of an aerosol inhaler.

10 Sec. 58. A person who intentionally makes a false statement to a
11 law enforcement official about any fact or circumstance relating to the
12 use of cannabis to avoid arrest or prosecution is guilty of a Class III
13 misdemeanor. The penalty is in addition to any other penalties that may
14 apply for making a false statement or for the possession, cultivation, or
15 sale of cannabis not protected by the Medicinal Cannabis Act. If a person
16 convicted of violating this section is a certified patient, designated
17 caregiver, nonresident patient, or nonresident caregiver, the person is
18 disqualified from further participation under the act.

19 Sec. 59. A person who knowingly submits false records or
20 documentation required by the department to register as a producer,
21 processor, dispensary, or laboratory under the Medicinal Cannabis Act may
22 be prosecuted for any violations of section 28-910, 28-911, or 28-915.01.

23 Sec. 60. A producer, processor, dispensary, or laboratory may be
24 fined up to one thousand dollars for any violation of the Medicinal
25 Cannabis Act or the rules and regulations adopted and promulgated
26 pursuant to the act if no penalty has been specified. This penalty is in
27 addition to any other applicable penalties in law.

28 Sec. 61. (1) The department shall collect an application fee of
29 twenty-five thousand dollars from each entity submitting an application
30 for registration as a dispensary.

31 (2)(a) Except as provided in subdivision (b) of this subsection, the

1 department shall collect an application fee of not more than five
2 thousand dollars from each entity submitting an application for
3 registration as a producer.

4 (b) The department shall collect an application fee of not more than
5 twenty-five thousand dollars from each entity submitting an application
6 for registration as a producer in the highest tier.

7 (3)(a) The department shall collect an application fee of not more
8 than five thousand dollars from each entity submitting an application for
9 registration as a processor that will perform solvent-based extractions
10 on cannabis using no solvents other than water, glycerin, propylene
11 glycol, vegetable oil, or food-grade ethanol.

12 (b) The department shall collect an application fee of not more than
13 twenty-five thousand dollars from each entity submitting an application
14 for registration as a processor that would be permitted to perform
15 additional solvent-based extractions.

16 (4) The department shall collect an application fee of not more than
17 ten thousand dollars from each entity submitting an application to become
18 a laboratory.

19 (5) The department shall establish and collect an annual fee to
20 cover the costs of regulating and inspecting in an amount not to exceed
21 (a) forty thousand dollars from a producer in the highest tier, (b) five
22 thousand dollars from a producer not in such tier, (c) five thousand
23 dollars from a processor described in subdivision (3)(a) of this section,
24 (d) forty thousand dollars from a processor described in subdivision (3)
25 (b) of this section, (e) twenty-five thousand dollars from a dispensary,
26 and (f) fifteen thousand dollars for a laboratory.

27 (6) The department shall remit fees collected pursuant to this
28 section to the State Treasurer for credit to the Medicinal Cannabis
29 Regulation Fund.

30 Sec. 62. The Medicinal Cannabis Regulation Fund is created and
31 shall consist of funds from contracts, grants, gifts, or fees under the

1 Medicinal Cannabis Act. The fund shall be used for purposes of regulation
2 of cannabis and administration of the Medicinal Cannabis Act. Any money
3 in the Medicinal Cannabis Regulation Fund available for investment shall
4 be invested by the state investment officer pursuant to the Nebraska
5 Capital Expansion Act and the Nebraska State Funds Investment Act.

6 Sec. 63. (1) The department may examine and inspect or provide for
7 the examination and inspection of any producer, processor, dispensary, or
8 laboratory in such manner and at such times as provided in rules and
9 regulations adopted and promulgated by the department. The department
10 shall issue an examination and inspection report and provide a copy of
11 the report to the producer, processor, dispensary, or laboratory within
12 ten working days after the completion of an examination and inspection.
13 The department shall then post a copy of the report on its web site.

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

16 Sec. 64. The department shall adopt and promulgate rules and
17 regulations to establish requirements for law enforcement officials and
18 health care professionals to report incidents involving an adverse event
19 involving cannabis to the department. Rules and regulations shall include
20 the method by which the department will collect and tabulate reports of
21 diversion of cannabis.

22 Sec. 65. The Medicinal Cannabis Board is established. The board
23 shall consist of seven members. The Governor shall appoint the members
24 subject to approval by a majority of the members of the Legislature. The
25 board shall have at least one member appointed from each congressional
26 district. Except as otherwise provided in section 66 of this act, the
27 members shall include one person who is employed by a law enforcement
28 agency, two persons licensed to practice medicine and surgery under the
29 Medicine and Surgery Practice Act, two persons who are licensed as
30 pharmacists under the Pharmacy Practice Act, one certified patient or
31 designated caregiver, and one person with experience in substance abuse

1 treatment. A majority of the members of the board shall be advocates for
2 the medicinal use of cannabis. The chief medical officer as designated in
3 section 81-3115 or such officer's designee and the chairperson of the
4 Health and Human Services Committee of the Legislature or the
5 chairperson's designee shall be nonvoting advisors.

6 Sec. 66. For the initial appointments to the Medicinal Cannabis
7 Board, the Governor shall appoint a person with a qualifying medical
8 condition or a caregiver of a person with a qualifying medical condition
9 in lieu of a certified patient or a designated caregiver for a term of
10 one year, and the successor to such appointment shall be a certified
11 patient or a designated caregiver appointed for a term of five years. For
12 the remainder of the initial appointments, the Governor shall appoint
13 three of the members of the board for terms of five years and the
14 remainder of the initial appointed members of the board for terms of two
15 years, three years, and four years. Appointments made for the succeeding
16 members shall be for terms of five years. The term of office of each
17 member of the board shall expire on September 1 of the appropriate year.
18 If a vacancy occurs prior to the expiration of a term, the Governor shall
19 appoint a successor with similar qualifications for the remainder of the
20 unexpired term. No member of the board shall serve more than two
21 consecutive, full terms. If the Legislature is not in session when an
22 appointment is made by the Governor, the member shall take office and act
23 as a recess appointee until the Legislature convenes.

24 Sec. 67. The members of the Medicinal Cannabis Board shall be
25 reimbursed for the expenses incurred in the performance of their duties
26 as provided in sections 81-1174 to 81-1177.

27 Sec. 68. Within thirty days after the initial appointment and in
28 the last calendar quarter of each subsequent year, the members of the
29 Medicinal Cannabis Board shall meet and elect a chairperson of the board
30 from the appointed members and such other officers, including a vice-
31 chairperson and a secretary, as the board deems necessary. In case of the

1 death, resignation, or other permanent absence of the chairperson of the
2 board, the vice-chairperson shall assume the office of chairperson and
3 the members of the board at the next regular meeting of the board, or at
4 a special meeting of the board pursuant to a call signed by at least four
5 of the remaining members of which all remaining members shall have at
6 least three days' notice, shall elect a new chairperson of the board from
7 the appointed members and such other new officers as the board deems
8 necessary.

9 Sec. 69. The Medicinal Cannabis Board shall meet at least once each
10 quarter and at such other times as it deems necessary. Special meetings
11 may be held upon the call of the chairperson or pursuant to a call signed
12 by at least four of the other members of which the chairperson and the
13 other members of the board shall have at least three days' notice. The
14 regular meetings shall be held in suitable offices to be provided in the
15 state office building described in section 81-1108.37 or elsewhere. A
16 majority of the members of the board shall constitute a quorum for the
17 transaction of business. Every act of a majority of the members of the
18 board shall be deemed to be the act of the board. The meetings shall be
19 open to the public. The minutes of the meetings shall show the action of
20 the board on matters presented and shall be open to public inspection.

21 Sec. 70. The Medicinal Cannabis Board shall appoint a director for
22 the department and shall advise the department regarding:

- 23 (1) Rules and regulations for the regulation of cannabis;
24 (2) The policies of the department as they relate to cannabis; and
25 (3) Recommendations for legislative changes regarding regulation of
26 cannabis.

27 Sec. 71. The department shall keep a record of all proceedings,
28 transactions, communications, and official acts of the Medicinal Cannabis
29 Board. The director of the department may appoint or employ such clerks
30 and other employees as may be necessary to carry out the Medicinal
31 Cannabis Act or to perform the duties and exercise the powers conferred

1 by law upon the board.

2 Sec. 72. Before entering upon the duties of office, each member of
3 the Medicinal Cannabis Board shall be bonded or insured as required by
4 section 11-201. Employees of the department who are accountable for
5 public funds shall be bonded or insured as required by section 11-201 to
6 secure the safety of such funds. The premium shall be paid by the State
7 of Nebraska out of the General Fund. Before entering upon the duties of
8 office, the director of the department shall be bonded or insured as
9 required by section 11-201.

10 Sec. 73. (1) No person shall be appointed as a member of the
11 Medicinal Cannabis Board, the director of the department, or an employee
12 of the department who is not a citizen of the United States and who has
13 not resided within the State of Nebraska successively for two years next
14 preceding the date of appointment.

15 (2) No person (a) convicted of or who has pleaded guilty or nolo
16 contendere to a felony or any violation of any federal or state law
17 concerning the manufacture or sale of controlled substances prior or
18 subsequent to the passage of the Medicinal Cannabis Act, (b) who has paid
19 a fine or penalty in settlement of any prosecution against such person
20 for any violation of such laws, or (c) who has forfeited bond to appear
21 in court to answer charges for any such violation shall be appointed as a
22 member of the board.

23 (3) No member of the board or employee of the department may,
24 directly or indirectly, individually, as a member of a partnership, as a
25 member of a limited liability company, or as a shareholder of a
26 corporation, have any interest whatsoever in the manufacture, sale, or
27 distribution of cannabis, receive any compensation or profit from such
28 manufacture, sale, or distribution, or have any interest whatsoever in
29 the purchases or sales made by the persons authorized by the act to
30 purchase or to sell cannabis.

31 (4) This section shall not prevent any member of the board, the

1 director, or any employee of the department from acquiring, possessing,
2 or using cannabis as a certified patient, designated caregiver,
3 nonresident patient, or nonresident caregiver pursuant to the act.

4 Sec. 74. A member of the Medicinal Cannabis Board, the director of
5 the department, or any person appointed or employed by the department
6 shall not solicit or accept any gift, gratuity, emolument, or employment
7 from any person subject to the Medicinal Cannabis Act or from any
8 officer, agent, or employee thereof or solicit, request from, or
9 recommend, directly or indirectly, to any such person or to any officer,
10 agent, or employee thereof the appointment of any person to any place or
11 position. Any such person and every officer, agent, or employee thereof
12 shall not offer to any member of the board, the director, or any person
13 appointed or employed by the department any gift, gratuity, emolument, or
14 employment. If a member of the board, the director, or any person
15 appointed or employed by the department violates this section, such
16 person shall be removed from office or employment. Every person violating
17 this section shall be guilty of a Class II misdemeanor.

18 Sec. 75. (1) No later than May 1, 2024, the department shall
19 develop or recommend, for approval by the Medicinal Cannabis Board, one
20 or more continuing medical education courses for participating health
21 care practitioners that satisfy the requirements of subsection (3) of
22 section 37 of this act. Such courses shall have an evaluative component.
23 The department shall make the approved courses available online for a
24 cost of no more than fifty dollars.

25 (2) The department shall develop or recommend, for approval by the
26 Medicinal Cannabis Board, one or more training and education courses for
27 dispensary staff regarding medicinal use of cannabis, including
28 information on recommended dosages, qualifying medical conditions, and
29 various modes of administration. The department shall make the approved
30 courses available online for a cost of no more than fifty dollars.

31 (3) No later than December 20 of each year, the department shall:

1 (a) Accept petitions to revise the list of qualifying medical
2 conditions;

3 (b) Provide for the Medicinal Cannabis Board to hold a hearing on
4 the petitions;

5 (c) Assist the board to consider scientific evidence and the
6 testimony of patients and health care practitioners; and

7 (d) Submit the recommendations of the board to the Legislature for
8 any revision to the list of qualifying medical conditions.

9 (4) The department shall develop and update, for approval by the
10 Medicinal Cannabis Board, a scientifically accurate informational
11 document for certified patients, designated caregivers, nonresident
12 patients, and nonresident caregivers. The informational document shall be
13 made available at dispensaries and on the website of the department. The
14 informational document shall include:

15 (a) Any known drug interactions with cannabis to be used for a
16 qualifying medical condition;

17 (b) Any guidance regarding dosing for cannabis to be used for a
18 qualifying medical condition;

19 (c) Warnings about the potential risks of the use of cannabis,
20 including:

21 (i) The risk of cannabis use disorder and resources for help;

22 (ii) Any known risks related to psychosis or schizophrenia;

23 (iii) Any known risks regarding cognitive effects for children and
24 young adults;

25 (iv) Risks of using cannabis during pregnancy;

26 (v) The need to safeguard cannabis and cannabis products from
27 children and pets or other domestic animals;

28 (vi) The risk of impairment to operate a motor vehicle; and

29 (vii) The fact that the effects of cannabis or cannabis products may
30 not be felt for several hours after inhaling or consuming the cannabis or
31 cannabis products;

1 (d) Warning patients not to drive or operate heavy machinery while
2 impaired by cannabis; and

3 (e) Instructions to contact a health care practitioner if the
4 certified patient is pregnant or plans to become pregnant.

5 (5)(a) No later than December 20, 2024, the Medicinal Cannabis Board
6 shall make a recommendation to the Legislature regarding whether anxiety,
7 or any type of anxiety disorder, should be approved as a qualifying
8 medical condition.

9 (b) Prior to making any recommendation required under this
10 subsection, the board, with the assistance of the department, shall hold
11 a public hearing and consider scientific evidence and the written and
12 oral testimony of patients and health care practitioners.

13 Sec. 76. The director of the department, and all employees of the
14 department shall be reimbursed for all traveling expenses and
15 disbursements incurred or made by them in the discharge of their official
16 duties under the Medicinal Cannabis Act as provided in sections 81-1174
17 to 81-1177. The department may also incur necessary expenses for office
18 furniture and other incidental expenses. The director or an employee of
19 the department shall not request or be allowed mileage or other traveling
20 expenses unless such sections are strictly complied with.

21 Sec. 77. The office of the department shall be in Lincoln, but the
22 department may establish and maintain branch offices at places other than
23 the seat of government. The Medicinal Cannabis Board and the department
24 may, for authentication of records, process, and proceedings, adopt,
25 keep, and use a common seal, of which seal judicial notice shall be taken
26 in all of the courts of the state. Any process, notice, or other paper
27 which the board or department is authorized by law to issue shall be
28 deemed sufficient if signed by the chairperson and director of the
29 department and authenticated by such seal. All acts, orders, proceedings,
30 rules, regulations, entries, minutes, and other records of the department
31 and all reports and documents filed with the department may be proved in

1 any court of this state by copy thereof certified to by the director
2 attached.

3 Sec. 78. The Attorney General shall designate an assistant attorney
4 general or assistant attorneys general, when requested by the Medicinal
5 Cannabis Board, and the services of such assistant attorney general or
6 assistant attorneys general shall be available to the board or department
7 whenever demanded. The compensation of such assistant attorney general or
8 assistant attorneys general as are assigned to the board or department
9 shall be paid by the office of the Attorney General.

10 Sec. 79. Section 28-416, Revised Statutes Cumulative Supplement,
11 2022, is amended to read:

12 28-416 (1) Except as authorized by the Medicinal Cannabis Act or the
13 Uniform Controlled Substances Act, it shall be unlawful for any person
14 knowingly or intentionally: (a) To manufacture, distribute, deliver,
15 dispense, or possess with intent to manufacture, distribute, deliver, or
16 dispense a controlled substance; or (b) to create, distribute, or possess
17 with intent to distribute a counterfeit controlled substance.

18 (2) Except as provided in subsections (4), (5), (7), (8), (9), and
19 (10) of this section, any person who violates subsection (1) of this
20 section with respect to: (a) A controlled substance classified in
21 Schedule I, II, or III of section 28-405 which is an exceptionally
22 hazardous drug shall be guilty of a Class II felony; (b) any other
23 controlled substance classified in Schedule I, II, or III of section
24 28-405 shall be guilty of a Class IIA felony; or (c) a controlled
25 substance classified in Schedule IV or V of section 28-405 shall be
26 guilty of a Class IIIA felony.

27 (3) A person knowingly or intentionally possessing a controlled
28 substance, except marijuana or any substance containing a quantifiable
29 amount of the substances, chemicals, or compounds described, defined, or
30 delineated in subdivision (c)(26) of Schedule I of section 28-405, unless
31 such substance was obtained directly or pursuant to a medical order

1 issued by a practitioner authorized to prescribe while acting in the
2 course of his or her professional practice, or except as otherwise
3 authorized by the act, shall be guilty of a Class IV felony. A person
4 shall not be in violation of this subsection if section 28-472 or 28-1701
5 applies.

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

24 (b) For purposes of this subsection:

25 (i) Playground means any outdoor facility, including any parking lot
26 appurtenant to the facility, intended for recreation, open to the public,
27 and with any portion containing three or more apparatus intended for the
28 recreation of children, including sliding boards, swingsets, and
29 teeterboards;

30 (ii) Video arcade facility means any facility legally accessible to
31 persons under eighteen years of age, intended primarily for the use of

1 pinball and video machines for amusement, and containing a minimum of ten
2 pinball or video machines; and

3 (iii) Youth center means any recreational facility or gymnasium,
4 including any parking lot appurtenant to the facility or gymnasium,
5 intended primarily for use by persons under eighteen years of age which
6 regularly provides athletic, civic, or cultural activities.

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

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

22 (c) Any person who violates subdivision (a) or (b) of this
23 subsection shall be punished by the next higher penalty classification
24 than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of
25 this section, depending upon the controlled substance involved, for the
26 first violation and for a second or subsequent violation shall be
27 punished by the next higher penalty classification than that prescribed
28 for a first violation of this subsection, but in no event shall such
29 person be punished by a penalty greater than a Class IB felony.

30 (6) It shall not be a defense to prosecution for violation of
31 subsection (4) or (5) of this section that the defendant did not know the

1 age of the person through whom the defendant violated such subsection.

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

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

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

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

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

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

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

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

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

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

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

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

29 (10) Any person who violates subsection (1) of this section with
30 respect to amphetamine, its salts, optical isomers, and salts of its
31 isomers, or with respect to methamphetamine, its salts, optical isomers,

1 and salts of its isomers, in a quantity of:

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

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

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

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

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

15 (13) Except as provided in the Medicinal Cannabis Act or section
16 28-1701, any person knowingly or intentionally possessing marijuana
17 weighing one ounce or less or any substance containing a quantifiable
18 amount of the substances, chemicals, or compounds described, defined, or
19 delineated in subdivision (c)(26) of Schedule I of section 28-405 shall:

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

25 (b) For the second offense, be guilty of a Class IV misdemeanor,
26 receive a citation, and be fined four hundred dollars and may be
27 imprisoned not to exceed five days; and

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

31 (14) Any person convicted of violating this section, if placed on

1 probation, shall, as a condition of probation, satisfactorily attend and
2 complete appropriate treatment and counseling on drug abuse provided by a
3 program authorized under the Nebraska Behavioral Health Services Act or
4 other licensed drug treatment facility.

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

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

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

17 (18) In addition to the existing penalties available for a violation
18 of subsection (1) of this section, including any criminal attempt or
19 conspiracy to violate subsection (1) of this section, a sentencing court
20 may order that any money, securities, negotiable instruments, firearms,
21 conveyances, or electronic communication devices as defined in section
22 28-833 or any equipment, components, peripherals, software, hardware, or
23 accessories related to electronic communication devices be forfeited as a
24 part of the sentence imposed if it finds by clear and convincing evidence
25 adduced at a separate hearing in the same prosecution, following
26 conviction for a violation of subsection (1) of this section, and
27 conducted pursuant to section 28-1601, that any or all such property was
28 derived from, used, or intended to be used to facilitate a violation of
29 subsection (1) of this section.

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

31 (a) If the person convicted or adjudicated of violating this section

1 is eighteen years of age or younger and has one or more licenses or
2 permits issued under the Motor Vehicle Operator's License Act:

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

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

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

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

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

26 (ii) For a second offense, the court may, as part of the judgment of
27 conviction or adjudication, (A) prohibit such person from obtaining any
28 permit or any license pursuant to the act for which such person would
29 otherwise be eligible until ninety days after the date of such order and
30 (B) require such person to complete no fewer than twenty hours and no
31 more than forty hours of community service and to attend a drug education

1 class; and

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

9 A copy of an abstract of the court's conviction or adjudication
10 shall be transmitted to the Director of Motor Vehicles pursuant to
11 sections 60-497.01 to 60-497.04 if a license or permit is impounded or a
12 juvenile is prohibited from obtaining a license or permit under this
13 subsection.

14 Sec. 80. Section 28-439, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 28-439 As used in sections 28-101, 28-431, and 28-439 to 28-444,
17 unless the context otherwise requires, drug paraphernalia shall mean all
18 equipment, products, and materials of any kind which are used, intended
19 for use, or designed for use, in manufacturing, injecting, ingesting,
20 inhaling, or otherwise introducing into the human body a controlled
21 substance in violation of sections 28-101, 28-431, and 28-439 to 28-444,
22 the Medicinal Cannabis Act, or the Uniform Controlled Substances Act. It
23 shall include, but not be limited to, the following:

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

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

30 (3) Hypodermic syringes, needles, and other objects used, intended
31 for use, and designed for use in parenterally injecting controlled

1 substances into the human body; and

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

6 (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes
7 with or without screens, permanent screens, hashish heads, or punctured
8 metal bowls;

9 (b) Water pipes;

10 (c) Carburetion tubes and devices;

11 (d) Smoking and carburetion masks;

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

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

16 (g) Chamber pipes;

17 (h) Carburetor pipes;

18 (i) Electric pipes;

19 (j) Air-driven pipes;

20 (k) Chillums;

21 (l) Bongs; and

22 (m) Ice pipes or chillers.

23 Sec. 81. Section 60-6,211.08, Reissue Revised Statutes of Nebraska,
24 is amended to read:

25 60-6,211.08 (1) For purposes of this section:

26 (a) Alcoholic beverage means (i) beer, ale, porter, stout, and other
27 similar fermented beverages, including sake or similar products, of any
28 name or description containing one-half of one percent or more of alcohol
29 by volume, brewed or produced from malt, wholly or in part, or from any
30 substitute therefor, (ii) wine of not less than one-half of one percent
31 of alcohol by volume, or (iii) distilled spirits which is that substance

1 known as ethyl alcohol, ethanol, or spirits of wine in any form,
2 including all dilutions and mixtures thereof from whatever source or by
3 whatever process produced. Alcoholic beverage does not include trace
4 amounts not readily consumable as a beverage;

5 (b) Cannabis has the same meaning as in section 5 of this act;

6 (c) Cannabis product has the same meaning as in section 7 of this
7 act;

8 (d) {b} Highway means a road or street including the entire area
9 within the right-of-way;

10 (e) {e} Limousine means a luxury vehicle used to provide prearranged
11 passenger transportation on a dedicated basis at a premium fare that has
12 a seating capacity of at least five and no more than fourteen persons
13 behind the driver with a physical partition separating the driver seat
14 from the passenger compartment. Limousine does not include taxicabs,
15 hotel or airport buses or shuttles, or buses;

16 (f) {d} Open ~~alcoholic beverage~~ container, except as provided in
17 subsection (3) of section 53-123.04 and subdivision (1)(c) of section
18 53-123.11, means any bottle, can, or other receptacle:

19 (i) That contains any amount of alcoholic beverage, cannabis, or
20 cannabis products; and

21 (ii)(A) That is open or has a broken seal or (B) the contents of
22 which are partially removed; and

23 (g) {e} Passenger area means the area designed to seat the driver
24 and passengers while the motor vehicle is in operation and any area that
25 is readily accessible to the driver or a passenger while in their seating
26 positions, including any compartments in such area. Passenger area does
27 not include the area behind the last upright seat of such motor vehicle
28 if the area is not normally occupied by the driver or a passenger and the
29 motor vehicle is not equipped with a trunk.

30 (2) Except as otherwise provided in this section, it is unlawful for
31 any person in the passenger area of a motor vehicle to possess an open

1 ~~alcoholic beverage~~ container while the motor vehicle is located in a
2 public parking area or on any highway in this state.

3 (3) Except as provided in section 53-186 or subsection (4) of this
4 section, it is unlawful for any person to consume an alcoholic beverage,
5 cannabis, or cannabis products (a) in a public parking area or on any
6 highway in this state or (b) inside a motor vehicle while in a public
7 parking area or on any highway in this state.

8 (4) This section does not apply to possession or consumption of
9 alcoholic beverages by persons who are passengers of, but not drivers of,
10 a limousine or bus being used in a charter or special party service as
11 defined by rules and regulations adopted and promulgated by the Public
12 Service Commission and subject to Chapter 75, article 3. Such passengers
13 may possess open ~~alcoholic beverage~~ containers of alcoholic beverages and
14 may consume alcoholic beverages while such limousine or bus is in a
15 public parking area or on any highway in this state if (a) the driver of
16 the limousine or bus is prohibited from consuming alcoholic liquor and
17 (b) alcoholic liquor is not present in any area that is readily
18 accessible to the driver while in the driver's seat, including any
19 compartments in such area.

20 Sec. 82. Section 71-2454, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 71-2454 (1) An entity described in section 71-2455 shall establish a
23 system of prescription drug monitoring for the purposes of (a) preventing
24 the misuse of controlled substances that are prescribed, (b) allowing
25 prescribers and dispensers to monitor the care and treatment of patients
26 for whom such a prescription drug is prescribed to ensure that such
27 prescription drugs are used for medically appropriate purposes, (c)
28 providing information to improve the health and safety of patients, and
29 (d) ensuring that the State of Nebraska remains on the cutting edge of
30 medical information technology.

31 (2) Such system of prescription drug monitoring shall be implemented

1 as follows: Except as provided in subsection (4) of this section, all
2 prescription drug information shall be reported to the prescription drug
3 monitoring system. The prescription drug monitoring system shall include,
4 but not be limited to, provisions that:

5 (a) Prohibit any patient from opting out of the prescription drug
6 monitoring system;

7 (b) Require any prescription drug that is dispensed in this state or
8 to an address in this state to be entered into the system by the
9 dispenser or his or her delegate no less frequently than daily after such
10 prescription drug is sold, including prescription drugs for patients
11 paying cash or otherwise not relying on a third-party payor for payment;

12 (c) Allow all prescribers or dispensers of prescription drugs to
13 access the system at no cost to such prescriber or dispenser;

14 (d) Ensure that such system includes information relating to all
15 payors, including, but not limited to, the medical assistance program
16 established pursuant to the Medical Assistance Act; and

17 (e) Make the prescription drug information available to the
18 statewide health information exchange described in section 71-2455 for
19 access by its participants if such access is in compliance with the
20 privacy and security protections set forth in the provisions of the
21 federal Health Insurance Portability and Accountability Act of 1996,
22 Public Law 104-191, and regulations promulgated thereunder, except that
23 if a patient opts out of the statewide health information exchange, the
24 prescription drug information regarding that patient shall not be
25 accessible by the participants in the statewide health information
26 exchange.

27 (3) Except as provided in subsection (4) of this section,
28 prescription drug information that shall be submitted electronically to
29 the prescription drug monitoring system shall be determined by the entity
30 described in section 71-2455 and shall include, but not be limited to:

31 (a) The patient's name, address, telephone number, if a telephone

1 number is available, gender, and date of birth;

2 (b) A patient identifier such as a military identification number,
3 driver's license number, state identification card number, or other valid
4 government-issued identification number, insurance identification number,
5 pharmacy software-generated patient-specific identifier, or other
6 identifier associated specifically with the patient;

7 (c) The name and address of the pharmacy or dispensary as defined in
8 section 11 of this act dispensing the prescription drug;

9 (d) The date the prescription is issued;

10 (e) The date the prescription is filled;

11 (f) The date the prescription is sold to the patient;

12 (g) The number of refills authorized;

13 (h) The prescription number of the prescription drug;

14 (i) The National Drug Code number as published by the federal Food
15 and Drug Administration of the prescription drug;

16 (j) The strength of the prescription drug prescribed;

17 (k) The quantity of the prescription drug prescribed and the number
18 of days' supply;

19 (l) The prescriber's name and National Provider Identifier number or
20 Drug Enforcement Administration number when reporting a controlled
21 substance; and

22 (m) Additional information as determined by the Health Information
23 Technology Board and as published in the submitter guide for the
24 prescription drug monitoring system.

25 (4) Beginning July 1, 2018, a veterinarian licensed under the
26 Veterinary Medicine and Surgery Practice Act shall be required to report
27 the dispensing of prescription drugs which are controlled substances
28 listed on Schedule II, Schedule III, Schedule IV, or Schedule V pursuant
29 to section 28-405. Each such veterinarian shall indicate that the
30 prescription is an animal prescription and shall include the following
31 information in such report:

1 (a) The first and last name and address, including city, state, and
2 zip code, of the individual to whom the prescription drug is dispensed in
3 accordance with a valid veterinarian-client-patient relationship;

4 (b) Reporting status;

5 (c) The first and last name of the prescribing veterinarian and his
6 or her federal Drug Enforcement Administration number;

7 (d) The National Drug Code number as published by the federal Food
8 and Drug Administration of the prescription drug and the prescription
9 number;

10 (e) The date the prescription is written and the date the
11 prescription is filled;

12 (f) The number of refills authorized, if any; and

13 (g) The quantity of the prescription drug and the number of days'
14 supply.

15 (5)(a) All prescription drug information submitted pursuant to this
16 section, all data contained in the prescription drug monitoring system,
17 and any report obtained from data contained in the prescription drug
18 monitoring system are confidential, are privileged, are not public
19 records, and may be withheld pursuant to section 84-712.05 except for
20 information released as provided in subsection (9) or (10) of this
21 section.

22 (b) No patient-identifying data as defined in section 81-664,
23 including the data collected under subsection (3) of this section, shall
24 be disclosed, made public, or released to any public or private person or
25 entity except to the statewide health information exchange described in
26 section 71-2455 and its participants, to prescribers and dispensers as
27 provided in subsection (2) of this section, or as provided in subsection
28 (7), (9), or (10) of this section.

29 (c) All other data is for the confidential use of the department and
30 the statewide health information exchange described in section 71-2455
31 and its participants. The department, or the statewide health information

1 exchange in accordance with policies adopted by the Health Information
2 Technology Board and in collaboration with the department, may release
3 such information in accordance with the privacy and security provisions
4 set forth in the federal Health Insurance Portability and Accountability
5 Act of 1996, Public Law 104-191, and regulations promulgated thereunder,
6 as Class I, Class II, or Class IV data in accordance with section 81-667,
7 except for purposes in accordance with subsection (9) or (10) of this
8 section, to the private or public persons or entities that the department
9 or the statewide health information exchange, in accordance with policies
10 adopted by the Health Information Technology Board, determines may view
11 such records as provided in sections 81-663 to 81-675. In addition, the
12 department, or the statewide health information exchange in accordance
13 with policies adopted by the Health Information Technology Board and in
14 collaboration with the department, may release such information as
15 provided in subsection (9) or (10) of this section.

16 (6) The statewide health information exchange described in section
17 71-2455, in accordance with policies adopted by the Health Information
18 Technology Board and in collaboration with the department, shall
19 establish the minimum administrative, physical, and technical safeguards
20 necessary to protect the confidentiality, integrity, and availability of
21 prescription drug information.

22 (7) If the entity receiving the prescription drug information has
23 privacy protections at least as restrictive as those set forth in this
24 section and has implemented and maintains the minimum safeguards required
25 by subsection (6) of this section, the statewide health information
26 exchange described in section 71-2455, in accordance with policies
27 adopted by the Health Information Technology Board and in collaboration
28 with the department, may release the prescription drug information and
29 any other data collected pursuant to this section to:

- 30 (a) Other state prescription drug monitoring programs;
31 (b) State and regional health information exchanges;

1 (c) The medical director and pharmacy director of the Division of
2 Medicaid and Long-Term Care of the department, or their designees;

3 (d) The medical directors and pharmacy directors of medicaid-managed
4 care entities, the state's medicaid drug utilization review board, and
5 any other state-administered health insurance program or its designee if
6 any such entities have a current data-sharing agreement with the
7 statewide health information exchange described in section 71-2455, and
8 if such release is in accordance with the privacy and security provisions
9 of the federal Health Insurance Portability and Accountability Act of
10 1996, Public Law 104-191, and all regulations promulgated thereunder;

11 (e) Organizations which facilitate the interoperability and mutual
12 exchange of information among state prescription drug monitoring programs
13 or state or regional health information exchanges; or

14 (f) Electronic health record systems or pharmacy-dispensing software
15 systems for the purpose of integrating prescription drug information into
16 a patient's medical record.

17 (8) The department, or the statewide health information exchange
18 described in section 71-2455, in accordance with policies adopted by the
19 Health Information Technology Board and in collaboration with the
20 department, may release to patients their prescription drug information
21 collected pursuant to this section. Upon request of the patient, such
22 information may be released directly to the patient or a personal health
23 record system designated by the patient which has privacy protections at
24 least as restrictive as those set forth in this section and that has
25 implemented and maintains the minimum safeguards required by subsection
26 (6) of this section.

27 (9) In accordance with the privacy and security provisions set forth
28 in the federal Health Insurance Portability and Accountability Act of
29 1996, Public Law 104-191, and regulations promulgated thereunder, the
30 department, or the statewide health information exchange described in
31 section 71-2455 under policies adopted by the Health Information

1 Technology Board, may release data collected pursuant to this section for
2 statistical, public policy, or educational purposes after removing
3 information which identifies or could reasonably be used to identify the
4 patient, prescriber, dispenser, or other person who is the subject of the
5 information, except as otherwise provided in subsection (10) of this
6 section.

7 (10) In accordance with the privacy and security provisions set
8 forth in the federal Health Insurance Portability and Accountability Act
9 of 1996, Public Law 104-191, and regulations promulgated thereunder, the
10 department, or statewide health information exchange described in section
11 71-2455 under policies adopted by the Health Information Technology
12 Board, may release data collected pursuant to this section for quality
13 measures as approved or regulated by state or federal agencies or for
14 patient quality improvement or research initiatives approved by the
15 Health Information Technology Board.

16 (11) The statewide health information exchange described in section
17 71-2455, entities described in subsection (7) of this section, or the
18 department may request and receive program information from other
19 prescription drug monitoring programs for use in the prescription drug
20 monitoring system in this state in accordance with the privacy and
21 security provisions set forth in the federal Health Insurance Portability
22 and Accountability Act of 1996, Public Law 104-191, and regulations
23 promulgated thereunder.

24 (12) The statewide health information exchange described in section
25 71-2455, in collaboration with the department, shall implement
26 technological improvements to facilitate the secure collection of, and
27 access to, prescription drug information in accordance with this section.

28 (13) Before accessing the prescription drug monitoring system, any
29 user shall undergo training on the purpose of the system, access to and
30 proper usage of the system, and the law relating to the system, including
31 confidentiality and security of the prescription drug monitoring system.

1 Such training shall be administered by the statewide health information
2 exchange described in section 71-2455 or the department. The statewide
3 health information exchange described in section 71-2455 shall have
4 access to the prescription drug monitoring system for training
5 operations, maintenance, and administrative purposes. Users who have been
6 trained prior to May 10, 2017, or who are granted access by an entity
7 receiving prescription drug information pursuant to subsection (7) of
8 this section, are deemed to be in compliance with the training
9 requirement of this subsection.

10 (14) For purposes of this section:

11 (a) Deliver or delivery means to actually, constructively, or
12 attempt to transfer a drug or device from one person to another, whether
13 or not for consideration;

14 (b) Department means the Department of Health and Human Services;

15 (c) Delegate means any licensed or registered health care
16 professional credentialed under the Uniform Credentialing Act designated
17 by a prescriber or dispenser to act as an agent of the prescriber or
18 dispenser for purposes of submitting or accessing data in the
19 prescription drug monitoring system and who is supervised by such
20 prescriber or dispenser;

21 (d) Prescription drug or drugs means a prescription drug or drugs
22 dispensed by delivery to the ultimate user or caregiver by or pursuant to
23 the lawful order of a prescriber, including cannabis and cannabis
24 products under the Medicinal Cannabis Act, but does not include (i) the
25 delivery of such prescription drug for immediate use for purposes of
26 inpatient hospital care or emergency department care, (ii) the
27 administration of a prescription drug by an authorized person upon the
28 lawful order of a prescriber, (iii) a wholesale distributor of a
29 prescription drug monitored by the prescription drug monitoring system,
30 or (iv) the dispensing to a nonhuman patient of a prescription drug which
31 is not a controlled substance listed in Schedule II, Schedule III,

1 Schedule IV, or Schedule V of section 28-405;

2 (e) Dispenser means a person authorized in the jurisdiction in which
3 he or she is practicing to deliver a prescription drug to the ultimate
4 user or caregiver by or pursuant to the lawful order of a prescriber.
5 Dispenser also includes a pharmacist or his or her designee acting for a
6 dispensary registered under the Medicinal Cannabis Act as provided in
7 section 43 of this act;

8 (f) Participant means an individual or entity that has entered into
9 a participation agreement with the statewide health information exchange
10 described in section 71-2455 which requires the individual or entity to
11 comply with the privacy and security protections set forth in the
12 provisions of the federal Health Insurance Portability and Accountability
13 Act of 1996, Public Law 104-191, and regulations promulgated thereunder;
14 and

15 (g) Prescriber means a health care professional authorized to
16 prescribe in the profession which he or she practices, including a
17 participating health care practitioner under the Medicinal Cannabis Act.

18 Sec. 83. Section 77-2701.48, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 77-2701.48 (1) Bundled transaction means the retail sale of two or
21 more products, except real property and services to real property, when
22 (a) the products are otherwise distinct and identifiable and (b) the
23 products are sold for one non-itemized price. Bundled transaction does
24 not include the sale of any products in which the sales price varies, or
25 is negotiable, based on the selection by the purchaser of the products
26 included in the transaction.

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

28 (a) Packaging, such as containers, boxes, sacks, bags, and bottles
29 or other materials such as wrapping, labels, tags, and instruction guides
30 that accompany the retail sale of the products and are incidental or
31 immaterial to the retail sale thereof. Examples of packaging that are

1 incidental or immaterial include grocery sacks, shoeboxes, dry cleaning
2 garment bags, and express delivery envelopes and boxes;

3 (b) A product provided free of charge with the required purchase of
4 another product. A product is provided free of charge if the sales price
5 of the product purchased does not vary depending on the inclusion of the
6 product provided free of charge; and

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

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

15 (4) A transaction that otherwise meets the definition of a bundled
16 transaction is not a bundled transaction if it is (a) the retail sale of
17 tangible personal property and a service where the tangible personal
18 property is essential to the use of the service, and is provided
19 exclusively in connection with the service, and the true object of the
20 transaction is the service, (b) the retail sale of services when one
21 service is provided that is essential to the use or receipt of a second
22 service and the first service is provided exclusively in connection with
23 the second service and the true object of the transaction is the second
24 service, or (c) a transaction that includes taxable products and
25 nontaxable products and the purchase price or sales price of the taxable
26 products is de minimus. De minimus means the seller's purchase price or
27 sales price of the taxable products is ten percent or less of the total
28 purchase price or sales price of the bundled products. Sellers shall use
29 either the purchase price or the sales price of the products to determine
30 if the taxable products are de minimus. Sellers may not use a combination
31 of the purchase price and sales price of the products to determine if the

1 taxable products are de minimus. Sellers shall use the full term of a
2 service contract to determine if the taxable products are de minimus.

3 (5) Bundled transaction does not include the retail sale of exempt
4 tangible personal property and taxable tangible personal property if (a)
5 the transaction includes food and food ingredients, drugs, durable
6 medical equipment, mobility enhancing equipment, over-the-counter drugs,
7 prosthetic devices, or medical supplies as such terms are defined in
8 section 77-2704.09 and (b) the seller's purchase price or sales price of
9 the taxable tangible personal property is fifty percent or less of the
10 total purchase price or sales price of the bundled tangible personal
11 property. Sellers may not use a combination of the purchase price and
12 sales price of the tangible personal property when making the fifty-
13 percent determination for a transaction.

14 Sec. 84. Section 77-2704.09, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 77-2704.09 (1) Sales and use taxes shall not be imposed on the gross
17 receipts from the sale, lease, or rental of and the storage, use, or
18 other consumption in this state of (a) insulin, (b) mobility enhancing
19 equipment and drugs, not including over-the-counter drugs, when sold for
20 a patient's use under a prescription, and (c) the following when sold for
21 a patient's use under a prescription and which are of the type eligible
22 for coverage under the medical assistance program established pursuant to
23 the Medical Assistance Act: Durable medical equipment; home medical
24 supplies; prosthetic devices; oxygen; and oxygen equipment.

25 (2) For purposes of this section:

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

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

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

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

5 (ii) Drug does not include cannabis obtained pursuant to the
6 Medicinal Cannabis Act;

7 (b) Durable medical equipment means equipment which can withstand
8 repeated use, is primarily and customarily used to serve a medical
9 purpose, generally is not useful to a person in the absence of illness or
10 injury, is appropriate for use in the home, and is not worn in or on the
11 body. Durable medical equipment includes repair and replacement parts for
12 such equipment;

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

17 (d) Mobility enhancing equipment means equipment which is primarily
18 and customarily used to provide or increase the ability to move from one
19 place to another, which is not generally used by persons with normal
20 mobility, and which is appropriate for use either in a home or a motor
21 vehicle. Mobility enhancing equipment includes repair and replacement
22 parts for such equipment. Mobility enhancing equipment does not include
23 any motor vehicle or equipment on a motor vehicle normally provided by a
24 motor vehicle manufacturer;

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

31 (f) Oxygen equipment means oxygen cylinders, cylinder transport

1 devices including sheaths and carts, cylinder studs and support devices,
2 regulators, flowmeters, tank wrenches, oxygen concentrators, liquid
3 oxygen base dispensers, liquid oxygen portable dispensers, oxygen tubing,
4 nasal cannulas, face masks, oxygen humidifiers, and oxygen fittings and
5 accessories;

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

10 (h) Prosthetic devices means a replacement, corrective, or
11 supportive device worn on or in the body to artificially replace a
12 missing portion of the body, prevent or correct physical deformity or
13 malfunction, or support a weak or deformed portion of the body, and
14 includes any supplies used with such device and repair and replacement
15 parts.

16 Sec. 85. Section 77-27,132, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 77-27,132 (1) There is hereby created a fund to be designated the
19 Revenue Distribution Fund which shall be set apart and maintained by the
20 Tax Commissioner. Revenue not required to be credited to the General Fund
21 or any other specified fund may be credited to the Revenue Distribution
22 Fund. Credits and refunds of such revenue shall be paid from the Revenue
23 Distribution Fund. The balance of the amount credited, after credits and
24 refunds, shall be allocated as provided by the statutes creating such
25 revenue.

26 (2) The Tax Commissioner shall pay to a depository bank designated
27 by the State Treasurer all amounts collected under the Nebraska Revenue
28 Act of 1967. The Tax Commissioner shall present to the State Treasurer
29 bank receipts showing amounts so deposited in the bank, and of the
30 amounts so deposited the State Treasurer shall:

31 (a) For transactions occurring on or after October 1, 2014, and

1 before October 1, 2027, credit to the Game and Parks Commission Capital
2 Maintenance Fund all of the proceeds of the sales and use taxes imposed
3 pursuant to section 77-2703 on the sale or lease of motorboats as defined
4 in section 37-1204, personal watercraft as defined in section 37-1204.01,
5 all-terrain vehicles as defined in section 60-103, and utility-type
6 vehicles as defined in section 60-135.01;

7 (b) Credit to the Highway Trust Fund all of the proceeds of the
8 sales and use taxes derived from the sale or lease for periods of more
9 than thirty-one days of motor vehicles, trailers, and semitrailers,
10 except that the proceeds equal to any sales tax rate provided for in
11 section 77-2701.02 that is in excess of five percent derived from the
12 sale or lease for periods of more than thirty-one days of motor vehicles,
13 trailers, and semitrailers shall be credited to the Highway Allocation
14 Fund;

15 (c) For transactions occurring on or after July 1, 2013, and before
16 July 1, 2033, of the proceeds of the sales and use taxes derived from
17 transactions other than those listed in subdivisions (2)(a), ~~and (b)~~, and
18 (e) of this section from a sales tax rate of one-quarter of one percent,
19 credit monthly eighty-five percent to the State Highway Capital
20 Improvement Fund and fifteen percent to the Highway Allocation Fund; and

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

26 (e) For transactions occurring on or after the operative date of
27 this section, credit to the Medicinal Cannabis Regulation Fund all of the
28 proceeds of the sales and use taxes imposed pursuant to section 77-2703
29 on the sale of cannabis pursuant to the Medicinal Cannabis Act.

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

1 Sec. 86. Section 77-4303, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-4303 (1) A tax is hereby imposed on marijuana and controlled
4 substances at the following rates:

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

7 (b) On each gram or portion of a gram of a controlled substance that
8 is customarily sold by weight or volume, one hundred fifty dollars; or

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

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

19 (3) The tax shall not be imposed upon a person registered or
20 otherwise lawfully in possession of marijuana or a controlled substance
21 pursuant to Chapter 28, article 4, or a person lawfully in possession of
22 cannabis under the Medicinal Cannabis Act.

23 Sec. 87. Sections 83, 84, 85, and 89 of this act become operative
24 on October 1, 2023. The other sections of this act become operative on
25 their effective date.

26 Sec. 88. Original sections 28-439, 60-6,211.08, and 77-4303,
27 Reissue Revised Statutes of Nebraska, and sections 28-416 and 71-2454,
28 Revised Statutes Cumulative Supplement, 2022, are repealed.

29 Sec. 89. Original sections 77-2701.48 and 77-2704.09, Reissue
30 Revised Statutes of Nebraska, and section 77-27,132, Revised Statutes
31 Cumulative Supplement, 2022, are repealed.

1 Sec. 90. Since an emergency exists, this act takes effect when
2 passed and approved according to law.