

## SENATE BILL No. 9

By Senator Haley

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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 10<sup>th</sup>  
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 of  
6 age, who has agreed to assist with a patient's medical use of cannabis and  
7 who has never been convicted of an excluded felony offense. A designated  
8 caregiver may assist no more than five qualifying patients with their  
9 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) (1) Except as provided in subsection (i)(2), "excluded felony  
14 offense" means:

15 (A) A crime involving violence against another person that was  
16 classified as a felony in the jurisdiction where the conviction occurred; or

17 (B) a violation of a state or federal controlled substance law that was  
18 classified as a felony in the jurisdiction where the conviction occurred.

19 (2) An "excluded felony offense" does not include:

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

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

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

32 (k) "Practitioner" means a person who is licensed to practice  
33 medicine and surgery.

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

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

42 (n) "Registry identification card" means a document issued by the  
43 department that identifies a person as a registered qualifying patient,

1 registered designated caregiver or a registered principal officer, board  
2 member, employee, volunteer or agent of a registered compassion center.

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

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

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

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

21 (s) "Written certification" means a document signed by a practitioner,  
22 stating that in the practitioner's professional opinion the patient is likely to  
23 receive therapeutic or palliative benefit from the medical use of cannabis  
24 to treat or alleviate the patient's debilitating medical condition or  
25 symptoms associated with the debilitating medical condition. A written  
26 certification shall be made only in the course of a bona fide practitioner-  
27 patient relationship after the practitioner has completed a full assessment  
28 of the qualifying patient's medical history. The written certification shall  
29 specify the qualifying patient's debilitating 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 to  
2 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 500  
34 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 or  
30 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 a  
28 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 an  
20 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 the influence of cannabis solely because of the presence of  
12 metabolites or components of cannabis that appear in insufficient  
13 concentration to cause impairment. This act shall in no way limit an  
14 employer's ability to discipline an employee for ingesting cannabis in the  
15 workplace or working 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, *and amendments thereto*, or  
19 otherwise lawfully in possession of marijuana or a controlled substance to  
20 pay the tax required under this act, *except that persons lawfully in*  
21 *possession of cannabis under the cannabis compassion and care act shall*  
22 *pay the tax required by K.S.A. 79-5201 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.