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SENATE BILL DRS15261-MGf-8A

Short Title: Enact Medical Cannabis Act. (Public)

Sponsors: Senators Nickel, Murdock, and Marcus (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT ENACTING THE NORTH CAROLINA MEDICAL CANNABIS ACT.
3 The General Assembly of North Carolina enacts:
4 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 43.

7 "North Carolina Medical Cannabis Act.

8 **"§ 90-730. Short title.**

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

10 **"§ 90-730.1. Legislative findings and purpose.**

11 The General Assembly makes the following findings:

- 12 (1) Modern medical research has discovered beneficial uses for cannabis in
13 treating or alleviating pain, nausea, and other symptoms associated with
14 medical conditions, as found by the National Academy of Sciences' Institute
15 of Medicine in March 1999.
- 16 (2) According to the United States Sentencing Commission and the Federal
17 Bureau of Investigation, 99 out of every 100 cannabis arrests in the United
18 States are made under State law, rather than under federal law. Consequently,
19 changing State law will have the practical effect of protecting from arrest the
20 vast majority of seriously ill people who have a medical need to use cannabis.
- 21 (3) The United States Department of Health and Human Services, through the
22 Compassionate Investigational New Drug (IND) program, provides cannabis
23 by prescription to a number of individuals for their use as medicine. The
24 cannabis is grown at the federal cannabis research garden at the University of
25 Mississippi and is processed and distributed by the Research Triangle Institute
26 in Research Triangle Park, North Carolina. The patients receive the cannabis
27 monthly in canisters of approximately 300 prerolled cigarettes. The dosage
28 for patients in the IND program ranges from seven to nine grams per day.
29 Since the inception of the program in 1978, individual patients in the IND
30 program have received and consumed approximately 6.5 pounds of cannabis
31 per year, thereby establishing a safe and effective dosage for a chronic
32 daily-use patient to possess and consume. The IND program was closed to
33 new applicants in 1991.
- 34 (4) In 1992, the United States Drug Enforcement Administration (DEA)
35 published research in a report entitled "Cannabis Yields" stating that canopy
36 cover, rather than the number of plants, is the most accurate indicator of a



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1 garden's yield. According to the DEA report, 250 square feet of mature garden
2 canopy will typically yield six pounds of processed cannabis per year, a
3 common amount for patients who use cannabis daily, and less than the amount
4 prescribed and delivered to the IND patients by the federal government.

5 (5) Although federal law currently prohibits any use of cannabis outside of the
6 IND program, the laws of Alaska, Arizona, Arkansas, California, Colorado,
7 Connecticut, Delaware, the District of Columbia, Florida, Guam, Hawaii,
8 Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota,
9 Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New
10 Mexico, New York, North Dakota, Northern Mariana Islands, Ohio,
11 Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Dakota,
12 U.S. Virgin Islands, Utah, Vermont, Virginia, Washington, and West Virginia
13 permit the medical use and cultivation of cannabis. North Carolina joins in
14 this effort for the health and welfare of its citizens.

15 (6) States are not required to enforce federal law or prosecute people for engaging
16 in activities prohibited by federal law. Therefore, compliance with this Article
17 does not put the State of North Carolina in violation of federal law.

18 (7) Additionally, on December 4, 2020, the U.S. House of Representatives voted
19 in favor of the Marijuana Opportunity, Reinvestment, and Expungement
20 (MORE) Act, which would decriminalize marijuana by, among other things,
21 removing cannabis from the federal Controlled Substances Act and
22 eliminating criminal penalties for individuals who manufacture, distribute, or
23 possess marijuana.

24 (8) Compassion dictates that State law should make a distinction between the
25 medical and nonmedical use of cannabis. Hence, the purpose of this Article is
26 to protect patients with medical conditions, and their physicians and
27 caregivers, from arrest and prosecution, criminal and other penalties, and
28 property forfeiture by allowing the beneficial use of medical cannabis in a
29 regulated system for alleviating symptoms caused by medical conditions and
30 their medical treatments.

31 (9) This Article is intended to make only those changes to existing North Carolina
32 laws that are necessary to protect patients and their physicians and caretakers
33 from criminal and civil penalties and is not intended to change current civil
34 and criminal laws governing the use of cannabis for nonmedical purposes.

35 (10) The General Assembly enacts this Article pursuant to its police power to enact
36 legislation for the protection of the health of its residents, as reserved to the
37 State in the Tenth Amendment of the United States Constitution.

38 **"§ 90-730.2. Definitions.**

39 The following definitions apply in this Article:

40 (1) Adequate supply. An amount of usable cannabis derived solely from an
41 intrastate source that is possessed by a qualified patient, or collectively
42 possessed by a qualified patient and the qualified patient's designated
43 caregiver, in an amount that does not exceed what is reasonably necessary to
44 assure the uninterrupted availability of cannabis in any form recommended by
45 the qualified patient's physician for the purpose of alleviating the symptoms
46 or effects of the qualified patient's medical condition.

47 (2) Cannabis. – Marijuana as defined in G.S. 90-87(16).

48 (3) Cannabis-infused product. – A product infused with cannabis that is intended
49 for use or consumption other than by inhalation or smoking. The term includes
50 edible products, ointments, and tinctures.

51 (4) Canopy. The foliage of growing plants.

- 1 (5) Canopy cover. The area shaded by the foliage of growing plants.
2 (6) Designated caregiver. – A person who is at least 21 years of age and who has
3 agreed to assist with a qualified patient's medical use of cannabis.
4 (7) Licensed medical cannabis center. – A person licensed pursuant to
5 G.S. 90-730.5 to operate a business that sells cannabis and cannabis-infused
6 products to individuals who hold a written certification and other licensed
7 medical cannabis centers.
8 (8) Licensed producer of cannabis-infused products. – A person licensed pursuant
9 to G.S. 90-730.5 to operate a business producing cannabis-infused products.
10 (9) Licensed producer of medical cannabis. – A person licensed pursuant to
11 G.S. 90-730.5 to cultivate cannabis for sale to a licensed medical cannabis
12 center.
13 (10) Medical use of cannabis or medical use. – The acquisition, possession, use,
14 internal possession, delivery, transfer, or transportation of cannabis or
15 paraphernalia relating to the administration of cannabis to treat or alleviate a
16 qualified patient's medical condition or symptoms associated with the medical
17 condition or its treatment.
18 (11) Physician. – A person licensed under Article 1 of Chapter 90 of the General
19 Statutes who is in good standing to practice medicine in this State.
20 (12) Producer. – Includes a producer of medical cannabis and a producer of
21 cannabis-infused products.
22 (13) Qualified patient. – A person who has been diagnosed by a physician as
23 having a medical condition.
24 (14) Regulated medical cannabis supply system or system. – The system
25 established by the North Carolina Department of Agriculture and Consumer
26 Services pursuant to G.S. 90-730.5 to provide a safe method for producing
27 and distributing cannabis to individuals who hold a written certification and
28 to persons licensed to produce and distribute cannabis and cannabis-infused
29 products to individuals who hold a written certification.
30 (15) Usable cannabis. – The dried buds and mature female flowers of the plant of
31 the genus Cannabis, and any mixture or preparation thereof, that are
32 appropriate for medical use as provided in this Article.
33 (16) Written certification. – A statement in a patient's medical records or a
34 statement signed by a physician indicating that, in the physician's professional
35 opinion, the patient has a medical condition and the potential health benefits
36 of the medical use of cannabis would likely outweigh the health risks for the
37 patient.

38 **§ 90-730.3. Protections for the medical use of cannabis.**

39 (a) A qualified patient shall not be subject to arrest, prosecution, or penalty in any
40 manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary
41 action by a business or occupational or professional licensing board or bureau, for the possession
42 or purchase of cannabis for medical use by the qualified patient if the quantity of usable cannabis
43 possessed or purchased does not exceed an adequate supply, as determined by the qualified
44 patient's physician.

45 (b) A designated caregiver shall not be subject to arrest, prosecution, or penalty in any
46 manner, or denied any right or privilege, including imposition of a civil penalty or disciplinary
47 action by a business or occupational or professional licensing board or bureau, for the possession
48 or purchase of cannabis for medical use by the qualified patient if the quantity of cannabis
49 possessed or purchased does not exceed an adequate supply for the qualified patient, as
50 determined by the qualified patient's physician.

1 (c) If usable cannabis is infused or added as an ingredient to food, salve, tincture, or any
2 other preparation to be consumed or used by a qualified patient, the weight of the other
3 ingredients that are not usable cannabis shall not be included for the purpose of determining
4 whether a qualified patient is in possession of an amount of cannabis that exceeds the qualified
5 patient's adequate supply.

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

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

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

15 (e) A qualified patient or a designated caregiver shall be granted the full legal protections
16 provided in this section as long as the qualified patient or designated caregiver is in possession
17 of a written certification. If the qualified patient or designated caregiver is not in possession of a
18 written certification, the individual shall be given an opportunity to produce the written
19 certification before the initiation of any arrest, criminal charges, or other penalties.

20 (f) A qualified patient or a designated caregiver is presumed to be engaged in the medical
21 use of cannabis if the qualified patient or designated caregiver is in possession of a written
22 certification and an amount of cannabis that does not exceed the qualified patient's adequate
23 supply. This presumption may be rebutted only by evidence that the qualified patient or
24 designated caregiver engaged in conduct related to cannabis for a purpose other than alleviating
25 the qualified patient's medical condition or symptoms associated with the medical condition.

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

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

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

37 (j) A licensed producer of medical cannabis shall not be subject to arrest, prosecution, or
38 penalty in any manner, or denied any right or privilege, or subject to disciplinary action by a
39 business or occupational or professional licensing board or bureau for producing, possessing,
40 distributing, or dispensing cannabis in a manner consistent with this Article.

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

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

49 (2) Providing a patient with valid documentation, based upon the physician's
50 assessment of the patient's medical history and current medical condition, that

1 the potential benefits of the medical use of cannabis would likely outweigh
2 the health risks for that particular patient.

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

7 (m) State and local law enforcement officers shall not harm, neglect, injure, or destroy an
8 individual's interest in or right to property that is possessed, owned, or used in connection with
9 the medical use of cannabis, or acts incidental to the medical use of cannabis, while the property
10 is in the possession of State or local law enforcement officials as a result of a seizure of the
11 property in connection with the claimed medical use of cannabis. A person does not forfeit any
12 right or interest in property seized in connection with the medical use of cannabis under any
13 provision of State law providing for the forfeiture of property, unless the forfeiture is part of a
14 sentence imposed upon the person as a result of a conviction of a criminal violation of this Article
15 or entry of a plea of guilty to such violation. Cannabis, paraphernalia, or other property seized
16 from a qualified patient, designated caregiver, licensed medical cannabis center, licensed
17 producer of medical cannabis, or licensed producer of cannabis-infused products in connection
18 with the claimed medical use or production for medical use of cannabis shall be returned
19 immediately upon the determination by a court, prosecutor, or law enforcement officer that the
20 qualified patient, designated caregiver, or licensed producer of medical cannabis is entitled to the
21 protections of this Article. In making this determination, the court, a prosecutor, or a law
22 enforcement officer shall consider as evidence the failure of law enforcement officers to actively
23 investigate the case, a decision not to prosecute, the dismissal of charges, or acquittal.

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

26 (o) There is no presumption of neglect or child endangerment for conduct allowed under
27 this Article.

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

32 (q) Possession of or application for a written certification shall not alone constitute
33 probable cause to search the person or the property of the person possessing or applying for a
34 written certification or otherwise subject the person or the person's property to inspection by any
35 government agency.

36 (r) If an individual being investigated by a law enforcement officer employed by a
37 State-funded or locally funded law enforcement agency credibly asserts during the course of the
38 investigation that the individual is a qualified patient or designated caregiver, neither the law
39 enforcement officer nor the law enforcement agency shall provide any information, except as
40 required by federal law or the United States Constitution, from any cannabis-related investigation
41 of the individual to any law enforcement authority that does not recognize the protections of this
42 Article. Any prosecution of the individual for a violation of this Article shall be conducted
43 pursuant to the laws of this State.

44 (s) Law enforcement officials shall not invade private property on suspicion of cannabis
45 possession of an amount less than 2 ounces.

46 (t) Cannabis produced and possessed under this Article is exempt from the Unauthorized
47 Substances Tax set forth in Article 2D of Chapter 105 of the General Statutes, and no tax under
48 that Article may be levied against any qualified patient, designated caregiver, licensed medical
49 cannabis center, licensed producer of medical cannabis, or licensed producer of cannabis-infused
50 products operating in accordance with this Article.

1 (u) Nothing in this Article shall be construed to extend the protections of this Article to
2 any person, including a qualified patient, designated caregiver, licensed medical cannabis center,
3 licensed producer of medical cannabis, or licensed producer of cannabis-infused products, to
4 allow that person to acquire, possess, manufacture, produce, use, sell, distribute, dispense, or
5 transport cannabis in a manner that is not consistent with this Article.

6 **"§ 90-730.4. Prohibitions, restrictions, and limitations on medical use of cannabis.**

7 (a) This Article does not permit any person to do any of the following:

8 (1) Operate, navigate, or be in actual physical control of any motor vehicle,
9 aircraft, or motorboat while impaired by cannabis. However, a qualified
10 patient shall not be considered impaired solely due to the presence of cannabis
11 metabolites in the individual's system.

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

14 (3) Smoke cannabis in a school bus or other form of public transportation, on any
15 school grounds, in any correctional facility, or in any public place in this State.

16 (b) A person who commits an act prohibited by subsection (a) of this section is subject to
17 all penalties provided by law.

18 (c) Nothing in this Article shall be construed to require any of the following:

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

21 (2) An employer to accommodate the medical use of cannabis in any workplace.

22 (d) A licensed producer of medical cannabis that sells, distributes, dispenses, or transfers
23 cannabis to an individual other than a person licensed pursuant to G.S. 90-730.5, or obtains or
24 transports cannabis outside of North Carolina in violation of federal law, is subject to arrest,
25 prosecution, and civil or criminal penalties pursuant to State law.

26 (e) Nothing in this Article shall be construed as a waiver of sovereign immunity by the
27 State.

28 **"§ 90-730.5. Regulated medical cannabis supply system.**

29 (a) As used in this section, "Department" means the North Carolina Department of
30 Agriculture and Consumer Services.

31 (b) Not later than 120 days after the effective date of this act, the Department shall
32 establish a medical cannabis supply system that (i) provides a safe, regulated supply of cannabis
33 appropriate for medical use by qualified patients who hold a written certification and (ii)
34 generates sufficient revenue for the Department to maintain and operate the system. The
35 Department shall not use any appropriations from the General Fund to establish or operate the
36 system. The system shall be funded by the fees authorized in this section.

37 (c) Medical Cannabis Center License. –

38 (1) No person shall establish or operate a medical cannabis center for the sale of
39 cannabis, cannabis-infused products, and paraphernalia relating to the
40 administration of cannabis to qualified patients and caregivers who hold a
41 written certification without first applying for a license to the Department and
42 submitting the required information on application forms provided by the
43 Department. The application form shall require at least all of the following:

44 a. The applicant's name and any name the applicant will use in the
45 operation of a medical cannabis center.

46 b. The address of any property the applicant will use to possess, deliver,
47 transport, dispense, or distribute cannabis.

48 c. The name, address, and date of birth of each principal officer and
49 board member of the medical cannabis center.

50 d. The name, address, and date of birth of each employee of the medical
51 cannabis center.

- 1 e. For first-year licensees, a nonrefundable license fee in the amount of
2 five thousand dollars (\$5,000).
- 3 f. For licensees seeking license renewal, a nonrefundable renewal fee in
4 an amount not less than five thousand dollars (\$5,000), as specified in
5 rules adopted pursuant to subsection (s) of this section.
- 6 g. Proof of North Carolina residency for each principal officer, board
7 member, and employee of the medical cannabis center.
- 8 h. Any other information the Department considers necessary to ensure
9 compliance with the terms of this Article.
- 10 (2) Unless suspended or revoked, a medical cannabis center license is valid for a
11 period not to exceed 12 months from the date of issuance.
- 12 (3) A licensee shall apply for renewal, as necessary, at least 30 days prior to the
13 expiration of a current license.
- 14 (4) No later than 30 days after issuing or renewing a license under this subsection,
15 the Department shall issue a medical cannabis center registry identification
16 card to each director and employee listed on the application or renewal form
17 upon receipt of a ten-dollar (\$10.00) fee per cardholder.
- 18 (5) A licensee shall notify the Department of any change in the information
19 submitted on the license application or renewal form within 30 days after the
20 change.
- 21 (6) A medical cannabis center licensee shall not cultivate cannabis unless
22 separately licensed as a producer of medical cannabis under subsection (d) of
23 this section.
- 24 (7) The records of a licensed medical cannabis center are subject to the same
25 restrictions imposed on pharmacy records pursuant to G.S. 90-85.36.
26 G.S. 90-85.36 applies to each medical cannabis center as if it were a pharmacy
27 regulated under Article 4A of Chapter 90 of the General Statutes.
- 28 (d) Producer of Medical Cannabis License. –
- 29 (1) No person shall cultivate cannabis for sale to a licensed medical cannabis
30 center or a licensed producer of cannabis-infused products without first
31 applying for a license to the Department and submitting the required
32 information on application forms provided by the Department. The
33 application form shall require at least all of the following:
- 34 a. The name of the person responsible for the medical cannabis
35 production site and the name of each individual employed by that
36 person.
- 37 b. The address of each property, location, or premises used or proposed
38 for use by the producer to produce cannabis.
- 39 c. The name, address, and date of birth of each principal officer and
40 board member of the producer.
- 41 d. The name, address, and date of birth of each employee of the producer.
- 42 e. For first-year licensees, a nonrefundable license fee in the amount of
43 five thousand dollars (\$5,000).
- 44 f. For licensees seeking license renewal, a nonrefundable renewal fee in
45 an amount not less than five thousand dollars (\$5,000), as specified in
46 the rules adopted pursuant to subsection (s) of this section.
- 47 g. Proof of North Carolina residency for each producer of medical
48 cannabis and each employee of the producer.
- 49 h. Proof that the producer of medical cannabis and each of the producer's
50 employees has attained the age of 21 years.

- 1 i. Any other information the Department considers necessary to ensure
2 compliance with this Article.
- 3 (2) Unless suspended or revoked, a producer of medical cannabis license is valid
4 for a period not to exceed 12 months from the date of issuance.
- 5 (3) A licensee shall notify the Department of any change in the information
6 submitted on the application form within 30 days after the change.
- 7 (4) A licensee shall apply for renewal, as necessary, at least 30 days prior to the
8 expiration of a current license.
- 9 (5) Not later than 30 days after issuing or renewing a producer of medical
10 cannabis license, the Department shall issue a producer of medical cannabis
11 identification card to the producer and to each of the producer's employees
12 upon payment of a fee of ten dollars (\$10.00) per cardholder.
- 13 (6) The Department shall issue a medical cannabis production site card to each
14 licensed producer of medical cannabis for each property, location, or premises
15 approved for cannabis production under this section. The card shall be posted
16 conspicuously at the medical cannabis production site.
- 17 (7) A licensed producer of medical cannabis is required to grow medical cannabis
18 in a controlled, covered environment.
- 19 (e) Producer of Cannabis-Infused Products License. –
- 20 (1) No person shall establish or operate a business to produce cannabis-infused
21 products without first applying for a license to the Department and submitting
22 the required information on application forms provided by the Department.
23 The application form shall require at least all of the following:
- 24 a. The name of the person or entity responsible for the cannabis
25 production site and any employee of that person or entity.
- 26 b. The address of each property, location, or premises used or proposed
27 for use by the producer of cannabis-infused products to produce
28 cannabis and cannabis-infused products.
- 29 c. The name, address, and date of birth of each principal officer and
30 board member of the producer of cannabis-infused products.
- 31 d. The name, address, and date of birth of each employee of the producer
32 of cannabis-infused products.
- 33 e. For first-year licensees, a nonrefundable license fee in the amount of
34 five thousand dollars (\$5,000).
- 35 f. For licensees seeking license renewal, a nonrefundable fee in an
36 amount not less than five thousand dollars (\$5,000), as specified in
37 rules adopted pursuant to subsection (s) of this section.
- 38 g. Proof of North Carolina residency for the producer of
39 cannabis-infused products and each of the producer's employees.
- 40 h. Proof that the producer of cannabis-infused products and each of the
41 producer's employees has attained the age of 21 years.
- 42 i. Any other information the Department considers necessary to ensure
43 compliance with the terms of this Article.
- 44 (2) Unless suspended or revoked, a license to produce cannabis-infused products
45 is valid for a period not to exceed 12 months from the date of issuance.
- 46 (3) A licensee shall notify the Department of any change in the information
47 submitted on the application form within 30 days after the change.
- 48 (4) A licensee shall apply for renewal, as necessary, at least 30 days prior to the
49 expiration of a current license.
- 50 (5) Not later than 30 days after issuing or renewing a license to produce
51 cannabis-infused products, the Department shall issue a registry identification

1 card to the licensed producer of cannabis-infused products and to each of the
2 producer's employees upon payment of a fee of ten dollars (\$10.00) per
3 cardholder.

4 (6) The Department shall issue a medical cannabis production site card to each
5 producer of cannabis-infused products for each property, location, or premises
6 approved for production of cannabis-infused products under this section. The
7 card shall be conspicuously posted at the location of the medical cannabis
8 production site.

9 (f) Permissible Sales Transactions. – All cannabis sold through the regulated medical
10 cannabis supply system established under this section shall be subject to the following limitations
11 and requirements:

12 (1) Sales by licensed medical cannabis centers. – Only persons licensed as a
13 medical cannabis center under subsection (c) of this section are authorized to
14 sell cannabis or cannabis-infused products to qualified patients or designated
15 caregivers through the system. A licensed medical cannabis center shall not
16 sell cannabis, cannabis-infused products, or paraphernalia relating to the
17 administration of cannabis, to any person other than a qualified patient or
18 designated caregiver who holds a written certification. A licensed medical
19 cannabis center shall not sell cannabis or cannabis-infused products in an
20 amount that exceeds an adequate supply to any qualified patient or caregiver.

21 (2) Sales by licensed producers of medical cannabis. – Only persons licensed as
22 a producer of medical cannabis under subsection (d) of this section are
23 authorized to produce cannabis for sale to licensed medical cannabis centers
24 through the system. A licensed producer of medical cannabis shall not sell
25 cannabis for resale to any person other than a licensed medical cannabis
26 center. A licensed producer of medical cannabis shall not sell cannabis plants,
27 cannabis seeds, or cultivation equipment to any person other than to another
28 licensed producer of medical cannabis.

29 (3) Sales by licensed producers of cannabis-infused products. – Only persons
30 licensed as a producer of cannabis-infused products under subsection (e) of
31 this section are authorized to produce cannabis-infused products for sale to
32 licensed medical cannabis centers through the system. A licensed producer of
33 cannabis-infused products shall not sell cannabis-infused products for resale
34 to any person other than a licensed medical cannabis center.

35 (g) Exemption From Criminal Laws. – A medical cannabis center, producer of medical
36 cannabis, or producer of cannabis-infused products with a valid license for that function is
37 exempt from the criminal laws of this State for possession, production, delivery, or transportation
38 of cannabis, or aiding and abetting another in the possession, production, delivery, or
39 transportation of cannabis, or any other criminal offense in which possession, production,
40 delivery, or transportation of cannabis is an element if the medical cannabis center, producer of
41 medical cannabis, or producer of cannabis-infused products is in substantial compliance with this
42 section and any rules adopted under this section.

43 (h) Loss of Exemption From Criminal Laws. – A person who is not a qualified patient or
44 licensed caregiver but who is otherwise authorized to possess, produce, deliver, or transport
45 cannabis for medical use pursuant to this Article ceases to be exempt as provided in subsection
46 (g) of this section upon committing any of the following acts:

47 (1) Driving while impaired by cannabis, provided that the person shall not be
48 considered to be impaired solely for having cannabis metabolites in his or her
49 system.

- 1 (2) Delivering cannabis to any individual who the person knows is not a qualified
2 patient or caregiver who holds a written certification, nor a person who holds
3 a license under G.S. 90-730.5.
- 4 (3) Manufacturing or distributing cannabis at an address not registered with the
5 Department.
- 6 (4) Failing to report transfer of cannabis authorized under this section to the
7 Department.
- 8 (i) Monthly Fees and Reporting. –
- 9 (1) Each medical cannabis center, producer of medical cannabis, and producer of
10 cannabis-infused products licensed under this section shall submit quarterly
11 reports to the Department on all financial transactions, including, but not
12 limited to, sales and purchases of cannabis and cannabis-infused products, and
13 transfers of cannabis and cannabis-infused products for no consideration.
- 14 (2) Each medical cannabis center licensed and operating under this section shall
15 pay to the Department monthly fees equal to ten percent (10%) of the medical
16 cannabis center's gross revenue derived from the sale of cannabis and
17 cannabis-infused products.
- 18 (3) Each producer of medical cannabis or cannabis-infused products producer
19 licensed and operating under this section shall pay to the Department monthly
20 fees equal to ten percent (10%) of the producer's gross revenue derived from
21 the sale of cannabis and cannabis-infused products.
- 22 (4) Each person who (i) holds a license as a medical cannabis center and either a
23 license as a producer of medical cannabis or a license as a producer of
24 cannabis-infused products, or both, and (ii) operates both a retail medical
25 cannabis center and one or more production sites, shall pay to the Department
26 monthly fees equal to fifteen percent (15%) of that person's gross revenue
27 derived from retail sales of cannabis and cannabis-infused products produced
28 by that person.
- 29 (5) Nothing in this subsection shall be construed to exempt persons licensed under
30 this section from the reporting or remittance of sales tax for any transaction
31 upon which a sales tax may be levied.
- 32 (j) The Department shall use system revenues from license fees and monthly gross
33 revenue fees to fund, in the following order of priority:
- 34 (1) Costs associated with establishing and operating the regulated medical
35 cannabis supply system established under this section.
- 36 (2) The medical cannabis research program established under G.S. 90-730.8.
- 37 (3) Other Department programs.
- 38 (k) Disqualifications for Licensure. – The Department shall not issue a license authorized
39 by this section to any of the following persons:
- 40 (1) A person who has not paid the appropriate license or license renewal fee.
- 41 (2) An individual who is less than 21 years of age.
- 42 (3) A person who has served a sentence for any of the following felonies in the
43 five years immediately preceding the date of license application: any Class A
44 through E felony; any felony that includes assault as an essential element of
45 the offense; any felony under Article 14 (Burglary and Housebreakings) of
46 Chapter 14 of the General Statutes; any felony under Article 16 (Larceny),
47 Article 16A (Organized Retail Theft), Article 17 (Robbery), Article 18
48 (Embezzlement), Article 19 (False Pretenses and Cheats), Article 19A
49 (Obtaining Property or Services by False or Fraudulent Use of Credit Device
50 or Other Means), Article 19B (Financial Transaction Card Crime Act), or
51 Article 19C (Identity Theft) of Chapter 14 of the General Statutes. In order to

1 ensure compliance with this subdivision, the Department shall conduct a
2 criminal history record check of any person whose name is submitted on an
3 application as the director or an employee of the medical cannabis center, or
4 as a producer or employee of a producer.

5 (4) A person who at any time has been convicted of a felony violation for
6 manufacturing, selling, delivering, or possessing with intent to manufacture,
7 sell, deliver, or possess a Schedule I or II controlled substance, in violation of
8 G.S. 90-95(b)(1). In order to ensure compliance with this subdivision, the
9 Department shall conduct a criminal history record check of any person whose
10 name is submitted on an application as the director or an employee of the
11 medical cannabis center or as a producer or employee of a producer.

12 (5) Except as otherwise provided in this subdivision, a person who has not been
13 a resident of North Carolina for at least two years prior to the date of the
14 license application. A person who submits an application for licensure
15 pursuant to this section within 180 days after the effective date of this Article
16 is not subject to this residency requirement if the person was a resident of
17 North Carolina for at least 180 days prior to the effective date of this Article.

18 (l) Inspection. – The Department may inspect the premises of any person seeking or
19 holding licensure as a medical cannabis center, a producer of medical cannabis, or a producer of
20 cannabis-infused products solely to determine compliance with this Article.

21 (m) License Suspension or Revocation. – The Department may suspend or revoke a
22 license issued pursuant to this section if the Department determines that the licensee is not in
23 substantial compliance with this section or the rules adopted by the North Carolina Medical Care
24 Commission under subsection (s) of this section. The Department shall notify a licensee at least
25 14 days in advance of a proposed suspension or revocation, including the reasons for the
26 suspension or revocation and any possible remedial options available to the licensee. The
27 Department shall not suspend or revoke a license without conducting an investigation and
28 providing the licensee an opportunity for a public hearing, at which the licensee shall be afforded
29 an opportunity to be heard. The Department has the power to administer oaths and issue
30 subpoenas to require the presence of persons and the production of papers, books, and records
31 necessary to conduct a suspension or revocation hearing.

32 (n) The Department shall maintain a confidential list of the persons to whom the
33 Department has issued a license pursuant to subsection (b), (c), or (d) of this section. Individual
34 names and other identifying information on the list are confidential, exempt from the provisions
35 of Chapter 132 of the General Statutes, and are not subject to disclosure, except to authorized
36 employees of the Department as necessary to perform official duties of the Department.

37 (o) The Department shall verify to law enforcement personnel whether a license is valid
38 solely by confirming the validity of the license number and the name of the person to whom the
39 Department has issued the license number.

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

44 (q) Nothing in this section shall be construed to prevent Department employees from
45 notifying law enforcement officers about falsified or fraudulent information submitted to the
46 Department by any person in support of an application for a license authorized by subsection (c),
47 (d), or (e) of this section.

48 (r) A person licensed under subsection (c), (d), or (e) of this section shall be granted the
49 full legal protections provided in this section as long as the person is in possession of a valid
50 license. If the person is not in possession of a valid license, the person shall be given a reasonable

1 period of time to produce the license before the initiation of any arrest, criminal charges, or other
2 penalties.

3 (s) Rules. – Not later than 120 days after the effective date of this act, the Board of
4 Agriculture, in consultation with the Medical Care Commission, shall adopt rules to implement
5 the provisions of this section. The rules shall do all of the following:

6 (1) Establish qualifications and requirements for licensure of medical cannabis
7 centers, producers of medical cannabis, and producers of cannabis-infused
8 products.

9 (2) Establish civil penalties for minor violations of the provisions of this section.

10 (t) Article 4 of Chapter 150B of the General Statutes governs judicial review of an
11 administrative decision made under this section.

12 **"§ 90-730.6. Affirmative defenses for qualified patients and caregivers.**

13 (a) Except as otherwise provided in this section and G.S. 90-730.4, either of the
14 affirmative defenses set out in subdivisions (1) and (2) of this subsection may be used by a person
15 charged with a criminal offense of possession, delivery, or production of cannabis, or any other
16 criminal offense in which possession, delivery, or production of cannabis is an element. The
17 affirmative defenses are as follows:

18 (1) The person satisfies all of the following criteria:

19 a. Has been diagnosed with a medical condition and has been advised by
20 the person's attending physician that the medical use of cannabis may
21 mitigate the symptoms or effects of that medical condition.

22 b. Is engaged in the medical use of cannabis.

23 c. Possesses or delivers cannabis only in the amount described in this
24 Article as an adequate supply, or in an amount exceeding an adequate
25 supply if the person proves by a preponderance of the evidence that
26 the greater amount is medically necessary to mitigate the symptoms or
27 effects of the person's medical condition, as determined by the person's
28 attending physician.

29 (2) The person satisfies all of the following criteria:

30 a. Is assisting a person described in sub-subdivision (1)a. of this
31 subsection in the medical use of cannabis.

32 b. Possesses, delivers, or produces cannabis only in the amount described
33 herein as an adequate supply or in excess of that amount if the person
34 proves by a preponderance of the evidence that the greater amount is
35 medically necessary as determined by the assisted person's attending
36 physician to mitigate the symptoms or effects of the assisted person's
37 medical condition.

38 (b) A person does not need to be a holder of a written certification in order to assert an
39 affirmative defense described in this section.

40 (c) A qualified patient or designated caregiver who has not received a written
41 certification may present evidence supporting the need for the medical use of cannabis. Such
42 evidence may constitute a defense to a charge of cannabis possession and is admissible in the
43 courts of the State of North Carolina if such evidence otherwise properly qualifies as admissible
44 under the rules of evidence.

45 (d) Except as otherwise provided in this section and in addition to the affirmative
46 defenses described in subsection (a) of this section, a person engaged or assisting in the medical
47 use of cannabis who is charged with a crime pertaining to the medical use of cannabis is not
48 precluded from doing either of the following:

49 (1) Asserting a full defense of medical necessity.

50 (2) Presenting evidence supporting the medical necessity of using cannabis for
51 treatment of a specific disease or medical condition if (i) the amount of

cannabis at issue is not greater than the amount described in this Article as an adequate supply and (ii) the person has taken steps to substantially comply with the provisions of this Article.

(e) A person may assert the need for the medical use of cannabis in a motion to dismiss, and the court shall dismiss charges following an evidentiary hearing where the defendant shows that the elements listed in subsection (a) of this section existed at any time prior or subsequent to the charges being filed.

(f) Any interest in or right to property that was possessed, owned, or used in connection with a person's use of cannabis for medical purposes shall not be forfeited, nor shall the person be subject to disciplinary action by a business or occupational or professional licensing board or bureau if the person or the person's designated caregiver demonstrates the person's medical purpose for using cannabis pursuant to this section.

"§ 90-730.7. Immunity for physicians.

A physician shall not be subject to arrest or prosecution, penalized in any manner, or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis pursuant to this Article.

"§ 90-730.8. North Carolina Cannabis Research Program.

(a) It is the intent of the General Assembly that The University of North Carolina System undertake objective scientific research regarding the efficacy and safety of administering cannabis as part of medical treatment. If the Board of Governors of The University of North Carolina, by appropriate resolution, accepts this responsibility, The University of North Carolina shall create a program to be known as the North Carolina Cannabis Research Program.

(b) The purpose of the program is to develop and conduct studies designed to ascertain the general safety and efficacy of using cannabis for medical treatment. If the studies conclude that cannabis is safe and effective for medical treatment, the program shall develop medical guidelines for the appropriate administration and use of cannabis to assist physicians and patients in evaluating the risks and benefits of using cannabis for medical treatment and to provide a scientific basis for future policies.

(c) The research conducted under this section may involve the development of quality control, purity, and labeling standards for medical cannabis dispensed through the system; sound advice and recommendations on the best practices for the safe and efficient cultivation of cannabis; and analysis of genetic and healing properties of the many varied strains of cannabis to determine which strains may be best suited for a particular condition or treatment.

"§ 90-730.9. Severability.

The provisions of this Article are severable. If any provision of this Article is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of this Article which can be given effect without the invalid provision."

SECTION 2. During the period between the effective date of this act and 30 days after the effective date of rules adopted under G.S. 90-730.5(s), the following provisions apply:

(1) The Department of Health and Human Services shall issue a temporary certificate for participation in the regulated medical supply system established under G.S. 90-730.5 to any individual who would be eligible to participate in the system as a qualified patient but for the adoption of rules to fully implement the system, upon presentation of a written certification for the medical use of cannabis from the individual's treating physician. The certificate shall specify the amount of cannabis the certificate holder may possess for the medical use of cannabis. The Department of Health and Human Services shall maintain a list of all temporary certificates issued pursuant to this section.

(2) An individual in possession of a temporary certificate issued pursuant to subdivision (1) of this section and that individual's designated caregiver are

1 not subject to arrest, prosecution, civil or criminal penalty, or denial of any
2 right or privilege for possessing cannabis if the amount of usable cannabis
3 possessed collectively is not more than the amount specified on the temporary
4 certificate issued by the Department of Health and Human Services.

- 5 (3) A physician shall not be subject to arrest or prosecution, penalized in any
6 manner, or denied any right or privilege for recommending the medical use of
7 cannabis or providing written certification for the medical use of cannabis
8 pursuant to this Article.

9 **SECTION 3.** G.S. 106-121(6) reads as rewritten:

10 "(6) The term "drug" means

11 ...

- 12 b. Articles intended for use in the diagnosis, cure, mitigation, treatment
13 or prevention of disease in man or other ~~animals~~; animals, except for
14 cannabis-infused products, as defined in G.S. 90-730.5, that are
15 manufactured or sold by a licensed medical cannabis center or a
16 licensed producer of cannabis-infused products; and

17"

18 **SECTION 4.** G.S. 106-121(8) reads as rewritten:

19 "(8) The term "food" means

- 20 a. Articles used for food or drink for man or other animals, except for
21 cannabis-infused products, as defined in G.S. 90-730.5, that are
22 manufactured or sold by a licensed medical cannabis center or a
23 licensed producer of cannabis-infused products,

24 b. Chewing gum, and

25 c. Articles used for components of any such article."

26 **SECTION 5.** This act is effective when it becomes law and applies to acts committed

27 on or after that date.