

SENATE BILL No. 354

By Committee on Federal and State Affairs

1-30

1 AN ACT enacting the cannabis compassion and care act; providing for the
2 legal use of cannabis for certain debilitating medical conditions;
3 providing for the registration and functions of compassion centers;
4 authorizing the issuance of identification cards; establishing the
5 compassion board; providing for administration of the act by the
6 department of health and environment; amending K.S.A. 79-5210 and
7 repealing the existing section.
8

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

10 New Section 1. Sections 1 through 11, and amendments thereto, of
11 this act shall be known as the cannabis compassion and care act.

12 New Sec. 2. (a) Modern medical research has discovered beneficial
13 uses for cannabis in treating or alleviating the pain, nausea and other
14 symptoms associated with a variety of debilitating medical conditions, as
15 found by the national academy of sciences' institute of medicine in March,
16 1999.

17 (b) Subsequent studies since the 1999 national academy of sciences'
18 institute of medicine report continue to show the therapeutic value of
19 cannabis in treating a wide array of debilitating medical conditions,
20 including increasing the chances of patients finishing their treatments for
21 HIV/AIDS and hepatitis C.

22 (c) Data from the federal bureau of investigation's uniform crime
23 reports and the compendium of federal justice statistics show that
24 approximately 99 out of every 100 cannabis arrests in the United States are
25 made under state law, rather than under federal law. Consequently,
26 changing state law will have the practical effect of protecting from arrest
27 the vast majority of seriously ill patients who have a medical need to use
28 cannabis.

29 (d) Although federal law currently prohibits any use of cannabis
30 except under very limited circumstances, Alaska, Arizona, California,
31 Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New
32 Mexico, Oregon, Vermont, Rhode Island and Washington have removed
33 state-level criminal penalties from the medical use and cultivation of
34 cannabis. Under this bill Kansas joins in this effort for the health and
35 welfare of its citizens.

36 (e) States are not required to enforce federal law or prosecute people

1 for engaging in activities prohibited by federal law. Therefore, compliance
2 with this act does not put the state of Kansas in violation of federal law.

3 (f) State law should make a distinction between the medical and
4 nonmedical uses of cannabis. Hence, the purpose of this act is to protect
5 patients with debilitating medical conditions, as well as their practitioners
6 and providers, from arrest and prosecution, criminal and other penalties,
7 and property forfeiture if such patients engage in the medical use of
8 cannabis.

9 (g) The legislature of the state of Kansas declares that this act is
10 enacted pursuant to the police power of the state to protect the health of its
11 citizens that is reserved to the state of Kansas and its people under the 10th
12 Amendment to the United States constitution.

13 New Sec. 3. The following terms, as used in this act, shall have the
14 meanings set forth in this section:

15 (a) "Cardholder" means a qualifying patient, a designated caregiver,
16 or a principal officer, board member, employee, volunteer or agent of a
17 compassion center who has been issued and possesses a valid registry
18 identification card.

19 (b) "Compassion board" means the board created under section 11,
20 and amendments thereto.

21 (c) "Cannabis" means all parts of all varieties of the plant cannabis
22 whether growing or not, the seeds thereof, the resin extracted from any
23 part of the plant and every compound, manufacture, salt, derivative,
24 mixture or preparation of the plant, its seeds or resin. It does not include
25 the mature stalks of the plant, fiber produced from the stalks, oil or cake
26 made from the seeds of the plant, any other compound, manufacture, salt,
27 derivative, mixture or preparation of the mature stalks, except the resin
28 extracted therefrom, fiber, oil, cake or the sterilized seed of the plant which
29 is incapable of germination.

30 (d) "Compassion center staffer" means a principal officer, board
31 member, employee, volunteer or agent of a compassion center who has
32 been issued and possesses a valid registry identification card.

33 (e) "Debilitating medical condition" means one or more of the
34 following:

35 (1) Cancer, glaucoma, positive status for human immunodeficiency
36 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic
37 lateral sclerosis, crohn's disease, agitation of alzheimer's disease, nail
38 patella or the treatment of these conditions;

39 (2) a chronic or debilitating disease or medical condition or its
40 treatment that produces one or more of the following: Cachexia or wasting
41 syndrome; severe pain; severe nausea; seizures, including, but not limited
42 to, those characteristic of epilepsy or severe and persistent muscle spasms,
43 including, but not limited to, those characteristic of multiple sclerosis; or

1 (3) any other medical condition or its treatment approved by the
2 department, as provided for in subsection (a) of section 6, and amendments
3 thereto.

4 (f) “Department” means the department of health and environment.

5 (g) “Designated caregiver” means a person who is at least 21 years
6 of age, who has agreed to assist with a patient’s medical use of cannabis
7 and who has never been convicted of an excluded felony offense. A
8 designated caregiver may assist no more than five qualifying patients with
9 their medical use of cannabis.

10 (h) “Enclosed, locked facility” means a closet, room, greenhouse or
11 other enclosed area equipped with locks or other security devices that
12 permit access only by a cardholder.

13 (i) “Excluded felony offense” means:

14 (1) A crime involving violence to the person of another that was
15 classified as a felony in the jurisdiction where the person was convicted; or

16 (2) a violation of a state or federal controlled substance law that was
17 classified as a felony in the jurisdiction where the person was convicted.

18 An excluded felony offense does not include:

19 (A) An offense for which the sentence, including any term of
20 probation, incarceration or supervised release, was completed 10 or more
21 years earlier; or

22 (B) an offense that consisted of conduct for which this act would
23 likely have prevented a conviction, but the conduct either occurred prior to
24 the enactment of this act or was prosecuted by an authority other than the
25 state of Kansas.

26 (j) “Medical use” means the acquisition, possession, cultivation,
27 manufacture, use, delivery, sale, transfer or transportation of cannabis or
28 paraphernalia relating to the administration of cannabis to treat or alleviate
29 a registered qualifying patient’s debilitating medical condition or
30 symptoms associated with the patient’s debilitating medical condition.

31 (k) “Practitioner” means a person who is licensed to practice
32 medicine and surgery.

33 (l) “Qualifying patient” means a person who has been diagnosed by a
34 practitioner as having a debilitating medical condition.

35 (m) “Registered compassion center” means a not-for-profit entity
36 registered pursuant to section 5, and amendments thereto, that acquires,
37 possesses, cultivates, manufactures, delivers, transfers, transports, supplies
38 or dispenses cannabis or related supplies and educational materials to
39 cardholders. A registered compassion center may receive compensation for
40 all expenses incurred in its operation.

41 (n) “Registry identification card” means a document issued by the
42 department that identifies a person as a registered qualifying patient,
43 registered designated caregiver or a registered principal officer, board

1 member, employee, volunteer or agent of a registered compassion center.

2 (o) “Unusable cannabis” means cannabis seeds, stalks, seedlings and
3 unusable roots. “Seedling” means a cannabis plant that has no flowers and
4 is less than 12 inches in height and less than 12 inches in diameter. A
5 seedling must meet all three criteria set forth above.

6 (p) “Usable cannabis” means the dried leaves and flowers of the
7 cannabis plant and any mixture or preparation thereof, but does not include
8 the seeds, stalks and roots of the plant and does not include the weight of
9 any noncannabis ingredients combined with cannabis and prepared for
10 consumption as food or drink.

11 (q) “Verification system” means a secure, password-protected, web-
12 based system that is operational 24 hours each day that law enforcement
13 personnel and compassion center staffers shall use to verify registry
14 identification cards and that shall be established and maintained by the
15 department pursuant to subsection (h)(4) of section 7, and amendments
16 thereto.

17 (r) “Visiting qualifying patient” means a patient with a debilitating
18 medical condition who is not a resident of Kansas or who has been a
19 resident of Kansas less than 30 days.

20 (s) “Written certification” means a document signed by a
21 practitioner, stating that in the practitioner’s professional opinion the
22 patient is likely to receive therapeutic or palliative benefit from the
23 medical use of cannabis to treat or alleviate the patient’s debilitating
24 medical condition or symptoms associated with the debilitating medical
25 condition. A written certification shall be made only in the course of a
26 *bona fide* practitioner-patient relationship after the practitioner has
27 completed a full assessment of the qualifying patient’s medical history.
28 The written certification shall specify the qualifying patient’s debilitating
29 medical condition.

30 New Sec. 4. (a) A qualifying patient who has been issued and
31 possesses a registry identification card shall not be subject to arrest,
32 prosecution or penalty in any manner, or denied any right or privilege,
33 including, but not limited to, civil penalty or disciplinary action by a court
34 or occupational or professional licensing board or bureau, for the medical
35 use of cannabis in accordance with this act, provided that the qualifying
36 patient possesses an amount of cannabis that does not exceed 12 cannabis
37 plants and six ounces of usable cannabis. The plants shall be kept in an
38 enclosed, locked facility, unless they are being transported because the
39 qualifying patient is moving or if they are being transported to the
40 qualifying patient’s or designated caregiver’s property. This subsection
41 shall not apply to matters and entities that are covered by subsections (f) or
42 (g).

43 (b) A designated caregiver who has been issued and possesses a

1 registry identification card shall not be subject to arrest, prosecution or
2 penalty in any manner, or denied any right or privilege, including, but not
3 limited to, civil penalty or disciplinary action by a court or occupational or
4 professional licensing board or bureau, for assisting a qualifying patient to
5 whom such designated caregiver is connected through the department's
6 registration process with the medical use of cannabis in accordance with
7 this act, provided that the designated caregiver possesses an amount of
8 cannabis that does not exceed 12 cannabis plants and six ounces of usable
9 cannabis for each qualifying patient to whom such designated caregiver is
10 connected through the department's registration process. The plants shall
11 be kept in an enclosed, locked facility, unless they are being transported
12 because the designated caregiver is moving or if they are being transported
13 to a designated caregiver's or a qualifying patient's property. This
14 subsection shall not apply to matters and entities that are covered by
15 subsections (f) or (g).

16 (c) Registered designated caregivers and registered qualifying
17 patients may possess a reasonable amount of unusable cannabis, including
18 up to 12 seedlings, which shall not be counted toward the limits in this
19 section.

20 (d) (1) There shall be a presumption that a qualifying patient or
21 designated caregiver is engaged in the medical use of cannabis in
22 accordance with this act if the qualifying patient or designated caregiver:

23 (A) Is in possession of a registry identification card; and

24 (B) is in possession of an amount of cannabis that does not exceed the
25 amount allowed under this act.

26 (2) The presumption may be rebutted by evidence that conduct
27 related to cannabis was not for the purpose of treating or alleviating the
28 qualifying patient's debilitating medical condition or symptoms associated
29 with the debilitating medical condition, in accordance with this act.

30 (e) A registered qualifying patient or designated primary caregiver
31 shall not be subject to arrest, prosecution or penalty in any manner, or
32 denied any right or privilege, including, but not limited to, civil penalty or
33 disciplinary action by a court or occupational or professional licensing
34 board or bureau, for giving cannabis to a registered qualifying patient or a
35 registered designated caregiver for the registered qualifying patient's
36 medical use where nothing of value is transferred in return, or for offering
37 to do the same, provided that the person giving the cannabis does not
38 knowingly cause the recipient to possess more cannabis than is permitted
39 by section 4, and amendments thereto.

40 (f) (1) No school or landlord may refuse to enroll or lease to, or
41 otherwise penalize, a person solely for such person's status as a registered
42 qualifying patient or a registered designated caregiver, unless failing to do
43 so would put the school or landlord in violation of federal law or

1 regulations.

2 (2) For the purposes of medical care, including organ transplants, a
3 registered qualifying patient's authorized use of cannabis in accordance
4 with this act shall be considered the equivalent of the authorized use of any
5 other medication used at the direction of a physician, and shall not
6 constitute the use of an illicit substance.

7 (3) Unless a failure to do so would put an employer in violation of
8 federal law or federal regulations, an employer may not discriminate
9 against a person in hiring, termination or any term or condition of
10 employment, or otherwise penalize a person, if the discrimination is based
11 upon either of the following:

12 (A) The person's status as a registered qualifying patient or registered
13 designated caregiver; or

14 (B) a registered qualifying patient's positive drug test for cannabis
15 components or metabolites, unless the patient used, possessed or was
16 impaired by cannabis on the premises of the place of employment or
17 during the hours of employment.

18 (g) A person shall not be denied custody of, visitation or parenting
19 time with a minor and there shall be no presumption of neglect or child
20 endangerment for conduct allowed under this act, unless the person's
21 behavior is such that it creates an unreasonable danger to the safety of the
22 minor as established by clear and convincing evidence.

23 (h) A registered designated caregiver may receive compensation for
24 costs associated with assisting a registered qualifying patient's medical use
25 of cannabis, provided that registered designated caregiver is connected to
26 the registered qualifying patient through the department's registration
27 process. Any such compensation shall not constitute the sale of controlled
28 substances.

29 (i) A practitioner shall not be subject to arrest, prosecution or penalty
30 in any manner, or denied any right or privilege, including, but not limited to,
31 civil penalty or disciplinary action by the state board of healing arts or
32 by any other occupational or professional licensing board or bureau, solely
33 for providing written certifications or for otherwise stating that, in the
34 practitioner's professional opinion, a patient is likely to receive therapeutic
35 benefit from the medical use of cannabis to treat or alleviate the patient's
36 serious or debilitating medical condition or symptoms associated with the
37 serious or debilitating medical condition. Nothing in this act shall prevent
38 a professional licensing board from sanctioning a practitioner for failing to
39 properly evaluate a patient's medical condition or otherwise violating the
40 standard of care for evaluating medical conditions.

41 (j) A person shall not be subject to arrest, prosecution or penalty in
42 any manner, or denied any right or privilege, including, but not limited to,
43 civil penalty or disciplinary action by a court or occupational or

1 professional licensing board or bureau, for providing a registered
2 qualifying patient or a registered designated caregiver with cannabis
3 paraphernalia for purposes of a qualifying patient's medical use of
4 cannabis.

5 (k) Any cannabis, cannabis paraphernalia, licit property or interest in
6 licit property that is possessed, owned or used in connection with the
7 medical use of cannabis as allowed under this act, or acts incidental to
8 such use, shall not be seized or forfeited. This act shall not prevent the
9 seizure or forfeiture of cannabis exceeding the amounts allowed under this
10 act.

11 (l) A person shall not be subject to arrest, prosecution or penalty in
12 any manner, or denied any right or privilege, including, but not limited to,
13 civil penalty or disciplinary action by a court or occupational or
14 professional licensing board or bureau, simply for being in the presence or
15 vicinity of the medical use of cannabis as allowed under this act, or for
16 assisting a registered qualifying patient with using or administering
17 cannabis.

18 (m) A registry identification card, or its equivalent, that is issued
19 under the laws of another state, district, territory, commonwealth or insular
20 possession of the United States that allows, in the jurisdiction of issuance,
21 a visiting qualifying patient to possess cannabis for medical purposes, shall
22 have the same force and effect as a registry identification card issued by
23 the department.

24 New Sec. 5. (a) The following provisions govern the registration of
25 compassion centers:

26 (1) The department shall register a compassion center and issue a
27 registration certificate, with a random 20-digit alphanumeric identification
28 number, within 90 days of receiving an application for a compassion
29 center if the following conditions are met:

30 (A) The prospective compassion center provided the following, in
31 accordance with the department's rules and regulations:

- 32 (i) An application or renewal fee;
- 33 (ii) the legal name of the compassion center;
- 34 (iii) the physical address of the compassion center and the physical
35 address of one additional location, if any, where cannabis will be
36 cultivated, neither of which may be within 500 feet of a preexisting public
37 or private school;
- 38 (iv) the name, address and date of birth of each principal officer and
39 board member of the compassion center;
- 40 (v) the name, address and date of birth of any person who is an agent
41 of or employed by the compassion center;
- 42 (vi) operating regulations that include procedures for the oversight of
43 the compassion center and procedures to ensure accurate record-keeping

1 and security measures, that are in accordance with the rules and
2 regulations issued by the department under subsection (c) of section 6, and
3 amendments thereto; and

4 (vii) if the city or county in which the compassion center would be
5 located has enacted reasonable zoning restrictions, a sworn and truthful
6 statement that the registered compassion center would be in compliance
7 with those restrictions;

8 (B) issuing the compassion center a registration would not be in
9 violation of a reasonable limitation on the number of registered
10 compassion centers that can operate in the jurisdiction in which it would
11 operate;

12 (C) none of the principal officers or board members have been
13 convicted of an offense that was classified as a felony in the jurisdiction
14 where the person was convicted, unless the offense consisted of conduct
15 for which this act would likely have prevented a conviction, but the
16 conduct either occurred prior to the enactment of this act or was
17 prosecuted by an authority other than the state of Kansas;

18 (D) none of the prospective principal officers or board members have
19 served as a principal officer or board member for a registered compassion
20 center that has had its registration certificate revoked;

21 (E) none of the principal officers or board members are younger than
22 21 years of age; and

23 (F) the compassion center has been approved for registration by the
24 compassion board.

25 (2) Except as provided in subsection (a)(3), the department shall issue
26 each compassion center staffer a registry identification card and log-in
27 information for the verification system within 10 days of receipt of the
28 person's name, address, date of birth and a fee in an amount established by
29 the department. Each card shall specify that the cardholder is a principal
30 officer, board member, agent, volunteer or employee of a registered
31 compassion center and shall contain the following:

32 (A) The name, address and date of birth of the compassion center
33 staffer;

34 (B) the legal name of the registered compassion center with which the
35 compassion center staffer is affiliated;

36 (C) a random 20-digit alphanumeric identification number that is
37 unique to the cardholder;

38 (D) the date of issuance and expiration date of the registry
39 identification card;

40 (E) a photograph, if the department decides to require one; and

41 (F) a statement signed by the prospective principal officer, board
42 member, agent, volunteer or employee pledging not to divert cannabis to
43 anyone who is not allowed to possess cannabis pursuant to this act.

1 (3) (A) The department shall not issue a registry identification card
2 to any compassion center staffer who has been convicted of an offense that
3 was classified as a felony in the jurisdiction where the person was
4 convicted, unless the offense consisted of conduct for which this act would
5 likely have prevented a conviction, but the conduct either occurred prior to
6 the enactment of this act or was prosecuted by an authority other than the
7 state of Kansas. The department may conduct a background check of each
8 compassion center staffer in order to carry out this provision. The
9 department shall notify the registered compassion center in writing of the
10 reason for denying the registry identification card.

11 (B) The department shall not issue a registry identification card to
12 any principal officer, board member, agent, volunteer or employee of a
13 registered compassion center who is younger than 21 years of age.

14 (C) The department may refuse to issue a registry identification card
15 to a compassion center staffer who has had a card revoked for violating
16 this act.

17 (b) (1) A registered compassion center's registration certificate and
18 the registry identification card for each compassion center staffer shall
19 expire one year after the date of issuance. The department shall issue a
20 renewal compassion center registration certificate within 10 days to any
21 registered compassion center that submits a renewal fee, provided that its
22 registration is not suspended and has not been revoked. The department
23 shall issue a renewal registry identification card within 10 days to any
24 compassion center staffer who submits a renewal fee, except as provided
25 by subsection (a)(3).

26 (2) A registry identification card of a compassion center staffer shall
27 expire and the person's login information to the verification system shall
28 be deactivated upon notification by a registered compassion center that
29 such person ceases to work at the registered compassion center.

30 (c) Registered compassion centers are subject to reasonable
31 inspection by the department. The department shall give at least 24 hours
32 notice of an inspection under this subsection.

33 (d) (1) A registered compassion center may not be located within
34 500 feet of the property line of a preexisting public or private school.

35 (2) A registered compassion center shall be operated on a not-for-
36 profit basis for the mutual benefit of its members and patrons. The bylaws
37 of a registered compassion center or its contracts with patrons shall contain
38 such provisions relative to the disposition of revenues and receipts as may
39 be necessary and appropriate to establish and maintain its nonprofit
40 character. A registered compassion center need not be recognized as tax
41 exempt by the internal revenue service and is not required to be
42 incorporated.

43 (3) A registered compassion center shall notify the department within

1 10 days of when a compassion center staffer ceases to work at the
2 registered compassion center.

3 (4) A registered compassion center shall notify the department in
4 writing of the name, address and date of birth of any new compassion
5 center staffer and shall submit a fee in an amount established by the
6 department for a new registry identification card before a new compassion
7 center staffer begins working at the registered compassion center.

8 (5) A registered compassion center shall implement appropriate
9 security measures to deter and prevent unauthorized entrance into areas
10 containing cannabis and the theft of cannabis.

11 (6) The operating documents of a registered compassion center shall
12 include procedures for the oversight of the registered compassion center
13 and procedures to ensure accurate record keeping.

14 (7) A registered compassion center is prohibited from acquiring,
15 possessing, cultivating, manufacturing, delivering, transferring,
16 transporting, supplying or dispensing cannabis for any purpose except to
17 assist registered qualifying patients with the medical use of cannabis
18 directly or through the qualifying patients' designated caregivers.

19 (8) All principal officers and board members of a registered
20 compassion center must be residents of the state of Kansas.

21 (9) All cultivation of cannabis must take place in an enclosed, locked
22 facility which can only be accessed by principal officers, board members,
23 agents, volunteers or employees of the registered compassion center who
24 are cardholders.

25 (10) County and city governments may enact reasonable limits on the
26 number of registered compassion centers that can operate in their
27 jurisdictions and may enact zoning regulations that reasonably limit
28 registered compassion centers to certain areas of their jurisdictions.

29 (e) (1) Before cannabis may be dispensed to a designated caregiver
30 or a registered qualifying patient, a compassion center staffer must look up
31 the registered qualifying patient for whom the cannabis is intended, and
32 the designated caregiver transporting the cannabis to the patient, if any, in
33 the verification system and must verify each of the following:

34 (A) That the registry identification card presented to the registered
35 compassion center is valid;

36 (B) that the person presenting the card is the person identified on the
37 registry identification card presented to the compassion center staffer; and

38 (C) that the amount to be dispensed would not cause the registered
39 qualifying patient to exceed such person's limit of obtaining six ounces of
40 cannabis during any 30-day period.

41 (2) After verifying the information in subsection (e)(1), but before
42 dispensing cannabis to a registered qualifying patient or a registered
43 designated caregiver on a registered qualifying patient's behalf, a

1 compassion center staffer must make an entry in the verification system,
2 specifying how much cannabis is being dispensed to the registered
3 qualifying patient and whether it was dispensed directly to the registered
4 qualifying patient or to the registered qualifying patient's registered
5 designated caregiver. The entry must include the date and time the
6 cannabis was dispensed.

7 (f) (1) A registered compassion center shall not be subject to
8 prosecution; search, except by the department pursuant to subsection (c);
9 seizure; or penalty in any manner or be denied any right or privilege,
10 including, but not limited to, civil penalty or disciplinary action by a court
11 or business licensing board or entity, solely for acting in accordance with
12 this act and department rules and regulations to acquire, possess, cultivate,
13 manufacture, deliver, transfer, transport, supply or dispense cannabis or
14 related supplies and educational materials to registered qualifying patients,
15 to registered designated caregivers on behalf of registered qualifying
16 patients or to other registered compassion centers.

17 (2) No compassion center staffers shall be subject to arrest,
18 prosecution, search, seizure or penalty in any manner or denied any right
19 or privilege, including, but not limited to, civil penalty or disciplinary
20 action by a court or occupational or professional licensing board or entity,
21 solely for working for a registered compassion center in accordance with
22 this act and department rules and regulations to acquire, possess, cultivate,
23 manufacture, deliver, transfer, transport, supply or dispense cannabis or
24 related supplies and educational materials to registered qualifying patients,
25 to registered designated caregivers on behalf of registered qualifying
26 patients or to other registered compassion centers.

27 (g) (1) A registered qualifying patient shall not directly, or through
28 a designated caregiver, obtain more than six ounces of cannabis from
29 registered compassion centers in any 30-day period.

30 (2) A registered compassion center may not dispense, deliver or
31 otherwise transfer cannabis to a person other than another registered
32 compassion center, a registered qualifying patient or a registered
33 qualifying patient's registered designated caregiver.

34 (3) A registered compassion center may not obtain cannabis from
35 outside the state of Kansas.

36 (4) Except as provided in subsection (a)(3), no person who has been
37 convicted of an offense that was classified as a felony in the jurisdiction
38 where the person was convicted may be a compassion center staffer. A
39 person who works as an agent, volunteer, employee, principal officer, or
40 board member of a registered compassion center in violation of this
41 section is subject to a civil violation punishable by a penalty of not to
42 exceed \$1,000 levied by the department. A subsequent violation of this
43 section is a class C misdemeanor.

1 (5) A registered compassion center may not acquire usable cannabis
2 or mature cannabis plants from any person other than another registered
3 compassion center, a registered qualifying patient or a registered
4 designated caregiver. A registered compassion center is only allowed to
5 acquire usable cannabis or cannabis plants from a registered qualifying
6 patient or a registered designated caregiver if the registered qualifying
7 patient or registered designated caregiver receives no compensation for the
8 cannabis.

9 (6) A person who violates paragraph (2) or (5) of this subsection may
10 not be a compassion center staffer, and such person's registry identification
11 card shall be immediately revoked. The department may suspend or revoke
12 a compassion center staffer's registry identification card for violating this
13 act.

14 (7) A registered compassion center that violates paragraph (2) or (5)
15 of this subsection shall immediately have its registration revoked, and its
16 board members and principal officers may not serve as the board members
17 or principal officers for any other registered compassion centers.

18 New Sec. 6. (a) Not later than 90 days after the effective date of this
19 act, the department, in consultation with the compassion board, shall adopt
20 rules and regulations governing the manner in which the department shall
21 consider petitions from the public to add debilitating medical conditions or
22 treatments to the list of debilitating medical conditions set forth in
23 subsection (e) of section 3, and amendments thereto. In considering such
24 petitions, the department shall include public notice of, and an opportunity
25 to comment in a public hearing upon, the petitions. The department, after
26 hearing, shall approve or deny a petition within 90 days of its submission.
27 The approval or denial of a petition is a final department action, subject to
28 judicial review. Jurisdiction and venue for judicial review are vested in the
29 district court.

30 (b) Not later than 90 days after the effective date of this act, the
31 department, in consultation with the compassion board, shall adopt rules
32 and regulations governing the manner in which it shall consider
33 applications for and renewals of registry identification cards.

34 (c) (1) Not later than 90 days after the effective date of this act, the
35 department, in consultation with the compassion board, shall adopt rules
36 and regulations governing the manner in which it shall consider
37 applications for and renewals of registration certificates for registered
38 compassion centers, including reasonable rules and regulations governing:

39 (A) The form and content of registration and renewal applications;

40 (B) minimum oversight requirements for registered compassion
41 centers;

42 (C) minimum record keeping requirements for registered compassion
43 centers;

1 (D) minimum security requirements for registered compassion
2 centers, which shall include that each registered compassion center
3 location must be protected by a fully operational security alarm system;
4 and

5 (E) procedures for suspending or terminating the registration of
6 registered compassion centers that violate the provisions of this act or the
7 rules and regulations promulgated pursuant to this section.

8 (2) The department, in consultation with the compassion board, shall
9 design rules and regulations with the goal of protecting against diversion
10 and theft, without imposing an undue burden on the registered compassion
11 centers or compromising the confidentiality of registered qualifying
12 patients and their registered designated caregivers. Any dispensing records
13 that a registered compassion center is required to keep shall track
14 transactions according to registered qualifying patients', registered
15 designated caregivers' and registered compassion centers' registry
16 identification numbers, rather than their names, to protect their
17 confidentiality.

18 (d) Not later than 90 days after the effective date of this act, the
19 department, in consultation with the compassion board, shall adopt rules
20 and regulations establishing application and renewal fees for registry
21 identification cards and registered compassion center registration
22 certificates. The fees shall be in accordance with the following parameters:

23 (1) The total fees collected must generate revenues sufficient to offset
24 all expenses of implementing and administering this act;

25 (2) compassion center application fees may not exceed \$5,000;

26 (3) compassion center renewal fees may not exceed \$1,000;

27 (4) the total revenue from compassion center application and renewal
28 fees and registry identification card fees for compassion center staffers
29 must be sufficient to offset all expenses of implementing and
30 administering the compassion center aspects of this act, including the
31 verification system;

32 (5) the department may establish a sliding scale of patient application
33 and renewal fees based upon a qualifying patient's family income; and

34 (6) the department may accept donations from private sources in
35 order to reduce the application and renewal fees.

36 New Sec. 7. (a) The department shall issue registry identification
37 cards to qualifying patients who submit the following, in accordance with
38 the department's rules and regulations:

39 (1) Written certification;

40 (2) application or renewal fee;

41 (3) name, address and date of birth of the qualifying patient, except
42 that if the applicant is homeless, no address is required;

43 (4) name, address and telephone number of the qualifying patient's

1 practitioner;

2 (5) name, address and date of birth of the designated caregiver
3 designated, if any, by the qualifying patient;

4 (6) a statement signed by the qualifying patient, pledging not to divert
5 cannabis to anyone who is not allowed to possess cannabis pursuant to this
6 act; and

7 (7) a signed statement from the designated caregiver, if any, agreeing
8 to be designated as the patient's designated caregiver and pledging not to
9 divert cannabis to anyone who is not allowed to possess cannabis pursuant
10 to this act.

11 (b) The department shall not issue a registry identification card to a
12 qualifying patient who is younger than 18 years of age unless:

13 (1) The qualifying patient's practitioner has explained the potential
14 risks and benefits of the medical use of cannabis to the custodial parent or
15 legal guardian with responsibility for health care decisions for the
16 qualifying patient; and

17 (2) The custodial parent or legal guardian with responsibility for
18 health care decisions for the qualifying patient consents in writing to:

19 (A) Allow the qualifying patient's medical use of cannabis;

20 (B) serve as the qualifying patient's designated caregiver; and

21 (C) control the acquisition of the cannabis, the dosage and the
22 frequency of the medical use of cannabis by the qualifying patient.

23 (c) The department shall verify the information contained in an
24 application or renewal submitted pursuant to this section and shall approve
25 or deny an application or renewal within 15 days of receiving it. The
26 department may deny an application or renewal only if the applicant did
27 not provide the information required pursuant to this section, the applicant
28 previously had a registry identification card revoked for violating this act
29 or if the department determines that the information provided was
30 falsified. Rejection of an application or renewal is considered a final
31 department action, subject to judicial review. Jurisdiction and venue for
32 judicial review are vested in the district court.

33 (d) The department shall issue a registry identification card to the
34 designated caregiver, if any, who is named in a qualifying patient's
35 approved application, up to a maximum of one designated caregiver per
36 qualifying patient, provided that the designated caregiver meets the
37 requirements of subsection (g) of section 3, and amendments thereto. The
38 department shall notify the qualifying patient who has designated someone
39 to serve as the patient's designated caregiver if a registry identification
40 card will not be issued to the designated person. A designated caregiver
41 shall be issued a registry identification card each time the designated
42 caregiver is designated by a qualifying patient.

43 (e) The department shall issue registry identification cards to

1 qualifying patients and to designated caregivers within five days of
2 approving an application or renewal. Each registry identification card shall
3 expire one year after the date of issuance, unless the practitioner states in
4 the written certification that the practitioner believes the qualifying patient
5 would benefit from medical cannabis only until a specified earlier or later
6 date, then the registry identification card shall expire on that date. Registry
7 identification cards shall contain all of the following:

- 8 (1) Name, address and date of birth of the qualifying patient;
- 9 (2) name, address and date of birth of the designated caregiver, if any,
10 of the qualifying patient;
- 11 (3) the date of issuance and expiration date of the registry
12 identification card;
- 13 (4) a random 20-digit alphanumeric identification number, containing
14 at least four numbers and at least four letters, that is unique to the
15 cardholder;
- 16 (5) if the cardholder is a designated caregiver, the random
17 identification number of the registered qualifying patient the designated
18 caregiver is assisting; and
- 19 (6) a photograph, if the department decides to require one.

20 (f) The following notifications and department responses are
21 required:

22 (1) A registered qualifying patient shall notify the department of any
23 change of name, address or designated caregiver, or if the registered
24 qualifying patient ceases to have a debilitating medical condition, within
25 10 days of such change.

26 (2) A registered qualifying patient who fails to notify the department
27 of any of these changes is subject to a civil penalty of no more than \$150
28 levied by the department. If the registered qualifying patient's certifying
29 practitioner notifies the department in writing that either the registered
30 qualifying patient has ceased to suffer from a debilitating medical
31 condition or that the practitioner no longer believes the patient would
32 receive therapeutic or palliative benefit from the medical use of cannabis,
33 the card is null and void upon notification by the department to the
34 qualifying patient.

35 (3) Any registered designated caregiver or compassion center staffer
36 must notify the department of any change in name or address within 10
37 days of such change. A registered designated caregiver or compassion
38 center staffer who fails to notify the department of any of these changes is
39 subject to a civil penalty of no more than \$150 levied by the department.

40 (4) When a cardholder notifies the department of any changes listed
41 in this subsection, the department shall issue the cardholder a new registry
42 identification card with new random 20-digit alphanumeric identification
43 numbers within 10 days of receiving the updated information and a \$10

1 fee. If the person notifying the department is a registered qualifying
2 patient, the department shall also issue the patient's registered designated
3 caregiver, if any, a new registry identification card within 10 days of
4 receiving the updated information.

5 (5) When a registered qualifying patient ceases to be a registered
6 qualifying patient or changes the registered designated caregiver, the
7 department shall notify the designated caregiver within 10 days. The
8 registered designated caregiver's protections under this act as to that
9 qualifying patient shall expire 10 days after notification by the department.

10 (6) If a cardholder loses the registry identification card, the
11 cardholder shall notify the department and submit a \$10 fee within 10 days
12 of losing the card. Within five days after such notification, the department
13 shall issue a new registry identification card with a new random
14 identification number to the cardholder and, if the cardholder is a
15 registered qualifying patient, to the registered qualifying patient's
16 registered designated caregiver, if any.

17 (g) Mere possession of, or application for, a registry identification
18 card shall not constitute probable cause or reasonable suspicion, nor shall
19 it be used to support the search of the person or property of the person
20 possessing or applying for the registry identification card. The possession
21 of, or application for, a registry identification card shall not preclude the
22 existence of probable cause if probable cause exists on other grounds.

23 (h) The following confidentiality rules shall apply:

24 (1) Applications and supporting information submitted by qualifying
25 patients and designated caregivers, including information regarding their
26 designated caregivers and practitioners, are confidential.

27 (2) Applications and supporting information submitted by
28 compassion centers and compassion center personnel operating in
29 compliance with this act, including the physical addresses of compassion
30 centers, are confidential.

31 (3) The department shall maintain a confidential list of the persons to
32 whom the department has issued registry identification cards. Individual
33 names and other identifying information on the list shall be confidential,
34 exempt from the Kansas open records act, and not subject to disclosure,
35 except to authorized employees of the department as necessary to perform
36 official duties of the department and as provided in paragraph (4) of this
37 subsection.

38 (4) Within 90 days of the effective date of this act, the department
39 shall establish a secure, password-protected, web-based verification
40 system that is operational 24 hours each day, which law enforcement
41 personnel and compassion center staffers can use to verify registry
42 identification cards. The verification system must allow law enforcement
43 personnel and compassion center staffers to enter in a registry

1 identification number to determine whether or not the number corresponds
2 with a current, valid ID card. The system shall disclose the name and
3 photograph of the cardholder but shall not disclose the cardholder's
4 address. The system shall also display the amount and quantity of cannabis
5 that each registered qualifying patient received from compassion centers
6 during the past 60 days. The system shall allow compassion center staffers
7 to add the amount of cannabis dispensed to registered qualifying patients,
8 directly or through their designated caregivers, and the date and time the
9 cannabis was dispensed. The verification system must include the
10 following data security features:

11 (A) Any time an authorized user enters five invalid registry
12 identification numbers within five minutes, that user cannot log in to the
13 system again for 10 minutes; and

14 (B) the server must reject any log-in request that is not over an
15 encrypted connection.

16 (5) Any hard drives containing cardholder information must be
17 destroyed once they are no longer in use, and the department shall retain a
18 signed statement from a department employee confirming the destruction.

19 (6) (A) It shall be a class B misdemeanor for any person, including
20 an employee or official of the department or another state agency or local
21 government, to breach the confidentiality of information obtained pursuant
22 to this act.

23 (B) Notwithstanding this provision, this section shall not prevent the
24 following notifications:

25 (i) Department employees may notify law enforcement about falsified
26 or fraudulent information submitted to the department, so long as the
27 employee who suspects that falsified or fraudulent information has been
28 submitted confers with such employee's supervisor and both agree that
29 circumstances exist that warrant reporting;

30 (ii) the department may notify state or local law enforcement about
31 apparent criminal violations of this act, if the employee who suspects the
32 offense confers with such employee's supervisor and both agree that
33 circumstances exist that warrant reporting; and

34 (iii) compassion center staffers may notify the department of a
35 suspected violation or attempted violation of this act or the rules and
36 regulations issued pursuant to it.

37 (i) Any cardholder who sells cannabis to a person who is not allowed
38 to possess cannabis for medical purposes under this act shall have the
39 cardholder's identification card revoked and shall be subject to other
40 penalties for the unauthorized sale of cannabis. The department may
41 revoke the registry identification card of any cardholder who violates this
42 act, and the cardholder shall be subject to any other penalties for the
43 violation.

1 (j) The department shall submit to the legislature an annual report that
2 does not disclose any identifying information about cardholders,
3 compassion centers or practitioners but does contain, at a minimum, all of
4 the following information:

5 (1) The number of applications and renewals filed for registry
6 identification cards;

7 (2) the number of qualifying patients and designated caregivers
8 approved in each county;

9 (3) the nature of the debilitating medical conditions of the qualifying
10 patients;

11 (4) the number of registry identification cards revoked;

12 (5) the number of practitioners providing written certifications for
13 qualifying patients;

14 (6) the number of registered compassion centers; and

15 (7) the number of compassion center staffers.

16 (k) Where a state-funded or locally-funded law enforcement agency
17 encounters an individual who, during the course of the investigation,
18 credibly asserts that such individual is a registered cardholder or an entity
19 whose personnel credibly assert that it is a compassion center, the law
20 enforcement agency shall not provide any information from any cannabis-
21 related investigation of the person to any law enforcement authority that
22 does not recognize the protection of this act, and any prosecution of the
23 individual, individuals or entity for a violation of this act shall be
24 conducted pursuant to the laws of this state. The application for qualifying
25 patients' registry identification cards shall include a question asking
26 whether the patient would like the department to notify the patient of any
27 clinical studies regarding cannabis' risk or efficacy that seek human
28 subjects. The department shall inform those patients who answer in the
29 affirmative of any such studies it is notified of that will be conducted in the
30 United States.

31 New Sec. 8. (a) Except as provided in section 9, and amendments
32 thereto, a patient may assert the medical purpose for using cannabis as a
33 defense to any prosecution of an offense involving cannabis intended for
34 the patient's medical use, and this defense shall be presumed valid where
35 the evidence shows that:

36 (1) A practitioner has stated that, in the practitioner's professional
37 opinion, after having completed a full assessment of the patient's medical
38 history and current medical condition made in the course of a *bona fide*
39 practitioner-patient relationship, the patient is likely to receive therapeutic
40 or palliative benefit from the medical use of cannabis to treat or alleviate
41 the patient's serious or debilitating medical condition or symptoms
42 associated with the patient's serious or debilitating medical condition;

43 (2) the patient and the patient's designated caregiver, if any, were

1 collectively in possession of a quantity of cannabis that was not more than
2 was reasonably necessary to ensure the uninterrupted availability of
3 cannabis for the purpose of treating or alleviating the patient's serious or
4 debilitating medical condition or symptoms associated with the patient's
5 serious or debilitating medical condition; and

6 (3) the patient was engaged in the acquisition, possession, cultivation,
7 manufacture, use or transportation of cannabis, paraphernalia, or both,
8 relating to the administration of cannabis solely to treat or alleviate the
9 patient's serious or debilitating medical condition or symptoms associated
10 with the patient's serious or debilitating medical condition.

11 (b) A person may assert the medical purpose for using cannabis in a
12 motion to dismiss, and the charges shall be dismissed following an
13 evidentiary hearing where the person shows the elements listed in
14 subsection (a).

15 (c) If a patient demonstrates the patient's medical purpose for using
16 cannabis pursuant to this section, except as provided in section 9, and
17 amendments thereto, the patient and the patient's designated caregiver
18 shall not be subject to the following for the patient's use of cannabis for
19 medical purposes: (1) Disciplinary action by an occupational or
20 professional licensing board or bureau; or (2) forfeiture of any interest in
21 or right to noncannabis, licit property.

22 New Sec. 9. (a) This act shall not permit any person to do any of the
23 following, nor shall it prevent the imposition of any civil, criminal or other
24 penalties for any such actions:

25 (1) Undertake any task under the influence of cannabis, when doing
26 so would constitute negligence or professional malpractice.

27 (2) Possess cannabis, or otherwise engage in the medical use of
28 cannabis: (A) In a school bus; (B) on the grounds of any preschool,
29 primary or secondary school; or (C) in any correctional facility.

30 (3) Smoke cannabis: (A) On any form of public transportation; or (B)
31 in any public place.

32 (4) Operate, navigate or be in actual physical control of any motor
33 vehicle, aircraft or motorboat while under the influence of cannabis.
34 However, a registered qualifying patient shall not be considered to be
35 under the influence of cannabis solely because of the presence of
36 metabolites or components of cannabis that appear in insufficient
37 concentration to cause impairment.

38 (5) Use cannabis if that person does not have a serious or debilitating
39 medical condition.

40 (b) Nothing in this act shall be construed to require:

41 (1) A government medical assistance program or private health
42 insurer to reimburse a person for costs associated with the medical use of
43 cannabis;

1 (2) any person or establishment in lawful possession of property to
2 allow a guest, client, customer or other visitor to use cannabis on or in that
3 property. This act shall not limit a person or entity in lawful possession of
4 property, or an agent of such person or entity, from expelling a person who
5 uses cannabis without permission from their property and from seeking
6 civil and criminal penalties for the unauthorized use of cannabis on their
7 property; or

8 (3) an employer to accommodate the ingestion of cannabis in any
9 workplace or any employee working while under the influence of
10 cannabis, provided that a qualifying patient shall not be considered to be
11 under influence of cannabis solely because of the presence of metabolites
12 or components of cannabis that appear in insufficient concentration to
13 cause impairment. This act shall in no way limit an employer's ability to
14 discipline an employee for ingesting cannabis in the workplace or working
15 while under the influence of cannabis.

16 (c) Fraudulent representation to a law enforcement official of any fact
17 or circumstance relating to the medical use of cannabis to avoid arrest or
18 prosecution shall be punishable by a fine of \$500, which shall be in
19 addition to any other penalties that may apply for making a false statement
20 or for the use of cannabis other than use undertaken pursuant to this act.

21 New Sec. 10. (a) If the department fails to adopt rules and regulations
22 to implement this act within 90 days of the effective date of this act, a
23 qualifying patient or a prospective board member or prospective principal
24 officer of a compassion center may commence an action in district court to
25 compel the department to perform the actions mandated pursuant to the
26 provisions of this act.

27 (b) If the department fails to issue a valid registry identification card
28 in response to a valid application or renewal submitted pursuant to this act
29 within 20 days of its submission, the registry identification card shall be
30 deemed granted, and a copy of the registry identification application or
31 renewal shall be deemed a valid registry identification card.

32 (c) If at any time after the 110 days following the effective date of
33 this act, the department is not accepting applications, including if it has not
34 created rules and regulations allowing qualifying patients to submit
35 applications, a notarized statement by a qualifying patient containing the
36 information required in an application, pursuant to subsection (a) of
37 section 7, and amendments thereto, together with a written certification
38 shall be deemed a valid registry identification card.

39 New Sec. 11. (a) There is established within the department of health
40 and environment a compassion board. The board shall consist of 11
41 members appointed by the secretary of health and environment. The
42 secretary, insofar as possible, shall appoint persons from different
43 geographical areas and persons who represent various economic interests.

1 If a vacancy occurs on the board, the secretary shall appoint a person to fill
2 the vacant position for the unexpired term, if any. Members of the board
3 shall be appointed for terms of three years and until their successors are
4 appointed and qualified, except that of the members first appointed by the
5 secretary on or after the effective date of this act, three shall be appointed
6 for a term of one year, three shall be appointed for a term of two years and
7 five shall be appointed for a term of three years, as designated by the
8 secretary. The board shall advise the secretary about the administration of
9 the cannabis compassion and care act and shall perform such duties as are
10 required by this act.

11 (b) Members of the board attending meetings of the board, or
12 attending a subcommittee meeting thereof authorized by the board, shall
13 be paid amounts provided in subsection (e) of K.S.A. 75-3223, and
14 amendments thereto, from moneys appropriated to the department of
15 health and environment.

16 Sec. 12. K.S.A. 79-5210 is hereby amended to read as follows: 79-
17 5210. Nothing in this act requires persons registered under article 16 of
18 chapter 65 of the Kansas Statutes Annotated or otherwise lawfully in
19 possession of cannabis or a controlled substance to pay the tax required
20 under this act, *except that persons lawfully in possession of cannabis*
21 *under the cannabis compassion and care act shall pay the tax required by*
22 *K.S.A. 75-5201 et seq., and amendments thereto.*

23 New Sec. 13. Any section of this act being held invalid as to any
24 person or circumstances shall not affect the application of any other
25 section of this act that can be given full effect without the invalid section
26 or application.

27 Sec. 14. K.S.A. 79-5210 is hereby repealed.

28 Sec. 15. This act shall take effect and be in force from and after its
29 publication in the statute book.