

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H.B. 1143  
May 14, 2020  
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10789-MCxf-245

Short Title: Modify Tax on Marijuana Products. (Public)

Sponsors: Representative Montgomery.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT ENACTING THE NORTH CAROLINA MEDICAL CANNABIS ACT.  
3 The General Assembly of North Carolina enacts:  
4 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article  
5 to read:

6 "Article 43.

7 "North Carolina Medical Cannabis Act.

8 "**§ 90-730. Short title.**

9 This Article shall be known and may be cited as the "North Carolina Medical Cannabis Act."

10 "**§ 90-730.1. Legislative findings and purpose.**

11 The General Assembly makes the following findings:

- 12 (1) Modern medical research has discovered beneficial uses for cannabis in  
13 treating or alleviating pain, nausea, and other symptoms associated with  
14 certain debilitating medical conditions, as found by the National Academy of  
15 Sciences' Institute of Medicine in March 1999.
- 16 (2) According to the United States Sentencing Commission and the Federal  
17 Bureau of Investigation, 99 out of every 100 cannabis arrests in the United  
18 States are made under State law, rather than under federal law. Consequently,  
19 changing State law will have the practical effect of protecting from arrest the  
20 vast majority of seriously ill people who have a medical need to use cannabis.
- 21 (3) The United States Department of Health and Human Services, through the  
22 Compassionate Investigational New Drug (IND) program, provides cannabis  
23 by prescription to a number of individuals for their use as medicine. The  
24 cannabis is grown at the federal cannabis research garden at the University of  
25 Mississippi and is processed and distributed by the Research Triangle Institute  
26 in Research Triangle Park, North Carolina. The patients receive the cannabis  
27 monthly in canisters of approximately 300 prerolled cigarettes. The dosage  
28 for patients in the IND program ranges from seven to nine grams per day.  
29 Since the inception of the program in 1978, individual patients in the IND  
30 program have received and consumed approximately 6.5 pounds of cannabis  
31 per year, thereby establishing a safe and effective dosage for a chronic  
32 daily-use patient to possess and consume. The IND program was closed to  
33 new applicants in 1991.
- 34 (4) In 1992, the United States Drug Enforcement Administration (DEA)  
35 published research in a report entitled "Cannabis Yields" stating that canopy  
36 cover, rather than the number of plants, is the most accurate indicator of a



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1 garden's yield. According to the DEA report, 250 square feet of mature garden  
2 canopy will typically yield six pounds of processed cannabis per year, a  
3 common amount for patients who use cannabis daily, and less than the amount  
4 prescribed and delivered to the IND patients by the federal government.

5 (5) Although federal law currently prohibits any use of cannabis outside of the  
6 IND program, the laws of Alaska, Arizona, Arkansas, California, Colorado,  
7 Connecticut, Delaware, the District of Columbia, Florida, Guam, Hawaii,  
8 Illinois, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan,  
9 Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New  
10 Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania,  
11 Puerto Rico, Rhode Island, Utah, Vermont, Washington, and West Virginia  
12 permit the medical use and cultivation of cannabis. North Carolina joins in  
13 this effort for the health and welfare of its citizens.

14 (6) States are not required to enforce federal law or prosecute people for engaging  
15 in activities prohibited by federal law. Therefore, compliance with this Article  
16 does not put the State of North Carolina in violation of federal law.

17 (7) Compassion dictates that State law should make a distinction between the  
18 medical and nonmedical use of cannabis. Hence, the purpose of this Article is  
19 to protect patients with debilitating medical conditions, and their physicians  
20 and caregivers, from arrest and prosecution, criminal and other penalties, and  
21 property forfeiture by allowing the beneficial use of medical cannabis in a  
22 regulated system for alleviating symptoms caused by debilitating medical  
23 conditions and their medical treatments.

24 (8) This Article is intended to make only those changes to existing North Carolina  
25 laws that are necessary to protect patients and their doctors from criminal and  
26 civil penalties and is not intended to change current civil and criminal laws  
27 governing the use of cannabis for nonmedical purposes.

28 (9) The General Assembly enacts this Article pursuant to its police power to enact  
29 legislation for the protection of the health of its citizens, as reserved to the  
30 State in the Tenth Amendment of the United States Constitution.

### 31 **§ 90-730.2. Definitions.**

32 The following definitions apply in this Article:

33 (1) "Adequate supply" has the following meanings:

34 a. An amount of usable cannabis derived solely from an intrastate source  
35 that is possessed by a qualified patient, or collectively possessed by a  
36 qualified patient and the qualified patient's designated caregiver, in an  
37 amount that does not exceed what is reasonably necessary to assure  
38 the uninterrupted availability of cannabis for a period of three months,  
39 in any form recommended by the qualified patient's physician for the  
40 purpose of alleviating the symptoms or effects of the qualified patient's  
41 debilitating medical condition.

42 b. For a qualified patient for whom a delivery method of inhalation of  
43 cannabis vapor or smoking is recommended by the qualified patient's  
44 physician, "adequate supply" means not more than 24 ounces of  
45 cannabis in a form usable for that purpose.

46 (2) "Bona fide physician-patient relationship" means a physician and a patient  
47 have a treatment or counseling relationship in which the physician has  
48 completed a full assessment of the patient's medical history and current  
49 medical condition, including an appropriate physical examination, and the  
50 physician is available or offers to provide follow-up care and treatment to the

- 1 patient, including patient examinations, to determine the efficacy of the use of  
2 medical cannabis as a treatment for the patient's medical condition.
- 3 (3) "Cannabis" means marijuana as defined in G.S. 90-87(16).
- 4 (4) "Cannabis-infused product" means a product infused with cannabis that is  
5 intended for use or consumption other than by inhalation or smoking. The term  
6 includes edible products, ointments, and tinctures.
- 7 (5) "Canopy" means the foliage of growing plants.
- 8 (6) "Canopy cover" means the area shaded by the foliage of growing plants.
- 9 (7) "Debilitating medical condition" means any of the following:
- 10 a. Cancer; gliomas; glaucoma; positive status for human  
11 immunodeficiency virus (HIV); acquired immune deficiency  
12 syndrome (AIDS); hepatitis C; porphyria; amyotrophic lateral  
13 sclerosis (Lou Gehrig's disease or ALS); Alzheimer's disease;  
14 nail-patella syndrome; fibromyalgia; severe migraines; multiple  
15 sclerosis; celiac disease; Crohn's disease; diabetes mellitus; dystonia;  
16 gastrointestinal disorders; hypertension; incontinence; injury or  
17 disease to the spinal cord, spinal column, or vertebra;  
18 methicillin-resistant Staphylococcus aureus (MRSA); myelomalacia;  
19 osteoporosis; pruritus; rheumatoid arthritis; sleep apnea; Tourette's  
20 syndrome; or the treatment of such conditions.
- 21 b. A chronic or debilitating disease or medical condition or its treatment  
22 that produces one or more of the following: cachexia or wasting  
23 syndrome; severe pain; severe nausea; anorexia; seizures, including  
24 those characteristic of epilepsy; or severe and persistent muscle  
25 spasms, including those characteristic of multiple sclerosis (MS),  
26 amyotrophic lateral sclerosis (Lou Gehrig's disease or ALS), or  
27 Crohn's disease.
- 28 c. Any other serious medical or mental condition or its treatment  
29 approved by a physician or other practitioner authorized to prescribe  
30 or recommend a controlled substance classified in the schedules set  
31 forth in either the Controlled Substances Act (Article 5 of Chapter 90  
32 of the General Statutes) or the federal Comprehensive Drug Abuse  
33 Prevention and Control Act of 1970, P.L. 91-513, 84 Stat. 1236 (Oct.  
34 27, 1970).
- 35 (8) "Designated caregiver" means a person who is at least 21 years of age and  
36 who has agreed to assist with a qualified patient's medical use of cannabis.
- 37 (9) "Licensed medical cannabis center" means a person licensed pursuant to  
38 G.S. 90-730.6 to operate a business that sells cannabis and cannabis-infused  
39 products to registry identification cardholders and other licensed medical  
40 cannabis centers.
- 41 (10) "Licensed producer of cannabis-infused products" means a person licensed  
42 pursuant to G.S. 90-730.6 to operate a business producing cannabis-infused  
43 products.
- 44 (11) "Licensed producer of medical cannabis" means a person licensed pursuant to  
45 G.S. 90-730.6 to cultivate cannabis for sale to a licensed medical cannabis  
46 center.
- 47 (12) "Medical use of cannabis" or "medical use" means the acquisition, possession,  
48 use, internal possession, delivery, transfer, or transportation of cannabis or  
49 paraphernalia relating to the administration of cannabis to treat or alleviate a  
50 qualified patient's medical condition or symptoms associated with the medical  
51 condition or its treatment.

- 1           (13) "Physician" means a person licensed under Article 1 of Chapter 90 of the  
2 General Statutes who is in good standing to practice medicine in this State.
- 3           (14) "Producer" includes a producer of medical cannabis and a producer of  
4 cannabis-infused products.
- 5           (15) "Qualified patient" means a person who has been diagnosed by a physician as  
6 having a debilitating medical condition.
- 7           (16) "Registry identification cardholder" means a qualified patient or a designated  
8 caregiver who holds a valid registry identification card issued by the North  
9 Carolina Department of Health and Human Services pursuant to  
10 G.S. 90-730.5.
- 11           (17) "Registry identification card" means a document issued by the North Carolina  
12 Department of Health and Human Services pursuant to G.S. 90-730.5 that  
13 identifies a person as a qualified patient or designated caregiver.
- 14           (18) "Regulated medical cannabis supply system" or "system" means the system  
15 established by the North Carolina Department of Agriculture and Consumer  
16 Services pursuant to G.S. 90-730.6 to provide a safe method for producing  
17 and distributing cannabis to registry identification cardholders and persons  
18 licensed to produce and distribute cannabis and cannabis-infused products to  
19 registry identification cardholders.
- 20           (19) "Usable cannabis" means the dried buds and mature female flowers of the  
21 plant of the genus Cannabis, and any mixture or preparation thereof, that are  
22 appropriate for medical use as provided in this Article.
- 23           (20) "Written certification" means a statement in a patient's medical records or a  
24 statement signed by a physician with whom the patient has a bona fide  
25 physician-patient relationship indicating that, in the physician's professional  
26 opinion, the patient has a debilitating medical condition and the potential  
27 health benefits of the medical use of cannabis would likely outweigh the  
28 health risks for the patient.

29 **"§ 90-730.3. Protections for the medical use of cannabis.**

30           (a) A qualified patient shall not be subject to arrest, prosecution, or penalty in any  
31 manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary  
32 action by a business or occupational or professional licensing board or bureau, for the possession  
33 or purchase of cannabis for medical use by the qualified patient if the quantity of usable cannabis  
34 possessed or purchased does not exceed an adequate supply, as determined by the qualified  
35 patient's physician.

36           (b) A designated caregiver shall not be subject to arrest, prosecution, or penalty in any  
37 manner, or denied any right or privilege, including imposition of a civil penalty or disciplinary  
38 action by a business or occupational or professional licensing board or bureau, for the possession  
39 or purchase of cannabis for medical use by the qualified patient if the quantity of cannabis  
40 possessed or purchased does not exceed an adequate supply for the qualified patient, as  
41 determined by the qualified patient's physician.

42           (c) If usable cannabis is infused or added as an ingredient to food, salve, tincture, or any  
43 other preparation to be consumed or used by a qualified patient, the weight of the other  
44 ingredients that are not usable cannabis shall not be included for the purpose of determining  
45 whether a qualified patient is in possession of an amount of cannabis that exceeds the qualified  
46 patient's adequate supply.

47           (d) Subsection (a) of this section does not apply to a qualified patient under 18 years of  
48 age, unless all of the following criteria are met:

- 49           (1) The qualified patient's physician has explained the potential risks and benefits  
50 of the medical use of cannabis to the qualified patient and to a parent,  
51 guardian, or person having legal custody of the qualified patient.

1           (2) A parent, guardian, or person having legal custody of the qualified patient  
2           consents in writing to (i) allow the qualified patient's medical use of cannabis,  
3           (ii) serve as the qualified patient's designated caregiver, and (iii) control the  
4           dosage and frequency of the medical use of cannabis by the qualified patient.

5           (e) A qualified patient or a designated caregiver shall be granted the full legal protections  
6           provided in this section as long as the qualified patient or designated caregiver is in possession  
7           of a registry identification card. If the qualified patient or designated caregiver is not in  
8           possession of a registry identification card, the individual shall be given an opportunity to  
9           produce the registry identification card before the initiation of any arrest, criminal charges, or  
10           other penalties.

11           (f) A qualified patient or a designated caregiver is presumed to be engaged in the medical  
12           use of cannabis if the qualified patient or designated caregiver is in possession of a registry  
13           identification card and an amount of cannabis that does not exceed the qualified patient's  
14           adequate supply. This presumption may be rebutted only by evidence that the qualified patient  
15           or designated caregiver engaged in conduct related to cannabis for a purpose other than  
16           alleviating the qualified patient's debilitating medical condition or symptoms associated with the  
17           debilitating medical condition.

18           (g) A designated caregiver may receive reimbursement for costs associated with assisting  
19           a qualified patient in the medical use of cannabis. Reimbursement for these costs does not  
20           constitute the sale of a controlled substance under Article 5 of Chapter 90 of the General Statutes.

21           (h) A school, employer, or landlord shall neither refuse to enroll, employ, or lease to nor  
22           otherwise penalize a qualified patient or a designated caregiver solely because of (i) the  
23           individual's status as a qualified patient or a designated caregiver or (ii) the presence of cannabis  
24           metabolites resulting from medical use of cannabis in the individual's bodily fluids.

25           (i) For the purposes of medical care, including organ transplants, a qualified patient's  
26           authorized use of cannabis in accordance with this Article shall be treated in the same manner as  
27           the authorized use of any other medication used at the direction of a physician and shall not  
28           constitute the use of an illegal substance.

29           (j) A licensed producer of medical cannabis shall not be subject to arrest, prosecution, or  
30           penalty in any manner, or denied any right or privilege, or subject to disciplinary action by a  
31           business or occupational or professional licensing board or bureau for producing, possessing,  
32           distributing, or dispensing cannabis in a manner consistent with this Article.

33           (k) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or  
34           denied any right or privilege, or subject to increased monitoring or disciplinary action by the  
35           North Carolina Medical Board or any other business or occupational or professional licensing  
36           board or bureau for either of the following:

37           (1) Advising a patient about the risks and benefits of the medical use of cannabis  
38           or that the patient may benefit from the medical use of cannabis if, in the  
39           physician's medical judgment, the potential benefits of the medical use of  
40           cannabis would likely outweigh the health risks for that particular patient.

41           (2) Providing a patient with valid documentation, based upon the physician's  
42           assessment of the patient's medical history and current medical condition, that  
43           the potential benefits of the medical use of cannabis would likely outweigh  
44           the health risks for that particular patient.

45           (l) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or  
46           denied any right or privilege, or subject to disciplinary action by a business or occupational or  
47           professional licensing board or bureau for discussing with a patient the benefits or health risks of  
48           the medical use of cannabis or the interaction of cannabis with other substances.

49           (m) State and local law enforcement officers shall not harm, neglect, injure, or destroy an  
50           individual's interest in or right to property that is possessed, owned, or used in connection with  
51           the medical use of cannabis, or acts incidental to the medical use of cannabis, while the property

1 is in the possession of State or local law enforcement officials as a result of a seizure of the  
2 property in connection with the claimed medical use of cannabis. A person does not forfeit any  
3 right or interest in property seized in connection with the medical use of cannabis under any  
4 provision of State law providing for the forfeiture of property, unless the forfeiture is part of a  
5 sentence imposed upon the person as a result of a conviction of a criminal violation of this Article  
6 or entry of a plea of guilty to such violation. Cannabis, paraphernalia, or other property seized  
7 from a qualified patient, designated caregiver, licensed medical cannabis center, licensed  
8 producer of medical cannabis, or licensed producer of cannabis-infused products in connection  
9 with the claimed medical use or production for medical use of cannabis shall be returned  
10 immediately upon the determination by a court, prosecutor, or law enforcement officer that the  
11 qualified patient, designated caregiver, or licensed producer of medical cannabis is entitled to the  
12 protections of this Article. In making this determination, the court, a prosecutor, or a law  
13 enforcement officer shall consider as evidence the failure of law enforcement officers to actively  
14 investigate the case, a decision not to prosecute, the dismissal of charges, or acquittal.

15 (n) A person shall not be denied custody of, or visitation or parenting time with, a minor  
16 for conduct allowed under this Article.

17 (o) There is no presumption of neglect or child endangerment for conduct allowed under  
18 this Article.

19 (p) No person shall be subject to arrest or prosecution for constructive possession,  
20 conspiracy, aiding and abetting, being an accessory, or any other offense, for simply being in the  
21 presence or vicinity of the medical use of cannabis as permitted under this Article or for assisting  
22 a qualified patient with using or administering cannabis.

23 (q) Possession of or application for a registry identification card shall not alone constitute  
24 probable cause to search the person or the property of the person possessing or applying for a  
25 registry identification card or otherwise subject the person or the person's property to inspection  
26 by any government agency.

27 (r) If an individual being investigated by a law enforcement officer employed by a  
28 State-funded or locally funded law enforcement agency credibly asserts during the course of the  
29 investigation that the individual is a qualified patient or designated caregiver, neither the law  
30 enforcement officer nor the law enforcement agency shall provide any information, except as  
31 required by federal law or the United States Constitution, from any cannabis-related investigation  
32 of the individual to any law enforcement authority that does not recognize the protections of this  
33 Article. Any prosecution of the individual for a violation of this Article shall be conducted  
34 pursuant to the laws of this State.

35 (s) Cannabis produced and possessed under this Article is exempt from the Unauthorized  
36 Substances Tax set forth in Article 2D of Chapter 105 of the General Statutes, and no tax under  
37 that Article may be levied against any qualified patient, designated caregiver, licensed medical  
38 cannabis center, licensed producer of medical cannabis, or licensed producer of cannabis-infused  
39 products operating in accordance with this Article.

40 (t) Nothing in this Article shall be construed to extend the protections of this Article to  
41 any person, including a qualified patient, designated caregiver, licensed medical cannabis center,  
42 licensed producer of medical cannabis, or licensed producer of cannabis-infused products, to  
43 allow that person to acquire, possess, manufacture, produce, use, sell, distribute, dispense, or  
44 transport cannabis in a manner that is not consistent with this Article.

45 **"§ 90-730.4. Prohibitions, restrictions, and limitations on medical use of cannabis.**

46 (a) This Article does not permit any person to do any of the following:

47 (1) Operate, navigate, or be in actual physical control of any motor vehicle,  
48 aircraft, or motorboat while impaired by cannabis. However, a qualified  
49 patient shall not be considered impaired solely due to the presence of cannabis  
50 metabolites in the individual's system.

- 1           (2) Undertake any task under the influence of cannabis, when doing so would  
2           constitute negligence or professional malpractice.
- 3           (3) Smoke cannabis in a school bus or other form of public transportation, on any  
4           school grounds, in any correctional facility, or in any public place in this State.
- 5           (b) A person who commits an act prohibited by subsection (a) of this section is subject to  
6 all penalties provided by law.
- 7           (c) Nothing in this Article shall be construed to require any of the following:
- 8           (1) A government-sponsored medical assistance program or private health insurer  
9           to reimburse a person for costs associated with the medical use of cannabis.
- 10          (2) An employer to accommodate the medical use of cannabis in any workplace.
- 11          (d) Fraudulent representation to a law enforcement official of any fact or circumstance  
12 relating to the medical use of cannabis to avoid arrest or prosecution is a Class 2 misdemeanor  
13 punishable by a fine of five hundred dollars (\$500.00) in addition to any other applicable  
14 penalties for making a false statement about the medical use of cannabis.
- 15          (e) A licensed producer of medical cannabis that sells, distributes, dispenses, or transfers  
16 cannabis to an individual other than a person licensed pursuant to G.S. 90-730.6, or obtains or  
17 transports cannabis outside of North Carolina in violation of federal law, is subject to arrest,  
18 prosecution, and civil or criminal penalties pursuant to State law.
- 19          (f) Nothing in this Article shall be construed as a waiver of sovereign immunity by the  
20 State.
- 21 **"§ 90-730.5. Registry identification cards for qualified patients and designated caregivers.**
- 22          (a) As used in this section, "Department" means the North Carolina Department of Health  
23 and Human Services.
- 24          (b) The Department shall issue a registry identification card to any qualified patient or  
25 designated caregiver who meets the requirements of this section.
- 26          (c) The Department shall not issue or renew a registry identification card to a qualified  
27 patient under 18 years of age unless each of the following criteria is met:
- 28           (1) The qualified patient's physician has explained the potential risks and benefits  
29 of the medical use of cannabis to the qualified patient and to a parent,  
30 guardian, or person having legal custody of the qualified patient.
- 31           (2) A parent, guardian, or person having legal custody of the qualified patient  
32 consents in writing to (i) allow the qualified patient's medical use of cannabis,  
33 (ii) serve as one of the qualified patient's designated caregivers, and (iii)  
34 control the acquisition of the cannabis, the dosage, and the frequency of the  
35 medical use of cannabis by the qualified patient.
- 36          (d) The Department shall verify the information contained in a registry identification card  
37 application or renewal application submitted pursuant to this section and shall approve or deny  
38 an application or renewal application within 45 days after receipt. The Department may deny a  
39 registry identification card application or renewal application only if the applicant fails to provide  
40 the information required pursuant to this section or if the Department determines that the  
41 application or renewal application contains false information. If the Department fails to approve  
42 or deny a registration application or renewal application submitted pursuant to this section within  
43 45 days after receipt, the application or renewal application shall be deemed approved, and a  
44 copy of the application or renewal application together with proof of receipt by the Department  
45 at least 45 days prior to the date this information is presented in lieu of a registry identification  
46 card shall be deemed a valid registry identification card.
- 47          (e) The Department may issue a registry identification card to a maximum of two  
48 designated caregivers named in a qualified patient's approved application.
- 49          (f) The Department shall issue a registry identification card to an applicant within five  
50 days after approving an application or renewal. The application or renewal expires two years  
51 after the date of issuance.

1       (g) Each registry identification card shall contain at least all of the following information:

2           (1) The date of issuance.

3           (2) The date of expiration.

4           (3) A random registry identification number.

5           (4) A photograph of the registry identification cardholder.

6       (h) Persons issued registry identification cards shall be subject to the following:

7           (1) A qualified patient who has been issued a registry identification card shall  
8 notify the Department of any change in the qualified patient's name, address,  
9 or designated caregiver and submit a ten-dollar (\$10.00) fee to the Department  
10 within 15 days after the change occurs. A qualified patient who fails to notify  
11 the Department of any of these changes within the specified time frame  
12 commits an infraction and is subject to a fine not to exceed more than one  
13 hundred fifty dollars (\$150.00).

14          (2) A designated caregiver shall notify the Department of any change in name or  
15 address and submit a ten-dollar (\$10.00) fee to the Department within 15 days  
16 after the change occurs. A designated caregiver who fails to notify the  
17 Department of any of these changes within the specified time frame commits  
18 an infraction and is subject to a fine not to exceed one hundred fifty dollars  
19 (\$150.00).

20          (3) When a qualified patient or designated caregiver notifies the Department of  
21 any change, as required by this subsection, the Department shall issue the  
22 qualified patient and each designated caregiver a new registry identification  
23 card within 10 days after receiving the updated information and the ten-dollar  
24 (\$10.00) fee.

25          (4) When a qualified patient who possesses a registry identification card notifies  
26 the Department of a change in designated caregiver, the Department shall  
27 notify the designated caregiver of record of the change within 15 days after  
28 receiving notification of the change. The protections afforded under this  
29 Article to the designated caregiver of record shall expire 30 days after the  
30 designated caregiver of record is notified by the Department of the change in  
31 designated caregiver.

32          (5) If a qualified patient or a designated caregiver loses a registry identification  
33 card, the cardholder shall notify the Department within 15 days after losing  
34 the card. The notification shall include a ten-dollar (\$10.00) replacement fee  
35 for a new card. Within five days after receiving notification of a lost registry  
36 identification card, the Department shall issue the cardholder a new registry  
37 identification card with a new random identification number.

38       (i) If the Department determines that a qualified patient or designated caregiver has  
39 willfully violated any provision of this Article, the Department may suspend or revoke the  
40 qualified patient's or designated caregiver's registry identification card.

41       (j) Applications and supporting information submitted by qualified patients, including  
42 information regarding their designated caregivers and physicians, are confidential and protected  
43 under the federal Health Insurance Portability and Accountability Act of 1996.

44       (k) The Department shall maintain a confidential list of the persons to whom the  
45 Department has issued registry identification cards. Individual names and other identifying  
46 information on the list are confidential, exempt from the provisions of Chapter 132 of the General  
47 Statutes, and are not subject to disclosure, except to authorized employees of the Department as  
48 necessary to perform official duties of the Department.

49       (l) The Department shall verify to law enforcement personnel whether a registry  
50 identification card is valid solely by confirming the validity of the random registry identification



1 number and the name of the person to whom the Department has assigned the random registry  
2 identification number.

3 (m) Any person, including an employee or official of the Department or another State  
4 agency or local government, who breaches the confidentiality of information obtained pursuant  
5 to this section is guilty of a Class 1 misdemeanor; however, any fine imposed for a violation  
6 under this subsection shall not exceed one thousand dollars (\$1,000).

7 (n) Nothing in this section shall be construed to prevent Department employees from  
8 notifying law enforcement officers about falsified or fraudulent information submitted to the  
9 Department by any individual in support of an application for a registry identification card.

10 (o) Article 4 of Chapter 150B of the General Statutes governs judicial review of an  
11 administrative decision made under this section.

12 (p) Rules. – Not later than 120 days after the effective date of this act, the North Carolina  
13 Medical Care Commission shall adopt rules to implement the provisions of this section. The rules  
14 shall establish requirements for the issuance of registry identification cards to qualified patients  
15 and designated caregivers, which shall include at least all of the following:

16 (1) Written certification, as defined in G.S. 90-730.2.

17 (2) An application or renewal fee.

18 (3) The name, address, and date of birth of the qualified patient, except that if a  
19 qualified patient is homeless, no address is required.

20 (4) The name, address, and telephone number of the qualified patient's physician.

21 (5) The name, address, and date of birth of each of the qualified patient's  
22 designated caregivers, if any.

23 **"§ 90-730.6. Regulated medical cannabis supply system.**

24 (a) As used in this section, "Department" means the North Carolina Department of  
25 Agriculture and Consumer Services.

26 (b) Not later than 120 days after the effective date of this act, the Department shall  
27 establish a medical cannabis supply system that (i) provides a safe, regulated supply of cannabis  
28 appropriate for medical use by qualified patients who hold valid registry identification cards  
29 issued under G.S. 90-730.5 and (ii) generates sufficient revenue for the Department to maintain  
30 and operate the system. The Department shall not use any appropriations from the General Fund  
31 to establish or operate the system. The system shall be funded by the fees authorized in this  
32 section.

33 (c) Medical Cannabis Center License. –

34 (1) No person shall establish or operate a medical cannabis center for the sale of  
35 cannabis, cannabis-infused products, and paraphernalia relating to the  
36 administration of cannabis to qualified patients and caregivers who hold valid  
37 registry identification cards issued under G.S. 90-730.5 without first applying  
38 for a license to the Department and submitting the required information on  
39 application forms provided by the Department. The application form shall  
40 require at least all of the following:

41 a. The applicant's name and any name the applicant will use in the  
42 operation of a medical cannabis center.

43 b. The address of any property the applicant will use to possess, deliver,  
44 transport, dispense, or distribute cannabis.

45 c. The name, address, and date of birth of each principal officer and  
46 board member of the medical cannabis center.

47 d. The name, address, and date of birth of each employee of the medical  
48 cannabis center.

49 e. For first-year licensees, a nonrefundable license fee in the amount of  
50 five thousand dollars (\$5,000).

- 1                    f.        For licensees seeking license renewal, a nonrefundable renewal fee in  
2                    an amount not less than five thousand dollars (\$5,000), as specified in  
3                    rules adopted pursuant to subsection (s) of this section.  
4                    g.        Proof of North Carolina residency for each principal officer, board  
5                    member, and employee of the medical cannabis center.  
6                    h.        Any other information the Department considers necessary to ensure  
7                    compliance with the terms of this Article.  
8                    (2)      Unless suspended or revoked, a medical cannabis center license is valid for a  
9                    period not to exceed 12 months from the date of issuance.  
10                  (3)      A licensee shall apply for renewal, as necessary, at least 30 days prior to the  
11                  expiration of a current license.  
12                  (4)      No later than 30 days after issuing or renewing a license under this subsection,  
13                  the Department shall issue a medical cannabis center registry identification  
14                  card to each director and employee listed on the application or renewal form  
15                  upon receipt of a ten-dollar (\$10.00) fee per cardholder.  
16                  (5)      A licensee shall notify the Department of any change in the information  
17                  submitted on the license application or renewal form within 30 days after the  
18                  change.  
19                  (6)      A medical cannabis center licensee shall not cultivate cannabis unless  
20                  separately licensed as a producer of medical cannabis under subsection (d) of  
21                  this section.  
22                  (7)      The records of a licensed medical cannabis center are subject to the same  
23                  restrictions imposed on pharmacy records pursuant to G.S. 90-85.36.  
24                  G.S. 90-85.36 applies to each medical cannabis center as if it were a pharmacy  
25                  regulated under Article 4A of Chapter 90 of the General Statutes.  
26                  (d)      Producer of Medical Cannabis License. –  
27                  (1)      No person shall cultivate cannabis for sale to a licensed medical cannabis  
28                  center or a licensed producer of cannabis-infused products without first  
29                  applying for a license to the Department and submitting the required  
30                  information on application forms provided by the Department. The  
31                  application form shall require at least all of the following:  
32                  a.        The name of the person responsible for the medical cannabis  
33                  production site and the name of each individual employed by that  
34                  person.  
35                  b.        The address of each property, location, or premises used or proposed  
36                  for use by the producer to produce cannabis.  
37                  c.        The name, address, and date of birth of each principal officer and  
38                  board member of the producer.  
39                  d.        The name, address, and date of birth of each employee of the producer.  
40                  e.        For first-year licensees, a nonrefundable license fee in the amount of  
41                  five thousand dollars (\$5,000).  
42                  f.        For licensees seeking license renewal, a nonrefundable renewal fee in  
43                  an amount not less than five thousand dollars (\$5,000), as specified in  
44                  the rules adopted pursuant to subsection (s) of this section.  
45                  g.        Proof of North Carolina residency for each producer of medical  
46                  cannabis and each employee of the producer.  
47                  h.        Proof that the producer of medical cannabis and each of the producer's  
48                  employees has attained the age of 21 years.  
49                  i.        Any other information the Department considers necessary to ensure  
50                  compliance with this Article.

- 1           (2)    Unless suspended or revoked, a producer of medical cannabis license is valid  
2           for a period not to exceed 12 months from the date of issuance.
- 3           (3)    A licensee shall notify the Department of any change in the information  
4           submitted on the application form within 30 days after the change.
- 5           (4)    A licensee shall apply for renewal, as necessary, at least 30 days prior to the  
6           expiration of a current license.
- 7           (5)    Not later than 30 days after issuing or renewing a producer of medical  
8           cannabis license, the Department shall issue a producer of medical cannabis  
9           identification card to the producer and to each of the producer's employees  
10          upon payment of a fee of ten dollars (\$10.00) per cardholder.
- 11          (6)    The Department shall issue a medical cannabis production site card to each  
12          licensed producer of medical cannabis for each property, location, or premises  
13          approved for cannabis production under this section. The card shall be posted  
14          conspicuously at the medical cannabis production site.
- 15          (7)    A licensed producer of medical cannabis is required to grow medical cannabis  
16          in a controlled, covered environment.
- 17    (e)    Producer of Cannabis-Infused Products License. –
- 18          (1)    No person shall establish or operate a business to produce cannabis-infused  
19          products without first applying for a license to the Department and submitting  
20          the required information on application forms provided by the Department.  
21          The application form shall require at least all of the following:
- 22           a.    The name of the person or entity responsible for the cannabis  
23           production site and any employee of that person or entity.
- 24           b.    The address of each property, location, or premises used or proposed  
25           for use by the producer of cannabis-infused products to produce  
26           cannabis and cannabis-infused products.
- 27           c.    The name, address, and date of birth of each principal officer and  
28           board member of the producer of cannabis-infused products.
- 29           d.    The name, address, and date of birth of each employee of the producer  
30           of cannabis-infused products.
- 31           e.    For first-year licensees, a nonrefundable license fee in the amount of  
32           five thousand dollars (\$5,000).
- 33           f.    For licensees seeking license renewal, a nonrefundable fee in an  
34           amount not less than five thousand dollars (\$5,000), as specified in  
35           rules adopted pursuant to subsection (s) of this section.
- 36           g.    Proof of North Carolina residency for the producer of  
37           cannabis-infused products and each of the producer's employees.
- 38           h.    Proof that the producer of cannabis-infused products and each of the  
39           producer's employees has attained the age of 21 years.
- 40           i.    Any other information the Department considers necessary to ensure  
41           compliance with the terms of this Article.
- 42          (2)    Unless suspended or revoked, a license to produce cannabis-infused products  
43          is valid for a period not to exceed 12 months from the date of issuance.
- 44          (3)    A licensee shall notify the Department of any change in the information  
45          submitted on the application form within 30 days after the change.
- 46          (4)    A licensee shall apply for renewal, as necessary, at least 30 days prior to the  
47          expiration of a current license.
- 48          (5)    Not later than 30 days after issuing or renewing a license to produce  
49          cannabis-infused products, the Department shall issue a registry identification  
50          card to the licensed producer of cannabis-infused products and to each of the

1            producer's employees upon payment of a fee of ten dollars (\$10.00) per  
2            cardholder.

3            (6)    The Department shall issue a medical cannabis production site card to each  
4            producer of cannabis-infused products for each property, location, or premises  
5            approved for production of cannabis-infused products under this section. The  
6            card shall be conspicuously posted at the location of the medical cannabis  
7            production site.

8            (f)    Permissible Sales Transactions. – All cannabis sold through the regulated medical  
9            cannabis supply system established under this section shall be subject to the following limitations  
10           and requirements:

11           (1)    Sales by licensed medical cannabis centers. – Only persons licensed as a  
12           medical cannabis center under subsection (c) of this section are authorized to  
13           sell cannabis or cannabis-infused products to qualified patients or designated  
14           caregivers through the system. A licensed medical cannabis center shall not  
15           sell cannabis, cannabis-infused products, or paraphernalia relating to the  
16           administration of cannabis, to any person other than a qualified patient or  
17           designated caregiver who holds a valid registry identification card issued  
18           under G.S. 90-730.5. A licensed medical cannabis center shall not sell  
19           cannabis or cannabis-infused products in an amount that exceeds an adequate  
20           supply to any qualified patient or caregiver.

21           (2)    Sales by licensed producers of medical cannabis. – Only persons licensed as  
22           a producer of medical cannabis under subsection (d) of this section are  
23           authorized to produce cannabis for sale to licensed medical cannabis centers  
24           through the system. A licensed producer of medical cannabis shall not sell  
25           cannabis for resale to any person other than a licensed medical cannabis  
26           center. A licensed producer of medical cannabis shall not sell cannabis plants,  
27           cannabis seeds, or cultivation equipment to any person other than to another  
28           licensed producer of medical cannabis.

29           (3)    Sales by licensed producers of cannabis-infused products. – Only persons  
30           licensed as a producer of cannabis-infused products under subsection (e) of  
31           this section are authorized to produce cannabis-infused products for sale to  
32           licensed medical cannabis centers through the system. A licensed producer of  
33           cannabis-infused products shall not sell cannabis-infused products for resale  
34           to any person other than a licensed medical cannabis center.

35           (g)    Exemption From Criminal Laws. – A medical cannabis center, producer of medical  
36           cannabis, or producer of cannabis-infused products with a valid license for that function is  
37           exempt from the criminal laws of this State for possession, production, delivery, or transportation  
38           of cannabis, or aiding and abetting another in the possession, production, delivery, or  
39           transportation of cannabis, or any other criminal offense in which possession, production,  
40           delivery, or transportation of cannabis is an element if the medical cannabis center, producer of  
41           medical cannabis, or producer of cannabis-infused products is in substantial compliance with this  
42           section and any rules adopted under this section.

43           (h)    Loss of Exemption From Criminal Laws. – A person who is not a qualified patient or  
44           licensed caregiver but who is otherwise authorized to possess, produce, deliver, or transport  
45           cannabis for medical use pursuant to this Article ceases to be exempt as provided in subsection  
46           (g) of this section upon committing any of the following acts:

47           (1)    Driving while impaired by cannabis, provided that the person shall not be  
48           considered to be impaired solely for having cannabis metabolites in his or her  
49           system.

- 1           (2)    Delivering cannabis to any individual who the person knows is not a qualified  
2           patient or caregiver who holds a valid registry identification card issued under  
3           G.S. 90-730.5, nor a person who holds a license under G.S. 90-730.6.  
4           (3)    Manufacturing or distributing cannabis at an address not registered with the  
5           Department.  
6           (4)    Failing to report transfer of cannabis authorized under this section to the  
7           Department.  
8        (i)    Monthly Fees and Reporting. –  
9           (1)    Each medical cannabis center, producer of medical cannabis, and producer of  
10          cannabis-infused products licensed under this section shall submit quarterly  
11          reports to the Department on all financial transactions, including, but not  
12          limited to, sales and purchases of cannabis and cannabis-infused products, and  
13          transfers of cannabis and cannabis-infused products for no consideration.  
14          (2)    Each medical cannabis center licensed and operating under this section shall  
15          pay to the Department monthly fees equal to ten percent (10%) of the medical  
16          cannabis center's gross revenue derived from the sale of cannabis and  
17          cannabis-infused products.  
18          (3)    Each producer of medical cannabis or cannabis-infused products producer  
19          licensed and operating under this section shall pay to the Department monthly  
20          fees equal to ten percent (10%) of the producer's gross revenue derived from  
21          the sale of cannabis and cannabis-infused products.  
22          (4)    Each person who (i) holds a license as a medical cannabis center and either a  
23          license as a producer of medical cannabis or a license as a producer of  
24          cannabis-infused products, or both, and (ii) operates both a retail medical  
25          cannabis center and one or more production sites, shall pay to the Department  
26          monthly fees equal to fifteen percent (15%) of that person's gross revenue  
27          derived from retail sales of cannabis and cannabis-infused products produced  
28          by that person.  
29          (5)    Nothing in this subsection shall be construed to exempt persons licensed under  
30          this section from the reporting or remittance of sales tax for any transaction  
31          upon which a sales tax may be levied.  
32        (j)    The Department shall use system revenues from license fees and monthly gross  
33        revenue fees to fund, in the following order of priority:  
34           (1)    Costs associated with establishing and operating the regulated medical  
35           cannabis supply system established under this section.  
36           (2)    The registry system established under G.S. 90-730.5.  
37           (3)    The medical cannabis research program established under G.S. 90-730.9.  
38           (4)    Other Department programs.  
39        (k)    Disqualifications for Licensure. – The Department shall not issue a license authorized  
40        by this section to any of the following persons:  
41           (1)    A person who has not paid the appropriate license or license renewal fee.  
42           (2)    An individual who is less than 21 years of age.  
43           (3)    A person who has served a sentence for any of the following felonies in the  
44           five years immediately preceding the date of license application: any Class A  
45           through E felony; any felony that includes assault as an essential element of  
46           the offense; any felony under Article 14 (Burglary and Housebreakings) of  
47           Chapter 14 of the General Statutes; any felony under Article 16 (Larceny),  
48           Article 16A (Organized Retail Theft), Article 17 (Robbery), Article 18  
49           (Embezzlement), Article 19 (False Pretenses and Cheats), Article 19A  
50           (Obtaining Property or Services by False or Fraudulent Use of Credit Device  
51           or Other Means), Article 19B (Financial Transaction Card Crime Act), or

1 Article 19C (Identity Theft) of Chapter 14 of the General Statutes. In order to  
2 ensure compliance with this subdivision, the Department shall conduct a  
3 criminal history record check of any person whose name is submitted on an  
4 application as the director or an employee of the medical cannabis center, or  
5 as a producer or employee of a producer.

6 (4) A person who at any time has been convicted of a felony violation for  
7 manufacturing, selling, delivering, or possessing with intent to manufacture,  
8 sell, deliver, or possess a Schedule I or II controlled substance, in violation of  
9 G.S. 90-95(b)(1). In order to ensure compliance with this subdivision, the  
10 Department shall conduct a criminal history record check of any person whose  
11 name is submitted on an application as the director or an employee of the  
12 medical cannabis center or as a producer or employee of a producer.

13 (5) Except as otherwise provided in this subdivision, a person who has not been  
14 a resident of North Carolina for at least two years prior to the date of the  
15 license application. A person who submits an application for licensure  
16 pursuant to this section within 180 days after the effective date of this Article  
17 is not subject to this residency requirement if the person was a resident of  
18 North Carolina for at least 180 days prior to the effective date of this Article.

19 (l) Inspection. – The Department may inspect the premises of any person seeking or  
20 holding licensure as a medical cannabis center, a producer of medical cannabis, or a producer of  
21 cannabis-infused products solely to determine compliance with this Article.

22 (m) License Suspension or Revocation. – The Department may suspend or revoke a  
23 license issued pursuant to this section if the Department determines that the licensee is not in  
24 substantial compliance with this section or the rules adopted by the North Carolina Medical Care  
25 Commission under subsection (r) of this section. The Department shall notify a licensee at least  
26 14 days in advance of a proposed suspension or revocation, including the reasons for the  
27 suspension or revocation and any possible remedial options available to the licensee. The  
28 Department shall not suspend or revoke a license without conducting an investigation and  
29 providing the licensee an opportunity for a public hearing, at which the licensee shall be afforded  
30 an opportunity to be heard. The Department has the power to administer oaths and issue  
31 subpoenas to require the presence of persons and the production of papers, books, and records  
32 necessary to conduct a suspension or revocation hearing.

33 (n) The Department shall maintain a confidential list of the persons to whom the  
34 Department has issued a license pursuant to subsection (b), (c), or (d) of this section. Individual  
35 names and other identifying information on the list are confidential, exempt from the provisions  
36 of Chapter 132 of the General Statutes, and are not subject to disclosure, except to authorized  
37 employees of the Department as necessary to perform official duties of the Department.

38 (o) The Department shall verify to law enforcement personnel whether a license is valid  
39 solely by confirming the validity of the license number and the name of the person to whom the  
40 Department has issued the license number.

41 (p) Any person, including an employee or official of the Department or another State  
42 agency or local government, who breaches the confidentiality of information obtained pursuant  
43 to subsection (c), (d), or (e) of this section is guilty of a Class 1 misdemeanor; however, any fine  
44 imposed for a violation under this subsection shall not exceed one thousand dollars (\$1,000).

45 (q) Nothing in this section shall be construed to prevent Department employees from  
46 notifying law enforcement officers about falsified or fraudulent information submitted to the  
47 Department by any person in support of an application for a license authorized by subsection (c),  
48 (d), or (e) of this section.

49 (r) A person licensed under subsection (c), (d), or (e) of this section shall be granted the  
50 full legal protections provided in this section as long as the person is in possession of a valid  
51 license. If the person is not in possession of a valid license, the person shall be given a reasonable

1 period of time to produce the license before the initiation of any arrest, criminal charges, or other  
2 penalties.

3 (s) Rules. – Not later than 120 days after the effective date of this act, the Board of  
4 Agriculture, in consultation with the Medical Care Commission, shall adopt rules to implement  
5 the provisions of this section. The rules shall do all of the following:

6 (1) Establish qualifications and requirements for licensure of medical cannabis  
7 centers, producers of medical cannabis, and producers of cannabis-infused  
8 products.

9 (2) Establish civil penalties for minor violations of the provisions of this section.

10 (t) Article 4 of Chapter 150B of the General Statutes governs judicial review of an  
11 administrative decision made under this section.

12 **"§ 90-730.7. Affirmative defenses for qualified patients and caregivers.**

13 (a) Except as otherwise provided in this section and G.S. 90-730.4, either of the  
14 affirmative defenses set out in subdivisions (1) and (2) of this subsection may be used by a person  
15 charged with a criminal offense of possession, delivery, or production of cannabis, or any other  
16 criminal offense in which possession, delivery, or production of cannabis is an element. The  
17 affirmative defenses are as follows:

18 (1) The person satisfies all of the following criteria:

19 a. Has been diagnosed with a chronic or debilitating medical condition  
20 and has been advised by the person's attending physician that the  
21 medical use of cannabis may mitigate the symptoms or effects of that  
22 chronic or debilitating medical condition.

23 b. Is engaged in the medical use of cannabis.

24 c. Possesses or delivers cannabis only in the amount described in this  
25 Article as an adequate supply, or in an amount exceeding an adequate  
26 supply if the person proves by a preponderance of the evidence that  
27 the greater amount is medically necessary to mitigate the symptoms or  
28 effects of the person's chronic or debilitating medical condition, as  
29 determined by the person's attending physician.

30 (2) The person satisfies all of the following criteria:

31 a. Is assisting a person described in sub-subdivision (1)a. of this  
32 subsection in the medical use of cannabis.

33 b. Possesses, delivers, or produces cannabis only in the amount described  
34 herein as an adequate supply or in excess of that amount if the person  
35 proves by a preponderance of the evidence that the greater amount is  
36 medically necessary as determined by the assisted person's attending  
37 physician to mitigate the symptoms or effects of the assisted person's  
38 chronic or debilitating medical condition.

39 (b) A person does not need to be a registry identification cardholder in order to assert an  
40 affirmative defense described in this section.

41 (c) A qualified patient or designated caregiver who has not received a registry  
42 identification card may present evidence supporting the need for the medical use of cannabis.  
43 Such evidence may constitute a defense to a charge of cannabis possession and is admissible in  
44 the courts of the State of North Carolina if such evidence otherwise properly qualifies as  
45 admissible under the rules of evidence.

46 (d) Except as otherwise provided in this section and in addition to the affirmative  
47 defenses described in subsection (a) of this section, a person engaged or assisting in the medical  
48 use of cannabis who is charged with a crime pertaining to the medical use of cannabis is not  
49 precluded from doing either of the following:

50 (1) Asserting a full defense of medical necessity.

1           (2) Presenting evidence supporting the medical necessity of using cannabis for  
2 treatment of a specific disease or medical condition if (i) the amount of  
3 cannabis at issue is not greater than the amount described in this Article as an  
4 adequate supply and (ii) the person has taken steps to substantially comply  
5 with the provisions of this Article.

6           (e) A person may assert the need for the medical use of cannabis in a motion to dismiss,  
7 and the court shall dismiss charges following an evidentiary hearing where the defendant shows  
8 that the elements listed in subsection (a) of this section existed at any time prior or subsequent to  
9 the charges being filed.

10          (f) Any interest in or right to property that was possessed, owned, or used in connection  
11 with a person's use of cannabis for medical purposes shall not be forfeited, nor shall the person  
12 be subject to disciplinary action by a business or occupational or professional licensing board or  
13 bureau if the person or the person's designated caregiver demonstrates the person's medical  
14 purpose for using cannabis pursuant to this section.

15 **"§ 90-730.8. Immunity for physicians.**

16 A physician shall not be subject to arrest or prosecution, penalized in any manner, or denied  
17 any right or privilege for recommending the medical use of cannabis or providing written  
18 certification for the medical use of cannabis pursuant to this Article.

19 **"§ 90-730.9. North Carolina Cannabis Research Program.**

20          (a) It is the intent of the General Assembly that The University of North Carolina System  
21 undertake objective scientific research regarding the efficacy and safety of administering  
22 cannabis as part of medical treatment. If the Board of Governors of The University of North  
23 Carolina, by appropriate resolution, accepts this responsibility, The University of North Carolina  
24 shall create a program to be known as the North Carolina Cannabis Research Program.

25          (b) The purpose of the program is to develop and conduct studies designed to ascertain  
26 the general safety and efficacy of using cannabis for medical treatment. If the studies conclude  
27 that cannabis is safe and effective for medical treatment, the program shall develop medical  
28 guidelines for the appropriate administration and use of cannabis to assist physicians and patients  
29 in evaluating the risks and benefits of using cannabis for medical treatment and to provide a  
30 scientific basis for future policies.

31          (c) The research conducted under this section may involve the development of quality  
32 control, purity, and labeling standards for medical cannabis dispensed through the system; sound  
33 advice and recommendations on the best practices for the safe and efficient cultivation of  
34 cannabis; and analysis of genetic and healing properties of the many varied strains of cannabis  
35 to determine which strains may be best suited for a particular condition or treatment.

36 **"§ 90-730.10. Severability.**

37 The provisions of this Article are severable. If any provision of this Article is held invalid by  
38 a court of competent jurisdiction, the invalidity shall not affect other provisions of this Article  
39 which can be given effect without the invalid provision."

40 **SECTION 2.** During the period between the effective date of this act and 30 days  
41 after the effective date of rules adopted under G.S. 90-730.5(p), the following provisions apply:

42          (1) The Department of Health and Human Services shall issue a temporary  
43 certificate for participation in the regulated medical supply system established  
44 under G.S. 90-730.6 to any individual who would be eligible to participate in  
45 the system as a qualified patient but for the adoption of rules to fully  
46 implement the system, upon presentation of a written certification for the  
47 medical use of cannabis from the individual's treating physician. The  
48 certificate shall specify the amount of cannabis the certificate holder may  
49 possess for the medical use of cannabis. The Department of Health and Human  
50 Services shall maintain a list of all temporary certificates issued pursuant to  
51 this section.



- 1 (2) An individual in possession of a temporary certificate issued pursuant to  
 2 subdivision (1) of this section and that individual's designated caregiver are  
 3 not subject to arrest, prosecution, civil or criminal penalty, or denial of any  
 4 right or privilege for possessing cannabis if the amount of usable cannabis  
 5 possessed collectively is not more than the amount specified on the temporary  
 6 certificate issued by the Department of Health and Human Services.
- 7 (3) A physician shall not be subject to arrest or prosecution, penalized in any  
 8 manner, or denied any right or privilege for recommending the medical use of  
 9 cannabis or providing written certification for the medical use of cannabis  
 10 pursuant to this Article.

11 **SECTION 3.** G.S. 106-121(6) reads as rewritten:

- 12 "(6) The term "drug" means
- 13 a. Articles recognized in the official United States Pharmacopeia, official  
 14 Homeopathic Pharmacopoeia of the United States, or official National  
 15 Formulary, or any supplement to any of them; and
- 16 b. Articles intended for use in the diagnosis, cure, mitigation, treatment,  
 17 or prevention of disease in man or other animals, except for  
 18 cannabis-infused products, as defined in G.S. 90-730.2, that are  
 19 manufactured or sold by a licensed medical cannabis center or a  
 20 licensed producer of cannabis-infused products; and
- 21 c. Articles (other than food) intended to affect the structure or any  
 22 function of the body of man or other animals; and
- 23 d. Articles intended for use as a component of any article specified in  
 24 paragraphs a, b, or c, but does not include devices or their components,  
 25 parts, or accessories."

26 **SECTION 4.** G.S. 106-121(8) reads as rewritten:

- 27 "(8) The term "food" means
- 28 a. Articles used for food or drink for man or other animals, except for  
 29 cannabis-infused products, as defined in G.S. 90-730.2, that are  
 30 manufactured or sold by a licensed medical cannabis center or a  
 31 licensed producer of cannabis-infused products;
- 32 b. Chewing gum; and
- 33 c. Articles used for components of any such article."

34 **SECTION 5.(a)** G.S. 105-113.106 reads as rewritten:

35 **"§ 105-113.106. Definitions.**

36 The following definitions apply in this Article:

- 37 ...
- 38 (3) Dealer. – Any of the following:
- 39 a. A person who actually or constructively possesses (i) more than 42.5  
 40 grams of ~~marijuana~~, marijuana that is not medical marijuana, (ii)  
 41 medical marijuana, (iii) seven or more grams of any other controlled  
 42 substance that is sold by weight, or (iv) 10 or more dosage units of any  
 43 other controlled substance that is not sold by weight.
- 44 b. A person who in violation of Chapter 18B of the General Statutes  
 45 possesses illicit spirituous liquor for sale.
- 46 c. A person who in violation of Chapter 18B of the General Statutes  
 47 possesses mash.
- 48 d. A person who in violation of Chapter 18B of the General Statutes  
 49 possesses an illicit mixed beverage for sale.
- 50 ...

1 (6) Marijuana. – All parts of the plant of the genus Cannabis, whether growing or  
2 not; the seeds of this plant; the resin extracted from any part of this plant; and  
3 every compound, salt, derivative, mixture, or preparation of this plant, its  
4 seeds, or its resin.

5 ...

6 (6b) Medical marijuana. – Marijuana, including cannabis-infused products, as  
7 defined in G.S. 90-730.2, authorized for medical use under Article 43 of  
8 Chapter 90 of the General Statutes.

9 ...."

10 **SECTION 5.(b)** G.S. 105-113.107(a) reads as rewritten:

11 "(a) Controlled Substances. – An excise tax is levied on controlled substances possessed,  
12 either actually or constructively, by dealers at the following rates:

13 (1) At the rate of forty cents (40¢) for each gram, or fraction thereof, of harvested  
14 marijuana stems and stalks that have been separated from and are not mixed  
15 with any other parts of the marijuana plant.

16 (1a) ~~At~~ Except as provided in subdivision (1b) of this subsection, at the rate of  
17 three dollars and fifty cents (\$3.50) for each gram, or fraction thereof, of  
18 marijuana, other than separated stems and stalks taxed under subdivision (1)  
19 of this ~~section,~~ subsection, or synthetic cannabinoids.

20 (1b) At the rate of eight dollars (\$8.00) for each ounce, or fraction thereof, of either  
21 (i) medical marijuana, other than separated stems and stalks taxed under  
22 subdivision (1) of this subsection, or (ii) synthetic cannabinoids used in place  
23 of medical marijuana, plus the following applicable rate:

24 a. Twenty-five cents (\$0.25) for each ounce, or fraction thereof, if the  
25 tetrahydrocannabinol content is less than five percent (5%) or if the  
26 synthetic cannabinoid is of an equivalent strength.

27 b. Fifty cents (\$0.50) for each ounce, or fraction thereof, if the  
28 tetrahydrocannabinol content is five percent (5%) or greater but less  
29 than ten percent (10%) or if the synthetic cannabinoid is of an  
30 equivalent strength.

31 c. Seventy-five cents (\$0.75) for each ounce, or fraction thereof, if the  
32 tetrahydrocannabinol content is ten percent (10%) or greater but less  
33 than fifteen percent (15%) or if the synthetic cannabinoid is of an  
34 equivalent strength.

35 d. One dollar (\$1.00) for each ounce, or fraction thereof, if the  
36 tetrahydrocannabinol content is fifteen percent (15%) or greater but  
37 less than twenty percent (20%) or if the synthetic cannabinoid is of an  
38 equivalent strength.

39 e. One dollar twenty-five cents (\$1.25) for each ounce, or fraction  
40 thereof, if the tetrahydrocannabinol content is twenty percent (20%) or  
41 greater but less than twenty-five percent (25%) or if the synthetic  
42 cannabinoid is of an equivalent strength.

43 f. One dollar fifty cents (\$1.50) for each ounce, or fraction thereof, if the  
44 tetrahydrocannabinol content is twenty-five percent (25%) or greater  
45 or if the synthetic cannabinoid is of an equivalent strength.

46 (1c) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of  
47 cocaine.

48 ~~(1e)~~(1d) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of  
49 any low-street-value drug that is sold by weight.

50 ...."

51 **SECTION 5.(c)** G.S. 105-113.107A reads as rewritten:

1 **"§ 105-113.107A. Exemptions.**

2 (a) Authorized Possession. – ~~The~~Other than the taxation of medical marijuana as  
3 provided in G.S. 105-113.107, the tax levied in this Article does not apply to a substance in the  
4 possession of a dealer who is authorized by law to possess the substance. This exemption applies  
5 only during the time the dealer's possession of the substance is authorized by law.

6 (b) Certain Marijuana Parts. – The tax levied in this Article does not apply to the  
7 following marijuana:

8 (1) Harvested mature marijuana stalks when separated from and not mixed with  
9 any other parts of the marijuana plant.

10 (2) Fiber or any other product of marijuana stalks described in subdivision (1) of  
11 this subsection, except resin extracted from the stalks.

12 (3) Marijuana seeds that have been sterilized and are incapable of germination.

13 (4) Roots of the marijuana plant."

14 **SECTION 5.(d)** G.S. 105-113.108 reads as rewritten:

15 **"§ 105-113.108. Reports; revenue stamps.**

16 (a) Revenue Stamps. – The Secretary shall issue stamps to affix to unauthorized  
17 substances to indicate payment of the tax required by this Article. Dealers shall report the taxes  
18 payable under this Article at the time and on the return prescribed by the Secretary.  
19 Notwithstanding any other provision of law, dealers of controlled substances other than medical  
20 marijuana are not required to give their name, address, social security number, or other  
21 identifying information on the return, and the return is not required to be verified by oath or  
22 affirmation. Dealers of medical marijuana shall provide their name, address, social security  
23 number, and phone number, as well as the name, address, phone number, and illness of each  
24 person to whom the dealer distributes medical marijuana. A dealer bears the burden of proof in  
25 establishing that marijuana distributed was medical marijuana. Upon payment of the tax, the  
26 Secretary shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid  
27 and stamps may be issued either by mail or in person.

28 (b) Reports. – Every local law enforcement agency and every State law enforcement  
29 agency must report to the Department within 48 hours after seizing an unauthorized substance,  
30 or making an arrest of an individual in possession of an unauthorized substance, listed in this  
31 subsection upon which a stamp has not been affixed. The report must be in the form prescribed  
32 by the Secretary and it must include the time and place of the arrest or seizure, the amount,  
33 location, and kind of substance, the identification of an individual in possession of the substance  
34 and that individual's social security number, and any other information prescribed by the  
35 Secretary. The report must be made when the arrest or seizure involves any of the following  
36 unauthorized substances upon which a stamp has not been affixed as required by this Article:

37 (1) More than 42.5 grams of marijuana.

38 (2) Seven or more grams of any other controlled substance that is sold by weight.

39 (3) Ten or more dosage units of any other controlled substance that is not sold by  
40 weight.

41 (4) Any illicit mixed beverage.

42 (5) Any illicit spirituous liquor.

43 (6) Mash."

44 **SECTION 6.** This act is effective on the first day of the first month after it becomes  
45 law, and Sections 1 through 4 of this act apply to acts committed on and after that date.