

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 646

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

Sponsors: Senators Chaudhuri, Woodard, and Foushee (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 7, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO LEGALIZE AND REGULATE THE SALE, POSSESSION, AND USE OF  
3 CANNABIS IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

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

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

8 **"Chapter 18D.**

9 **"Regulation of Cannabis.**

10 **"Article 1.**

11 **"General Provisions.**

12 **"§ 18D-100. Findings.**

13 The General Assembly finds all of the following:

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



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

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

13    **§ 18D-101. Definitions.**

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

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

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

33 **"§ 18D-102. Applicability.**

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

36 "Article 2.

37 "Office of Social Equity.

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

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

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

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

44 (1) The Community Reinvestment and Repair Fund.

45 (2) The Social Equity Fund.

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

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

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

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

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

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

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

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

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

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

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

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

"Article 3.

"Registration and Licensure.

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

(a) Each application or renewal application for an annual registration to operate a cannabis establishment shall be submitted to the Department. A renewal application may be submitted up to 90 days prior to the expiration of the cannabis establishment's registration.

(b) The Department shall begin accepting and processing applications to operate cannabis establishments from social equity applicants one year after the effective date of this Chapter.

(c) The Department may begin accepting and processing applications to operate cannabis establishments from applicants other than social equity applicants no earlier than one year and 180 days after the effective date of this Chapter.

(d) Upon receiving an application or renewal application for a cannabis establishment, the Department shall immediately forward a copy of each application and half of the registration application fee to the local regulatory authority for the locality in which the applicant desires to operate the cannabis establishment, unless the locality has not designated a local regulatory authority.

(e) Within 120 days after receiving an application or renewal application, the Department shall issue an annual registration or a conditional registration to the applicant, unless the Department finds the applicant is not in compliance with rules enacted by the Department or the Department is notified by the relevant locality that the applicant is not in compliance with ordinances and regulations in effect at the time of application.

(f) Applicants may apply for conditional approval if they have not purchased or leased the property where their cannabis establishment would be located. If the applicant is otherwise qualified, the Department shall provide conditional approval. Once the applicant provides the Department with a completed, supplemental application that includes the premises, the Department shall forward the information to the local regulatory authority and approve or reject the final application within 45 days from the date of submission.

(g) Upon denial of an application, the Department shall notify the applicant in writing of the specific reason for its denial.

(h) Cannabis establishments, and the books and records maintained and created by cannabis establishments, are subject to inspection by the Department.

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

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

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

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

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

14 "Article 4.

15 "Possession and Use of Cannabis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20           (2) Gaining access to a cannabis establishment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **"§ 18D-415. Rulemaking.**

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

- 8 (1) Procedures for the issuance, renewal, suspension, and revocation of a  
9 registration to operate a cannabis establishment, with such procedures subject  
10 to all requirements of Chapter 150B of the General Statutes.
- 11 (2) Rules, procedures, and policies to promote and encourage full participation in  
12 the regulated cannabis industry by people from communities that have  
13 previously been disproportionately harmed by cannabis prohibition and  
14 enforcement and to positively impact those communities, which shall reflect  
15 input from the Office of Social Equity, including all of the following:
- 16 a. Conducting necessary and appropriate outreach to diverse groups that  
17 may qualify for participation in activities under this Chapter.
- 18 b. Requiring each cannabis establishment to establish and adhere to  
19 policies that encourage diversity in employment, contracting, and  
20 other professional opportunities.
- 21 c. Requiring any cannabis establishment with 25 or more employees to  
22 retain a diversity officer.
- 23 d. Requiring each cannabis establishment to report on the diversity of its  
24 workforce, management, contracts, and ownership by January 1 of  
25 each year.
- 26 e. Issuing rules allowing social equity applicants to apply for, and be  
27 licensed for, cannabis establishment registrations no less than 180 days  
28 prior to applicants that are not social equity applicants.
- 29 (3) A Race to the Top scoring system to make the expansion of a cannabis  
30 establishment to more than two locations contingent on the cannabis  
31 establishment's contributions to equity and to benefiting the community. The  
32 system must reflect input from the Office of Social Equity and shall include,  
33 but need not be limited to, considerations of diversity in the cannabis  
34 establishment's ownership and workforce, including in management;  
35 employment of reentering citizens with prior convictions; minority  
36 ownership; compensation packages and benefits for workers; investing in  
37 economically disadvantaged areas; whether the cannabis establishment  
38 incorporates principles of environmental resiliency or sustainability, including  
39 energy efficiency; or whether the principals are social equity applicants.
- 40 (4) A limit on the number of cannabis establishments a major investor may invest  
41 in, unless each additional establishment is owned and operated by a social  
42 equity applicant.
- 43 (5) A schedule of reasonable application, registration, and renewal fees, provided  
44 application fees shall not exceed five thousand dollars (\$5,000), with this  
45 upper limit adjusted annually for inflation, unless the Department determines  
46 a greater fee is necessary to carry out its responsibilities under this Chapter.
- 47 (6) Qualifications for registration that are directly and demonstrably related to the  
48 operation of a cannabis establishment and that may not disqualify applicants  
49 solely for cannabis offenses prior to the effective date of this Chapter.
- 50 (7) Security requirements.

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

- 1           (22) Requirements that educational materials be disseminated to consumers who  
 2           purchase cannabis-infused products.  
 3           (23) Requirements for random sample testing to ensure quality control, including  
 4           by ensuring that cannabis and cannabis-infused products are accurately  
 5           labeled for potency. Unless the Department determines that remediation or  
 6           treatment is sufficient to ensure product safety, the testing analysis shall  
 7           include testing for residual solvents, poisons, or toxins; harmful chemicals;  
 8           dangerous molds or mildew; filth; and harmful microbials such as E. coli or  
 9           salmonella and pesticides.  
 10          (24) Standards for the operation of cannabis testing facilities, including  
 11          requirements for equipment and qualifications for personnel.  
 12          (25) Civil penalties for the failure to comply with rules made pursuant to this  
 13          Chapter.  
 14          (26) Procedures for collecting taxes levied on cannabis establishments.  
 15          (27) Requirements for on-site consumption establishments, including for security,  
 16          ventilation, odor control, and consumption by patrons. These rules may  
 17          include a prohibition on smoking indoors.

18          (b) After consulting with researchers knowledgeable about the risks and benefits of  
 19          cannabis and providing an opportunity for public comment, the Department shall develop a  
 20          scientifically accurate safety information label, handout, or both, which shall be available to each  
 21          adult-use cannabis consumer. The label or handout shall include both of the following:

- 22           (1) Advice about the potential risks of cannabis, including all of the following:  
 23           a. The risks of driving under the influence of cannabis, and the fact that  
 24           doing so is illegal.  
 25           b. Any adverse effects unique to younger adults, including related to the  
 26           developing mind.  
 27           c. Potential adverse events and other risks.  
 28           d. Risks of using cannabis during pregnancy or breastfeeding.  
 29           (2) The need to safeguard all cannabis and cannabis products from children and  
 30           pets.

31          (c) The Department shall review and update the safety information materials at least once  
 32          every two years to ensure they remain accurate. The review period shall include soliciting input  
 33          from researchers knowledgeable about the risks and benefits of cannabis and an opportunity for  
 34          public comment.

35          (d) In order to ensure that individual privacy is protected, the Department shall not require  
 36          a consumer to provide a retail cannabis store with personal information other than  
 37          government-issued identification to determine the consumer's age, and a retail cannabis store  
 38          shall not be required to acquire and record personal information about consumers.

39                                    "Article 5.

40                                    "Taxation and Use of Revenue.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Up to one percent (1%) shall be distributed to the Department of Public Safety to fund Advanced Roadside Impaired Driving Enforcement and drug recognition expert training.

(8) Any remaining funds shall be deposited in the General Fund."

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

## **PART II. LEGALIZATION OF MEDICAL CANNABIS**

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

"Article 43.

"North Carolina Medical Cannabis Act.

### **"§ 90-730. Short title.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

45            (1) The date of issuance.

46            (2) The date of expiration.

47            (3) A random registry identification number.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (2) An application or renewal fee.

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

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

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

### 22 **"§ 90-730.3. Definitions.**

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

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

## 29 **PART III. AUTOMATIC EXPUNCTION OF MARIJUANA OFFENSES**

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

### 32 **"§ 15A-145.8B. Automatic expunction of certain marijuana offenses.**

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

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

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

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

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

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

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

**PART IV. CONFORMING CHANGES**

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

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

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

**"§ 90-95. Violations; penalties.**

...

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

...

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

...

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

...

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

...

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

...

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

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

17 ...  
 18 (h) Notwithstanding any other provision of law, the following provisions apply except as  
 19 otherwise provided in this Article:

20 (1) ~~Any person who sells, manufactures, delivers, transports, or possesses in~~  
 21 ~~excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony~~  
 22 ~~which felony shall be known as "trafficking in marijuana" and if the quantity~~  
 23 ~~of such substance involved:~~

- 24 a. ~~Is in excess of 10 pounds, but less than 50 pounds, such person shall~~  
 25 ~~be punished as a Class H felon and shall be sentenced to a minimum~~  
 26 ~~term of 25 months and a maximum term of 39 months in the State's~~  
 27 ~~prison and shall be fined not less than five thousand dollars (\$5,000);~~
- 28 b. ~~Is 50 pounds or more, but less than 2,000 pounds, such person shall be~~  
 29 ~~punished as a Class G felon and shall be sentenced to a minimum term~~  
 30 ~~of 35 months and a maximum term of 51 months in the State's prison~~  
 31 ~~and shall be fined not less than twenty-five thousand dollars (\$25,000);~~
- 32 c. ~~Is 2,000 pounds or more, but less than 10,000 pounds, such person~~  
 33 ~~shall be punished as a Class F felon and shall be sentenced to a~~  
 34 ~~minimum term of 70 months and a maximum term of 93 months in the~~  
 35 ~~State's prison and shall be fined not less than fifty thousand dollars~~  
 36 ~~(\$50,000);~~
- 37 d. ~~Is 10,000 pounds or more, such person shall be punished as a Class D~~  
 38 ~~felon and shall be sentenced to a minimum term of 175 months and a~~  
 39 ~~maximum term of 222 months in the State's prison and shall be fined~~  
 40 ~~not less than two hundred thousand dollars (\$200,000).~~

41 ...."

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

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

44 **"§ 90-113.21. General provisions.**

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

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

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

**"§ 105-113.106. Definitions.**

The following definitions apply in this Article:

- 19 ...
- 20 ...
- 21 (3) Dealer. – Any of the following:
- 22 a. A person who actually or constructively possesses ~~more than 42.5~~
- 23 ~~grams of marijuana,~~ seven or more grams of any ~~other~~ controlled
- 24 substance other than marijuana that is sold by weight, or 10 or more
- 25 dosage units of any other controlled substance that is not sold by
- 26 weight.
- 27 b. A person who in violation of Chapter 18B of the General Statutes
- 28 possesses illicit spirituous liquor for sale.
- 29 c. A person who in violation of Chapter 18B of the General Statutes
- 30 possesses mash.
- 31 d. A person who in violation of Chapter 18B of the General Statutes
- 32 possesses an illicit mixed beverage for sale.
- 33 ...
- 34 (6) ~~Marijuana.—All parts of the plant of the genus Cannabis, whether growing or~~
- 35 ~~not; the seeds of this plant; the resin extracted from any part of this plant; and~~
- 36 ~~every compound, salt, derivative, mixture, or preparation of this plant, its~~
- 37 ~~seeds, or its resin.~~
- 38 ...."

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

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

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

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

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

15 "**§ 105-113.107A. Exemptions.**

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

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

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

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

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

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

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

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

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

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

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

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

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