

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 576
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40357-MLf-61D

Short Title: Marijuana Justice and Reinvestment Act. (Public)

Sponsors: Representative Meyer.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO LEGALIZE AND REGULATE THE SALE, POSSESSION, AND USE OF
3 CANNABIS IN NORTH CAROLINA.
4 The General Assembly of North Carolina enacts:

5
6 **PART I. LEGALIZATION OF POSSESSION AND SALE OF CANNABIS**

7 **SECTION 1.1.** The General Statutes are amended by adding a new Chapter to read:

8 "**Chapter 18D.**

9 "**Regulation of Cannabis.**

10 "Article 1.

11 "General Provisions.

12 "**§ 18D-100. Findings.**

13 The General Assembly finds all of the following:

- 14 (1) Cannabis prohibition, like alcohol prohibition before it, has been a wasteful
15 and destructive failure. About half of Americans admit to having used
16 cannabis despite more than eight decades of prohibition.
- 17 (2) Regulating cannabis similarly to alcohol will replace the uncontrolled illicit
18 market with a well-regulated system. Legalization allows regulation and
19 control to protect consumers, workers, communities, and the environment.
- 20 (3) The prohibition of cannabis has had an unfair, disparate impact on persons
21 and communities of color. A 2020 report by the American Civil Liberties
22 Union found black individuals are three and six-tenths times as likely as white
23 individuals to be arrested for cannabis possession, despite nearly identical use
24 rates.
- 25 (4) The prohibition of cannabis diverts law enforcement resources from violent
26 and property crimes and subjects civilians to unnecessary police interactions.
- 27 (5) Keeping cannabis illegal deprives the State of thousands of legal jobs and
28 hundreds of millions of dollars in tax revenue.
- 29 (6) The use of cannabis should be legal for persons 21 years of age or older and
30 subject to taxation and regulation in a manner that does all of the following:
- 31 a. Controls the production and distribution of cannabis under a system of
32 licensing, regulation, and taxation.
- 33 b. Includes lab testing, potency labeling, secure packaging, restrictions
34 on advertising, and education about responsible use and risks.



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- 1 c. Fosters a responsible industry, whereby businesses will only be
2 allowed to expand if they prioritize diversity, good wages,
3 sustainability, and community investment.
4 d. Promotes the participation of individuals most impacted by cannabis
5 prohibition in the legal, regulated industry.
6 e. Generates needed revenue, including to reinvest in communities that
7 have been disproportionately impacted by prohibition, for substance
8 abuse treatment and education, and to train more law enforcement
9 officers to detect impaired driving.

- 10 (7) It is necessary to ensure consistency and fairness in the application of this
11 Chapter throughout the State and that, therefore, the matters addressed by this
12 Chapter are, except as specified herein, matters of statewide concern.

13 **§ 18D-101. Definitions.**

14 Unless the context requires otherwise, the following definitions apply in this Chapter:

- 15 (1) Cannabis. – All parts of the plant of the genus cannabis, the seeds thereof, the
16 resin extracted from any part of the plant, and every compound, manufacture,
17 salt, derivative, mixture, or preparation of the plant, its seeds, or its resin,
18 including cannabis concentrate. "Cannabis" does not include hemp, nor does
19 it include fiber produced from the stalks, oil, or cake made from the seeds of
20 the plant, or sterilized seed of the plant, which is incapable of germination.
21 (2) Cannabis accessories. – Any equipment, products, or materials of any kind
22 that are used, intended for use, or designed for use in planting, propagating,
23 cultivating, growing, harvesting, composting, manufacturing, compounding,
24 converting, producing, processing, preparing, testing, analyzing, packaging,
25 repackaging, storing, vaporizing, or containing cannabis, or for ingesting,
26 inhaling, or otherwise introducing cannabis into the human body.
27 (3) Cannabis cultivation facility. – An entity registered to cultivate, prepare, and
28 package cannabis and sell cannabis to other cannabis establishments but not
29 to consumers. A cannabis cultivation facility may not produce cannabis
30 concentrates, tinctures, extracts, or other cannabis products unless it is also
31 licensed as a cannabis product manufacturing facility.
32 (4) Cannabis delivery service. – An entity registered to deliver cannabis to
33 consumers.
34 (5) Cannabis establishment. – A cannabis cultivation facility, a cannabis delivery
35 service, an on-site consumption establishment, a cannabis testing facility, a
36 cannabis product manufacturing facility, a cannabis transporter, a retail
37 cannabis store, or any other type of cannabis business authorized and
38 registered by the Department.
39 (6) Cannabis product manufacturing facility. – An entity registered to purchase
40 cannabis; manufacture, prepare, and package cannabis products; and sell
41 cannabis and cannabis products to other cannabis establishments but not to
42 consumers.
43 (7) Cannabis products. – Products that are comprised of cannabis, cannabis
44 concentrate, or cannabis extract, and other ingredients, and are intended for
45 use or consumption, such as, but not limited to, edible products, ointments,
46 and tinctures.
47 (8) Cannabis testing facility. – An entity registered to test cannabis for potency
48 and contaminants.
49 (9) Cannabis transporter. – An entity registered to transport cannabis between
50 cannabis establishments.

- 1 (10) Consumer. – A person 21 years of age or older who purchases cannabis or
2 cannabis products for personal use by persons 21 years of age or older, but not
3 for resale.
- 4 (11) Department. – The Department of Public Safety.
- 5 (12) Hemp. – The plant of the genus cannabis and any part of such plant, whether
6 growing or not, with a delta-9 tetrahydrocannabinol concentration that does
7 not exceed three-tenths percent (0.3%) on a dry weight basis of any part of the
8 plant cannabis, or per volume or weight of cannabis product, or the combined
9 percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in
10 any part of the cannabis plant regardless of moisture content.
- 11 (13) Locality. – A city or county.
- 12 (14) Office. – The Office of Social Equity.
- 13 (15) On-site consumption establishment. – An entity registered to sell cannabis or
14 cannabis products for on-site consumption.
- 15 (16) Possession limit. – Any of the following amounts:
16 a. Two ounces of cannabis in a form other than concentrated cannabis or
17 cannabis products.
18 b. Fifteen grams of concentrated cannabis.
19 c. Cannabis products containing no more than 2,000 milligrams of
20 tetrahydrocannabinol.
21 d. Six cannabis plants.
22 e. Any additional cannabis produced by the person's cannabis plants
23 provided that the possession of any amount of cannabis in excess of
24 two ounces of cannabis, 15 grams of concentrated cannabis, and
25 cannabis products containing no more than 2,000 milligrams of
26 tetrahydrocannabinol must be limited to the same property where the
27 plants were cultivated.
- 28 (17) Public place. – Any place to which the general public has access. It does not
29 include an on-site consumption establishment.
- 30 (18) Retail cannabis store. – An entity registered to purchase cannabis from
31 cannabis establishments and sell cannabis and cannabis products to
32 consumers.

33 **"§ 18D-102. Applicability.**

34 This Chapter does not apply to medical cannabis regulated under Article 43 of Chapter 90 of
35 the General Statutes.

36 "Article 2.

37 "Office of Social Equity.

38 **"§ 18D-200. Creation of the Office of Social Equity.**

39 There is established in the Department the Office of Social Equity. The Governor shall
40 appoint an Executive Director of the Office, who shall have at least five years of experience in
41 civil rights advocacy, civil rights litigation, or social justice.

42 **"§ 18D-201. Establishment of funds.**

43 (a) The following funds are established in the Department:

44 (1) The Community Reinvestment and Repair Fund.

45 (2) The Social Equity Fund.

46 (3) The Cannabis Education and Technical Assistance Fund.

47 (b) No later than July 1 of each year, the Office shall produce and make publicly available
48 a report on how the Community Reinvestment and Repair Fund, Social Equity Fund, and
49 Cannabis Education and Technical Assistance Fund were allocated during the prior fiscal year.

50 (c) No later than November 1 of each year, the Office shall solicit public input on the
51 uses of the Community Reinvestment and Repair Fund, Social Equity Fund, and Cannabis

1 Education and Technical Assistance Fund. The Office of Social Equity shall publish a review of
2 feedback received no later than December 15 of each year.

3 **"§ 18D-202. Powers and duties of the Office.**

4 The Office shall promote and encourage full participation in the regulated cannabis industry
5 by people from communities that have previously been disproportionately harmed by cannabis
6 prohibition and enforcement in order to positively impact those communities. The Office shall
7 have all of the following powers and duties:

8 (1) Defining, by rule, the term "social equity applicant," and considering whether
9 the definition should include any or all of the following:

- 10 a. Individuals with past convictions for a cannabis offense.
11 b. Individuals whose parent had a prior conviction for a cannabis offense.
12 c. Individuals who have had a less than honorable discharge from the
13 military due to cannabis.
14 d. Individuals from census tracts or other geographic areas
15 disproportionately impacted by cannabis enforcement, poverty,
16 unemployment, cannabis prohibition, mass incarceration, or systemic
17 racism.
18 e. Racial and ethnic minorities that have been disproportionately
19 impacted by cannabis enforcement.
20 f. Racial and ethnic minorities that have been disproportionately
21 excluded from the legal cannabis industry.

22 (2) Administering the Community Reinvestment and Repair Fund to improve the
23 well-being of individuals and communities that have experienced a
24 disproportionate negative impact from poverty, unemployment, cannabis
25 prohibition and enforcement, mass incarceration, or systemic racism. Before
26 determining how funds from the Community Reinvestment and Repair Fund
27 will be allocated, the Office shall promote and hold public meetings in at least
28 10 of the census tract areas that have been significantly impacted by poverty,
29 unemployment, cannabis prohibition, mass incarceration, or systemic racism
30 to seek input on the communities' needs and priorities for the Community
31 Reinvestment and Repair Fund. The Office of Social Equity shall distribute
32 funds from the Community Reinvestment and Repair Fund in a manner that
33 improves the well-being of communities and individuals that have been
34 significantly impacted by poverty, unemployment, cannabis prohibition, mass
35 incarceration, or systemic racism. Permissible uses of the fund include, but
36 are not limited to, grants to nonprofit organizations or allocations to
37 government agencies for any of the following:

- 38 a. Housing assistance, including to promote home ownership among
39 members of minority groups that are underrepresented in home
40 ownership due to redlining or discrimination.
41 b. Reentry services, including job training and placement.
42 c. Scholarship assistance for low-income students.
43 d. Grants to community-based organizations to provide services to
44 prevent violence, support youth development, provide early
45 intervention for youth and families, and promote community stability
46 and safety.
47 e. Legal or civic aid.

48 (3) Administering the Social Equity Fund to issue zero-interest loans and grants
49 to social equity applicants and cannabis establishments owned and operated
50 by social equity applicants.

- 1 (4) Administering the Cannabis Education and Technical Assistance Fund to
2 provide free or low-cost training, education, and technical assistance for
3 individuals working in the cannabis industry or owning a cannabis
4 establishment, with a focus on individuals who would qualify as social equity
5 applicants.
- 6 (5) Advising the Department regarding regulations, including advising against
7 implementing regulations and financial requirements that unnecessarily
8 impose financial burdens that undermine the purposes of this Chapter and
9 providing recommendations on regulations related to diversity, social equity
10 applications, and the Race to the Top scoring system.
- 11 (6) Producing reports and recommendations on diversity and equity in the legal
12 cannabis economy, including in ownership, management, and employment.
- 13 (7) Investigating whether businesses are adhering to their obligations, including
14 those undertaken as part of the Race to the Top scoring system, and
15 recommending corrective action or discipline if they fail to do so, which may
16 include a suspension or revocation of licenses.

"Article 3.

"Registration and Licensure.

"§ 18D-300. Registration with the Department.

- 20 (a) Each application or renewal application for an annual registration to operate a
21 cannabis establishment shall be submitted to the Department. A renewal application may be
22 submitted up to 90 days prior to the expiration of the cannabis establishment's registration.
- 23 (b) The Department shall begin accepting and processing applications to operate cannabis
24 establishments from social equity applicants one year after the effective date of this Chapter.
- 25 (c) The Department may begin accepting and processing applications to operate cannabis
26 establishments from applicants other than social equity applicants no earlier than one year and
27 180 days after the effective date of this Chapter.
- 28 (d) Upon receiving an application or renewal application for a cannabis establishment,
29 the Department shall immediately forward a copy of each application and half of the registration
30 application fee to the local regulatory authority for the locality in which the applicant desires to
31 operate the cannabis establishment, unless the locality has not designated a local regulatory
32 authority.
- 33 (e) Within 120 days after receiving an application or renewal application, the Department
34 shall issue an annual registration or a conditional registration to the applicant, unless the
35 Department finds the applicant is not in compliance with rules enacted by the Department or the
36 Department is notified by the relevant locality that the applicant is not in compliance with
37 ordinances and regulations in effect at the time of application.
- 38 (f) Applicants may apply for conditional approval if they have not purchased or leased
39 the property where their cannabis establishment would be located. If the applicant is otherwise
40 qualified, the Department shall provide conditional approval. Once the applicant provides the
41 Department with a completed, supplemental application that includes the premises, the
42 Department shall forward the information to the local regulatory authority and approve or reject
43 the final application within 45 days from the date of submission.
- 44 (g) Upon denial of an application, the Department shall notify the applicant in writing of
45 the specific reason for its denial.
- 46 (h) Cannabis establishments, and the books and records maintained and created by
47 cannabis establishments, are subject to inspection by the Department.

"§ 18D-301. Licensure and local control.

- 49 (a) An on-site consumption establishment shall only operate if the local regulatory
50 authority in the locality where it is located issued a permit, license, or registration that expressly
51 allows the operation of the on-site consumption establishment.

1 (b) Except as provided in this subsection, a locality may prohibit the operation of any or
 2 all types of cannabis establishments within its jurisdiction through the enactment of an ordinance.
 3 A locality's prohibition on cannabis establishments shall not prohibit transportation through the
 4 locality or deliveries within the locality by cannabis establishments located in other jurisdictions.

5 (c) A locality may enact ordinances or regulations not in conflict with this Chapter, or
 6 with rules enacted pursuant to this Chapter, governing the time, place, manner, and number of
 7 cannabis establishment operations. A locality may establish civil penalties for violation of an
 8 ordinance or regulations governing the time, place, and manner of a cannabis establishment that
 9 may operate in such locality.

10 (d) No locality may negotiate or enter into a host community agreement with a cannabis
 11 establishment or a cannabis establishment applicant. As used in this subsection, a "host
 12 community agreement" means an agreement that the cannabis establishment or applicant provide
 13 monies, donations, in-kind contributions, services, or anything of value to the locality.

14 "Article 4.

15 "Possession and Use of Cannabis.

16 **"§ 18D-400. Personal use of cannabis.**

17 Notwithstanding any other provision of law, except as otherwise provided in this Chapter,
 18 the following acts are not unlawful and shall not be a criminal or civil offense under State law or
 19 an ordinance of any locality, or be a basis for seizure or forfeiture of assets under State law, for
 20 persons 21 years of age or older:

- 21 (1) Possessing, consuming, ingesting, smoking, growing, using, processing,
 22 purchasing, or transporting an amount of cannabis that does not exceed the
 23 possession limit.
- 24 (2) Transferring an amount of cannabis that does not exceed the possession limit
 25 to a person who is 21 years of age or older without remuneration.
- 26 (3) Controlling property where actions described by this section occur.
- 27 (4) Assisting another person who is 21 years of age or older in any of the acts
 28 described in this section.

29 **"§ 18D-401. Restrictions on personal cultivation; penalty.**

30 (a) It is unlawful to cultivate cannabis plants in any of the following ways:

- 31 (1) Cannabis plants may not be cultivated in a location where the plants are
 32 subject to public view, including view from another private property, without
 33 the use of binoculars, aircraft, or other optical aids.
- 34 (2) A person who cultivates cannabis must take reasonable precautions to ensure
 35 the plants are secure from unauthorized access and access by a person under
 36 21 years of age. For purposes of illustration and not limitation, cultivating
 37 cannabis in an enclosed, locked space that persons under 21 years of age do
 38 not possess a key to constitutes reasonable precautions.
- 39 (3) Cannabis cultivation may only occur on property lawfully in possession of the
 40 cultivator or with the consent of the person in lawful possession of the
 41 property.

42 (b) A person who violates subsection (a) of this section is guilty of an infraction,
 43 punishable by a fine of up to seven hundred fifty dollars (\$750.00) or up to 75 hours of
 44 community service.

45 **"§ 18D-402. Public smoking prohibited; penalty.**

46 (a) It is unlawful to smoke cannabis in a public place.

47 (b) It is unlawful to smoke cannabis in an area of an on-site consumption establishment
 48 where cannabis smoking is prohibited.

49 (c) A person who violates this section is guilty of an infraction, punishable by a fine of
 50 up to fifty dollars (\$50.00) or up to five hours of community service.

51 **"§ 18D-403. Consuming cannabis while operating a moving vehicle prohibited; penalty.**

1 (a) No person shall consume cannabis while operating or driving a motor vehicle, boat,
2 vessel, aircraft, or other motorized device used for transportation.

3 (b) Unless the conduct is covered under some other provision of law providing greater
4 punishment, a person who violates subsection (a) of this section, and only consumed cannabis,
5 is guilty of an infraction, punishable as follows:

6 (1) For a first offense, any or all of the following:

7 a. A fine of not more than two hundred fifty dollars (\$250.00).

8 b. Not more than 25 hours of community service.

9 c. Suspension of the person's drivers license for up to six months.

10 (2) For a second or subsequent offense, any or all of the following:

11 a. A fine of not more than five hundred dollars (\$500.00).

12 b. Not more than 50 hours of community service.

13 c. Suspension of the person's drivers license for up to one year.

14 **"§ 18D-404. False identification; penalty.**

15 (a) A person who is under 21 years of age may not present or offer to a cannabis
16 establishment or the cannabis establishment's agent or employee any written or oral evidence of
17 age that is false, fraudulent, or not actually the minor's own for either of the following purposes:

18 (1) Purchasing, attempting to purchase, or otherwise procuring or attempting to
19 procure cannabis.

20 (2) Gaining access to a cannabis establishment.

21 (b) A person who violates this section is guilty of an infraction, punishable by a fine of
22 not more than one hundred fifty dollars (\$150.00) or up to 15 hours of community service.

23 **"§ 18D-405. Unlawful cannabis extraction; penalty.**

24 (a) No person, other than a cannabis product manufacturing facility complying with this
25 Chapter and Department rules, may perform solvent-based extractions on cannabis using solvents
26 other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol.

27 (b) No person may extract compounds from cannabis using ethanol in the presence or
28 vicinity of open flame.

29 (c) A person who violates this section is guilty of a Class E felony, which shall include a
30 fine of not more than five thousand dollars (\$5,000).

31 **"§ 18D-406. Cannabis accessories authorized.**

32 (a) Except as provided in this section, notwithstanding any other provision of law, it is
33 not unlawful and shall not be an offense under State law or an ordinance of any locality, or be a
34 basis for seizure or forfeiture of assets under State law, for persons 21 years of age or older to
35 manufacture, possess, possess with intent to distribute, or purchase cannabis accessories, or to
36 distribute or sell cannabis accessories to a person who is 21 years of age or older.

37 (b) Except as provided in this section, a person who is 21 years of age or older is
38 authorized to manufacture, possess, and purchase cannabis accessories, and to distribute or sell
39 cannabis accessories to a person who is 21 years of age or older. This section is intended to meet
40 the requirements of section 863 of Title 21 of the United States Code by authorizing, under State
41 law, any person in compliance with this Chapter to manufacture, possess, or distribute cannabis
42 accessories.

43 (c) No person may manufacture, distribute, or sell cannabis accessories that violate rules
44 adopted by the Department. A first offense under this section is an infraction, punishable by a
45 fine of up to one thousand dollars (\$1,000) and forfeiture of the cannabis accessories. A second
46 or subsequent offense of this section is a Class A1 misdemeanor punishable by a fine of up to
47 five thousand dollars (\$5,000), up to 180 days in jail, or both, and forfeiture of the cannabis
48 accessories.

49 **"§ 18D-407. Purchasing of cannabis or cannabis accessories unlawful in certain cases;**
50 **penalties; treatment and education programs and services.**

1 (a) No person to whom cannabis or cannabis accessories may not lawfully be sold under
2 this Chapter shall consume, purchase, or possess, or attempt to consume, purchase, or possess,
3 any cannabis or cannabis accessories.

4 (b) Any person 18 years of age or older who violates subsection (a) of this section is
5 guilty of an infraction, punishable by a fine of up to twenty-five dollars (\$25.00) or up to five
6 hours of community service. Additionally, the person shall be ordered to enter a substance abuse
7 treatment or education program, or both, if available, that in the opinion of the court best suits
8 the needs of the person.

9 (c) Any juvenile who violates subsection (a) of this section is guilty of an infraction,
10 punishable by a fine of up to twenty-five dollars (\$25.00) or up to five hours of community
11 service. Additionally, the juvenile shall be ordered to enter a substance abuse treatment or
12 education program, or both, if available, that in the opinion of the court best suits the needs of
13 the juvenile.

14 **"§ 18D-408. Nondiscrimination for personal use of cannabis.**

15 (a) A person shall not be subject to arrest, prosecution, or penalty in any manner, or be
16 denied any right or privilege, including, but not limited to, disciplinary action by a business,
17 occupational, or professional licensing board or bureau, solely for conduct permitted under this
18 Chapter.

19 (b) Except as provided in this section, neither the State nor any of its political
20 subdivisions may impose any penalty or deny any benefit or entitlement for conduct permitted
21 under this Chapter or for the presence of cannabinoids or cannabinoid metabolites in the urine,
22 blood, saliva, breath, hair, or other tissue or fluid of a person who is 21 years of age or older.

23 (c) Except as provided in this section, the State nor any of its political subdivisions may
24 deny a drivers license, a professional license, housing assistance, social services, or other benefits
25 based on cannabis use or for the presence of cannabinoids or cannabinoid metabolites in the
26 urine, blood, saliva, breath, hair, or other tissue or fluid of a person who is 21 years of age or
27 older.

28 (d) Notwithstanding any provision of law to the contrary, a person shall not be denied
29 custody of or visitation with a minor for acting in accordance with this Chapter, unless the
30 person's behavior is such that it creates an unreasonable danger to the minor that can be clearly
31 articulated and substantiated.

32 (e) Except as provided in this section, neither the State nor any of its political
33 subdivisions may deny employment or a contract to a person for engaging in conduct permitted
34 under this Chapter for a prior conviction for a nonviolent cannabis offense that does not involve
35 distribution to minors, or for testing positive for the presence of cannabinoids or cannabinoid
36 metabolites in the urine, blood, saliva, breath, hair, or other tissue or fluid of the individual's
37 body.

38 (f) For the purposes of medical care, including organ and tissue transplants, the use of
39 cannabis does not constitute the use of an illicit substance or otherwise disqualify a person from
40 needed medical care and may only be considered with respect to evidence-based clinical criteria.

41 (g) Notwithstanding any provision of law to the contrary, unless there is a specific finding
42 that the individual's use, cultivation, or possession of cannabis could create a danger to the
43 individual or another person, it shall not be a violation of conditions of parole, probation, or
44 pretrial release to do either of the following:

45 (1) Engage in conduct allowed by this Chapter.

46 (2) Test positive for cannabis, delta-9 tetrahydrocannabinol, or any other
47 cannabinoid or metabolite of cannabis.

48 (h) This section does not do any of the following:

49 (1) Prevent a government employer from disciplining an employee or contractor
50 for ingesting cannabis in the workplace or for working while impaired by
51 cannabis.

1 (2) Apply to the extent that they conflict with a governmental employer's
2 obligations under federal law or regulations or to the extent that they would
3 disqualify the entity from a monetary or licensing-related benefit under federal
4 law or regulations.

5 (3) Authorize any person to engage in, and does not prevent the imposition of any
6 civil, criminal, discipline, or other penalties, including discipline or
7 termination by a governmental employer, any task while under the influence
8 of cannabis, when doing so would constitute negligence or professional
9 malpractice.

10 **"§ 18D-409. Lawful operation of cannabis-related facilities.**

11 (a) Notwithstanding any other provision of law, engaging in any activities involving
12 cannabis, cannabis accessories, or cannabis products, if the person conducting the activities has
13 obtained a current, valid registration to operate a cannabis establishment or is acting in his or her
14 capacity as an owner, employee, or agent of a registered cannabis establishment, and the activities
15 are within the scope of activities allowed by the Department for that type of cannabis
16 establishment, are not unlawful and shall not be an offense under State law or be a basis for
17 seizure or forfeiture of assets under State law.

18 (b) Nothing in this section prevents the imposition of penalties for violating this Chapter
19 or rules adopted by the Department or localities pursuant to this Chapter.

20 **"§ 18D-410. Verifying the age of cannabis consumers.**

21 (a) A cannabis establishment or an agent or staffer of a cannabis establishment may not
22 sell, deliver, distribute, give, transfer, or otherwise furnish cannabis to a person under the age of
23 21.

24 (b) Except as otherwise provided in this section, in a prosecution for selling, transferring,
25 delivering, distributing, giving, or otherwise furnishing cannabis, cannabis products, or cannabis
26 accessories to any person who is under 21 years of age, it is a complete defense if both of the
27 following requirements are met:

28 (1) The person who sold, gave, or otherwise furnished cannabis, cannabis
29 products, or cannabis accessories was a retail cannabis store or on-site
30 consumption establishment or was acting in his or her capacity as an owner,
31 employee, or agent of a retail cannabis store or on-site consumption
32 establishment at the time the cannabis, cannabis products, or cannabis
33 accessories were sold, given, or otherwise furnished to the person.

34 (2) Before selling, giving, or otherwise furnishing cannabis, cannabis products,
35 or cannabis accessories to a person who is under 21 years of age, the person
36 who sold, gave, or otherwise furnished the cannabis or cannabis accessories,
37 or a staffer or agent of the retail cannabis store, was shown a document that
38 appeared to be issued by an agency of a federal, state, tribal, or foreign
39 sovereign government and that indicated that the person to whom the cannabis
40 or cannabis accessories was sold, given, or otherwise furnished was 21 years
41 of age or older at the time the cannabis or cannabis accessories were sold,
42 given, or otherwise furnished to the person.

43 (c) Subsection (b) of this section does not apply if both of the following requirements are
44 met:

45 (1) The document that was shown to the person who sold, gave, or otherwise
46 furnished the cannabis, cannabis products, or cannabis accessories was
47 counterfeit, forged, altered, or issued to a person other than the person to
48 whom the cannabis, cannabis products or cannabis accessories were sold,
49 given, or otherwise furnished.

50 (2) Under the circumstances, a reasonable person would have known or suspected
51 that the document was counterfeit, forged, altered, or issued to a person other

1 than the person to whom the cannabis, cannabis products, or cannabis
2 accessories were sold, given, or otherwise furnished.

3 **"§ 18D-411. Occupational licensing.**

4 (a) A holder of a professional or occupational license may not be subject to professional
5 discipline for providing advice or services related to cannabis establishments or applications to
6 operate cannabis establishments on the basis that cannabis is illegal under federal law.

7 (b) An applicant for a professional or occupational license may not be denied a license
8 based on previous employment related to cannabis establishments operating in accordance with
9 State law.

10 **"§ 18D-412. Private property and tenant rights.**

11 (a) Except as provided in this section, the provisions of this Chapter do not require any
12 person, corporation, or any other entity that occupies, owns, or controls a property to allow the
13 consumption, cultivation, display, sale, or transfer of cannabis on or in that property.

14 (b) Except as provided in this section, a landlord or property manager may not refuse to
15 rent to a tenant, or otherwise discriminate against the tenant, based on a past conviction for a
16 cannabis offense.

17 (c) Except as provided in this section, in the case of the rental of a residential dwelling,
18 a landlord or property manager may not prohibit the possession of cannabis or the consumption
19 of cannabis by nonsmoked means.

20 (d) Subsections (a) through (c) of this section do not apply if any of the following
21 requirements are met:

22 (1) The tenant is not leasing the entire residential dwelling.

23 (2) The residence is incidental to detention or the provision of medical, geriatric,
24 educational, counseling, religious, or similar service.

25 (3) The residence is a transitional housing or sober living facility.

26 (4) Failing to prohibit cannabis possession or consumption would violate federal
27 law or regulations or cause the landlord to lose a monetary or licensing-related
28 benefit under federal law or regulations.

29 (e) After a warning, a landlord or property manager may take action against a tenant if
30 the tenant's use of cannabis creates an odor that interferes with others' peaceful enjoyment of
31 their home or property.

32 **"§ 18D-413. Contracts enforceable.**

33 It is the public policy of this State that contracts related to the operation of a cannabis
34 establishment registered pursuant to this Chapter should be enforceable. It is the public policy of
35 this State that no contract entered into by a cannabis establishment or its employees or agents as
36 permitted pursuant to a valid registration, or by those who allow property to be used by a cannabis
37 establishment, its employees, or its agents as permitted pursuant to a valid registration, shall be
38 unenforceable on the basis that cultivating, obtaining, manufacturing, distributing, dispensing,
39 transporting, selling, possessing, or using cannabis or hemp is prohibited by federal law.

40 **"§ 18D-414. Respecting State law.**

41 (a) No law enforcement officer employed by an agency that receives State or local
42 government funds shall expend any State or local resources, including the officer's time, to effect
43 any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the
44 officer believes to constitute a violation of federal law if the officer has reason to believe that
45 such activity is in compliance with this Chapter, nor shall any such officer expend any State or
46 local resources, including the officer's time, to provide any information or logistical support
47 related to such activity to any federal law enforcement authority or prosecuting entity.

48 (b) No agency or political subdivision of the State may rely on a violation of federal law
49 related to cannabis as the sole basis for taking an adverse action against a person.

50 (c) For the purposes of State law, actions related to cannabis are considered lawful as
51 long as they are in accordance with this Chapter.

1 "§ 18D-415. Rulemaking.

2 (a) Not later than 180 days after the effective date of this Chapter, the Department shall
3 adopt rules necessary for implementation of this Chapter. Such rules shall not prohibit the
4 operation of cannabis establishments, either expressly or through application, nor require such a
5 high investment of risk, money, time, or any other resource or asset that the operation of a
6 cannabis establishment is not worthy of being carried out in practice by a reasonably prudent
7 businessperson. Such regulations shall include all of the following:

8 (1) Procedures for the issuance, renewal, suspension, and revocation of a
9 registration to operate a cannabis establishment, with such procedures subject
10 to all requirements of Chapter 150B of the General Statutes.

11 (2) Rules, procedures, and policies to promote and encourage full participation in
12 the regulated cannabis industry by people from communities that have
13 previously been disproportionately harmed by cannabis prohibition and
14 enforcement and to positively impact those communities, which shall reflect
15 input from the Office of Social Equity, including all of the following:

16 a. Conducting necessary and appropriate outreach to diverse groups that
17 may qualify for participation in activities under this Chapter.

18 b. Requiring each cannabis establishment to establish and adhere to
19 policies that encourage diversity in employment, contracting, and
20 other professional opportunities.

21 c. Requiring any cannabis establishment with 25 or more employees to
22 retain a diversity officer.

23 d. Requiring each cannabis establishment to report on the diversity of its
24 workforce, management, contracts, and ownership by January 1 of
25 each year.

26 e. Issuing rules allowing social equity applicants to apply for, and be
27 licensed for, cannabis establishment registrations no less than 180 days
28 prior to applicants that are not social equity applicants.

29 (3) A Race to the Top scoring system to make the expansion of a cannabis
30 establishment to more than two locations contingent on the cannabis
31 establishment's contributions to equity and to benefiting the community. The
32 system must reflect input from the Office of Social Equity and shall include,
33 but need not be limited to, considerations of diversity in the cannabis
34 establishment's ownership and workforce, including in management;
35 employment of reentering citizens with prior convictions; minority
36 ownership; compensation packages and benefits for workers; investing in
37 economically disadvantaged areas; whether the cannabis establishment
38 incorporates principles of environmental resiliency or sustainability, including
39 energy efficiency; or whether the principals are social equity applicants.

40 (4) A limit on the number of cannabis establishments a major investor may invest
41 in, unless each additional establishment is owned and operated by a social
42 equity applicant.

43 (5) A schedule of reasonable application, registration, and renewal fees, provided
44 application fees shall not exceed five thousand dollars (\$5,000), with this
45 upper limit adjusted annually for inflation, unless the Department determines
46 a greater fee is necessary to carry out its responsibilities under this Chapter.

47 (6) Qualifications for registration that are directly and demonstrably related to the
48 operation of a cannabis establishment and that may not disqualify applicants
49 solely for cannabis offenses prior to the effective date of this Chapter.

50 (7) Security requirements.

- 1 (8) Requirements for the transportation and storage of cannabis and cannabis
2 products by cannabis establishments.
- 3 (9) Requirements for the delivery of cannabis and cannabis products to
4 consumers, including a prohibition on business names, logos, and other
5 identifying language or images on delivery vehicles and a prohibition on
6 delivering to any address located on land owned by the federal government or
7 any address on land or in a building leased by the federal government.
- 8 (10) Employment and training requirements, including requiring that each
9 cannabis establishment create an identification badge for each employee or
10 agent. These requirements may not disqualify applicants solely for cannabis
11 offenses prior to the effective date of this Chapter.
- 12 (11) Requirements designed to prevent the sale or diversion of cannabis and
13 cannabis products to persons under the age of 21.
- 14 (12) Requirements for cannabis and cannabis products sold or distributed by a
15 cannabis establishment, including prohibiting any misleading labeling and
16 requiring cannabis product labels to include all of the following:
- 17 a. The length of time it typically takes for the product to take effect.
18 b. A disclosure of ingredients and possible allergens.
19 c. A nutritional fact panel.
20 d. Requiring opaque, child-resistant packaging, which must be designed
21 or constructed to be significantly difficult for children under five years
22 of age to open and not difficult for normal adults to use properly as
23 defined by 16 C.F.R. § 1700.20.
24 e. Requiring that edible cannabis products be clearly identifiable, when
25 practicable, with a standard symbol indicating that it contains
26 cannabis.
- 27 (13) Health and safety regulations and standards for the manufacture of cannabis
28 products and both the indoor and outdoor cultivation of cannabis by cannabis
29 establishments.
- 30 (14) Restrictions on advertising, marketing, and signage, including, but not limited
31 to, a prohibition on mass-market campaigns that have a high likelihood of
32 reaching minors.
- 33 (15) Rules to create at least six tiers of cannabis cultivation facilities, based on the
34 size of the facility or the number of plants cultivated, and whether the
35 cultivation occurs outdoors, indoors, or in a greenhouse. Security regulations
36 and licensing fees must vary based on the size of the cultivation facility.
- 37 (16) Restrictions or prohibitions on additives to cannabis and cannabis-infused
38 products, including, but not limited to, those that are toxic or designed to make
39 the product more addictive.
- 40 (17) Prohibitions on products that are designed to make the product more appealing
41 to children, including prohibiting the use of any images designed or likely to
42 appeal to minors, including cartoons, toys, animals, or children, and any other
43 likeness to images, characters, or phrases that are popularly used to advertise
44 to children.
- 45 (18) Restrictions on the use of pesticides that are injurious to human health.
- 46 (19) Regulations governing visits to cannabis cultivation facilities and cannabis
47 product manufacturing facilities, including requiring the cannabis
48 establishment to log visitors.
- 49 (20) A definition of the amount of delta-9 tetrahydrocannabinol that constitutes a
50 single serving in a cannabis product.
- 51 (21) Standards for the safe manufacture of cannabis extracts and concentrates.

- 1 (22) Requirements that educational materials be disseminated to consumers who
2 purchase cannabis-infused products.
- 3 (23) Requirements for random sample testing to ensure quality control, including
4 by ensuring that cannabis and cannabis-infused products are accurately
5 labeled for potency. Unless the Department determines that remediation or
6 treatment is sufficient to ensure product safety, the testing analysis shall
7 include testing for residual solvents, poisons, or toxins; harmful chemicals;
8 dangerous molds or mildew; filth; and harmful microbials such as E. coli or
9 salmonella and pesticides.
- 10 (24) Standards for the operation of cannabis testing facilities, including
11 requirements for equipment and qualifications for personnel.
- 12 (25) Civil penalties for the failure to comply with rules made pursuant to this
13 Chapter.
- 14 (26) Procedures for collecting taxes levied on cannabis establishments.
- 15 (27) Requirements for on-site consumption establishments, including for security,
16 ventilation, odor control, and consumption by patrons. These rules may
17 include a prohibition on smoking indoors.
- 18 (b) After consulting with researchers knowledgeable about the risks and benefits of
19 cannabis and providing an opportunity for public comment, the Department shall develop a
20 scientifically accurate safety information label, handout, or both, which shall be available to each
21 adult-use cannabis consumer. The label or handout shall include both of the following:
- 22 (1) Advice about the potential risks of cannabis, including all of the following:
23 a. The risks of driving under the influence of cannabis, and the fact that
24 doing so is illegal.
- 25 b. Any adverse effects unique to younger adults, including related to the
26 developing mind.
- 27 c. Potential adverse events and other risks.
- 28 d. Risks of using cannabis during pregnancy or breastfeeding.
- 29 (2) The need to safeguard all cannabis and cannabis products from children and
30 pets.
- 31 (c) The Department shall review and update the safety information materials at least once
32 every two years to ensure they remain accurate. The review period shall include soliciting input
33 from researchers knowledgeable about the risks and benefits of cannabis and an opportunity for
34 public comment.
- 35 (d) In order to ensure that individual privacy is protected, the Department shall not require
36 a consumer to provide a retail cannabis store with personal information other than
37 government-issued identification to determine the consumer's age, and a retail cannabis store
38 shall not be required to acquire and record personal information about consumers.

39 "Article 5.

40 "Taxes and Use of Revenue.

41 **"§ 18D-500. Cannabis Regulation Fund.**

42 The Cannabis Regulation Fund is established in the Department. The Fund shall consist of
43 fees collected under this Chapter and appropriations made by the General Assembly to the Fund.
44 The Department shall administer the Fund, and funds in the Fund are hereby appropriated for the
45 purposes set forth in this Article.

46 **"§ 18D-501. Cannabis excise tax.**

47 (a) There is imposed a cannabis excise tax equal to twenty percent (20%) of the sales
48 price of each sale of cannabis and cannabis products to a consumer. Sales to registered medical
49 cannabis patients pursuant to Article 43 of Chapter 90 of the General Statutes are exempt from
50 the tax imposed under this section.

1 (b) The tax imposed by this section shall be paid by the consumer to the cannabis
2 establishment. Each cannabis establishment shall collect from the consumer the full amount of
3 the tax payable on each taxable sale.

4 (c) On the fifteenth day of each month, every cannabis establishment that sells cannabis
5 to consumers shall pay the excise taxes due on the cannabis that the cannabis establishment sold
6 in the prior calendar month.

7 (d) The cannabis excise tax shall be separately itemized from the cannabis excise tax on
8 the receipt provided to the purchaser.

9 **"§ 18D-502. Cannabis local option tax.**

10 (a) Any municipality may collect a cannabis local option tax of three percent (3%) of the
11 sales price on each sale of cannabis and cannabis products to a consumer in the municipality.
12 Sales to registered medical cannabis patients pursuant to Article 43 of Chapter 90 of the General
13 Statutes are exempt from the tax imposed under this section.

14 (b) The cannabis local option tax may be adopted by a municipality that has provided (i)
15 notice of the imposition and (ii) the amount to the Department of Revenue at least 90 days prior
16 to the first day of the tax quarter when the cannabis local option tax will be collected.

17 (c) The tax imposed by this section shall be paid by the consumer to the cannabis
18 establishment. Each cannabis establishment shall collect from the consumer the full amount of
19 the tax payable on each taxable sale.

20 (d) On the fifteenth day of each month, every cannabis establishment that sells cannabis
21 to consumers shall pay the local option taxes due on the cannabis that the cannabis establishment
22 sold in the prior calendar month.

23 (e) The tax imposed by this section is separate from and in addition to the cannabis excise
24 tax authorized under G.S. 18D-501. The tax imposed by this section shall not be part of the sales
25 price to which the cannabis excise tax applies. The cannabis local option tax shall be separately
26 itemized from the cannabis excise tax on the receipt provided to the purchaser.

27 **"§ 18D-503. Apportionment of revenue.**

28 Revenues generated in excess of the amount needed to implement and enforce this Chapter
29 by the cannabis excise tax shall be distributed every three months as follows:

30 (1) Twenty-five percent (25%) shall be distributed to the Community
31 Reinvestment and Repair Fund established by this Chapter.

32 (2) Ten percent (10%) shall be distributed to the Social Equity Fund established
33 by this Chapter.

34 (3) Three percent (3%) shall be distributed to the Cannabis Education and
35 Technical Assistance Fund established by this Chapter.

36 (4) Seven percent (7%) shall be distributed to the Department of Health and
37 Human Services for use in evidence-based, voluntary programs for the
38 prevention or treatment of substance abuse.

39 (5) Two percent (2%) shall be distributed to the Department of Health and Human
40 Services for a scientifically and medically accurate public education campaign
41 educating youth and adults about the health and safety risks of alcohol,
42 tobacco, cannabis, and other substances, including the risks of driving while
43 impaired.

44 (6) Two percent (2%) shall be distributed to the Department of Health and Human
45 Services to fund diverse scientific, academic, or medical research on cannabis
46 or endocannabinoids, including research exploring the benefits of cannabis,
47 provided that all funded research data, results, and papers shall be released
48 into the public domain and shall be published for free and open access by the
49 public and by other researchers.

- (7) Up to one percent (1%) shall be distributed to the Department of Public Safety to fund Advanced Roadside Impaired Driving Enforcement and drug recognition expert training.
- (8) Any remaining funds shall be deposited in the General Fund."

SECTION 1.2. This Part becomes effective January 1, 2022, and applies to offenses committed on or after that date.

PART II. LEGALIZATION OF MEDICAL CANNABIS

SECTION 2.1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 43.

"North Carolina Medical Cannabis Act.

"§ 90-730. Short title.

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

"§ 90-730.1. Protections for the medical use of cannabis.

(a) A patient shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the possession or purchase of cannabis for medical use by the patient if the quantity of usable cannabis possessed or purchased does not exceed an adequate supply, as determined by the North Carolina Medical Care Commission.

(b) A designated caregiver shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including imposition of a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the possession or purchase of cannabis for medical use by the patient if the quantity of cannabis possessed or purchased does not exceed an adequate supply for the patient, as determined by the North Carolina Medical Care Commission.

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

- (1) The patient's physician has explained the potential risks and benefits of the medical use of cannabis to the patient and to a parent, guardian, or person having legal custody of the patient.
- (2) A parent, guardian, or person having legal custody of the patient consents in writing to (i) allow the patient's medical use of cannabis, (ii) serve as the patient's designated caregiver, and (iii) control the dosage and frequency of the medical use of cannabis by the patient.

(d) A patient or a designated caregiver shall be granted the full legal protections provided by this Article as long as the patient or designated caregiver is in possession of a registry identification card issued by the Department of Health and Human Services. If the patient or designated caregiver is not in possession of a registry identification card, the individual shall be given an opportunity to produce the registry identification card before the initiation of any arrest, criminal charges, or other penalties.

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

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

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

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

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

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

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

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

25 (k) State and local law enforcement officers shall not harm, neglect, injure, or destroy an
26 individual's interest in or right to property that is possessed, owned, or used in connection with
27 the medical use of cannabis, or acts incidental to the medical use of cannabis, while the property
28 is in the possession of State or local law enforcement officials as a result of a seizure of the
29 property in connection with the claimed medical use of cannabis. A person does not forfeit any
30 right or interest in property seized in connection with the medical use of cannabis under any
31 provision of State law providing for the forfeiture of property, unless the forfeiture is part of a
32 sentence imposed upon the person as a result of a conviction of a criminal violation of this Article
33 or entry of a plea of guilty to such violation. Cannabis, paraphernalia, or other property seized
34 from a patient or designated caregiver in connection with the claimed medical use of cannabis
35 shall be returned immediately upon the determination by a court, prosecutor, or law enforcement
36 officer that the patient or designated caregiver is entitled to the protections of this Article. In
37 making this determination, the court, a prosecutor, or a law enforcement officer shall consider as
38 evidence the failure of law enforcement officers to actively investigate the case, a decision not
39 to prosecute, the dismissal of charges, or acquittal.

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

42 (m) There is no presumption of neglect or child endangerment for conduct allowed under
43 this Article.

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

48 (o) Possession of or application for a registry identification card shall not alone constitute
49 probable cause to search the person or the property of the person possessing or applying for a
50 registry identification card or otherwise subject the person or the person's property to inspection
51 by any government agency.

1 (p) If an individual being investigated by a law enforcement officer employed by a
2 State-funded or locally funded law enforcement agency credibly asserts during the course of the
3 investigation that the individual is a patient or designated caregiver, neither the law enforcement
4 officer nor the law enforcement agency shall provide any information, except as required by
5 federal law or the United States Constitution, from any cannabis-related investigation of the
6 individual to any law enforcement authority that does not recognize the protections of this
7 Article. Any prosecution of the individual for a violation of this Article shall be conducted
8 pursuant to the laws of this State.

9 (q) Nothing in this Article shall be construed to extend the protections of this Article to
10 any person, including a patient or designated caregiver, to allow that person to acquire, possess,
11 manufacture, produce, use, sell, distribute, dispense, or transport cannabis in a manner that is not
12 consistent with this Article.

13 **"§ 90-730.2. Registry identification cards for patients and designated caregivers.**

14 (a) As used in this Article, "Department" means the North Carolina Department of Health
15 and Human Services.

16 (b) The Department shall issue a registry identification card to any patient or designated
17 caregiver who meets the requirements of this section.

18 (c) The Department shall not issue or renew a registry identification card to a patient
19 under 18 years of age unless each of the following criteria is met:

20 (1) The patient's physician has explained the potential risks and benefits of the
21 medical use of cannabis to the patient and to a parent, guardian, or person
22 having legal custody of the patient.

23 (2) A parent, guardian, or person having legal custody of the patient consents in
24 writing to (i) allow the patient's medical use of cannabis, (ii) serve as one of
25 the patient's designated caregivers, and (iii) control the acquisition of the
26 cannabis, the dosage, and the frequency of the medical use of cannabis by the
27 patient.

28 (d) The Department shall verify the information contained in a registry identification card
29 application or renewal application submitted pursuant to this section and shall approve or deny
30 an application or renewal application within 45 days after receipt. The Department may deny a
31 registry identification card application or renewal application only if the applicant fails to provide
32 the information required pursuant to this section or if the Department determines that the
33 application or renewal application contains false information. If the Department fails to approve
34 or deny a registration application or renewal application submitted pursuant to this section within
35 45 days after receipt, the application or renewal application shall be deemed approved, and a
36 copy of the application or renewal application together with proof of receipt by the Department
37 at least 45 days prior to the date this information is presented in lieu of a registry identification
38 card shall be deemed a valid registry identification card.

39 (e) The Department may issue a registry identification card to a maximum of two
40 designated caregivers named in a patient's approved application.

41 (f) The Department shall issue a registry identification card to an applicant within five
42 days after approving an application or renewal. The application or renewal expires two years
43 after the date of issuance.

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

45 (1) The date of issuance.

46 (2) The date of expiration.

47 (3) A random registry identification number.

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

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

50 (1) A patient who has been issued a registry identification card shall notify the
51 Department of any change in the patient's name, address, or designated

1 caregiver and submit a ten dollar (\$10.00) fee to the Department within 15
2 days after the change occurs. A patient who fails to notify the Department of
3 any of these changes within the specified time frame commits an infraction
4 and is subject to a fine not to exceed more than one hundred fifty dollars
5 (\$150.00).

6 (2) A designated caregiver shall notify the Department of any change in name or
7 address and submit a ten dollar (\$10.00) fee to the Department within 15 days
8 after the change occurs. A designated caregiver who fails to notify the
9 Department of any of these changes within the specified time frame commits
10 an infraction and is subject to a fine not to exceed one hundred fifty dollars
11 (\$150.00).

12 (3) When a patient or designated caregiver notifies the Department of any change,
13 as required by this subsection, the Department shall issue the patient and each
14 designated caregiver a new registry identification card within 10 days after
15 receiving the updated information and the ten dollar (\$10.00) fee.

16 (4) When a patient who possesses a registry identification card notifies the
17 Department of a change in designated caregiver, the Department shall notify
18 the designated caregiver of record of the change within 15 days after receiving
19 notification of the change. The protections afforded under this Article to the
20 designated caregiver of record shall expire 30 days after the designated
21 caregiver of record is notified by the Department of the change in designated
22 caregiver.

23 (5) If a patient or a designated caregiver loses a registry identification card, the
24 cardholder shall notify the Department within 15 days after losing the card.
25 The notification shall include a ten dollar (\$10.00) replacement fee for a new
26 card. Within five days after receiving notification of a lost registry
27 identification card, the Department shall issue the cardholder a new registry
28 identification card with a new random identification number.

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

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

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

40 (l) The Department shall verify to law enforcement personnel whether a registry
41 identification card is valid solely by confirming the validity of the random registry identification
42 number and the name of the person to whom the Department has assigned the random registry
43 identification number.

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

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

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

3 (p) Not later than 120 days after the effective date of this act, the North Carolina Medical
4 Care Commission shall adopt rules to implement the provisions of this section, including defining
5 what constitutes a qualifying medical condition and an adequate supply of medical cannabis. The
6 rules shall establish requirements for the issuance of registry identification cards to patients and
7 designated caregivers, which shall include at least all of the following:

8 (1) Written certification of a statement in a patient's medical records or a
9 statement signed by a physician with whom the patient has a bona fide
10 physician patient relationship indicating that, in the physician's professional
11 opinion, the patient is likely to receive therapeutic or palliative benefit from
12 the medical use of cannabis to treat or alleviate the patient's qualifying medical
13 condition or symptoms associated with the qualifying medical condition and
14 the potential health benefits of the medical use of cannabis would likely
15 outweigh the health risks for the patient.

16 (2) An application or renewal fee.

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

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

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

22 **"§ 90-730.3. Definitions.**

23 For purposes of this Article, the term "patient" means a person who has been issued a written
24 certification described in G.S. 90-730.2, and the term "physician" means a person who is licensed
25 to prescribe drugs under the laws of this State."

26 **SECTION 2.2.** This Part becomes effective January 1, 2022, and applies to acts
27 committed on or after that date.

28 **PART III. AUTOMATIC EXPUNCTION OF MARIJUANA OFFENSES**

29 **SECTION 3.1.** Article 5 of Chapter 15A of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 15A-145.8B. Automatic expunction of certain marijuana offenses.**

32 (a) If a person was charged with an offense involving marijuana or hashish that is legal
33 under Chapter 18D of the General Statutes, and such person was convicted, such conviction shall
34 be ordered to be automatically expunged no later than July 1, 2024, in the manner set forth in
35 this section.

36 (b) The Administrative Office of the Courts shall determine which offenses meet the
37 criteria for expunction set forth in subsection (a) of this section. Upon completing the
38 determination required under this subsection, the Administrative Office of the Courts shall
39 provide an electronic list of the offenses to the clerk of each superior court. Upon receipt of the
40 electronic list required under this subsection, the clerk of each superior court shall prepare an
41 order of expungement for each case that meets the criteria set forth in subsection (a) of this section
42 and was finalized in his or her court. Upon completion of the order of expungement, the court
43 shall order the expunction. Upon order of expungement, the clerk shall forward the petition to
44 the Administrative Office of the Courts.

45 (c) No person as to whom such an order has been entered under this section shall be held
46 thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise
47 giving a false statement or response to any inquiry made for any purpose, by reason of the
48 person's failure to recite or acknowledge any expunged entries concerning apprehension, charge,
49 or trial.

(d) The court shall also order that the conviction ordered expunged under this section be expunged from the records of the court and direct all law enforcement agencies bearing record of the same to expunge their records of the conviction. The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150.

(e) Any other applicable State or local government agency shall expunge from its records entries made as a result of the conviction ordered expunged under this section. The agency shall also reverse any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged. This subsection shall not apply to the Department of Justice for DNA records and samples stored in the State DNA Database and the State DNA Databank."

SECTION 3.2. The Administrative Office of the Courts shall provide the list required under G.S. 15A-145.8B(b), as enacted by this Part, by October 1, 2023.

SECTION 3.3. This Part becomes effective January 1, 2022.

PART IV. CONFORMING CHANGES

SECTION 4.1. G.S. 90-87(16) is repealed.

SECTION 4.2. G.S. 90-94 is repealed.

SECTION 4.3. G.S. 90-95 reads as rewritten:

"§ 90-95. Violations; penalties.

...

(b) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:

...

(2) A controlled substance classified in Schedule III, IV, ~~V, or VI~~ or V shall be punished as a Class I felon, except that the sale of a controlled substance classified in Schedule III, IV, ~~V, or VI~~ or V shall be punished as a Class H felon. ~~The transfer of less than 5 grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).~~

...

(d) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(3) with respect to:

...

~~(4) A controlled substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor, but any sentence of imprisonment imposed must be suspended and the judge may not require at the time of sentencing that the defendant serve a period of imprisonment as a special condition of probation. If the quantity of the controlled substance exceeds one half of an ounce (avoirdupois) of marijuana or one twentieth of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, the violation shall be punishable as a Class 1 misdemeanor. If the quantity of the controlled substance exceeds one and one half ounces (avoirdupois) of marijuana, or three twentieths of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, or if the controlled substance consists of any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marijuana, the violation shall be punishable as a Class I felony.~~

...

(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

...

(8) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for a child care center, or for an elementary or secondary school or within 1,000 feet of the boundary of real property used for a child care center, or for an elementary or secondary school shall be punished as a Class E felon. ~~For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).~~ For purposes of this subdivision, a child care center is as defined in G.S. 110-86(3)a., and that is licensed by the Secretary of the Department of Health and Human Services.

...
(10) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property that is a public park or within 1,000 feet of the boundary of real property that is a public park shall be punished as a Class E felon. ~~For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).~~

...
(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article:

- (1) ~~Any person who sells, manufactures, delivers, transports, or possesses in excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as "trafficking in marijuana" and if the quantity of such substance involved:~~
 - a. ~~Is in excess of 10 pounds, but less than 50 pounds, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of 25 months and a maximum term of 39 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);~~
 - b. ~~Is 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 51 months in the State's prison and shall be fined not less than twenty five thousand dollars (\$25,000);~~
 - e. ~~Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);~~
 - d. ~~Is 10,000 pounds or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).~~

...."

SECTION 4.4. G.S. 90-113.22A is repealed.

SECTION 4.5. G.S. 90-113.21 reads as rewritten:

"§ 90-113.21. General provisions.

(a) As used in this Article, "drug paraphernalia" means all equipment, products and materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of the Controlled Substances Act, including planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, and concealing controlled substances and injecting, ingesting, inhaling, or otherwise introducing controlled substances into the human body. "Drug paraphernalia" includes, but is not limited to, the following:

- 1 ...
- 2 (7) ~~Separation gins and sifters for removing twigs and seeds from, or otherwise~~
- 3 ~~cleaning or refining, marijuana;~~
- 4 ...
- 5 (12) Objects for ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine,~~
- 6 ~~hashish, or hashish oil cocaine~~ into the body, such as:
- 7 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or
- 8 without screens, permanent screens, hashish heads, or punctured metal
- 9 bowls;
- 10 b. Water pipes;
- 11 c. Carburetion tubes and devices;
- 12 d. Smoking and carburetion masks;
- 13 e. Objects, commonly called roach clips, for holding burning material,
- 14 ~~such as a marijuana cigarette,~~ that has become too small or too short
- 15 to be held in the hand;
- 16"

17 **SECTION 4.6.** G.S. 105-113.106 reads as rewritten:

18 **"§ 105-113.106. Definitions.**

19 The following definitions apply in this Article:

- 20 ...
- 21 (3) Dealer. – Any of the following:
- 22 a. A person who actually or constructively possesses ~~more than 42.5~~
- 23 ~~grams of marijuana,~~ seven or more grams of any ~~other~~ controlled
- 24 substance other than marijuana that is sold by weight, or 10 or more
- 25 dosage units of any other controlled substance that is not sold by
- 26 weight.
- 27 b. A person who in violation of Chapter 18B of the General Statutes
- 28 possesses illicit spirituous liquor for sale.
- 29 c. A person who in violation of Chapter 18B of the General Statutes
- 30 possesses mash.
- 31 d. A person who in violation of Chapter 18B of the General Statutes
- 32 possesses an illicit mixed beverage for sale.
- 33 ...
- 34 (6) ~~Marijuana. All parts of the plant of the genus Cannabis, whether growing or~~
- 35 ~~not; the seeds of this plant; the resin extracted from any part of this plant; and~~
- 36 ~~every compound, salt, derivative, mixture, or preparation of this plant, its~~
- 37 ~~seeds, or its resin.~~
- 38"

39 **SECTION 4.7.** G.S. 105-113.107 reads as rewritten:

40 **"§ 105-113.107. Excise tax on unauthorized substances.**

- 41 (a) Controlled Substances. – An excise tax is levied on controlled substances possessed,
- 42 either actually or constructively, by dealers at the following rates:
- 43 (1) ~~At the rate of forty cents (40¢) for each gram, or fraction thereof, of harvested~~
- 44 ~~marijuana stems and stalks that have been separated from and are not mixed~~
- 45 ~~with any other parts of the marijuana plant.~~
- 46 (1a) ~~At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction~~
- 47 ~~thereof, of marijuana, other than separated stems and stalks taxed under~~
- 48 ~~subdivision (1) of this [sub]section, or synthetic cannabinoids.~~
- 49 (1b) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of
- 50 cocaine.

- 1 (1c) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of any
 2 low-street-value drug that is sold by weight.
 3 (2) At the rate of two hundred dollars (\$200.00) for each gram, or fraction thereof,
 4 of any other controlled substance that is sold by weight.
 5 (2a) At the rate of fifty dollars (\$50.00) for each 10 dosage units, or fraction
 6 thereof, of any low-street-value drug that is not sold by weight.
 7 (3) At the rate of two hundred dollars (\$200.00) for each 10 dosage units, or
 8 fraction thereof, of any other controlled substance that is not sold by weight.
 9 (a1) Weight. – A quantity of ~~marijuana or other~~ controlled substance is measured by the
 10 weight of the substance whether pure or impure or dilute, or by dosage units when the substance
 11 is not sold by weight, in the dealer's possession. A quantity of a controlled substance is dilute if
 12 it consists of a detectable quantity of pure controlled substance and any excipients or fillers.
 13"

14 **SECTION 4.8.** G.S. 105-113.107A reads as rewritten:

15 "**§ 105-113.107A. Exemptions.**

16 (a) ~~Authorized Possession.~~—The tax levied in this Article does not apply to a substance
 17 in the possession of a dealer who is authorized by law to possess the substance. This exemption
 18 applies only during the time the dealer's possession of the substance is authorized by law.

19 (b) ~~Certain Marijuana Parts.~~—~~The tax levied in this Article does not apply to the~~
 20 ~~following marijuana:~~

- 21 (1) ~~Harvested mature marijuana stalks when separated from and not mixed with~~
 22 ~~any other parts of the marijuana plant.~~
 23 (2) ~~Fiber or any other product of marijuana stalks described in subdivision (1) of~~
 24 ~~this subsection, except resin extracted from the stalks.~~
 25 (3) ~~Marijuana seeds that have been sterilized and are incapable of germination.~~
 26 (4) ~~Roots of the marijuana plant."~~

27 **SECTION 4.9.** G.S. 105-113.108(b)(1) is repealed.

28 **SECTION 4.10.** G.S. 106-134(4) reads as rewritten:

- 29 "(4) If it is for use by man and contains any quantity of the narcotic or hypnotic
 30 substance alphaeucaine, barbituric acid, betaeucaine, bromal, ~~cannabis~~,
 31 carbromal, chloral, coca, cocaine, codeine, heroin, ~~marijuana~~, morphine,
 32 opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative
 33 of such substances, which derivative has been by the Board after investigation,
 34 found to be, and by regulations under this Article, designated as, habit
 35 forming; unless its label bears the name and quantity or proportion of such
 36 substance or derivative and in juxtaposition therewith the statement "Warning
 37 – May be habit forming."

38 **SECTION 4.11.** G.S. 148-64.1(a)(2)e. is repealed.

39 **SECTION 4.12.** G.S. 90-94.1 is repealed.

40 **SECTION 4.13.** This Part becomes effective January 1, 2022, and applies to offenses
 41 committed on or after that date.

42
 43 **PART V. SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND EFFECTIVE DATE**

44 **SECTION 5.1.** Prosecutions for offenses committed before the effective date of this
 45 act are not abated or affected by this act, and the statutes that would be applicable but for this act
 46 remain applicable to those prosecutions.

47 **SECTION 5.2.** If any provision of this act or its application is held invalid, the
 48 invalidity does not affect other provisions or applications of this act that can be given effect
 49 without the invalid provisions or application, and to this end the provisions of this act are
 50 severable.

1 **SECTION 5.3.** Except as otherwise provided in this act, this act is effective when it
2 becomes law.