

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 643

Introduced by Garrett, 3; Craighead, 6; Ebke, 32; Pansing Brooks, 28.
Read first time January 21, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to cannabis; to amend section 77-4303, Reissue
- 2 Revised Statutes of Nebraska; to adopt the Cannabis Compassion and
- 3 Care Act; to provide for taxation as prescribed; to provide
- 4 severability; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 11 of this act shall be known and may be
2 cited as the Cannabis Compassion and Care Act.

3 Sec. 2. (1) Modern medical research has discovered beneficial uses
4 for cannabis in treating or alleviating the pain, nausea, and other
5 symptoms associated with a variety of debilitating medical conditions, as
6 found by the National Academy of Sciences' Institute of Medicine in March
7 1999.

8 (2) Subsequent studies since the 1999 National Academy of Sciences'
9 Institute of Medicine report continue to show the therapeutic value of
10 cannabis in treating a wide array of debilitating medical conditions,
11 including increasing the chances of patients finishing their treatments
12 for HIV/AIDS and hepatitis C.

13 (3) Data from the Federal Bureau of Investigation's uniform crime
14 reports and the Compendium of Federal Justice Statistics show that
15 approximately ninety-nine out of every one hundred cannabis arrests in
16 the United States are made under state law, rather than under federal
17 law. Consequently, changing state law will have the practical effect of
18 protecting from arrest the vast majority of seriously ill patients who
19 have a medical need to use cannabis.

20 (4) Although federal law currently prohibits any use of cannabis
21 except under very limited circumstances, Alaska, Arizona, California,
22 Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois,
23 Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New
24 Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island,
25 Vermont, and Washington have removed state-level criminal penalties from
26 the medical use of cannabis. Under the Cannabis Compassion and Care Act,
27 Nebraska joins in this effort for the health and welfare of its
28 residents.

29 (5) States are not required to enforce federal law or prosecute
30 people for engaging in activities prohibited by federal law. Compliance
31 with the Cannabis Compassion and Care Act does not put the State of

1 Nebraska in violation of federal law.

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

8 (7) The Legislature declares that the Cannabis Compassion and Care
9 Act is enacted pursuant to the police power of the state to protect the
10 health of its residents that is reserved to the State of Nebraska and its
11 people under the tenth amendment to the Constitution of the United
12 States.

13 Sec. 3. For purposes of the Cannabis Compassion and Care Act:

14 (1) Bona fide practitioner-patient relationship means that a patient
15 has visited or consulted with the same practitioner at least three times
16 within the past ninety days;

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

21 (3) Compassion board means the board created under section 11 of
22 this act;

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

1 (5) Compassion center staffer means a principal officer, board
2 member, employee, volunteer, or agent of a compassion center who has been
3 issued and possesses a valid registry identification card;

4 (6) Debilitating medical condition means one or more of the
5 following:

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

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

16 (c) Any other medical condition or its treatment approved by the
17 department as provided for in subsection (1) of section 6 of this act;

18 (7) Department means the Department of Health and Human Services;

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

24 (9) Enclosed, locked facility means a closet, room, greenhouse, or
25 other enclosed area equipped with locks or other security devices that
26 permit access only by a cardholder;

27 (10)(a) Except as provided in subdivision (b) of this subdivision,
28 excluded felony offense means:

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

1 (ii) A violation of a state or federal controlled substance law that
2 was classified as a felony in the jurisdiction where the conviction
3 occurred; and

4 (b) Excluded felony offense does not include:

5 (i) An offense for which the sentence, including any term of
6 probation, incarceration, or supervised release, was completed ten or
7 more years earlier; or

8 (ii) An offense that consisted of conduct for which the Cannabis
9 Compassion and Care Act would likely have prevented a conviction, but the
10 conduct either occurred prior to the enactment of the act or was
11 prosecuted by an authority other than the State of Nebraska;

12 (11) Medical use means the acquisition, possession, cultivation,
13 manufacture, use, delivery, sale, transfer, or transportation of cannabis
14 or paraphernalia relating to the administration of cannabis to treat or
15 alleviate a registered qualifying patient's debilitating medical
16 condition or symptoms associated with the patient's debilitating medical
17 condition;

18 (12) Practitioner means a person who is licensed to practice
19 medicine and surgery under the Medicine and Surgery Practice Act;

20 (13) Qualifying patient means a person who has been diagnosed by a
21 practitioner as having a debilitating medical condition;

22 (14) Registered compassion center means a not-for-profit entity
23 registered pursuant to section 5 of this act that acquires, possesses,
24 cultivates, manufactures, delivers, transfers, transports, supplies, or
25 dispenses cannabis or related supplies and educational materials to
26 cardholders. A registered compassion center may receive compensation for
27 all expenses incurred in its operation;

28 (15) Registry identification card means a document issued by the
29 department that identifies a person as a registered qualifying patient, a
30 registered designated caregiver, or a registered principal officer, board
31 member, employee, volunteer, or agent of a registered compassion center;

1 (16) Unusable cannabis means cannabis seeds, stalks, seedlings, and
2 unusable roots, and seedling means a cannabis plant that has no flowers
3 and is less than twelve inches in height and less than twelve inches in
4 diameter. A seedling must meet all three criteria set forth in this
5 subdivision;

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

11 (18) Verification system means a secure, password-protected, web-
12 based system that is operational twenty-four hours each day, that law
13 enforcement personnel and compassion center staffers use to verify
14 registry identification cards, and that is established and maintained by
15 the department pursuant to section 7 of this act;

16 (19) Visiting qualifying patient means a patient with a debilitating
17 medical condition who is not a resident of Nebraska or who has been a
18 resident of Nebraska less than thirty days; and

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

29 Sec. 4. (1) A qualifying patient who has been issued and possesses
30 a registry identification card shall not be subject to arrest,
31 prosecution, or penalty in any manner, or denied any right or privilege,

1 including, but not limited to, civil penalty or disciplinary action by a
2 court or occupational or professional licensing board or bureau, for the
3 medical use of cannabis in accordance with the Cannabis Compassion and
4 Care Act, if the qualifying patient possesses an amount of cannabis that
5 does not exceed twelve cannabis plants and six ounces of usable cannabis.
6 The plants shall be kept in an enclosed, locked facility unless they are
7 being transported because the qualifying patient is moving or if they are
8 being transported to the qualifying patient's or designated caregiver's
9 property. This subsection shall not apply to matters and entities that
10 are covered by subsection (6) or (7) of this section.

11 (2) A designated caregiver who has been issued and possesses a
12 registry identification card shall not be subject to arrest, prosecution,
13 or penalty in any manner, or denied any right or privilege, including,
14 but not limited to, civil penalty or disciplinary action by a court or
15 occupational or professional licensing board or bureau, for assisting a
16 qualifying patient to whom such designated caregiver is connected through
17 the department's registration process with the medical use of cannabis in
18 accordance with the Cannabis Compassion and Care Act, if the designated
19 caregiver possesses an amount of cannabis that does not exceed twelve
20 cannabis plants and six ounces of usable cannabis for each qualifying
21 patient to whom such designated caregiver is connected through the
22 department's registration process. The plants shall be kept in an
23 enclosed, locked facility unless they are being transported because the
24 designated caregiver is moving or if they are being transported to a
25 designated caregiver's or a qualifying patient's property. This
26 subsection shall not apply to matters and entities that are covered by
27 subsection (6) or (7) of this section.

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

1 (4)(a) There shall be a presumption that a qualifying patient or
2 designated caregiver is engaged in the medical use of cannabis in
3 accordance with the Cannabis Compassion and Care Act if the qualifying
4 patient or designated caregiver:

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

6 (ii) Is in possession of an amount of cannabis that does not exceed
7 the amount allowed under the act.

8 (b) The presumption may be rebutted by evidence that conduct related
9 to cannabis was not for the purpose of treating or alleviating the
10 qualifying patient's debilitating medical condition or symptoms
11 associated with the debilitating medical condition, in accordance with
12 the act.

13 (5) A registered qualifying patient or designated primary caregiver
14 shall not be subject to arrest, prosecution, or penalty in any manner, or
15 denied any right or privilege, including, but not limited to, civil
16 penalty or disciplinary action by a court or occupational or professional
17 licensing board or bureau, for giving cannabis to a registered qualifying
18 patient or a registered designated caregiver for the registered
19 qualifying patient's medical use if nothing of value is transferred in
20 return, or for offering to do the same, if the person giving the cannabis
21 does not knowingly cause the recipient to possess more cannabis than is
22 permitted by this section.

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

28 (b) For purposes of medical care, including organ transplants, a
29 registered qualifying patient's authorized use of cannabis in accordance
30 with the Cannabis Compassion and Care Act shall be considered the
31 equivalent of the authorized use of any other medication used at the

1 direction of a physician and shall not constitute the use of an illicit
2 substance.

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

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

10 (ii) A registered qualifying patient's positive drug test for
11 cannabis components or metabolites unless the patient used, possessed, or
12 was impaired by cannabis on the premises of the place of employment or
13 during the hours of employment.

14 (7) A person shall not be denied custody of, visitation, or
15 parenting time with a minor and there shall be no presumption of neglect
16 or child endangerment for conduct allowed under the Cannabis Compassion
17 and Care Act unless the person's behavior is such that it creates an
18 unreasonable danger to the safety of the minor as established by clear
19 and convincing evidence.

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

26 (9) A practitioner shall not be subject to arrest, prosecution, or
27 penalty in any manner, or denied any right or privilege, including, but
28 not limited to, civil penalty or disciplinary action by the State Board
29 of Health or by any other occupational or professional licensing board,
30 solely for providing written certifications or for otherwise stating
31 that, in the practitioner's professional opinion, a patient is likely to

1 receive therapeutic benefit from the medical use of cannabis to treat or
2 alleviate the patient's serious or debilitating medical condition or
3 symptoms associated with the serious or debilitating medical condition.
4 Nothing in the Cannabis Compassion and Care Act shall prevent a
5 professional licensing board from sanctioning a practitioner for failing
6 to properly evaluate a patient's medical condition or otherwise violating
7 the standard of care for evaluating medical conditions.

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

15 (11) Any cannabis, cannabis paraphernalia, licit property, or
16 interest in licit property that is possessed, owned, or used in
17 connection with the medical use of cannabis as allowed under the Cannabis
18 Compassion and Care Act, or activity incidental to such use, shall not be
19 seized or forfeited. The Cannabis Compassion and Care Act shall not
20 prevent the seizure or forfeiture of cannabis exceeding the amounts
21 allowed under the act.

22 (12) A person shall not be subject to arrest, prosecution, or
23 penalty in any manner, or denied any right or privilege, including, but
24 not limited to, civil penalty or disciplinary action by a court or
25 occupational or professional licensing board, simply for being in the
26 presence or vicinity of the medical use of cannabis as allowed under the
27 Cannabis Compassion and Care Act, or for assisting a registered
28 qualifying patient with using or administering cannabis.

29 (13) A registry identification card, or its equivalent, that is
30 issued under the laws of another state, district, territory,
31 commonwealth, or insular possession of the United States that allows, in

1 the jurisdiction of issuance, a visiting qualifying patient to possess
2 cannabis for medical purposes, shall have the same force and effect as a
3 registry identification card issued by the department.

4 Sec. 5. (1) The following provisions govern the registration of
5 compassion centers:

6 (a) The department shall register a compassion center and issue a
7 registration certificate, with a random twenty-digit alphanumeric
8 identification number, within ninety days of receiving an application for
9 a compassion center, if the following conditions are met:

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

12 (A) An application or renewal fee;

13 (B) The legal name of the compassion center;

14 (C) The physical address of the compassion center and the physical
15 address of one additional location, if any, where cannabis will be
16 cultivated, neither of which may be within five hundred feet of a
17 preexisting public or private school;

18 (D) The name, address, and date of birth of each principal officer
19 and board member of the compassion center;

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

22 (F) Operating regulations that include procedures for the oversight
23 of the compassion center and procedures to ensure accurate record-keeping
24 and security measures, that are in accordance with the rules and
25 regulations adopted and promulgated by the department under section 6 of
26 this act; and

27 (G) If the city, village, or county in which the compassion center
28 would be located has enacted reasonable zoning restrictions, a sworn and
29 truthful statement that the registered compassion center would be in
30 compliance with those restrictions;

31 (ii) Issuing the compassion center a registration would not be in

1 violation of a reasonable limitation on the number of registered
2 compassion centers that can operate in the jurisdiction in which it would
3 operate;

4 (iii) None of the principal officers or board members have been
5 convicted of an offense that was classified as a felony in the
6 jurisdiction where the person was convicted unless the offense consisted
7 of conduct for which the Cannabis Compassion and Care Act would likely
8 have prevented a conviction, but the conduct either occurred prior to the
9 enactment of the Cannabis Compassion and Care Act or was prosecuted by an
10 authority other than the State of Nebraska;

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

14 (v) None of the principal officers or board members are younger than
15 twenty-one years of age; and

16 (vi) The compassion center has been approved for registration by the
17 compassion board.

18 (b) Except as provided in subdivision (1)(c) of this section, the
19 department shall issue each compassion center staffer a registry
20 identification card and log-in information for the verification system
21 within ten days of receipt of the person's name, address, and date of
22 birth and a fee in an amount established by the department. Each card
23 shall specify that the cardholder is a principal officer, board member,
24 agent, volunteer, or employee of a registered compassion center and shall
25 contain the following:

26 (i) The name, address, and date of birth of the compassion center
27 staffer;

28 (ii) The legal name of the registered compassion center with which
29 the compassion center staffer is affiliated;

30 (iii) A random twenty-digit alphanumeric identification number that
31 is unique to the cardholder;

1 (iv) The date of issuance and expiration date of the registry
2 identification card;

3 (v) A photograph if the department decides to require one; and

4 (vi) A statement signed by the prospective principal officer, board
5 member, agent, volunteer, or employee pledging not to divert cannabis to
6 any person who is not allowed to possess cannabis pursuant to the
7 Cannabis Compassion and Care Act.

8 (c)(i) The department shall not issue a registry identification card
9 to any compassion center staffer who has been convicted of an offense
10 that was classified as a felony in the jurisdiction where the person was
11 convicted unless the offense consisted of conduct for which the Cannabis
12 Compassion and Care Act would likely have prevented a conviction, but the
13 conduct either occurred prior to the enactment of the Cannabis Compassion
14 and Care Act or was prosecuted by an authority other than the State of
15 Nebraska. The department may conduct a criminal background check of each
16 compassion center staffer in order to carry out this subdivision. The
17 department shall notify the registered compassion center in writing of
18 the reason for denying the registry identification card.

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

23 (iii) The department may refuse to issue a registry identification
24 card to a compassion center staffer who has had a card revoked for
25 violating the Cannabis Compassion and Care Act.

26 (2)(a) A registered compassion center's registration certificate and
27 the registry identification card for each compassion center staffer shall
28 expire one year after the date of issuance. The department shall issue a
29 renewal compassion center registration certificate within ten days to any
30 registered compassion center that submits a renewal fee if its
31 registration is not suspended and has not been revoked. The department

1 shall issue a renewal registry identification card within ten days to any
2 compassion center staffer who submits a renewal fee except as provided by
3 subdivision (1)(c) of this section.

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

9 (3) Registered compassion centers are subject to reasonable
10 inspection by the department. The department shall give at least twenty-
11 four hours' notice of an inspection under this subsection.

12 (4)(a) A registered compassion center may not be located within five
13 hundred feet of the property line of a preexisting public or private
14 school.

15 (b) A registered compassion center shall be operated on a not-for-
16 profit basis for the mutual benefit of its members and patrons. The
17 bylaws of a registered compassion center or its contracts with patrons
18 shall contain such provisions relative to the disposition of revenue and
19 receipts as may be necessary and appropriate to establish and maintain
20 its nonprofit character. A registered compassion center need not be
21 recognized as tax exempt by the Internal Revenue Service and is not
22 required to be incorporated.

23 (c) A registered compassion center shall notify the department
24 within ten days of when a compassion center staffer ceases to work at the
25 registered compassion center.

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

31 (e) A registered compassion center shall implement appropriate

1 security measures to deter and prevent unauthorized entrance into areas
2 containing cannabis and prevent the theft of cannabis.

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

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

11 (h) All principal officers and board members of a registered
12 compassion center must be residents of the State of Nebraska.

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

17 (j) County, city, and village governing bodies may enact reasonable
18 limits on the number of registered compassion centers that can operate in
19 their jurisdictions and may enact zoning regulations that reasonably
20 limit registered compassion centers to certain areas of their
21 jurisdictions.

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

27 (i) That the registry identification card presented to the
28 registered compassion center is valid;

29 (ii) That the person presenting the card is the person identified on
30 the registry identification card presented to the compassion center
31 staffer; and

1 (iii) That the amount to be dispensed would not cause the registered
2 qualifying patient to exceed such person's limit of obtaining six ounces
3 of cannabis during any thirty-day period.

4 (b) After verifying the information in subdivision (a) of this
5 subsection, but before dispensing cannabis to a registered qualifying
6 patient or a registered designated caregiver on a registered qualifying
7 patient's behalf, a compassion center staffer must make an entry in the
8 verification system, specifying how much cannabis is being dispensed to
9 the registered qualifying patient and whether it was dispensed directly
10 to the registered qualifying patient or to the registered qualifying
11 patient's registered designated caregiver. The entry must include the
12 date and time the cannabis was dispensed.

13 (6)(a) A registered compassion center shall not be subject to
14 prosecution; search except by the department pursuant to subsection (3)
15 of this section; seizure; or penalty in any manner or be denied any right
16 or privilege, including, but not limited to, civil penalty or
17 disciplinary action by a court or business licensing board or entity,
18 solely for acting in accordance with the Cannabis Compassion and Care Act
19 and rules and regulations adopted and promulgated by the department to
20 acquire, possess, cultivate, manufacture, deliver, transfer, transport,
21 supply, or dispense cannabis or related supplies and educational
22 materials to registered qualifying patients, to registered designated
23 caregivers on behalf of registered qualifying patients, or to other
24 registered compassion centers.

25 (b) No compassion center staffers shall be subject to arrest,
26 prosecution, search, seizure, or penalty in any manner or denied any
27 right or privilege, including, but not limited to, civil penalty or
28 disciplinary action by a court or occupational or professional licensing
29 board or entity, solely for working for a registered compassion center in
30 accordance with the Cannabis Compassion and Care Act and rules and
31 regulations adopted and promulgated by the department to acquire,

1 possess, cultivate, manufacture, deliver, transfer, transport, supply, or
2 dispense cannabis or related supplies and educational materials to
3 registered qualifying patients, to registered designated caregivers on
4 behalf of registered qualifying patients, or to other registered
5 compassion centers.

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

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

13 (c) A registered compassion center may not obtain cannabis from
14 outside the State of Nebraska.

15 (d) Except as provided in subdivision (1)(c) of this section, no
16 person who has been convicted of an offense that was classified as a
17 felony in the jurisdiction where the person was convicted may be a
18 compassion center staffer. A person who works as an agent, volunteer,
19 employee, principal officer, or board member of a registered compassion
20 center in violation of this section is subject to a civil violation
21 punishable by a penalty of not to exceed one thousand dollars levied by
22 the department. A subsequent violation of this section is a Class III
23 misdemeanor.

24 (e) A registered compassion center may not acquire usable cannabis
25 or mature cannabis plants from any person other than another registered
26 compassion center, a registered qualifying patient, or a registered
27 designated caregiver. A registered compassion center is only allowed to
28 acquire usable cannabis or cannabis plants from a registered qualifying
29 patient or a registered designated caregiver if the registered qualifying
30 patient or registered designated caregiver receives no compensation for
31 the cannabis.

1 (f) A person who violates subdivision (b) or (e) of this subsection
2 may not be a compassion center staffer, and such person's registry
3 identification card shall be immediately revoked. The department may
4 suspend or revoke a compassion center staffer's registry identification
5 card for violating the Cannabis Compassion and Care Act.

6 (g) A registered compassion center that violates subdivision (b) or
7 (e) of this subsection shall immediately have its registration revoked,
8 and its board members and principal officers may not serve as the board
9 members or principal officers for any other registered compassion center.

10 Sec. 6. (1) Not later than ninety days after the effective date of
11 this act, the department, in consultation with the compassion board,
12 shall adopt and promulgate rules and regulations governing the manner in
13 which the department considers petitions from the public to add
14 debilitating medical conditions or treatments to the list of debilitating
15 medical conditions set forth in section 3 of this act. In considering
16 such petitions, the department shall include public notice of, and an
17 opportunity to comment in a public hearing upon, the petitions. The
18 department, after hearing, shall approve or deny a petition within ninety
19 days of its submission. The approval or denial of a petition is a final
20 department action, subject to judicial review. Jurisdiction and venue for
21 judicial review are vested in the district court.

22 (2) Not later than ninety days after the effective date of this act,
23 the department, in consultation with the compassion board, shall adopt
24 and promulgate rules and regulations governing the manner in which the
25 department considers applications for and renewals of registry
26 identification cards.

27 (3)(a) Not later than ninety days after the effective date of this
28 act, the department, in consultation with the compassion board, shall
29 adopt rules and regulations governing the manner in which the department
30 considers applications for and renewals of registration certificates for
31 registered compassion centers, including reasonable rules and regulations

1 governing:

2 (i) The form and content of registration and renewal applications;

3 (ii) Minimum oversight requirements for registered compassion
4 centers;

5 (iii) Minimum record-keeping requirements for registered compassion
6 centers;

7 (iv) Minimum security requirements for registered compassion
8 centers, which shall include that each registered compassion center
9 location must be protected by a fully operational security alarm system;
10 and

11 (v) Procedures for suspending or terminating the registration of
12 registered compassion centers that violate the Cannabis Compassion and
13 Care Act or the rules and regulations adopted and promulgated pursuant to
14 the act.

15 (b) The department, in consultation with the compassion board, shall
16 adopt and promulgate rules and regulations with the goal of protecting
17 against diversion and theft without imposing an undue burden on the
18 registered compassion centers or compromising the confidentiality of
19 registered qualifying patients and their registered designated
20 caregivers. Any dispensing records that a registered compassion center is
21 required to keep shall track transactions according to registered
22 qualifying patients', registered designated caregivers', and registered
23 compassion centers' registry identification numbers, rather than their
24 names, to protect their confidentiality.

25 (4) Not later than ninety days after the effective date of this act,
26 the department, in consultation with the compassion board, shall adopt
27 and promulgate rules and regulations establishing application and renewal
28 fees for registry identification cards and registered compassion center
29 registration certificates. The fees shall be in accordance with the
30 following parameters:

31 (a) The total fees collected must generate revenue sufficient to

1 offset all expenses of implementing and administering the Cannabis
2 Compassion and Care Act;

3 (b) Compassion center application fees may not exceed five thousand
4 dollars;

5 (c) Compassion center renewal fees may not exceed one thousand
6 dollars;

7 (d) The total revenue from compassion center application and renewal
8 fees and registry identification card fees for compassion center staffers
9 must be sufficient to offset all expenses of implementing and
10 administering the compassion center aspects of the Cannabis Compassion
11 and Care Act, including the verification system;

12 (e) The department may establish a sliding scale of patient
13 application and renewal fees based upon a qualifying patient's family
14 income; and

15 (f) The department may accept donations from private sources in
16 order to reduce the application and renewal fees.

17 Sec. 7. (1) The department shall issue registry identification
18 cards to qualifying patients who submit the following, in accordance with
19 the rules and regulations adopted and promulgated by the department:

20 (a) Written certification;

21 (b) Application or renewal fee;

22 (c) Name, address, and date of birth of the qualifying patient,
23 except that if the applicant is homeless, no address is required;

24 (d) Name, address, and telephone number of the qualifying patient's
25 practitioner;

26 (e) Name, address, and date of birth of the designated caregiver
27 designated, if any, by the qualifying patient;

28 (f) A statement signed by the qualifying patient pledging not to
29 divert cannabis to anyone who is not allowed to possess cannabis pursuant
30 to the Cannabis Compassion and Care Act; and

31 (g) A signed statement from the designated caregiver, if any,

1 agreeing to be designated as the patient's designated caregiver and
2 pledging not to divert cannabis to anyone who is not allowed to possess
3 cannabis pursuant to the Cannabis Compassion and Care Act.

4 (2) The department shall not issue a registry identification card to
5 a qualifying patient who is younger than eighteen years of age unless:

6 (a) The qualifying patient's practitioner has explained the
7 potential risks and benefits of the medical use of cannabis to the
8 custodial parent or legal guardian with responsibility for health care
9 decisions for the qualifying patient; and

10 (b) The custodial parent or legal guardian with responsibility for
11 health care decisions for the qualifying patient consents in writing to:

12 (i) Allow the qualifying patient's medical use of cannabis;

13 (ii) Serve as the qualifying patient's designated caregiver; and

14 (iii) Control the acquisition of the cannabis and the dosage and the
15 frequency of the medical use of cannabis by the qualifying patient.

16 (3) The department shall verify the information contained in an
17 application or renewal submitted pursuant to this section and shall
18 approve or deny an application or renewal within fifteen days of
19 receiving it. The department may deny an application or renewal only if
20 the applicant did not provide the information required pursuant to this
21 section, the applicant previously had a registry identification card
22 revoked for violating the Cannabis Compassion and Care Act, or the
23 department determines that the information provided was falsified.
24 Rejection of an application or renewal is considered a final department
25 action subject to judicial review. Jurisdiction and venue for judicial
26 review are vested in the district court.

27 (4) The department shall issue a registry identification card to the
28 designated caregiver, if any, who is named in a qualifying patient's
29 approved application, up to a maximum of one designated caregiver per
30 qualifying patient, if the designated caregiver meets the requirements of
31 subdivision (8) of section 3 of this act. The department shall notify the

1 qualifying patient who has designated a person to serve as the patient's
2 designated caregiver if a registry identification card will not be issued
3 to the designated person. A designated caregiver shall be issued a
4 registry identification card each time the designated caregiver is
5 designated by a qualifying patient.

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

15 (a) Name, address, and date of birth of the qualifying patient;

16 (b) Name, address, and date of birth of the designated caregiver, if
17 any, of the qualifying patient;

18 (c) The date of issuance and expiration date of the registry
19 identification card;

20 (d) A random twenty-digit alphanumeric identification number,
21 containing at least four numbers and at least four letters, that is
22 unique to the cardholder;

23 (e) If the cardholder is a designated caregiver, the random
24 identification number of the registered qualifying patient that the
25 designated caregiver is assisting; and

26 (f) A photograph if the department decides to require one.

27 (6) The following notifications and department responses are
28 required:

29 (a) A registered qualifying patient shall notify the department of
30 any change of name, address, or designated caregiver or if the registered
31 qualifying patient ceases to have a debilitating medical condition,

1 within ten days of such change;

2 (b) A registered qualifying patient who fails to notify the
3 department of any of these changes is subject to a civil penalty of no
4 more than one hundred fifty dollars levied by the department. If the
5 registered qualifying patient's certifying practitioner notifies the
6 department in writing that either the registered qualifying patient has
7 ceased to suffer from a debilitating medical condition or that the
8 practitioner no longer believes the patient would receive therapeutic or
9 palliative benefit from the medical use of cannabis, the card is null and
10 void upon notification by the department to the qualifying patient;

11 (c) Any registered designated caregiver or compassion center staffer
12 must notify the department of any change in name or address within ten
13 days of such change. A registered designated caregiver or compassion
14 center staffer who fails to notify the department of any of these changes
15 is subject to a civil penalty of no more than one hundred fifty dollars
16 levied by the department;

17 (d) When a cardholder notifies the department of any changes listed
18 in this subsection, the department shall issue the cardholder a new
19 registry identification card with new random twenty-digit alphanumeric
20 identification numbers within ten days of receiving the updated
21 information and a ten-dollar fee. If the person notifying the department
22 is a registered qualifying patient, the department shall also issue the
23 patient's registered designated caregiver, if any, a new registry
24 identification card within ten days of receiving the updated information;

25 (e) When a registered qualifying patient ceases to be a registered
26 qualifying patient or changes the registered designated caregiver, the
27 department shall notify the designated caregiver within ten days. The
28 registered designated caregiver's protections under the Cannabis
29 Compassion and Care Act as to that qualifying patient shall expire ten
30 days after notification by the department; and

31 (f) If a cardholder loses the registry identification card, the

1 cardholder shall notify the department and submit a ten-dollar fee within
2 ten days of losing the card. Within five days after such notification,
3 the department shall issue a new registry identification card with a new
4 random identification number to the cardholder and, if the cardholder is
5 a registered qualifying patient, to the registered qualifying patient's
6 registered designated caregiver, if any.

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

14 (8) The following confidentiality rules shall apply:

15 (a) Applications and supporting information submitted by qualifying
16 patients and designated caregivers, including information regarding their
17 designated caregivers and practitioners, are confidential;

18 (b) Applications and supporting information submitted by compassion
19 centers and compassion center personnel operating in compliance with the
20 Cannabis Compassion and Care Act, including the physical addresses of
21 compassion centers, are confidential;

22 (c) The department shall maintain a confidential list of the persons
23 to whom the department has issued registry identification cards.
24 Individual names and other identifying information on the list shall be
25 confidential and exempt from disclosure under section 84-712.01 except to
26 authorized employees of the department as necessary to perform official
27 duties of the department and as provided in this subsection.

28 (d) Within ninety days after the effective date of this act, the
29 department shall establish a secure, password-protected, web-based
30 verification system that is operational twenty-four hours each day, which
31 law enforcement personnel and compassion center staffers can use to

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

13 (i) Any time an authorized user enters five invalid registry
14 identification numbers within five minutes, that user cannot log in to
15 the system again for ten minutes; and

16 (ii) The server must reject any log-in request that is not over an
17 encrypted connection;

18 (e) Any hard drives containing cardholder information must be
19 destroyed once they are no longer in use, and the department shall retain
20 a signed statement from a department employee confirming the destruction;
21 and

22 (f)(i) It shall be a Class II misdemeanor for any person, including
23 an employee or official of the department or another state agency or
24 local government, to breach the confidentiality of information obtained
25 pursuant to the Cannabis Compassion and Care Act; and

26 (ii) This section shall not prevent the following notifications:

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

1 (B) The department may notify state or local law enforcement about
2 apparent criminal violations of the Cannabis Compassion and Care Act if
3 the employee who suspects the offense confers with such employee's
4 supervisor and both agree that circumstances exist that warrant
5 reporting; and

6 (C) Compassion center staffers may notify the department of a
7 suspected violation or attempted violation of the Cannabis Compassion and
8 Care Act or the rules and regulations adopted and promulgated pursuant to
9 the act.

10 (9) Any cardholder who sells cannabis to a person who is not allowed
11 to possess cannabis for medical purposes under the Cannabis Compassion
12 and Care Act shall have the cardholder's identification card revoked and
13 shall be subject to other penalties for the unauthorized sale of
14 cannabis. The department may revoke the registry identification card of
15 any cardholder who violates the Cannabis Compassion and Care Act, and the
16 cardholder shall be subject to any other penalties for the violation.

17 (10) The department shall submit electronically to the Legislature
18 an annual report that does not disclose any identifying information about
19 cardholders, compassion centers, or practitioners but does contain, at a
20 minimum, all of the following information:

21 (a) The number of applications and renewals filed for registry
22 identification cards;

23 (b) The number of qualifying patients and designated caregivers
24 approved in each county;

25 (c) The nature of the debilitating medical conditions of the
26 qualifying patients;

27 (d) The number of registry identification cards revoked;

28 (e) The number of practitioners providing written certifications for
29 qualifying patients;

30 (f) The number of registered compassion centers; and

31 (g) The number of compassion center staffers.

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

17 Sec. 8. (1) Except as provided in section 9 of this act, a patient
18 may assert the medical purpose for using cannabis as a defense to any
19 prosecution of an offense involving cannabis intended for the patient's
20 medical use, and this defense shall be presumed valid where the evidence
21 shows that:

22 (a) A practitioner has stated that, in the practitioner's
23 professional opinion, after having completed a full assessment of the
24 patient's medical history and current medical condition made in the
25 course of a bona fide practitioner-patient relationship, the patient is
26 likely to receive therapeutic or palliative benefit from the medical use
27 of cannabis to treat or alleviate the patient's serious or debilitating
28 medical condition or symptoms associated with the patient's serious or
29 debilitating medical condition;

30 (b) The patient and the patient's designated caregiver, if any, were
31 collectively in possession of a quantity of cannabis that was not more

1 than was reasonably necessary to ensure the uninterrupted availability of
2 cannabis for the purpose of treating or alleviating the patient's serious
3 or debilitating medical condition or symptoms associated with the
4 patient's serious or debilitating medical condition; and

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

11 (2) A person may assert the medical purpose for using cannabis in a
12 motion to dismiss, and the charges shall be dismissed following an
13 evidentiary hearing where the person shows the elements listed in
14 subsection (1) of this section.

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

22 Sec. 9. (1) The Cannabis Compassion and Care Act shall not permit
23 any person to do any of the following, nor shall it prevent the
24 imposition of any civil, criminal, or other penalties for any such
25 actions:

26 (a) Undertake any task under the influence of cannabis when doing so
27 would constitute negligence or professional malpractice;

28 (b) Possess cannabis or otherwise engage in the medical use of
29 cannabis (i) in a school bus, (ii) on the grounds of any preschool or
30 primary or secondary school, or (iii) in any correctional facility;

31 (c) Smoke cannabis on any form of public transportation or in any

1 public place;

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

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

10 (2) Nothing in the Cannabis Compassion and Care Act shall be
11 construed to require:

12 (a) The medical assistance program or a private health insurer to
13 reimburse a person for costs associated with the medical use of cannabis;

14 (b) Any person or establishment in lawful possession of property to
15 allow a guest, client, customer, or other visitor to use cannabis on or
16 in that property. The Cannabis Compassion and Care Act shall not limit a
17 person or entity in lawful possession of property, or an agent of such
18 person or entity, from expelling a person who uses cannabis without
19 permission from the property and from seeking civil and criminal
20 penalties for the unauthorized use of cannabis on the property; or

21 (c) An employer to accommodate the ingestion of cannabis in any
22 workplace or any employee working while under the influence of cannabis.
23 A qualifying patient shall not be considered to be under the influence of
24 cannabis solely because of the presence of metabolites or components of
25 cannabis that appear in insufficient concentration to cause impairment.
26 The Cannabis Compassion and Care Act shall in no way limit an employer's
27 ability to discipline an employee for ingesting cannabis in the workplace
28 or working while under the influence of cannabis.

29 (3) Fraudulent representation to a law enforcement official of any
30 fact or circumstance relating to the medical use of cannabis to avoid
31 arrest or prosecution shall be punishable by a Class V misdemeanor, which

1 shall be in addition to any other penalties that may apply for making a
2 false statement or for the use of cannabis other than use undertaken
3 pursuant to the Cannabis Compassion and Care Act.

4 Sec. 10. (1) If the department fails to adopt and promulgate rules
5 and regulations to implement the Cannabis Compassion and Care Act within
6 ninety days after the effective date of this act, a qualifying patient or
7 a prospective board member or prospective principal officer of a
8 compassion center may commence an action in district court to compel the
9 department to perform the actions mandated pursuant to the Cannabis
10 Compassion and Care Act.

11 (2) If the department fails to issue a valid registry identification
12 card in response to a valid application or renewal submitted pursuant to
13 the Cannabis Compassion and Care Act within twenty days after its
14 submission, the registry identification card shall be deemed granted, and
15 a copy of the registry identification application or renewal shall be
16 deemed a valid registry identification card.

17 (3) If at any time after one hundred ten days following the
18 effective date of this act, the department is not accepting applications,
19 including if it has not adopted and promulgated rules and regulations
20 allowing qualifying patients to submit applications, a notarized
21 statement by a qualifying patient containing the information required in
22 an application, pursuant to subsection (1) of section 7 of this act
23 together with a written certification shall be deemed a valid registry
24 identification card.

25 Sec. 11. (1) There is established within the department a
26 compassion board. The board shall consist of eleven members appointed by
27 the chief executive officer of the department. The chief executive
28 officer, insofar as possible, shall appoint persons from different
29 geographical areas and persons who represent various economic interests.
30 If a vacancy occurs on the board, the chief executive officer shall
31 appoint a person to fill the vacant position for the unexpired term, if

1 any. Members of the board shall be appointed for terms of three years and
2 until their successors are appointed and qualified, except that of the
3 members first appointed on or after the effective date of this act, three
4 shall be appointed for a term of one year, three shall be appointed for a
5 term of two years, and five shall be appointed for a term of three years,
6 as designated by the chief executive officer. The board shall advise the
7 chief executive officer about the administration of the Cannabis
8 Compassion and Care Act and shall perform such duties as are required by
9 the act.

10 (2) Members of the board shall be reimbursed for actual and
11 necessary expenses as provided in sections 81-1174 to 81-1177.

12 Sec. 12. Section 77-4303, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 77-4303 (1) A tax is hereby imposed on marijuana and controlled
15 substances at the following rates:

16 (a) On each ounce of marijuana or each portion of an ounce, one
17 hundred dollars;

18 (b) On each gram or portion of a gram of a controlled substance that
19 is customarily sold by weight or volume, one hundred fifty dollars; or

20 (c) On each fifty dosage units or portion thereof of a controlled
21 substance that is not customarily sold by weight, five hundred dollars.

22 (2) For purposes of calculating the tax under this section,
23 marijuana or any controlled substance that is customarily sold by weight
24 or volume shall be measured by the weight of the substance in the
25 dealer's possession. The weight shall be the actual weight, if known, or
26 the estimated weight as determined by the Nebraska State Patrol or other
27 law enforcement agency. Such determination shall be presumed to be the
28 weight of such marijuana or controlled substances for purposes of
29 sections 77-4301 to 77-4316.

30 (3) The tax shall not be imposed upon a person registered or
31 otherwise lawfully in possession of marijuana or a controlled substance

1 pursuant to Chapter 28, article 4, except that persons lawfully in
2 possession of cannabis under the Cannabis Compassion and Care Act shall
3 pay the tax required by sections 77-4301 to 77-4316.

4 Sec. 13. If any section in this act or any part of any section is
5 declared invalid or unconstitutional, the declaration shall not affect
6 the validity or constitutionality of the remaining portions.

7 Sec. 14. Original section 77-4303, Reissue Revised Statutes of
8 Nebraska, is repealed.