

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **SB 181**, as amended by Senate Committee, on page 1, following line 5, by inserting:

"New Section 1. Sections 1 through 11, and amendments thereto, shall be known and may be cited as the cannabis compassion and care act.

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

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

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

(d) Although federal law currently prohibits any use of cannabis except under very limited circumstances, Alaska, Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont and Washington

have removed state-level criminal penalties from the medical use of cannabis. Under the cannabis compassion and care act, Kansas joins in this effort for the health and welfare of its citizens.

(e) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with the cannabis compassion and care act does not put the state of Kansas in violation of federal law.

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

(g) The legislature of the state of Kansas declares that the cannabis compassion and care act is enacted pursuant to the police power of the state to protect the health of its citizens that is reserved to the state of Kansas and its people under the 10th amendment to the United States constitution.

New Sec. 3. The following terms, as used in the cannabis compassion and care act, shall have the meanings set forth in this section:

(a) "Bona fide practitioner-patient relationship" means that a patient has visited or consulted with the same practitioner at least three times within the past 90 days.

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

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

(d) "Cannabis" means all parts of all varieties of the plant cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of

the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, cake or the sterilized seed of the plant which is incapable of germination.

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

(f) "Debilitating medical condition" means one or more of the following:

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

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

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

(g) "Department" means the department of health and environment.

(h) "Designated caregiver" means a person who is at least 21 years of age, who has agreed to assist with a patient's medical use of cannabis and who has never been convicted of an excluded felony offense. A designated caregiver may assist no more than five qualifying patients with their medical use of cannabis.

(i) "Enclosed, locked facility" means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

(j) (1) Except as provided in subsection (i)(2), "excluded felony offense" means:

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

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

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

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

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

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

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

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

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

(o) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered designated caregiver or a registered principal

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

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

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

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

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

(t) "Written certification" means a document signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall be made only in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history. The written certification shall specify the qualifying patient's debilitating medical condition.

New Sec. 4. (a) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution or penalty in any manner, or denied any

right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for the medical use of cannabis in accordance with the cannabis compassion and care act, provided that the qualifying patient possesses an amount of cannabis that does not exceed 12 cannabis plants and six ounces of usable cannabis. The plants shall be kept in an enclosed, locked facility, unless they are being transported because the qualifying patient is moving or if they are being transported to the qualifying patient's or designated caregiver's property. This subsection shall not apply to matters and entities that are covered by subsection (f) or (g).

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

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

(d) (1) There shall be a presumption that a qualifying patient or designated caregiver is

engaged in the medical use of cannabis in accordance with the cannabis compassion and care act if the qualifying patient or designated caregiver:

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

(B) is in possession of an amount of cannabis that does not exceed the amount allowed under the cannabis compassion and care act.

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

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

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

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

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

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

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

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

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

(i) A practitioner shall not be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by the state board of healing arts or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition. Nothing in the cannabis compassion and care act shall prevent a

professional licensing board from sanctioning a practitioner for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(j) A person shall not be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered designated caregiver with cannabis paraphernalia for purposes of a qualifying patient's medical use of cannabis.

(k) Any cannabis, cannabis paraphernalia, licit property or interest in licit property that is possessed, owned or used in connection with the medical use of cannabis as allowed under the cannabis compassion and care act, or acts incidental to such use, shall not be seized or forfeited. The cannabis compassion and care act shall not prevent the seizure or forfeiture of cannabis exceeding the amounts allowed under such act.

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

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

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

(1) The department shall register a compassion center and issue a registration certificate, with

a random 20-digit alphanumeric identification number, within 90 days of receiving an application for a compassion center if the following conditions are met:

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

(i) An application or renewal fee;

(ii) the legal name of the compassion center;

(iii) the physical address of the compassion center and the physical address of one additional location, if any, where cannabis will be cultivated, neither of which may be within 500 feet of a preexisting public or private school;

(iv) the name, address and date of birth of each principal officer and board member of the compassion center;

(v) the name, address and date of birth of any person who is an agent of or employed by the compassion center;

(vi) operating regulations that include procedures for the oversight of the compassion center and procedures to ensure accurate record-keeping and security measures, that are in accordance with the rules and regulations issued by the department under section 6(c), and amendments thereto; and

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

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

(C) none of the principal officers or board members have been convicted of an offense that

was classified as a felony in the jurisdiction where the person was convicted, unless the offense consisted of conduct for which the cannabis compassion and care act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of the cannabis compassion and care act or was prosecuted by an authority other than the state of Kansas;

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

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

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

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

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

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

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

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

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

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

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

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

(C) The department may refuse to issue a registry identification card to a compassion center staffer who has had a card revoked for violating the cannabis compassion and care act.

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

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

(c) Registered compassion centers are subject to reasonable inspection by the department. The

department shall give at least 24 hours' notice of an inspection under this subsection.

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

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

(3) A registered compassion center shall notify the department within 10 days of when a compassion center staffer ceases to work at the registered compassion center.

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

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

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

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

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

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

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

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

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

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

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

(2) After verifying the information in subsection (e)(1), but before dispensing cannabis to a registered qualifying patient or a registered designated caregiver on a registered qualifying patient's behalf, a compassion center staffer must make an entry in the verification system, specifying how much cannabis is being dispensed to the registered qualifying patient and whether it was dispensed directly to the registered qualifying patient or to the registered qualifying patient's registered designated caregiver. The entry must include the date and time the cannabis was dispensed.

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

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

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

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

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

(4) Except as provided in subsection (a)(3), no person who has been convicted of an offense

that was classified as a felony in the jurisdiction where the person was convicted may be a compassion center staffer. A person who works as an agent, volunteer, employee, principal officer, or board member of a registered compassion center in violation of this section is subject to a civil violation punishable by a penalty of not to exceed \$1,000 levied by the department. A subsequent violation of this section is a class C misdemeanor.

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

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

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

New Sec. 6. (a) Not later than 90 days after the effective date of the cannabis compassion and care act, the department, in consultation with the compassion board, shall adopt rules and regulations governing the manner in which the department shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 3(e), and amendments thereto. In considering such petitions, the department shall include public

notice of, and an opportunity to comment in a public hearing upon, the petitions. The department, after hearing, shall approve or deny a petition within 90 days of its submission. The approval or denial of a petition is a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the district court.

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

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

- (A) The form and content of registration and renewal applications;
- (B) minimum oversight requirements for registered compassion centers;
- (C) minimum record keeping requirements for registered compassion centers;
- (D) minimum security requirements for registered compassion centers, which shall include that each registered compassion center location must be protected by a fully operational security alarm system; and
- (E) procedures for suspending or terminating the registration of registered compassion centers that violate the provisions of the cannabis compassion and care act or the rules and regulations promulgated pursuant to this section.

(2) The department, in consultation with the compassion board, shall design rules and regulations with the goal of protecting against diversion and theft, without imposing an undue burden on the registered compassion centers or compromising the confidentiality of registered qualifying

patients and their registered designated caregivers. Any dispensing records that a registered compassion center is required to keep shall track transactions according to registered qualifying patients', registered designated caregivers' and registered compassion centers' registry identification numbers, rather than their names, to protect their confidentiality.

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

(1) The total fees collected must generate revenues sufficient to offset all expenses of implementing and administering the cannabis compassion and care act;

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

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

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

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

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

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

(1) Written certification;

- (2) application or renewal fee;
 - (3) name, address and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;
 - (4) name, address and telephone number of the qualifying patient's practitioner;
 - (5) name, address and date of birth of the designated caregiver designated, if any, by the qualifying patient;
 - (6) a statement signed by the qualifying patient, pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to the cannabis compassion and care act; and
 - (7) a signed statement from the designated caregiver, if any, agreeing to be designated as the patient's designated caregiver and pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to the cannabis compassion and care act.
- (b) The department shall not issue a registry identification card to a qualifying patient who is younger than 18 years of age unless:
- (1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and
 - (2) the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:
 - (A) Allow the qualifying patient's medical use of cannabis;
 - (B) serve as the qualifying patient's designated caregiver; and
 - (C) control the acquisition of the cannabis, the dosage and the frequency of the medical use of cannabis by the qualifying patient.
- (c) The department shall verify the information contained in an application or renewal

submitted pursuant to this section and shall approve or deny an application or renewal within 15 days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, the applicant previously had a registry identification card revoked for violating the cannabis compassion and care act or if the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the district court.

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

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

- (1) Name, address and date of birth of the qualifying patient;
- (2) name, address and date of birth of the designated caregiver, if any, of the qualifying patient;

(3) the date of issuance and expiration date of the registry identification card;

(4) a random 20-digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;

(5) if the cardholder is a designated caregiver, the random identification number of the registered qualifying patient the designated caregiver is assisting; and

(6) a photograph, if the department decides to require one.

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

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

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

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

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

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

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

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

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

(h) The following confidentiality rules shall apply:

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

(2) Applications and supporting information submitted by compassion centers and compassion center personnel operating in compliance with the cannabis compassion and care act,

including the physical addresses of compassion centers, are confidential.

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

(4) Within 90 days of the effective date of the cannabis compassion and care act, the department shall establish a secure, password-protected, web-based verification system that is operational 24 hours each day, which law enforcement personnel and compassion center staffers can use to verify registry identification cards. The verification system must allow law enforcement personnel and compassion center staffers to enter in a registry identification number to determine whether or not the number corresponds with a current, valid ID card. The system shall disclose the name and photograph of the cardholder but shall not disclose the cardholder's address. The system shall also display the amount and quantity of cannabis that each registered qualifying patient received from compassion centers during the past 60 days. The system shall allow compassion center staffers to add the amount of cannabis dispensed to registered qualifying patients, directly or through their designated caregivers, and the date and time the cannabis was dispensed. The verification system must include the following data security features:

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

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

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

confirming the destruction.

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

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

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

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

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

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

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

- (1) The number of applications and renewals filed for registry identification cards;
- (2) the number of qualifying patients and designated caregivers approved in each county;
- (3) the nature of the debilitating medical conditions of the qualifying patients;
- (4) the number of registry identification cards revoked;
- (5) the number of practitioners providing written certifications for qualifying patients;
- (6) the number of registered compassion centers; and
- (7) the number of compassion center staffers.

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

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

- (1) A practitioner has stated that, in the practitioner's professional opinion, after having

completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition;

(2) the patient and the patient's designated caregiver, if any, were collectively in possession of a quantity of cannabis that was not more than was reasonably necessary to ensure the uninterrupted availability of cannabis for the purpose of treating or alleviating the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition; and

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

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

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

New Sec. 9. (a) The cannabis compassion and care act shall not permit any person to do any

of the following, nor shall it prevent the imposition of any civil, criminal or other penalties for any such actions:

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

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

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

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

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

(b) Nothing in the cannabis compassion and care act shall be construed to require:

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

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

(3) an employer to accommodate the ingestion of cannabis in any workplace or any employee working while under the influence of cannabis, provided that a qualifying patient shall not be considered to be under the influence of cannabis solely because of the presence of metabolites or

components of cannabis that appear in insufficient concentration to cause impairment. The cannabis compassion and care act shall in no way limit an employer's ability to discipline an employee for ingesting cannabis in the workplace or working while under the influence of cannabis.

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

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

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

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

New Sec. 11. (a) There is established within the department of health and environment a compassion board. The board shall consist of 11 members appointed by the secretary of health and

environment. The secretary, insofar as possible, shall appoint persons from different geographical areas and persons who represent various economic interests. If a vacancy occurs on the board, the secretary shall appoint a person to fill the vacant position for the unexpired term, if any. Members of the board shall be appointed for terms of three years and until their successors are appointed and qualified, except that of the members first appointed by the secretary on or after the effective date of the cannabis compassion and care act, three shall be appointed for a term of one year, three shall be appointed for a term of two years and five shall be appointed for a term of three years, as designated by the secretary. The board shall advise the secretary about the administration of the cannabis compassion and care act and shall perform such duties as are required by such act.

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

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

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

And by renumbering sections accordingly;

On page 4, in line 27, after "K.S.A." by inserting "79-5210 and K.S.A.";

On page 1, in the title, in line 1, after "concerning" by inserting "medical care; relating to"; in line 2, after the semicolon by inserting "enacting the cannabis compassion and care act;"; also in line 2, after "amending" by inserting "K.S.A. 79-5210 and"

Senator _____