AN ACT concerning health and healthcare; enacting the Kansas equal access act; relating to medical cannabis; providing for the licensure and regulation of the manufacture, transportation and sale of medical cannabis; amending K.S.A. 44-1009, 44-1015, 79-5201 and 79-5210 and K.S.A. 2019 Supp. 8-1567, 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 21-6109, 23-3201, 38-2269, 44-501, 44-706 and 65-1120 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Sections 1 through 26, and amendments thereto, shall be known as the Kansas equal access act.

(b) The legislature hereby declares that the Kansas equal access act is enacted pursuant to the police power of the state to protect the health of its citizens, which power is reserved to the state of Kansas and its people under the 10th amendment to the constitution of the United States.

New Sec. 2. As used in the Kansas equal access act, unless the context requires otherwise:

(a) "Advertising" means the act of providing consideration for the publication, dissemination, solicitation or circulation of visual, oral or written communication to directly or indirectly induce any person to patronize a particular licensed medical cannabis facility or purchase a particular type of medical cannabis or medical cannabis product. The term "advertising" includes marketing, but does not include the packaging and labeling of any medical cannabis or medical cannabis product.

(b) "Agency" means the Kansas medical cannabis agency established under section 3, and amendments thereto.

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

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake or the sterilized seed of the plant that is incapable of germination; (2) any substance listed in schedules II through V of the uniform controlled substances act; (3) cannabidiol.
(other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol); or (4) industrial hemp as defined in K.S.A. 2019 Supp. 2-3901, and amendments thereto, when cultivated, produced, possessed or used for activities authorized by the commercial industrial hemp act.

(d) "Cannabinoid" means any of the chemical compounds that are active principles of cannabis.

(e) "Caregiver" means an individual who holds a caregiver license issued pursuant to section 10, and amendments thereto.

(f) "Cultivation facility" means a person licensed pursuant to section 16, and amendments thereto, to cultivate, prepare and package medical cannabis and to sell medical cannabis to licensed dispensary and manufacturer facilities.

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

(h) "Director" means the director of the Kansas medical cannabis agency.

(i) "Dispensary facility" means a person licensed pursuant to section 16, and amendments thereto, to purchase medical cannabis or medical cannabis products from a licensed cultivation facility or manufacturer facility and to sell medical cannabis and medical cannabis products to other licensed dispensary facilities or to licensed patients and caregivers.

(j) "Educational research facility" means a person licensed pursuant to section 16, and amendments thereto, to provide training and education to individuals involving the cultivation, growing, harvesting, curing, preparing, packaging or testing of medical cannabis or the production, manufacture, extraction, processing, packaging or creation of medical cannabis products.

(k) "Licensee" means any person holding a license issued pursuant to this act to operate a cultivation facility, manufacturer facility, testing laboratory facility or dispensary facility.

(l) "Licensed premises" means the premises specified in an application for a cultivation facility, manufacturer facility, testing laboratory facility, dispensary facility or educational research facility license that is owned or leased by the person holding such license.

(m) "Manufacture" means the production, propagation, compounding or processing of a medical cannabis product, excluding cannabis plants, either directly or indirectly by extraction from substances of natural or synthetic origin, by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(n) "Material change" means any change that would require a substantive revision to the standard operating procedures of a licensee in the cultivation or manufacture of medical cannabis or medical cannabis products.
(o) "Medical cannabis concentrate" means a medical cannabis concentrate produced by extracting cannabinoids from cannabis through the use of heat or pressure.

(p) "Medical cannabis product" means a product that contains cannabinoids that have been extracted from plant material or the resin of a plant and is intended for administration to a patient. The term "medical cannabis product" includes, but is not limited to, oils, tinctures, edibles, pills, topical forms, gels, creams, vapors, patches, liquids and any form administered by a nebulizer. The term "medical cannabis product" does not include any form of the live cannabis plant.

(q) "Medical provider" means a physician or physician assistant, as those terms are defined in K.S.A. 65-28a02, and amendments thereto, or an advanced practice registered nurse, as defined in K.S.A. 65-1113, and amendments thereto.

(r) "Patient" means an individual who holds a patient license issued pursuant to section 10, and amendments thereto.

(s) "Person" means an individual, partnership, limited partnership, limited liability partnership, limited liability company, trust, estate, association, corporation, cooperative or any other legal or commercial organization.

(t) "Processor facility" means a person licensed pursuant to section 16, and amendments thereto, to produce, manufacture, package or create medical cannabis concentrate or medical cannabis products.

(u) "Qualifying medical condition" means a temporary disability or illness due to injury or surgery or a permanent disability or illness that:

   (1) Substantially limits the ability of the individual to conduct one or more major life activities as defined in the Americans with disabilities act of 1990, public law 101-336; or
   
   (2) if not alleviated, may cause serious harm to the individual's safety or physical or mental health.

(v) "Secretary" means the secretary of the department of health and environment.

(w) "Secured facility" means an enclosed space equipped with locks or other security devices that permit access to such space only by the patient or individuals authorized to enter such space by the patient, and, if such facility is located outdoors, the cannabis plants are not visible to the unaided eye at ground level from property that is adjacent to such facility, but not owned or controlled by the patient, or from any permanent structure located on such adjacent property.

(x) "Testing laboratory facility" means a person licensed pursuant to section 16, and amendments thereto, to conduct testing and research on medical cannabis and medical cannabis products.

New Sec. 3. There is hereby established, within and as a part of the
department of health and environment, the Kansas medical cannabis agency. The secretary of health and environment shall appoint a director of the Kansas medical cannabis agency, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the director shall serve at the pleasure of the secretary. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as director shall exercise any power, duty or function as director until confirmed by the senate. The director of the Kansas medical cannabis agency shall be in the unclassified service and shall receive an annual salary fixed by the secretary of health and environment and approved by the governor. Under the supervision of the secretary, the director shall administer the Kansas medical cannabis agency in accordance with the provisions of this act.

New Sec. 4. No individual shall be appointed director or employed by the agency if such individual, such individual's spouse, parent, sibling, child or spouse of a sibling or child, directly or indirectly, individually or as a member of a partnership, or as a shareholder of a corporation, holds any interest in any person or entity licensed pursuant to this act.

New Sec. 5. (a) All employees of the agency shall be in the unclassified service. The director shall not adopt any employment policy that prohibits the employment of individuals who have been convicted or pleaded guilty to any offense under article 36a of chapter 21 of the Kansas Statutes Annotated, prior to its transfer, article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 65-4160 or 65-4162, prior to their repeal, but whose conduct that resulted in such offense would have been lawful if such individual had possessed a valid patient or caregiver identification card at the time of such offense.

(b) The director and any agents or employees of the agency designated by the director, with the approval of the secretary, are hereby vested with the power and authority of law enforcement officers, in the execution of the duties imposed upon the director by this act and in enforcing the provisions of this act.

(c) The director and each agent and employee designated by the director under subsection (a), with the approval of the secretary, shall have the authority to make arrests, conduct searches and seizures and carry firearms while investigating violations of this act and during the routine conduct of their duties as determined by the director or the director's designee. In addition to or in lieu of the above, the director and each agent and employee shall have the authority to issue notices to appear pursuant to K.S.A. 22-2408, and amendments thereto. No agent or employee of the agency shall be certified to carry firearms under the provisions of this section without having first successfully completed the firearm training course or courses prescribed for law enforcement officers under K.S.A. 74-5604a(a), and amendments thereto. The secretary may adopt rules and
regulations prescribing other training required for such agents or employees.

(d) The attorney general shall appoint, with the approval of the secretary, an assistant attorney general who shall be the attorney for the director and the agency and who shall receive an annual salary fixed by the attorney general with the approval of the director.

New Sec. 6. (a) The director shall have the following powers, functions and duties:

(1) To receive applications for and to issue, suspend and revoke identification cards and licenses in accordance with the provisions of this act;

(2) to call upon other administrative departments and law enforcement agencies of the state, county and city governments and upon district and county attorneys for such information and assistance as the director deems necessary in the performance of the duties imposed upon the director by this act;

(3) to inspect or cause to be inspected any licensed premises or any premises where cananbis is cultivated;

(4) in the conduct of any hearing authorized to be held by the director:

(A) to examine or cause to be examined, under oath, any person and to examine or cause to be examined books and records of any licensee;

(B) to hear testimony and take proof material for the information of the director in the discharge of such duties hereunder;

(C) to administer or cause to be administered oaths; and

(D) for any such purposes, to issue subpoenas to require the attendance of witnesses and the production of books that shall be effective in any part of this state, and any district court or any judge of the district court, may, by order duly entered, require the attendance of witnesses and the production of relevant books subpoenaed by the director, and the court or judge may compel obedience to the order by proceedings for contempt;

(5) to collect, receive, account for and remit all license fees and taxes provided for in this act and all other moneys received by the director pursuant to this act;

(6) to enter into such contracts as necessary to implement the provisions of this act;

(7) to impose any fines or other civil penalties in accordance with the provisions of this act;

(8) to seek injunctive relief or any other appropriate civil remedy necessary to enforce the provisions of this act and any rules and regulations adopted thereunder;

(9) to coordinate with the state banking commissioner and the state treasurer to develop banking and finance best practices and standards for
facilities licensed pursuant to this act; and
(10) such other powers, functions and duties as are or may be
imposed or conferred upon the director by law.
(b) The director shall propose such rules and regulations as necessary
to implement the provisions of this act. After the public hearing on a
proposed rule and regulation has been held as required by law, the director
shall submit the proposed rule and regulation to the secretary, who shall
adopt the rule and regulation upon approval by the secretary. Such rules
and regulations shall include, but are not limited to:
(1) Establishing internal control policies and procedures for the
review of license applications and the issuance of licenses;
(2) verifying the sources of financing for facilities licensed pursuant
to this act; and
(3) establishing policies and procedures for the reporting and tracking
of:
   (A) Adverse events;
   (B) product recalls; and
   (C) complaints.
(c) It is intended by this act that the director shall have broad
discretionary powers to govern the traffic in medical cannabis in this state
and to strictly enforce all the provisions of this act in the interest of
sanitation, purity of products, truthful representation and honest dealings
in such manner as generally will promote the public health and welfare.
All valid rules and regulations adopted under the provisions of this act
shall be absolutely binding upon all licensees and enforceable by the
director through the power of suspension or revocation of licenses.

New Sec. 7. All actions by the director under the Kansas equal access
act shall be in accordance with the Kansas administrative procedure act
and reviewable in accordance with the Kansas judicial review act.

New Sec. 8. (a) There is hereby established the Kansas medical
cannabis advisory board. The Kansas medical cannabis advisory board
shall consist of 18 members as follows:
(1) The secretary of the department of health and environment or the
secretary's designee;
(2) the secretary of the department of agriculture or the secretary's
designee;
(3) the secretary for aging and disability services or the secretary's
designee;
(4) The following members appointed by the governor:
   (A) Two members who support the use of cannabis for medical
purposes and who are or were patients who found relief from the use of
medical cannabis;
   (B) one member designated by the Kansas association of addiction
professionals;
(C) three licensed physicians who have completed cannabis-specific continuing medical education training;
(D) one licensed nurse practitioner who has experience in hospice care;
(E) one licensed pharmacist;
(F) one member who has experience in the science of cannabis;
(G) one member who is a representative of law enforcement agencies;
(H) one member who is an attorney knowledgeable about medical cannabis laws in the United States;
(I) one member recommended by the secretary of agriculture who has experience in horticulture;
(J) two members who have experience in the medical cannabis industry; and
(K) one member designated by the league of Kansas municipalities.
(b) Members of the Kansas medical cannabis advisory board shall serve for a term of two years. Any vacancy in a position on the board shall be filled in the same manner as the original appointment.
(c) The governor shall designate the chair from the members appointed by the governor.
(d) The Kansas medical cannabis advisory board shall advise the secretary and the director on adoption of rules and regulations pertaining to the following:
(1) Applications for licensure;
(2) issuance and renewal of licenses;
(3) security issues;
(4) testing of medical cannabis and medical cannabis products;
(5) transportation of medical cannabis and medical cannabis products;
(6) education and research of medical cannabis;
(7) electronic monitoring of medical cannabis from seed source to dispensing to a patient or caregiver as required under section 20, and amendments thereto; and
(8) policies and procedures related to the receipt, storage, packaging, labeling, handling, manufacturing, tracking and dispensing of medical cannabis and medical cannabis products.
New Sec. 9. (a) The director shall begin accepting applications for identification cards and licenses on or before January 1, 2021.
(b) The agency shall develop and publish a website to provide information about the Kansas equal access act. A link to the website shall be located in a prominent location on the primary website for the department of health and environment.
(c) The agency website may include, but not be limited to, the following:
The ability to search for any of the following:

(A) Certified medical providers;
(B) caregivers; and
(C) licensed dispensaries;

(2) contact information, including phone number and email, for the agency;

(3) information regarding the process for appealing a decision of the director;

(4) application forms for identification cards and facility licenses; and

(5) crop damage report forms, including a portal to upload documents and pictures.

New Sec. 10. (a) A patient seeking to use medical cannabis or a caregiver seeking to assist a patient in the use or administration of medical cannabis shall apply to the director for an identification card authorizing the possession and use of medical cannabis and medical cannabis products as authorized by this act. The application for an identification card shall be submitted in such form and manner as prescribed by the director, accompanied by the required fee. The application shall include the written recommendation from the patient's medical provider to treat such patient with medical cannabis because such patient has a qualifying medical condition.

(b) (1) The fee for a patient identification card and the renewal thereof shall not exceed $25, except that such fee shall be waived for any applicant that submits proof that the applicant:

(A) Qualifies for services under the Kansas medical assistance program; or

(B) is certified by the Kansas department for aging and disability services or by the Kansas department for children and families as having a physical or mental impairment that constitutes a substantial barrier to employment.

(2) The fee for a caregiver identification card and the renewal thereof shall be established by rules and regulations adopted hereunder.

(c) The director shall not issue an identification card to an applicant who is under 18 years of age unless the applicant submits written recommendations from two medical providers that such applicant has a qualifying medical condition, and such applicant's custodial parent or legal guardian with responsibility for healthcare decisions for such applicant obtains a caregiver identification card and is designated as such applicant's caregiver.

(d) (1) A patient may designate any individual who is 18 years of age or older as such patient's caregiver, including the owner, operator or any trained staff of a licensed clinic, healthcare facility, hospice or home health agency, group home or halfway house, and any individual who has been
designated as a caregiver by another patient.

(2) A caregiver may be less than 18 years of age if:

(A) The caregiver is the parent of the patient, and the patient is under 18 years of age;

(B) the caregiver is otherwise authorized by law to make healthcare decisions for the patient; or

(C) it is demonstrated to the satisfaction of the director that the patient needs a caregiver and there is no individual 18 years of age or older who can adequately perform the duties of a caregiver for such patient.

(e) A written recommendation from a medical provider required under this section shall include a statement that such medical provider has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling or referral of a patient, has conducted a medical examination of such patient and has determined such patient suffers from a qualifying medical condition.

(f) A patient or caregiver identification card shall be valid for the period of time stated on such card and may be renewed by submitting a renewal application in such form and manner as prescribed by the director, accompanied by the required fee. The secretary shall adopt rules and regulations establishing the period of validity for patient and caregiver identification cards and the procedures for the renewal thereof.

(g) (1) Any information collected by the director pursuant to this section is confidential and not a public record. The director may share information identifying a specific patient or caregiver with a licensed retail dispensary for the purpose of confirming that such patient or caregiver has a valid identification card. The provisions of this subsection shall expire on July 1, 2025, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2025.

(2) It shall be a class B nonperson misdemeanor for any person to release any confidential information collected by the director except as authorized under this act.

New Sec. 11. (a) An individual issued a patient or caregiver identification card pursuant to section 10, and amendments thereto, may cultivate, purchase, possess and use medical cannabis and medical cannabis products as authorized by rules and regulations adopted hereunder.

(b) In adopting such rules and regulations, the secretary may establish limits on the amount of medical cannabis and medical cannabis products that may be cultivated, purchased and possessed by a patient or caregiver. Such rules and regulations shall include, but not be limited to:

(1) A requirement that a patient notify the director that such patient intends to cultivate cannabis pursuant to this section;
(2) a restriction that cultivation by a patient shall not exceed 25 square feet of flowering canopy space and shall be completely contained in a secured facility;
(3) a requirement that cannabis cultivated by a patient shall be subject to the medical cannabis electronic monitoring database established under section 20, and amendments thereto, and any reporting requirements established thereunder; and
(4) a requirement that a patient cultivating cannabis shall be subject to all rules and regulations concerning the reporting and tracking of adverse events.
(c) Any limit on the amount of medical cannabis or medical cannabis product a patient or caregiver may cultivate, purchase or possess shall allow at least four ounces of dried, unprocessed medical cannabis or its equivalent as a 30-day supply. Such rules and regulations shall also allow for exceptions from any such limitations upon submission of a written certification from two independent medical providers that there are compelling reasons for the patient to purchase and possess greater quantities of medical cannabis or medical cannabis products.

New Sec. 12. (a) Except as provided in subsection (f), a medical provider seeking to recommend treatment with medical cannabis shall apply to the director for a certificate authorizing such medical provider to recommend treatment with medical cannabis. The application shall be submitted in such form and manner as prescribed by the director, accompanied by the required fee. The director shall grant a certificate to recommend if the following conditions are satisfied:
(1) The application is complete and meets the requirements established in rules and regulations adopted hereunder; and
(2) the applicant demonstrates that the applicant does not have an ownership or investment interest in or compensation arrangement with an entity licensed by the director under this act or an applicant for such licensure.
(b) The fee for a certificate to recommend shall be established by rules and regulations adopted hereunder.
(c) A certificate to recommend may be renewed at such time by submitting a renewal application in such form and manner as prescribed by the director and by complying with rules and regulations adopted hereunder for such renewal.
(d) In the case of a patient who is under 18 years of age, the medical provider may recommend treatment with medical cannabis only after obtaining the consent of the patient's parent or legal guardian responsible for making healthcare decisions for the patient.
(e) A medical provider who holds a certificate to recommend treatment with medical cannabis shall be immune from civil liability, shall
not be subject to professional disciplinary action by the state board of healing arts or the board of nursing and shall not be subject to criminal prosecution for any of the following actions:

(1) Advising a patient, patient representative or caregiver about the benefits and risks of medical cannabis to treat a qualifying medical condition;
(2) recommending that a patient use medical cannabis to treat or alleviate a qualifying medical condition; and
(3) monitoring a patient's treatment with medical cannabis.

(f) This section shall not apply to a medical provider who recommends treatment with cannabis or a cannabis-derived drug under any of the following that is approved by an institutional review board or equivalent entity, the United States food and drug administration or the national institutes of health or one of its cooperative groups or centers under the United States department of health and human services:

(1) A research protocol;
(2) a clinical trial;
(3) an investigational new drug application; or
(4) an expanded access submission.

New Sec. 13. A medical cannabis registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth or insular possession of the United States that is verifiable by the jurisdiction of issuance and allows a nonresident patient to possess medical cannabis for medical purposes shall have the same force and effect as an identification card issued by the director pursuant to section 10, and amendments thereto.

New Sec. 14. No state or municipal law enforcement agency, or any officer or employee thereof, shall provide any identifying information concerning a patient or caregiver who holds an identification card issued pursuant to section 10, and amendments thereto, to any federal law enforcement agency or law enforcement agency of another jurisdiction for the purpose of any investigation of a crime involving possession of cannabis, unless such law enforcement agency recognizes the lawful purchase, possession and consumption of medical cannabis under the Kansas equal access act.

New Sec. 15. Nothing in this act shall prohibit a commercial real property owner or a business owner from prohibiting the consumption of medical cannabis or medical cannabis products by smoking or vaporizing such medical cannabis or medical cannabis products on the owner's premises and within 10 feet of any entryway to such premises.

New Sec. 16. (a) A person seeking to operate a cultivation, testing laboratory, processor or dispensary facility shall apply to the director for a license for such facility. The application shall be submitted in such form
and manner as prescribed by the director, accompanied by the required fee. The director shall issue a license for such facility if the following conditions are satisfied:

(1) The application is complete and meets the requirements established in rules and regulations adopted hereunder; and

(2) the applicant submits proof that at least \( \frac{2}{3} \) of the individuals who have an ownership interest in such facility are residents of this state.

(b) A person seeking to operate an educational research laboratory facility shall apply to the director for a license for such facility. The application shall be submitted in such form and manner as prescribed by the director, accompanied by the required fee. The director shall issue a license for such facility if the following conditions are satisfied:

(1) The application is complete and meets the requirements established in rules and regulations adopted hereunder; and

(2) the applicant submits proof that such applicant has or will have an employment policy that will not prohibit the employment of individuals who have been convicted or pleaded guilty to any offense under article 36a of chapter 21 of the Kansas Statutes Annotated, prior to its transfer, article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 65-4160 or 65-4162, prior to their repeal, but whose conduct that resulted in such offense would have been lawful if such individual had possessed a valid patient or caregiver identification card at the time of such offense.

(c) The fee for each type of facility license issued by the director and the renewal thereof shall be established by rules and regulations adopted hereunder.

(d) A facility license shall be valid for the period of time stated on such license and may be renewed by submitting a renewal application in such form and manner as prescribed by the director, accompanied by the required fee. The secretary shall adopt rules and regulations establishing the period of validity for facility licenses and the procedures for the renewal thereof.

(e) An individual shall be a resident of this state for at least two years immediately prior to submission of the license application to be considered a resident for purposes of obtaining a license under this section.

(f) The secretary shall adopt rules and regulations for:

(1) Applications for licensure;

(2) issuance of licenses;

(3) security of facilities;

(4) testing protocols for laboratories;

(5) employee training requirements;

(6) transportation and handling of medical cannabis and medical cannabis products; and
(7) the receipt, storage, packaging, labeling, handling, manufacturing, tracking and dispensing of medical cannabis and medical cannabis products.

New Sec. 17. All applicants for a facility license shall require any owner, director, officer or agent of such applicant to be fingerprinted and to submit to a state and national criminal history record check. The director is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The director shall use the information obtained from fingerprinting and the state and national criminal history record check for purposes of verifying the identification of the applicant and for making a determination of the qualifications of the applicant for licensure. The Kansas bureau of investigation may charge a reasonable fee to the applicant for fingerprinting and conducting a criminal history record check, except such fee shall not exceed the actual cost incurred for such criminal history record check.

New Sec. 18. (a) The director may refuse to issue or renew a facility license, or may revoke or suspend a facility license for any of the following reasons:

1. The licensee has failed to comply with any provision of the Kansas equal access act or any rules and regulations adopted hereunder;
2. the applicant or licensee has falsified or misrepresented any information submitted to the director in order to obtain a license;
3. the applicant or licensee has failed to adhere to any acknowledgment, verification or other representation made to the director when applying for a license; or
4. the applicant or licensee has failed to submit or disclose information requested by the director.

(b) (1) Except as provided in paragraph (2), the director shall inspect the licensed premises of a facility licensee not more than twice each calendar year, and shall provide notice of such inspection to the licensee at least 24 hours prior to the inspection.
2. The director may conduct additional inspections of a licensed premises when necessary due to a prior violation of this act. Such inspection may be conducted without prior notice to the licensee if the director reasonably believes that such notice will result in the destruction of evidence in further violation of this act.
3. During any investigation by the director, the director may require and conduct interviews with the licensee under investigation and any owners, officers, employees and agents thereof. Prior to conducting any such interviews upon the request of the licensee, the director shall provide the licensee and any other individuals being interviewed sufficient time to secure legal representation during such interviews.
New Sec. 19.  (a) In addition to or in lieu of any other civil or criminal penalty as provided by law, the director may impose a civil penalty or suspend or revoke a license upon a finding that the licensee committed a violation as provided in this section.

(b) (1) Upon a finding that a facility licensee has sold, transferred or otherwise distributed medical cannabis in violation of this act, the director may impose a civil fine not to exceed $1,000 for a first offense and not to exceed $5,000 for a second or subsequent offense.

(2) Upon a showing that a facility licensee acted willfully or with gross negligence in selling, transferring or otherwise distributing medical cannabis in violation of this act, the director may suspend or revoke such licensee's license.

(c) (1) Upon a finding that a patient or caregiver intentionally diverted medical cannabis or medical cannabis products to an unauthorized person in violation of this act, the director may impose a civil fine not to exceed $2,000 for a first offense and not to exceed $5,000 for a second or subsequent offense.

(2) Upon a showing that a patient or caregiver acted willfully or with gross negligence in intentionally diverting medical cannabis or medical cannabis products to an unauthorized person in violation of this act, the director may suspend or revoke such patient's or caregiver's identification card.

(d) Upon a showing that a patient or caregiver violated any reporting requirements with respect to cannabis cultivated by such patient or caregiver, the director may impose a civil fine not to exceed $250.

New Sec. 20. The director shall establish and maintain an electronic database to monitor medical cannabis from its seed source through its cultivation, testing, processing, distribution and dispensing. The director may contract with a separate entity to establish and maintain all or any portion of the electronic database on behalf of the agency.

New Sec. 21. (a) There is hereby established the medical cannabis regulation fund in the state treasury. The director of the Kansas medical cannabis agency shall administer the medical cannabis regulation fund and shall remit all moneys collected from the payment of all fees and fines imposed by the director pursuant to the Kansas equal access act and any other moneys received by or on behalf of the director pursuant to such act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medical cannabis regulation fund. Moneys credited to the medical cannabis regulation fund shall only be expended or transferred as provided in this section. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and
HB 2742

1 reports issued pursuant to vouchers approved by the director or the
director's designee.

(b) Moneys in the medical cannabis regulation fund shall be used for
costs related to the regulation and enforcement of the cultivation,
possession, processing and sale of medical cannabis by the Kansas medical
cannabis agency.

New Sec. 22. (a) A tax is hereby imposed upon the privilege of
selling medical cannabis and medical cannabis products in this state by
any licensed dispensary at the rate of 4% on the gross receipts received
from the sale of medical cannabis to patients and caregivers holding an
identification card issued pursuant to section 10, and amendments thereto.
The tax imposed by this section shall be paid by the patient or caregiver at
the time of purchase.

(b) On or before the 20th day of each calendar month, every licensed
dispensary shall file a return with the director of taxation showing the
quantity of medical cannabis and medical cannabis products sold to
patients and caregivers within this state during the preceding calendar
month. Each return shall be accompanied by a remittance for the full tax
liability shown.

(c) All moneys received by the director of taxation or the director's
designee from taxes imposed by this section shall be remitted to the state
treasurer in accordance with the provisions of K.S.A. 75-4215, and
amendments thereto. Upon receipt of each such remittance, the state
treasurer shall deposit the entire amount in the state treasury to the credit
of the medical cannabis revenues fund, established by section 25, and
amendments thereto.

New Sec. 23. The director of taxation shall have the power to require
any licensed dispensary to furnish additional information deemed
necessary for the purpose of computing the amount of the taxes due
pursuant to the Kansas equal access act and, for such purpose, to examine
all books, records and files of such persons or entities, and, for such
purpose, the director shall have the power to issue subpoenas and examine
witnesses under oath, and if any witness shall fail or refuse to appear at the
request of the director, or refuse access to books, records and files, the
district court of the proper county, or the judge thereof, on application of
the director, shall compel obedience by proceedings for contempt, as in the
case of disobedience of the requirements of a subpoena issued from such
court or a refusal to testify therein.

New Sec. 24. The provisions of K.S.A. 75-5133, 79-3610, 79-3611,
79-3612, 79-3613, 79-3615 and 79-3617, and amendments thereto,
relating to the assessment, collection, appeal and administration of the
retailers' sales tax, insofar as practical, shall have full force and effect with
respect to taxes, penalties and fines imposed by section 22, and
amendments thereto.

New Sec. 25. (a) There is hereby established the medical cannabis revenues fund in the state treasury. All expenditures and transfers from such fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be expended or transferred only for the purposes of medical cannabis research, public health programs, mental health programs, telemedicine programs, drug and alcohol abuse and prevention programs, elementary and secondary school health programs, broadband or high-speed internet connectivity initiatives, expenditures from the state water plan fund and property tax relief for individuals who are 60 years of age or older.

(b) (1) On July 1, 2021, and each July 1 thereafter, or as soon thereafter such date as moneys are available, the first $4,000,000 credited to the medical cannabis revenues fund shall be transferred by the director of accounts and reports from the medical cannabis revenues fund to the operating grant (including official hospitality) account of the department of commerce in the state general fund to be expended for the expansion of broadband internet connectivity.

(2) On July 1, 2021, and each July 1 thereafter, or as soon thereafter such date as moneys are available, after the transfer has been made under paragraph (1), the next $4,000,000 credited to the medical cannabis revenues fund shall be transferred by the director of accounts and reports from the medical cannabis revenues fund to the community crisis stabilization centers fund of the Kansas department for aging and disability services.

(3) On July 1, 2021, and each July 1 thereafter, or as soon thereafter such date as moneys are available, after the transfers have been made under paragraphs (1) and (2), the next $4,000,000 credited to the medical cannabis revenues fund shall be transferred by the director of accounts and reports from the medical cannabis revenues fund to the state water plan fund established by K.S.A. 82a-951, and amendments thereto.

New Sec. 26. The provisions of the Kansas equal access act are hereby declared to be severable. If any part or provision of the Kansas equal access act is held to be void, invalid or unconstitutional, such part or provision shall not affect or impair any of the remaining parts or provisions of the Kansas equal access act and any such remaining parts or provisions shall continue in full force and effect.

New Sec. 27. (a) A covered entity, solely on the basis that an individual consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto, shall not:

(1) Consider such individual ineligible to receive an anatomical gift or organ transplant;
(2) deny medical and other services related to organ transplantation, including evaluation, surgery, counseling and post-transplantation treatment and services;

(3) refuse to refer the individual to a transplant center or a related specialist for the purpose of evaluation or receipt of an organ transplant;

(4) refuse to place such individual on an organ transplant waiting list; or

(5) place such individual at a lower-priority position on an organ transplant waiting list than the position at which such individual would have been placed if not for such individual's consumption of medical cannabis.

(b) A covered entity may take into account an individual's consumption of medical cannabis when making treatment or coverage recommendations or decisions, solely to the extent that such consumption has been found by a physician, following an individualized evaluation of the individual, to be medically significant to the provision of the anatomical gift.

(c) Nothing in this section shall be construed to require a covered entity to make a referral or recommendation for or perform a medically inappropriate organ transplant.

(d) As used in this section, the terms "anatomical gift," "covered entity" and "organ transplant" mean the same as those terms are defined in K.S.A. 65-3276, and amendments thereto.

New Sec. 28. (a) Subject to the provisions of K.S.A. 44-1018, and amendments thereto, it shall be unlawful for any person:

(1) To refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because such person consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto;

(2) to discriminate against any person in the terms, conditions or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because such person consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto; and

(3) to discriminate against any person in such person's use or occupancy of real property because such person associates with another person who consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

(b) (1) It shall be unlawful for any person or other entity whose business includes engaging in real estate related transactions to discriminate against any person in making available such a transaction, or
in the terms or conditions of such a transaction, because such person or any person associated with such person in connection with any real estate related transaction consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

(2) Nothing in this subsection prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than an individual's consumption of medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

(3) As used in this subsection, "real estate related transaction" means the same as that term is defined in K.S.A. 44-1017, and amendments thereto.

(c) It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of such person's having exercised or enjoyed, or on account of such person's having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by subsection (a) or (b).

(d) Nothing in this section shall be construed to prohibit a person from taking any action necessary to procure or retain any monetary benefit provided under federal law, or any rules and regulations adopted thereunder, or to obtain or maintain any license, certificate, registration or other legal status issued or bestowed under federal law, or any rules and regulations adopted thereunder.

(e) The provisions of this section shall be a part of and supplement to the Kansas act against discrimination.

New Sec. 29. (a) Any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization, municipal group-funded pool and the state employee health care benefits plan shall not exclude coverage for an insured individual solely on the basis that such insured individual purchases, possesses or consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

(b) No health insurance exchange established within this state or any health insurance exchange administered by the federal government or its agencies within this state shall exclude from coverage an insured individual solely on the basis that such insured individual purchases, possesses or consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

(c) Nothing in this section shall be construed to prohibit a person from taking any action necessary to procure or retain any monetary benefit
provided under federal law, or any rules and regulations adopted thereunder, or to obtain or maintain any license, certificate, registration or other legal status issued or bestowed under federal law, or any rules and regulations adopted thereunder.

New Sec. 30. No patient or caregiver issued an identification card pursuant to section 10, and amendments thereto, shall be denied the ability to purchase or possess a firearm, ammunition or firearm accessories solely on the basis that such individual purchases, possesses or consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

New Sec. 31. (a) A patient or caregiver holding an identification card issued pursuant to section 10, and amendments thereto, shall not be denied eligibility in any public assistance or social welfare programs including, but not limited to, the state medical assistance program, the supplemental nutrition assistance program, the women, infants and children nutrition program and the temporary assistance for needy families program solely on the basis that such individual purchases, possesses or consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

(b) Nothing in this section shall be construed to require the state medical assistance program or any other public assistance program to reimburse an individual for the costs associated with the purchase, possession or consumption of medical cannabis, unless otherwise required by federal law.

(c) Nothing in this section shall be construed to prohibit a person from taking any action necessary to procure or retain any monetary benefit provided under federal law, or any rules and regulations adopted thereunder, or to obtain or maintain any license, certificate, registration or other legal status issued or bestowed under federal law, or any rules and regulations adopted thereunder.

New Sec. 32. (a) The board of education of a school district may prohibit the consumption of medical cannabis on the premises of any school operated by such school district except by individuals holding an identification card issued pursuant to section 10, and amendments thereto, who consume medical cannabis through means other than smoking or vaporizing medical cannabis.

(b) A student who is enrolled in a school district and who is a patient holding an identification card issued pursuant to section 10, and amendments thereto, shall be permitted to consume medical cannabis administered by the school nurse or such student's parent or caregiver as recommended by such student's medical provider.

(c) No student shall be denied participation in any curricular or extracurricular activities solely on the basis that such student possesses or
consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

New Sec. 33. (a) The governing body, or the chief administrative officer, if no governing body exists, of a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, shall permit any student enrolled in such postsecondary educational institution who is a patient holding an identification card issued pursuant to section 10, and amendments thereto, to possess and consume medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

(b) No student shall be denied participation in any curricular or extracurricular activities solely on the basis that such student possesses or consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto.

Sec. 34. K.S.A. 2019 Supp. 8-1567 is hereby amended to read as follows: 8-1567. (a) Driving under the influence is operating or attempting to operate any vehicle within this state while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in K.S.A. 8-1013(f)(1), and amendments thereto, is 0.08 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is 0.08 or more;

(3) under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) (1) Driving under the influence is:

(A) On a first conviction a class B, nonperson misdemeanor. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than $750 nor more than $1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2019 Supp. 21-6609, and amendments thereto, to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;

(B) on a second conviction a class A, nonperson misdemeanor. The
person convicted shall be sentenced to not less than 90 days nor more than
one year's imprisonment and fined not less than $1,250 nor more than
$1,750. The person convicted shall serve at least five consecutive days'
imprisonment before the person is granted probation, suspension or
reduction of sentence or parole or is otherwise released. The five days'
imprisonment mandated by this subsection may be served in a work
release program only after such person has served 48 consecutive hours'
imprisonment, provided such work release program requires such person
to return to confinement at the end of each day in the work release
program. The person convicted, if placed into a work release program,
shall serve a minimum of 120 hours of confinement. Such 120 hours of
confinement shall be a period of at least 48 consecutive hours of
imprisonment followed by confinement hours at the end of and continuing
to the beginning of the offender's work day. The court may place the
person convicted under a house arrest program pursuant to K.S.A. 2019
Supp. 21-6609, and amendments thereto, to serve the five days'
imprisonment mandated by this subsection only after such person has
served 48 consecutive hours' imprisonment. The person convicted, if
placed under house arrest, shall be monitored by an electronic monitoring
device, which verifies the offender's location. The offender shall serve a
minimum of 120 hours of confinement within the boundaries of the
offender's residence. Any exceptions to remaining within the boundaries of
the offender's residence provided for in the house arrest agreement shall
not be counted as part of the 120 hours;
(C) on a third conviction a class A, nonperson misdemeanor, except
as provided in subsection (b)(1)(D). The person convicted shall be
sentenced to not less than 90 days nor more than one year's imprisonment
and fined not less than $1,750 nor more than $2,500. The person convicted
shall not be eligible for release on probation, suspension or reduction of
sentence or parole until the person has served at least 90 days'
imprisonment. The 90 days' imprisonment mandated by this subsection
may be served in a work release program only after such person has served
48 consecutive hours' imprisonment, provided such work release program
requires such person to return to confinement at the end of each day in the
work release program. The person convicted, if placed into a work release
program, shall serve a minimum of 2,160 hours of confinement. Such
2,160 hours of confinement shall be a period of at least 48 consecutive
hours of imprisonment followed by confinement hours at the end of and
continuing to the beginning of the offender's work day. The court may
place the person convicted under a house arrest program pursuant to
K.S.A. 2019 Supp. 21-6609, and amendments thereto, to serve the 90 days'
imprisonment mandated by this subsection only after such person has
served 48 consecutive hours' imprisonment. The person convicted, if
placed under house arrest, shall be monitored by an electronic monitoring
device, which verifies the offender's location. The offender shall serve a
minimum of 2,160 hours of confinement within the boundaries of the
offender's residence. Any exceptions to remaining within the boundaries of
the offender's residence provided for in the house arrest agreement shall
not be counted as part of the 2,160 hours;
(D) on a third conviction a nonperson felony if the person has a prior
conviction which occurred within the preceding 10 years, not including
any period of incarceration. The person convicted shall be sentenced to not
less than 90 days nor more than one year's imprisonment and fined not less
than $1,750 nor more than $2,500. The person convicted shall not be
eligible for release on probation, suspension or reduction of sentence or
parole until the person has served at least 90 days' imprisonment. The 90
days' imprisonment mandated by this subsection may be served in a work
release program only after such person has served 48 consecutive hours'
imprisonment, provided such work release program requires such person
to return to confinement at the end of each day in the work release
program. The person convicted, if placed into a work release program,
shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of
confinement shall be a period of at least 48 consecutive hours of
imprisonment followed by confinement hours at the end of and continuing
to the beginning of the offender's work day. The court may place the
person convicted under a house arrest program pursuant to K.S.A. 2019
Supp. 21-6609, and amendments thereto, to serve the 90 days'
imprisonment mandated by this subsection only after such person has
served 48 consecutive hours' imprisonment. The person convicted, if
placed under house arrest, shall be monitored by an electronic monitoring
device, which verifies the offender's location. The offender shall serve a
minimum of 2,160 hours of confinement within the boundaries of the
offender's residence. Any exceptions to remaining within the boundaries of
the offender's residence provided for in the house arrest agreement shall
not be counted as part of the 2,160 hours; and
(E) on a fourth or subsequent conviction a nonperson felony. The
person convicted shall be sentenced to not less than 90 days nor more than
one year's imprisonment and fined $2,500. The person convicted shall not
be eligible for release on probation, suspension or reduction of sentence or
parole until the person has served at least 90 days' imprisonment. The 90
days' imprisonment mandated by this subsection may be served in a work
release program only after such person has served 72 consecutive hours'
imprisonment, provided such work release program requires such person
to return to confinement at the end of each day in the work release
program. The person convicted, if placed into a work release program,
shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of
confinement shall be a period of at least 72 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2019 Supp. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 72 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) The court may order that the term of imprisonment imposed pursuant to subsection (b)(1)(D) or (b)(1)(E) be served in a state facility in the custody of the secretary of corrections in a facility designated by the secretary for the provision of substance abuse treatment pursuant to the provisions of K.S.A. 2019 Supp. 21-6804, and amendments thereto. The person shall remain imprisoned at the state facility only while participating in the substance abuse treatment program designated by the secretary and shall be returned to the custody of the sheriff for execution of the balance of the term of imprisonment upon completion of or the person's discharge from the substance abuse treatment program. Custody of the person shall be returned to the sheriff for execution of the sentence imposed in the event the secretary of corrections determines: (A) That substance abuse treatment resources or the capacity of the facility designated by the secretary for the incarceration and treatment of the person is not available; (B) the person fails to meaningfully participate in the treatment program of the designated facility; (C) the person is disruptive to the security or operation of the designated facility; or (D) the medical or mental health condition of the person renders the person unsuitable for confinement at the designated facility. The determination by the secretary that the person either is not to be admitted into the designated facility or is to be transferred from the designated facility is not subject to review. The sheriff shall be responsible for all transportation expenses to and from the state correctional facility.

(3) In addition, for any conviction pursuant to subsection (b)(1)(C), (b)(1)(D) or (b)(1)(E), at the time of the filing of the judgment form or journal entry as required by K.S.A. 22-3426 or K.S.A. 2019 Supp. 21-6711, and amendments thereto, the court shall cause a certified copy to be sent to the officer having the offender in charge. The court shall determine whether the offender, upon release from imprisonment, shall be supervised by community correctional services or court services based upon the risk
and needs of the offender. The risk and needs of the offender shall be
determined by use of a risk assessment tool specified by the Kansas
sentencing commission. The law enforcement agency maintaining custody
and control of a defendant for imprisonment shall cause a certified copy of
the judgment form or journal entry to be sent to the supervision office
designated by the court and upon expiration of the term of imprisonment
shall deliver the defendant to a location designated by the supervision
office designated by the court. After the term of imprisonment imposed by
the court, the person shall be placed on supervision to community
correctional services or court services, as determined by the court, for a
mandatory one-year period of supervision, which such period of
supervision shall not be reduced. During such supervision, the person shall
be required to participate in a multidisciplinary model of services for
substance use disorders facilitated by a Kansas department for aging and
disability services designated care coordination agency to include
assessment and, if appropriate, referral to a community based substance
use disorder treatment including recovery management and mental health
counseling as needed. The multidisciplinary team shall include the
designated care coordination agency, the supervision officer, the Kansas
department for aging and disability services designated treatment provider
and the offender. An offender for whom a warrant has been issued by the
court alleging a violation of this supervision shall be considered a fugitive
from justice if it is found that the warrant cannot be served. If it is found
the offender has violated the provisions of this supervision, the court shall
determine whether the time from the issuing of the warrant to the date of
the court's determination of an alleged violation, or any part of it, shall be
counted as time served on supervision. Any violation of the conditions of
such supervision may subject such person to revocation of supervision and
imprisonment in jail for the remainder of the period of imprisonment, the
remainder of the supervision period, or any combination or portion
thereof. The term of supervision may be extended at the court's discretion
beyond one year, and any violation of the conditions of such extended term
of supervision may subject such person to the revocation of supervision
and imprisonment in jail of up to the remainder of the original sentence,
not the term of the extended supervision.

(4) In addition, prior to sentencing for any conviction pursuant to
subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to
participate in an alcohol and drug evaluation conducted by a provider in
accordance with K.S.A. 8-1008, and amendments thereto. The person shall
be required to follow any recommendation made by the provider after such
evaluation, unless otherwise ordered by the court.

(c) Any person 18 years of age or older convicted of violating this
section or an ordinance which prohibits the acts that this section prohibits
who had one or more children under the age of 18 years in the vehicle at
the time of the offense shall have such person's punishment enhanced by
one month of imprisonment. This imprisonment must be served
consecutively to any other minimum mandatory penalty imposed for a
violation of this section or an ordinance which prohibits the acts that this
section prohibits. Any enhanced penalty imposed shall not exceed the
maximum sentence allowable by law. During the service of the enhanced
penalty, the judge may order the person on house arrest, work release or
other conditional release.

(d) (1) If a person is charged with a violation of subsection (a)(4) or
(a)(5), the fact that the person is or has been entitled to use the drug under
the laws of this state shall not constitute a defense against the charge.

(2) The fact that a person tests positive for the presence of cannabis
metabolites shall not constitute a violation of subsection (a)(4) or (a)(5).

(e) The court may establish the terms and time for payment of any
fines, fees, assessments and costs imposed pursuant to this section. Any
assessment and costs shall be required to be paid not later than 90 days
after imposed, and any remainder of the fine shall be paid prior to the final
release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, the
court may order that the person perform community service specified by
the court. The person shall receive a credit on the fine imposed in an
amount equal to $5 for each full hour spent by the person in the specified
community service. The community service ordered by the court shall be
required to be performed not later than one year after the fine is imposed
or by an earlier date specified by the court. If by the required date the
person performs an insufficient amount of community service to reduce to
zero the portion of the fine required to be paid by the person, the
remaining balance of the fine shall become due on that date.

(g) Prior to filing a complaint alleging a violation of this section, a
prosecutor shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such
person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal
history record information concerning such person.

(h) The court shall electronically report every conviction of a
violation of this section and every diversion agreement entered into in lieu
of further criminal proceedings on a complaint alleging a violation of this
section to the division including any finding regarding the alcohol
concentration in the offender's blood or breath. Prior to sentencing under
the provisions of this section, the court shall request and shall receive from
the division a record of all prior convictions obtained against such person
for any violations of any of the motor vehicle laws of this state.
(i) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of this section, or a violation of an ordinance of any city or resolution of any county that prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account: (A) Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto; (B) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto; (C) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 2019 Supp. 21-5405(a)(3) or (a)(5), and amendments thereto; (D) aggravated battery as described in K.S.A. 2019 Supp. 21-5413(b)(3) or (b)(4), and amendments thereto; and (E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) "conviction" includes: (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an offense described in subsection (i)(2); and (B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (i)(1) or (i)(2);

(4) multiple convictions of any crime described in subsection (i)(1) or (i)(2) arising from the same arrest shall only be counted as one conviction;

(5) it is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(6) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, or an ordinance which prohibits the acts of this section, and amendments thereto, only once during the person's lifetime.

(j) For the purposes of determining whether an offense is comparable, the following shall be considered:

(1) The name of the out-of-jurisdiction offense;
(2) the elements of the out-of-jurisdiction offense; and
(3) whether the out-of-jurisdiction offense prohibits similar conduct
to the conduct prohibited by the closest approximate Kansas offense.

(k) Upon conviction of a person of a violation of this section or a
violation of a city ordinance or county resolution prohibiting the acts
prohibited by this section, the division, upon receiving a report of
conviction, shall suspend, restrict or suspend and restrict the person's
driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(l) (1) Nothing contained in this section shall be construed as
preventing any city from enacting ordinances, or any county from adopting
resolutions, declaring acts prohibited or made unlawful by this act as
unlawful or prohibited in such city or county and prescribing penalties for
violation thereof.
(2) The minimum penalty prescribed by any such ordinance or
resolution shall not be less than the minimum penalty prescribed by this
section for the same violation, and the maximum penalty in any such
ordinance or resolution shall not exceed the maximum penalty prescribed
for the same violation.
(3) On and after July 1, 2007, and retroactive for ordinance violations
committed on or after July 1, 2006, an ordinance may grant to a municipal
court jurisdiction over a violation of such ordinance which is concurrent
with the jurisdiction of the district court over a violation of this section,
notwithstanding that the elements of such ordinance violation are the same
as the elements of a violation of this section that would constitute, and be
punished as, a felony.
(4) Any such ordinance or resolution shall authorize the court to order
that the convicted person pay restitution to any victim who suffered loss
due to the violation for which the person was convicted.

(m) (1) Upon the filing of a complaint, citation or notice to appear
alleging a person has violated a city ordinance prohibiting the acts
prohibited by this section, and prior to conviction thereof, a city attorney
shall request and shall receive from the:
(A) Division a record of all prior convictions obtained against such
person for any violations of any of the motor vehicle laws of this state; and
(B) Kansas bureau of investigation central repository all criminal
history record information concerning such person.
(2) If the elements of such ordinance violation are the same as the
elements of a violation of this section that would constitute, and be
punished as, a felony, the city attorney shall refer the violation to the
appropriate county or district attorney for prosecution.
(n) No plea bargaining agreement shall be entered into nor shall any
judge approve a plea bargaining agreement entered into for the purpose of
permitting a person charged with a violation of this section, or a violation
of any ordinance of a city or resolution of any county in this state which
prohibits the acts prohibited by this section, to avoid the mandatory
penalties established by this section or by the ordinance. For the purpose
of this subsection, entering into a diversion agreement pursuant to K.S.A.
12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not
constitute plea bargaining.

(o) The alternatives set out in subsection (a) may be pleaded in the
alternative, and the state, city or county may, but shall not be required to,
elect one or more of such alternatives prior to submission of the case to the
fact finder.

(p) As used in this section: (1) "Alcohol concentration" means the
number of grams of alcohol per 100 milliliters of blood or per 210 liters of
breath;

(2) "imprisonment" shall include includes any restrained environment
in which the court and law enforcement agency intend to retain custody
and control of a defendant and such environment has been approved by the
board of county commissioners or the governing body of a city; and

(3) "drug" includes toxic vapors as such term is defined in K.S.A.
2019 Supp. 21-5712, and amendments thereto.

(q) (1) The amount of the increase in fines as specified in this section
shall be remitted by the clerk of the district court to the state treasurer in
accordance with the provisions of K.S.A. 75-4215, and amendments
thereto. Upon receipt of remittance of the increase provided in this act, the
state treasurer shall deposit the entire amount in the state treasury and the
state treasurer shall credit 50% to the community alcoholism and
intoxication programs fund and 50% to the department of corrections
alcohol and drug abuse treatment fund, which is hereby created in the state
treasury.

(2) On and after July 1, 2011, the amount of $250 from each fine
imposed pursuant to this section shall be remitted by the clerk of the
district court to the state treasurer in accordance with the provisions of
K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
remittance, the state treasurer shall credit the entire amount to the
community corrections supervision fund established by K.S.A. 75-52,113,
and amendments thereto.

Sec. 35. K.S.A. 2019 Supp. 21-5703 is hereby amended to read as
follows: 21-5703. (a) It shall be unlawful for any person to manufacture
any controlled substance or controlled substance analog.

(b) Violation or attempted violation of subsection (a) is a:

(1) Drug severity level 2 felony, except as provided in subsections (b)
(2) and (b)(3);

(2) drug severity level 1 felony if:

(A) The controlled substance is not methamphetamine, as defined by
subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof; and
(B) the offender has a prior conviction for unlawful manufacturing of a controlled substance under this section, K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially similar offense from another jurisdiction and the substance was not methamphetamine, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any such prior conviction; and
(3) drug severity level 1 felony if the controlled substance is methamphetamine, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof.
(c) The provisions of subsection (d) of K.S.A. 2019 Supp. 21-5301(d), and amendments thereto, shall not apply to a violation of attempting to unlawfully manufacture any controlled substance or controlled substance analog pursuant to this section.
(d) For persons arrested and charged under this section, bail shall be at least $50,000 cash or surety, and such person shall not be released upon the person’s own recognizance pursuant to K.S.A. 22-2802, and amendments thereto, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision, or the defendant agrees to participate in a licensed or certified drug treatment program.
(e) The sentence of a person who violates this section shall not be subject to statutory provisions for suspended sentence, community service work or probation.
(f) The sentence of a person who violates this section, K.S.A. 65-4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its transfer, shall not be reduced because these sections prohibit conduct identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2019 Supp. 21-5705, and amendments thereto.
(g) The provisions of this section shall not apply to a facility licensed by the director of the Kansas medical cannabis agency pursuant to section 16, and amendments thereto, that is producing medical cannabis or medical cannabis products, as such terms are defined in section 2, and amendments thereto, when used for acts authorized by the Kansas equal access act, section 1 et seq., and amendments thereto.
Sec. 36. K.S.A. 2019 Supp. 21-5705 is hereby amended to read as follows: 21-5705. (a) It shall be unlawful for any person to distribute or possess with the intent to distribute any of the following controlled substances or controlled substance analogs thereof:
(1) Opiates, opium or narcotic drugs, or any stimulant designated in
subsection (d)(1), (d)(3) or (f)(1) of K.S.A. 65-4107(d)(1), (d)(3) or (f)(1), and amendments thereto;

(2) any depressant designated in subsection (e) of K.S.A. 65-4105(e), subsection (e) of K.S.A. 65-4107(e), subsection (b) or (e) of K.S.A. 65-4109(b) or (e) or subsection (b) of K.S.A. 65-4111(b), and amendments thereto;

(3) any stimulant designated in subsection (f) of K.S.A. 65-4105(f), subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107(d)(2), (d)(4), (d)(5) or (f)(2) or subsection (e) of K.S.A. 65-4109(e), and amendments thereto;

(4) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105(d), subsection (g) of K.S.A. 65-4107(g) or subsection (g) of K.S.A. 65-4109(g), and amendments thereto;

(5) any substance designated in subsection (g) of K.S.A. 65-4105(g) and subsection (e), (d), (e), (f) or (g) of K.S.A. 65-4111(c), (d), (e), (f) or (g), and amendments thereto;

(6) any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109(f), and amendments thereto; or

(7) any substance designated in subsection (h) of K.S.A. 65-4105(h), and amendments thereto.

(b) It shall be unlawful for any person to distribute or possess with the intent to distribute a controlled substance or a controlled substance analog designated in K.S.A. 65-4113, and amendments thereto.

(c) It shall be unlawful for any person to cultivate any controlled substance or controlled substance analog listed in subsection (a).

(d) (1) Except as provided further, violation of subsection (a) is a:

(A) Drug severity level 4 felony if the quantity of the material was less than 3.5 grams;

(B) drug severity level 3 felony if the quantity of the material was at least 3.5 grams but less than 100 grams;

(C) drug severity level 2 felony if the quantity of the material was at least 100 grams but less than 1 kilogram; and

(D) drug severity level 1 felony if the quantity of the material was 1 kilogram or more.

(2) Violation of subsection (a) with respect to material containing any quantity of marijuana, or an analog thereof, is a:

(A) Drug severity level 4 felony if the quantity of the material was less than 25 grams;

(B) drug severity level 3 felony if the quantity of the material was at least 25 grams but less than 450 grams;

(C) drug severity level 2 felony if the quantity of the material was at least 450 grams but less than 30 kilograms; and

(D) drug severity level 1 felony if the quantity of the material was 30
kilograms or more.

(3) Violation of subsection (a) with respect to material containing any quantity of heroin, as defined by subsection (c)(1) of K.S.A. 65-4105(c)(1), and amendments thereto, or methamphetamine, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, is a:

(A) Drug severity level 4 felony if the quantity of the material was less than 1 gram;

(B) drug severity level 3 felony if the quantity of the material was at least 1 gram but less than 3.5 grams;

(C) drug severity level 2 felony if the quantity of the material was at least 3.5 grams but less than 100 grams; and

(D) drug severity level 1 felony if the quantity of the material was 100 grams or more.

(4) Violation of subsection (a) with respect to material containing any quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107, 65-4109 or 65-4111, and amendments thereto, or an analog thereof, distributed by dosage unit, is a:

(A) Drug severity level 4 felony if the number of dosage units was fewer than 10;

(B) drug severity level 3 felony if the number of dosage units was at least 10 but less than 100;

(C) drug severity level 2 felony if the number of dosage units was at least 100 but less than 1,000; and

(D) drug severity level 1 felony if the number of dosage units was 1,000 or more.

(5) For any violation of subsection (a), the severity level of the offense shall be increased one level if the controlled substance or controlled substance analog was distributed or possessed with the intent to distribute on or within 1,000 feet of any school property.

(6) Violation of subsection (b) is a:

(A) Class A person misdemeanor, except as provided in subsection (d)(6)(B) subparagraph (B); and

(B) nondrug severity level 7, person felony if the substance was distributed to or possessed with the intent to distribute to a minor.

(7) Violation of subsection (c) is a:

(A) Drug severity level 3 felony if the number of plants cultivated was more than 4 but fewer than 50;

(B) drug severity level 2 felony if the number of plants cultivated was at least 50 but fewer than 100; and

(C) drug severity level 1 felony if the number of plants cultivated was 100 or more.

(e) In any prosecution under this section, there shall be a rebuttable
presumption of an intent to distribute if any person possesses the following quantities of controlled substances or analogs thereof:

(1) 450 grams or more of marijuana;
(2) 3.5 grams or more of heroin or methamphetamine;
(3) 100 dosage units or more containing a controlled substance; or
(4) 100 grams or more of any other controlled substance.

(f) It shall not be a defense to charges arising under this section that the defendant:

(1) Was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog;
(2) did not know the quantity of the controlled substance or controlled substance analog; or
(3) did not know the specific controlled substance or controlled substance analog contained in the material that was distributed or possessed with the intent to distribute.

(g) The provisions of subsections (a)(4) and (a)(5) shall not apply to any facility licensed by the director of the Kansas medical cannabis agency pursuant to section 16, and amendments thereto, or any employee or agent thereof, that is growing, testing, processing or engaging in the sale of medical cannabis or medical cannabis products in a manner authorized by the Kansas equal access act, section 1 et seq., and amendments thereto.

(h) As used in this section:

(1) "Material" means the total amount of any substance, including a compound or a mixture, which contains any quantity of a controlled substance or controlled substance analog.
(2) "Dosage unit" means a controlled substance or controlled substance analog distributed or possessed with the intent to distribute as a discrete unit, including, but not limited to, one pill, one capsule or one microdot, and not distributed by weight.

(A) For steroids, or controlled substances in liquid solution legally manufactured for prescription use, or an analog thereof, "dosage unit" means the smallest medically approved dosage unit, as determined by the label, materials provided by the manufacturer, a prescribing authority, licensed health care professional or other qualified health authority.

(B) For illegally manufactured controlled substances in liquid solution, or controlled substances in liquid products not intended for ingestion by human beings, or an analog thereof, "dosage unit" means 10 milligrams, including the liquid carrier medium, except as provided in subsection (g)(2)(C) subparagraph (C).

(C) For lysergic acid diethylamide (LSD) in liquid form, or an analog thereof, a dosage unit is defined as 0.4 milligrams, including the liquid
(3) "Medical cannabis" and "medical cannabis product" mean the same as such terms are defined in section 2, and amendments thereto.

Sec. 37. K.S.A. 2019 Supp. 21-5706 is hereby amended to read as follows: 21-5706. (a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled substance analog thereof.

(b) It shall be unlawful for any person to possess any of the following controlled substances or controlled substance analogs thereof:

(1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-4109(b) or (c) or 65-4111(b), and amendments thereto;

(2) Any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)

(3) Any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-4107(g) or 65-4109(g), and amendments thereto;

(4) Any substance designated in K.S.A. 65-4105(g) and 65-4111(c), (d), (e), (f) or (g), and amendments thereto;

(5) Any anabolic steroids as defined in K.S.A. 65-4109(f), and amendments thereto;

(6) Any substance designated in K.S.A. 65-4113, and amendments thereto; or

(7) Any substance designated in K.S.A. 65-4105(h), and amendments thereto.

(c) (1) Violation of subsection (a) is a drug severity level 5 felony.

(2) Except as provided in subsection (c)(3):

(A) Violation of subsection (b) is a class A nonperson misdemeanor, except as provided in subparagraph (B); and

(B) Violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug severity level 5 felony if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense if the substance involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana as designated in K.S.A. 65-4105(d), and amendments thereto, or any substance designated in K.S.A. 65-4105(h), and amendments thereto, or an analog thereof.

(3) If the substance involved is marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h), and amendments thereto, violation of subsection (b) is a:

(A) Class B nonperson misdemeanor, except as provided in subparagraphs (B) and (C);
(B) class A nonperson misdemeanor if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense; and

(C) drug severity level 5 felony if that person has two or more prior convictions under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense.

(d) It shall be an affirmative defense to prosecution under this section arising out of a person's possession of any cannabidiol treatment preparation if the person:

(1) Has a debilitating medical condition, as defined in K.S.A. 2019 Supp. 65-6235, and amendments thereto, or is the parent or guardian of a minor child who has such debilitating medical condition;

(2) is possessing a cannabidiol treatment preparation, as defined in K.S.A. 2019 Supp. 65-6235, and amendments thereto, that is being used to treat such debilitating medical condition; and

(3) has possession of a letter, at all times while the person has possession of the cannabidiol treatment preparation, that:

(A) Shall be shown to a law enforcement officer on such officer's request;

(B) is dated within the preceding 15 months and signed by the physician licensed to practice medicine and surgery in Kansas who diagnosed the debilitating medical condition;

(C) is on such physician's letterhead; and

(D) identifies the person or the person's minor child as such physician's patient and identifies the patient's debilitating medical condition. If the substance involved is medical cannabis, as defined in section 2, and amendments thereto, the provisions of subsections (b) and (c) shall not apply to any person who is a patient or caregiver holding an identification card issued pursuant to section 10, and amendments thereto, or a facility licensed by the director of the Kansas medical cannabis agency pursuant to section 16, and amendments thereto, or any employee or agent thereof, and whose possession is authorized by the Kansas equal access act, section 1 et seq., and amendments thereto.

(e) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog.

Sec. 38. K.S.A. 2019 Supp. 21-5707 is hereby amended to read as follows: 21-5707. (a) It shall be unlawful for any person to knowingly or
intentionally use any communication facility:

(1) In committing, causing, or facilitating the commission of any felony under K.S.A. 2019 Supp. 21-5703, 21-5705 or 21-5706, and amendments thereto; or

(2) in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony under K.S.A. 2019 Supp. 21-5703, 21-5705 or 21-5706, and amendments thereto. Each separate use of a communication facility may be charged as a separate offense under this subsection.

(b) Violation of subsection (a) is a nondrug severity level 8, nonperson felony.

(c) The provisions of this section shall not apply to any person using communication facilities for those activities authorized by the Kansas equal access act, section 1 et seq., and amendments thereto.

(d) As used in this section, "communication facility" means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers and all other means of communication.

Sec. 39. K.S.A. 2019 Supp. 21-5709 is hereby amended to read as follows: 21-5709. (a) It shall be unlawful for any person to possess ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with an intent to use the product to manufacture a controlled substance.

(b) It shall be unlawful for any person to use or possess with intent to use any drug paraphernalia to:

(1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or distribute a controlled substance; or

(2) store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body.

(c) It shall be unlawful for any person to use or possess with intent to use anhydrous ammonia or pressurized ammonia in a container not approved for that chemical by the Kansas department of agriculture.

(d) It shall be unlawful for any person to purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any 30-day period.

(e) (1) Violation of subsection (a) is a drug severity level 3 felony;

(2) violation of subsection (b)(1) is a:

(A) Drug severity level 5 felony, except as provided in subsection (e)
(2)(B); and

(B) class B nonperson misdemeanor if the drug paraphernalia was used to cultivate fewer than five marijuana plants;

(3) violation of subsection (b)(2) is a class B nonperson misdemeanor;

(4) violation of subsection (c) is a drug severity level 5 felony; and

(5) violation of subsection (d) is a class A nonperson misdemeanor.

(f) For persons arrested and charged under subsection (a) or (c), bail shall be at least $50,000 cash or surety, and such person shall not be released upon the person's own recognizance pursuant to K.S.A. 22-2802, and amendments thereto, unless the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

(g) The provisions of subsection (b) shall not apply to any person who is a patient or caregiver holding an identification card issued pursuant to section 10, and amendments thereto, or a facility licensed by the director of the Kansas medical cannabis agency pursuant to section 16, and amendments thereto, or any employee or agent thereof, and whose possession is authorized by the Kansas equal access act, section 1 et seq., and amendments thereto.

Sec. 40. K.S.A. 2019 Supp. 21-5710 is hereby amended to read as follows: 21-5710. (a) It shall be unlawful for any person to advertise, market, label, distribute or possess with the intent to distribute:

(1) Any product containing ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine or their salts, isomers or salts of isomers if the person knows or reasonably should know that the purchaser will use the product to manufacture a controlled substance or controlled substance analog; or

(2) any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved pursuant to the pertinent federal over-the-counter drug final monograph or tentative final monograph or approved new drug application.

(b) It shall be unlawful for any person to distribute, possess with the intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to manufacture or distribute a controlled substance or controlled substance analog in violation of K.S.A. 2019 Supp. 21-5701 through 21-5717, and amendments thereto.

(c) It shall be unlawful for any person to distribute, possess with
intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used as such in violation of K.S.A. 2019 Supp. 21-5701 through 21-5717, and amendments thereto, except subsection (b) of K.S.A. 2019 Supp. 21-5706(b), and amendments thereto.

(d) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used as such in violation of subsection (b) of K.S.A. 2019 Supp. 21-5706(b), and amendments thereto.

(e) (1) Violation of subsection (a) is a drug severity level 3 felony;
(2) violation of subsection (b) is a:
   (A) Drug severity level 5 felony, except as provided in subsection (e) (2)(B); and
   (B) drug severity level 4 felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property;
(3) violation of subsection (c) is a:
   (A) Nondrug severity level 9, nonperson felony, except as provided in subsection (e)(3)(B); and
   (B) drug severity level 5 felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property; and
(4) violation of subsection (d) is a:
   (A) Class A nonperson misdemeanor, except as provided in subsection (e)(4)(B); and
   (B) nondrug severity level 9, nonperson felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property.

(f) For persons arrested and charged under subsection (a), bail shall be at least $50,000 cash or surety, and such person shall not be released upon the person's own recognizance pursuant to K.S.A. 22-2802, and amendments thereto, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

(g) The provisions of subsection (c) shall not apply to any facility licensed by the director of the Kansas medical cannabis agency pursuant to section 16, and amendments thereto, or any employee or agent thereof, and whose distribution or manufacture is authorized by the Kansas equal access act, section 1 et seq., and amendments thereto.

(h) As used in this section, "or under circumstances where one
reasonably should know" that an item will be used in violation of this section, shall include, but not be limited to, the following:

1. Actual knowledge from prior experience or statements by customers;
2. Inappropriate or impractical design for alleged legitimate use;
3. Receipt of packaging material, advertising information or other manufacturer supplied information regarding the item's use as drug paraphernalia; or
4. Receipt of a written warning from a law enforcement or prosecutorial agency having jurisdiction that the item has been previously determined to have been designed specifically for use as drug paraphernalia.

Sec. 41. K.S.A. 2019 Supp. 21-6109 is hereby amended to read as follows: 21-6109. As used in K.S.A. 2019 Supp. 21-6109 through 21-6116, and amendments thereto:

(a) "Access point" means the area within a ten foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted pursuant to K.S.A. 2019 Supp. 21-6110(d), and amendments thereto.

(b) "Bar" means any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor as defined in K.S.A. 41-102, and amendments thereto, or cereal malt beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-premises consumption.

(c) "Cannabis" and "medical cannabis product" mean the same as such terms are defined in section 2, and amendments thereto.

(d) "Electronic cigarette" means the same as such term is defined in K.S.A. 79-3301, and amendments thereto.

(e) "Employee" means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit and any person who volunteers their services for a nonprofit entity.

(f) "Employer" means any person, partnership, corporation, association or organization, including municipal or nonprofit entities, that employs one or more individual persons.

(g) "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by solid walls, windows or doorways that extend from the floor to the ceiling, including all space therein screened by partitions that do not extend to the ceiling or are not solid or similar structures. For purposes of this section, the following shall not be considered an "enclosed area": (1) Rooms or areas, enclosed by walls, windows or doorways, having neither a ceiling nor a roof and that are completely open to the elements and weather at all times; and (2) rooms or areas, enclosed by walls, fences, windows or doorways and a roof or
ceiling, having openings that are permanently open to the elements and weather and that comprise an area that is at least 30% of the total perimeter wall area of such room or area.

(h) "Food service establishment" means any place in which food is served or is prepared for sale or service on the premises. Such term shall include, but not be limited to, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, taverns, private clubs, roadside kitchens, commissaries and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(i) "Gaming floor" means the area of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto, where patrons engage in Class III gaming. The gaming floor shall not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging or entertainment, except that the gaming floor may include a bar where alcoholic beverages are served so long as the bar is located entirely within the area where Class III gaming is conducted.

(j) "Medical care facility" means a physician's office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric hospital licensed under K.S.A. 2019 Supp. 39-2001 et seq., and amendments thereto.

(k) "Outdoor recreational facility" means a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and not normally open to the general public.

(l) "Place of employment" means any enclosed area under the control of a public or private employer, including, but not limited to, work areas, auditoriums, elevators, private offices, employee lounges and restrooms, conference and meeting rooms, classrooms, employee cafeterias, stairwells and hallways, that is used by employees during the course of employment. For purposes of this section, a private residence shall not be considered a "place of employment" unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

(m) "Private club" means an outdoor recreational facility operated primarily for the use of its owners, members and their guests that in its ordinary course of business is not open to the general public for which use of its facilities has substantial dues or membership fee requirements for its
members.

{(n)} "Public building" means any building owned or operated by: (1) The state, including any branch, department, agency, bureau, commission, authority or other instrumentality thereof; (2) any county, city, township, other political subdivision, including any commission, authority, agency or instrumentality thereof; or (3) any other separate corporate instrumentality or unit of the state or any municipality.

{(o)} "Public meeting" means any meeting open to the public pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of this state.

{(p)} "Public place" means any enclosed areas open to the public or used by the general public including, but not limited to: Banks, bars, food service establishments, retail service establishments, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, medical care facilities, educational facilities, libraries, courtrooms, public buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities. For purposes of this section, a private residence shall not be considered a "public place" unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

{(q)} "Smoking" means possession of a lighted cigarette, cigar, pipe or burning tobacco or cannabis in any other form or device designed for the use of tobacco or cannabis, or use of an electronic cigarette, including for the consumption of a medical cannabis product.

{(r)} "Tobacco shop" means any indoor area operated primarily for the retail sale of tobacco, tobacco products or smoking devices or accessories, and that derives not less than 65% of its gross receipts from the sale of tobacco.

{(s)} "Substantial dues or membership fee requirements" means initiation costs, dues or fees proportional to the cost of membership in similarly-situated outdoor recreational facilities that are not considered nominal and implemented to otherwise avoid or evade restrictions of a statewide ban on smoking.

Sec. 42. K.S.A. 2019 Supp. 23-3201 is hereby amended to read as follows: 23-3201. (a) The court shall determine legal custody, residency and parenting time of a child in accordance with the best interests of the child.

(b) The court shall not consider the fact that a parent or a child consumes medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto, when determining the legal custody, residency or parenting time of a child.

Sec. 43. K.S.A. 2019 Supp. 38-2269 is hereby amended to read as
follows: 38-2269. (a) When the child has been adjudicated to be a child in need of care, the court may terminate parental rights or appoint a permanent custodian when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future.

(b) In making a determination of unfitness the court shall consider, but is not limited to, the following, if applicable:

(1) Emotional illness, mental illness, mental deficiency or physical disability of the parent, of such duration or nature as to render the parent unable to care for the ongoing physical, mental and emotional needs of the child;

(2) Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature;

(3) The use of intoxicating liquors or narcotic or dangerous drugs of such duration or nature as to render the parent unable to care for the ongoing physical, mental or emotional needs of the child, except the use of medical cannabis in accordance with the provisions of the Kansas equal access act, section 1 et seq., and amendments thereto, shall not be considered to render the parent unable to care for the ongoing physical, mental or emotional needs of the child;

(4) Physical, mental or emotional abuse or neglect or sexual abuse of a child;

(5) Conviction of a felony and imprisonment;

(6) Unexplained injury or death of another child or stepchild of the parent or any child in the care of the parent at the time of injury or death;

(7) Failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family;

(8) Lack of effort on the part of the parent to adjust the parent's circumstances, conduct or conditions to meet the needs of the child; and

(9) Whether, as a result of the actions or inactions attributable to the parent and one or more of the factors listed in subsection (c) apply, the child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date on which a child in the secretary's custody was removed from the child's home.

(c) In addition to the foregoing, when a child is not in the physical custody of a parent, the court, shall consider, but is not limited to, the following:

(1) Failure to assure care of the child in the parental home when able to do so;

(2) Failure to maintain regular visitation, contact or communication with the child or with the custodian of the child;
failure to carry out a reasonable plan approved by the court
directed toward the integration of the child into a parental home; and

(4) failure to pay a reasonable portion of the cost of substitute
physical care and maintenance based on ability to pay.

In making the above determination, the court may disregard incidental
visitations, contacts, communications or contributions.

(d) A finding of unfitness may be made as provided in this section if
the court finds that the parents have abandoned the child, the custody of
the child was surrendered pursuant to K.S.A. 2019 Supp. 38-2282, and
amendments thereto, or the child was left under such circumstances that
the identity of the parents is unknown and cannot be ascertained, despite
diligent searching, and the parents have not come forward to claim the
child within three months after the child is found.

(e) If a person is convicted of a felony in which sexual intercourse
occurred, or if a juvenile is adjudicated a juvenile offender because of an
act which, if committed by an adult, would be a felony in which sexual
intercourse occurred, and as a result of the sexual intercourse, a child is
conceived, a finding of unfitness may be made.

(f) The existence of any one of the above factors standing alone may,
but does not necessarily, establish grounds for termination of parental
rights.

(g) (1) If the court makes a finding of unfitness, the court shall
consider whether termination of parental rights as requested in the petition
or motion is in the best interests of the child. In making the determination,
the court shall give primary consideration to the physical, mental and
emotional health of the child. If the physical, mental or emotional needs of
the child would best be served by termination of parental rights, the court
shall so order. A termination of parental rights under the code shall not
terminate the right of a child to inherit from or through a parent. Upon
such termination all rights of the parent to such child, including, such
parent's right to inherit from or through such child, shall cease.

(2) If the court terminates parental rights, the court may authorize
adoption pursuant to K.S.A. 2019 Supp. 38-2270, and amendments
thereto, appointment of a permanent custodian pursuant to K.S.A. 2019
Supp. 38-2272, and amendments thereto, or continued permanency
planning.

(3) If the court does not terminate parental rights, the court may
authorize appointment of a permanent custodian pursuant to K.S.A. 2019
Supp. 38-2272, and amendments thereto, or continued permanency
planning.

(h) If a parent is convicted of an offense as provided in K.S.A. 2019
Supp. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile
offender because of an act which if committed by an adult would be an
offense as provided in K.S.A. 2019 Supp. 38-2271(a)(7), and amendments thereto, and if the victim was the other parent of a child, the court may disregard such convicted or adjudicated parent's opinions or wishes in regard to the placement of such child.

(i) A record shall be made of the proceedings.

(j) When adoption, proceedings to appoint a permanent custodian or continued permanency planning has been authorized, the person or agency awarded custody of the child shall within 30 days submit a written plan for permanent placement which shall include measurable objectives and time schedules.

Sec. 44. K.S.A. 2019 Supp. 44-501 is hereby amended to read as follows: 44-501. (a) (1) Compensation for an injury shall be disallowed if such injury to the employee results from:

(A) The employee's deliberate intention to cause such injury;

(B) the employee's willful failure to use a guard or protection against accident or injury which is required pursuant to any statute and provided for the employee;

(C) the employee's willful failure to use a reasonable and proper guard and protection voluntarily furnished the employee by the employer;

(D) the employee's reckless violation of their employer's workplace safety rules or regulations; or

(E) the employee's voluntary participation in fighting or horseplay with a co-employee for any reason, work related or otherwise.

(2) Subparagraphs (B) and (C) of paragraph (1) of subsection (a) Subsections (a)(1)(B) and (a)(1)(C) shall not apply when it was reasonable under the totality of the circumstances to not use such equipment, or if the employer approved the work engaged in at the time of an accident or injury to be performed without such equipment.

(b) (1) (A) The employer shall not be liable under the workers compensation act where the injury, disability or death was contributed to by the employee's use or consumption of alcohol or any drugs, chemicals or any other compounds or substances, including, but not limited to, any drugs or medications—such that are available to the public without a prescription from a health care provider, prescription drugs or medications, any form or type of narcotic drugs, marijuana, stimulants, depressants or hallucinogens.

(B) (i) In the case of drugs or medications which are available to the public without a prescription from a health care provider and prescription drugs or medications, compensation shall not be denied if the employee can show that such drugs or medications were being taken or used in therapeutic doses and there have been no prior incidences of the employee's impairment on the job as the result of the use of such drugs or medications within the previous 24 months.
(ii) In the case of marijuana or any other form of cannabis, including any cannabis derivatives, compensation shall not be denied if the employee is a patient holding an identification card issued pursuant to section 10, and amendments thereto, such cannabis was used in accordance with the Kansas equal access act, section 1 et seq., and amendments thereto, and there have been no prior incidences of the employee's impairment on the job as a result of the use of such cannabis or cannabis derivative within the previous 24 months.

(C) It shall be conclusively presumed that the employee was impaired due to alcohol or drugs if it is shown that, at the time of the injury, the employee had an alcohol concentration of .04 or more, or a GCMS confirmatory test by quantitative analysis showing a concentration at or above the levels shown on the following chart for the drugs of abuse listed:

<table>
<thead>
<tr>
<th>Confirmatory test cutoff levels (ng/ml)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marijuana metabolite</td>
</tr>
<tr>
<td>Cocaine metabolite</td>
</tr>
<tr>
<td>Opiates:</td>
</tr>
<tr>
<td>Morphine</td>
</tr>
<tr>
<td>Codeine</td>
</tr>
<tr>
<td>6-Acetylmorphine</td>
</tr>
<tr>
<td>Phencyclidine</td>
</tr>
<tr>
<td>Amphetamines:</td>
</tr>
<tr>
<td>Amphetamine</td>
</tr>
<tr>
<td>Methamphetamine</td>
</tr>
<tr>
<td>1 Delta-9-tetrahydrocannabinol-9-carboxylic acid.</td>
</tr>
<tr>
<td>2 Benzoylcegonine.</td>
</tr>
<tr>
<td>3 Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml.</td>
</tr>
<tr>
<td>4 Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.</td>
</tr>
</tbody>
</table>

(D) If it is shown that the employee was impaired pursuant to subsection (b)(1)(C) at the time of the injury, there shall be a rebuttable presumption that the accident, injury, disability or death was contributed to by such impairment. The employee may overcome the presumption of contribution by clear and convincing evidence.

(E) An employee's refusal to submit to a chemical test at the request of the employer shall result in the forfeiture of benefits under the workers compensation act if the employer had sufficient cause to suspect the use of alcohol or drugs by the claimant or if the employer's policy clearly authorizes post-injury testing.

(2) The results of a chemical test shall be admissible evidence to prove impairment if the employer establishes that the testing was done
under any of the following circumstances:

(A) As a result of an employer mandated drug testing policy, in place in writing prior to the date of accident or injury, requiring any worker to submit to testing for drugs or alcohol;

(B) during an autopsy or in the normal course of medical treatment for reasons related to the health and welfare of the injured worker and not at the direction of the employer;

(C) the worker, prior to the date and time of the accident or injury, gave written consent to the employer that the worker would voluntarily submit to a chemical test for drugs or alcohol following any accident or injury;

(D) the worker voluntarily agrees to submit to a chemical test for drugs or alcohol following any accident or injury; or

(E) as a result of federal or state law or a federal or state rule or regulation having the force and effect of law requiring a post-injury testing program and such required program was properly implemented at the time of testing.

(3) Notwithstanding subsection (b)(2), the results of a chemical test performed on a sample collected by an employer shall not be admissible evidence to prove impairment unless the following conditions are met:

(A) The test sample was collected within a reasonable time following the accident or injury;

(B) the collecting and labeling of the test sample was performed by or under the supervision of a licensed health care professional;

(C) the test was performed by a laboratory approved by the United States department of health and human services or licensed by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;

(D) the test was confirmed by gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample;

(E) the foundation evidence must establish, beyond a reasonable doubt, that the test results were from the sample taken from the employee; and

(F) a split sample sufficient for testing shall be retained and made available to the employee within 48 hours of a positive test.

(c) (1) Except as provided in paragraph (2), compensation shall not be paid in case of coronary or coronary artery disease or cerebrovascular injury unless it is shown that the exertion of the work necessary to precipitate the disability was more than the employee's usual work in the course of the employee's regular employment.

(2) For events occurring on or after July 1, 2014, in the case of a
firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto, or a law enforcement officer as defined by K.S.A. 74-5602, and amendments thereto, coronary or coronary artery disease or cerebrovascular injury shall be compensable if:

(A) The injury can be identified as caused by a specific event occurring in the course and scope of employment;

(B) the coronary or cerebrovascular injury occurred within 24 hours of the specific event; and

(C) the specific event was the prevailing factor in causing the coronary or coronary artery disease or cerebrovascular injury.

(d) Except as provided in the workers compensation act, no construction design professional who is retained to perform professional services on a construction project or any employee of a construction design professional who is assisting or representing the construction design professional in the performance of professional services on the site of the construction project, shall be liable for any injury resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under the workers compensation act, unless responsibility for safety practices is specifically assumed by contract. The immunity provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications.

(e) An award of compensation for permanent partial impairment, work disability, or permanent total disability shall be reduced by the amount of functional impairment determined to be preexisting. Any such reduction shall not apply to temporary total disability, nor shall it apply to compensation for medical treatment.

(1) Where workers compensation benefits have previously been awarded through settlement or judicial or administrative determination in Kansas, the percentage basis of the prior settlement or award shall conclusively establish the amount of functional impairment determined to be preexisting. Where workers compensation benefits have not previously been awarded through settlement or judicial or administrative determination in Kansas, the amount of preexisting functional impairment shall be established by competent evidence.

(2) In all cases, the applicable reduction shall be calculated as follows:

(A) If the preexisting impairment is the result of injury sustained while working for the employer against whom workers compensation benefits are currently being sought, any award of compensation shall be reduced by the current dollar value attributable under the workers compensation act to the percentage of functional impairment determined to be preexisting. The "current dollar value" shall be calculated by
multiplying the percentage of preexisting impairment by the compensation rate in effect on the date of the accident or injury against which the reduction will be applied.

(B) In all other cases, the employer against whom benefits are currently being sought shall be entitled to a credit for the percentage of preexisting impairment.

(f) If the employee receives, whether periodically or by lump sum, retirement benefits under the federal social security act or retirement benefits from any other retirement system, program, policy or plan which is provided by the employer against which the claim is being made, any compensation benefit payments which the employee is eligible to receive under the workers compensation act for such claim shall be reduced by the weekly equivalent amount of the total amount of all such retirement benefits, less any portion of any such retirement benefit, other than retirement benefits under the federal social security act, that is attributable to payments or contributions made by the employee, but in no event shall the workers compensation benefit be less than the workers compensation benefit payable for the employee's percentage of functional impairment. Where the employee elects to take retirement benefits in a lump sum, the lump sum payment shall be amortized at the rate of 4% per year over the employee's life expectancy to determine the weekly equivalent value of the benefits.

Sec. 45. K.S.A. 2019 Supp. 44-706 is hereby amended to read as follows: 44-706. The secretary shall examine whether an individual has separated from employment for each week claimed. The secretary shall apply the provisions of this section to the individual's most recent employment prior to the week claimed. An individual shall be disqualified for benefits:

(a) If the individual left work voluntarily without good cause attributable to the work or the employer, subject to the other provisions of this subsection. For purposes of this subsection, "good cause" is cause of such gravity that would impel a reasonable, not supersensitive, individual exercising ordinary common sense to leave employment. Good cause requires a showing of good faith of the individual leaving work, including the presence of a genuine desire to work. Failure to return to work after expiration of approved personal or medical leave, or both, shall be considered a voluntary resignation. After a temporary job assignment, failure of an individual to affirmatively request an additional assignment on the next succeeding workday, if required by the employment agreement, after completion of a given work assignment, shall constitute leaving work voluntarily. The disqualification shall begin the day following the separation and shall continue until after the individual has become reemployed and has had earnings from insured work of at least
three times the individual's weekly benefit amount. An individual shall not be disqualified under this subsection if:

(1) The individual was forced to leave work because of illness or injury upon the advice of a licensed and practicing health care provider and, upon learning of the necessity for absence, immediately notified the employer thereof, or the employer consented to the absence, and after recovery from the illness or injury, when recovery was certified by a practicing health care provider, the individual returned to the employer and offered to perform services and the individual's regular work or comparable and suitable work was not available. As used in this paragraph "health care provider" means any person licensed by the proper licensing authority of any state to engage in the practice of medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

(2) the individual left temporary work to return to the regular employer;

(3) the individual left work to enlist in the armed forces of the United States, but was rejected or delayed from entry;

(4) the spouse of an individual who is a member of the armed forces of the United States who left work because of the voluntary or involuntary transfer of the individual's spouse from one job to another job, which is for the same employer or for a different employer, at a geographic location which makes it unreasonable for the individual to continue work at the individual's job. For the purposes of this provision the term "armed forces" means active duty in the army, navy, marine corps, air force, coast guard or any branch of the military reserves of the United States;

(5) the individual left work because of hazardous working conditions; in determining whether or not working conditions are hazardous for an individual, the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness and prior training and the working conditions of workers engaged in the same or similar work for the same and other employers in the locality shall be considered; as used in this paragraph, "hazardous working conditions" means working conditions that could result in a danger to the physical or mental well-being of the individual; each determination as to whether hazardous working conditions exist shall include, but shall not be limited to, a consideration of: (A) The safety measures used or the lack thereof; and (B) the condition of equipment or lack of proper equipment; no work shall be considered hazardous if the working conditions surrounding the individual's work are the same or substantially the same as the working conditions generally prevailing among individuals performing the same or similar work for other employers engaged in the same or similar type of activity;

(6) the individual left work to enter training approved under section 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
substantially equal or higher skill level than the individual's past adversely
affected employment, as defined for purposes of the federal trade act of
1974, and wages for such work are not less than 80% of the individual's
average weekly wage as determined for the purposes of the federal trade
act of 1974;

(7) the individual left work because of unwelcome harassment of the
individual by the employer or another employee of which the employing
unit had knowledge and that would impel the average worker to give up
such worker's employment;

(8) the individual left work to accept better work; each determination
as to whether or not the work accepted is better work shall include, but
shall not be limited to, consideration of: (A) The rate of pay, the hours of
work and the probable permanency of the work left as compared to the
work accepted; (B) the cost to the individual of getting to the work left in
comparison to the cost of getting to the work accepted; and (C) the
distance from the individual's place of residence to the work accepted in
comparison to the distance from the individual's residence to the work left;

(9) the individual left work as a result of being instructed or requested
by the employer, a supervisor or a fellow employee to perform a service or
commit an act in the scope of official job duties which is in violation of an
ordinance or statute;

(10) the individual left work because of a substantial violation of the
work agreement by the employing unit and, before the individual left, the
individual had exhausted all remedies provided in such agreement for the
settlement of disputes before terminating. For the purposes of this
paragraph, a demotion based on performance does not constitute a
violation of the work agreement;

(11) after making reasonable efforts to preserve the work, the
individual left work due to a personal emergency of such nature and
compelling urgency that it would be contrary to good conscience to
impose a disqualification; or

(12) (A) the individual left work due to circumstances resulting from
domestic violence, including:

(i) The individual's reasonable fear of future domestic violence at or
en route to or from the individual's place of employment;

(ii) the individual's need to relocate to another geographic area in
order to avoid future domestic violence;

(iii) the individual's need to address the physical, psychological and
legal impacts of domestic violence;

(iv) the individual's need to leave employment as a condition of
receiving services or shelter from an agency which provides support
services or shelter to victims of domestic violence; or

(v) the individual's reasonable belief that termination of employment
is necessary to avoid other situations which may cause domestic violence
and to provide for the future safety of the individual or the individual's
family.

(B) An individual may prove the existence of domestic violence by
providing one of the following:

(i) A restraining order or other documentation of equitable relief by a
court of competent jurisdiction;

(ii) a police record documenting the abuse;

(iii) documentation that the abuser has been convicted of one or more
of the offenses enumerated in articles 34 and 35 of chapter 21 of the
Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2019 Supp. 21-
6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments
thereto, where the victim was a family or household member;

(iv) medical documentation of the abuse;

(v) a statement provided by a counselor, social worker, health care
provider, clergy, shelter worker, legal advocate, domestic violence or
sexual assault advocate or other professional who has assisted the
individual in dealing with the effects of abuse on the individual or the
individual's family; or

(vi) a sworn statement from the individual attesting to the abuse.

(C) No evidence of domestic violence experienced by an individual,
including the individual's statement and corroborating evidence, shall be
disclosed by the department of labor unless consent for disclosure is given
by the individual.

(b) If the individual has been discharged or suspended for misconduct
connected with the individual's work. The disqualification shall begin the
day following the separation and shall continue until after the individual
becomes reemployed and in cases where the disqualification is due to
discharge for misconduct has had earnings from insured work of at least
three times the individual's determined weekly benefit amount, except that
if an individual is discharged for gross misconduct connected with the
individual's work, such individual shall be disqualified for benefits until
such individual again becomes employed and has had earnings from
insured work of at least eight times such individual's determined weekly
benefit amount. In addition, all wage credits attributable to the
employment from which the individual was discharged for gross
misconduct connected with the individual's work shall be canceled. No
such cancellation of wage credits shall affect prior payments made as a
result of a prior separation.

(1) (A) For the purposes of this subsection, "misconduct" is defined as
a violation of a duty or obligation reasonably owed the employer as a
condition of employment including, but not limited to, a violation of a
company rule, including a safety rule, if: (A)(i) The individual knew or should have known about the rule; (B)(ii) the rule was lawful and reasonably related to the job; and (C)(iii) the rule was fairly and consistently enforced.

(B) The term "misconduct" does not include any violation of a duty, obligation or company rule, if:

(i) The individual is a patient holding an identification card issued pursuant to section 10, and amendments thereto; and

(ii) the basis for the violation is the possession of such identification card or the possession or use of medical cannabis in accordance with the Kansas equal access act, section 1 et seq., and amendments thereto.

(2) (A) Failure of the employee to notify the employer of an absence and an individual's leaving work prior to the end of such individual's assigned work period without permission shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment.

(B) For the purposes of this subsection, misconduct shall include, but not be limited to, violation of the employer's reasonable attendance expectations if the facts show:

(i) The individual was absent or tardy without good cause;

(ii) the individual had knowledge of the employer's attendance expectation; and

(iii) the employer gave notice to the individual that future absence or tardiness may or will result in discharge.

(C) For the purposes of this subsection, if an employee disputes being absent or tardy without good cause, the employee shall present evidence that a majority of the employee's absences or tardiness were for good cause. If the employee alleges that the employee's repeated absences or tardiness were the result of health related issues, such evidence shall include documentation from a licensed and practicing health care provider as defined in subsection (a)(1).

(3) (A) (i) The term "gross misconduct" as used in this subsection shall be construed to mean conduct evincing extreme, willful or wanton misconduct as defined by this subsection. Gross misconduct shall include, but not be limited to: (i)(a) Theft; (ii)(b) fraud; (iii)(c) intentional damage to property; (iv)(d) intentional infliction of personal injury; or (v)(e) any conduct that constitutes a felony.

(ii) The term "gross misconduct" does not include any conduct of an individual, if:

(a) The individual is a patient holding an identification card issued pursuant to section 10, and amendments thereto; and

(b) the basis for such conduct is the possession of such identification card or the possession or use of medical cannabis in accordance with the
Kansas equal access act, section 1 et seq., and amendments thereto.

(B) For the purposes of this subsection, the following shall be conclusive evidence of gross misconduct:

(i) The use of alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

(ii) the impairment caused by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

(iii) a positive breath alcohol test or a positive chemical test, provided:

(a) The test was either:

(1) Required by law and was administered pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq.;

(2) administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;

(3) requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment;

(4) required by law and the test constituted a required condition of employment for the individual's job; or

(5) there was reasonable suspicion to believe that the individual used, had possession of, or was impaired by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance while working;

(b) the test sample was collected either:

(1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et seq.;

(2) as prescribed by an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;

(3) as prescribed by the written policy of the employer of which the employee had knowledge and which constituted a required condition of employment;

(4) as prescribed by a test which was required by law and which constituted a required condition of employment for the individual's job; or

(5) at a time contemporaneous with the events establishing probable cause;

(c) the collecting and labeling of a chemical test sample was performed by a licensed health care professional or any other individual certified pursuant to paragraph—(b)(3)(A)(iii)(f) (b)(3)(B)(iii)(f) or authorized to collect or label test samples by federal or state law, or a federal or state rule or regulation having the force or effect of law, including law enforcement personnel;

(d) the chemical test was performed by a laboratory approved by the
United States department of health and human services or licensed by the
department of health and environment, except that a blood sample may be
tested for alcohol content by a laboratory commonly used for that purpose
by state law enforcement agencies;
(e) the chemical test was confirmed by gas chromatography, gas
chromatography-mass spectroscopy or other comparably reliable
analytical method, except that no such confirmation is required for a blood
alcohol sample or a breath alcohol test;
(f) the breath alcohol test was administered by an individual trained
to perform breath tests, the breath testing instrument used was certified
and operated strictly according to a description provided by the
manufacturers and the reliability of the instrument performance was
assured by testing with alcohol standards; and
(g) the foundation evidence establishes, beyond a reasonable doubt,
that the test results were from the sample taken from the individual;
(iv) an individual's refusal to submit to a chemical test or breath
alcohol test, provided:
(a) The test meets the standards of the drug free workplace act, 41
U.S.C. § 701 et seq.;
(b) the test was administered as part of an employee assistance
program or other drug or alcohol treatment program in which the
employee was participating voluntarily or as a condition of further
employment;
(c) the test was otherwise required by law and the test constituted a
required condition of employment for the individual's job;
(d) the test was requested pursuant to a written policy of the employer
of which the employee had knowledge and was a required condition of
employment; or
(e) there was reasonable suspicion to believe that the individual used,
possessed or was impaired by alcoholic liquor, cereal malt beverage or a
nonprescribed controlled substance while working;
(v) an individual's dilution or other tampering of a chemical test.
(C) For purposes of this subsection:
(i) "Alcohol concentration" means the number of grams of alcohol
per 210 liters of breath;
(ii) "alcoholic liquor" shall be defined means the same as provided in
K.S.A. 41-102, and amendments thereto;
(iii) "cereal malt beverage" shall be defined means the same as
provided in K.S.A. 41-2701, and amendments thereto;
(iv) "chemical test" shall include includes, but is not limited to, tests
of urine, blood or saliva;
(v) "controlled substance" shall be defined means the same as
provided in K.S.A. 2019 Supp. 21-5701, and amendments thereto;
(vi) "required by law" means required by a federal or state law, a
federal or state rule or regulation having the force and effect of law, a
county resolution or municipal ordinance, or a policy relating to public
safety adopted in an open meeting by the governing body of any special
district or other local governmental entity;
(vii) "positive breath test" means a test result showing an
alcohol concentration of 0.04 or greater, or the levels listed in 49 C.F.R.
part 40, if applicable, unless the test was administered as part of an
employee assistance program or other drug or alcohol treatment program
in which the employee was participating voluntarily or as a condition of
further employment, in which case "positive chemical test" means a test result showing an alcohol concentration at or above the levels
provided for in the assistance or treatment program;
(viii) "positive chemical test" means a chemical result
showing a concentration at or above the levels listed in K.S.A. 44-501, and
amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
abuse listed therein, unless the test was administered as part of an
employee assistance program or other drug or alcohol treatment program
in which the employee was participating voluntarily or as a condition of
further employment, in which case "positive chemical test" shall mean a
chemical result showing a concentration at or above the levels provided for
in the assistance or treatment program.
(4) An individual shall not be disqualified under this subsection if the
individual is discharged under the following circumstances:
(A) The employer discharged the individual after learning the
individual was seeking other work or when the individual gave notice of
future intent to quit, except that the individual shall be disqualified after
the time at which such individual intended to quit and any individual who
commits misconduct after such individual gives notice to such individual's
intent to quit shall be disqualified;
(B) the individual was making a good-faith effort to do the assigned
work but was discharged due to:
(i) Inefficiency;
(ii) unsatisfactory performance due to inability, incapacity or lack of
training or experience;
(iii) isolated instances of ordinary negligence or inadvertence;
(iv) good-faith errors in judgment or discretion; or
(v) unsatisfactory work or conduct due to circumstances beyond the
individual's control; or
(C) the individual's refusal to perform work in excess of the contract
of hire.
(c) If the individual has failed, without good cause, to either apply for
suitable work when so directed by the employment office of the secretary
of labor, or to accept suitable work when offered to the individual by the
employment office, the secretary of labor, or an employer, such
disqualification shall begin with the week in which such failure occurred
and shall continue until the individual becomes reemployed and has had
earnings from insured work of at least three times such individual's
determined weekly benefit amount. In determining whether or not any
work is suitable for an individual, the secretary of labor, or a person or
designated by the secretary, shall consider the degree of risk
involved to health, safety and morals, physical fitness and prior training,
experience and prior earnings, length of unemployment and prospects for
securing local work in the individual's customary occupation or work for
which the individual is reasonably fitted by training or experience, and the
distance of the available work from the individual's residence.
Notwithstanding any other provisions of this act, an otherwise eligible
individual shall not be disqualified for refusing an offer of suitable
employment, or failing to apply for suitable employment when notified by
an employment office, or for leaving the individual's most recent work
accepted during approved training, including training approved under
section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
for suitable employment or continuing such work would require the
individual to terminate approved training and no work shall be deemed
suitable and benefits shall not be denied under this act to any otherwise
eligible individual for refusing to accept new work under any of the
following conditions: (1) If the position offered is vacant due directly to a
strike, lockout or other labor dispute; (2) if the remuneration, hours or
other conditions of the work offered are substantially less favorable to the
individual than those prevailing for similar work in the locality; (3) if as a
condition of being employed, the individual would be required to join or to
resign from or refrain from joining any labor organization; and (4) if the
individual left employment as a result of domestic violence, and the
position offered does not reasonably accommodate the individual's
physical, psychological, safety, or legal needs relating to such domestic
violence.
(d) For any week with respect to which the secretary of labor, or a
person or persons designated by the secretary, finds that the individual's
unemployment is due to a stoppage of work which exists because of a
labor dispute or there would have been a work stoppage had normal
operations not been maintained with other personnel previously and
currently employed by the same employer at the factory, establishment or
other premises at which the individual is or was last employed, except that
this subsection (d) shall not apply if it is shown to the satisfaction of the
secretary of labor, or a person or persons designated by the secretary, that:
(1) The individual is not participating in or financing or directly interested
in the labor dispute which caused the stoppage of work; and (2) the
individual does not belong to a grade or class of workers of which,
immediately before the commencement of the stoppage, there were
members employed at the premises at which the stoppage occurs any of
whom are participating in or financing or directly interested in the dispute.
If in any case separate branches of work which are commonly conducted
as separate businesses in separate premises are conducted in separate
departments of the same premises, each such department shall, for the
purpose of this subsection be deemed to be a separate factory,
establishment or other premises. For the purposes of this subsection,
failure or refusal to cross a picket line or refusal for any reason during the
continuance of such labor dispute to accept the individual's available and
customey work at the factory, establishment or other premises where the
individual is or was last employed shall be considered as participation and
interest in the labor dispute.

(e) For any week with respect to which or a part of which the
individual has received or is seeking unemployment benefits under the
unemployment compensation law of any other state or of the United
States, except that if the appropriate agency of such other state or the
United States finally determines that the individual is not entitled to such
unemployment benefits, this disqualification shall not apply.

(f) For any week with respect to which the individual is entitled to
receive any unemployment allowance or compensation granted by the
United States under an act of congress to ex-service men and women in
recognition of former service with the military or naval services of the
United States.

(g) For the period of five years beginning with the first day following
the last week of unemployment for which the individual received benefits,
or for five years from the date the act was committed, whichever is the
later, if the individual, or another in such individual's behalf with the
knowledge of the individual, has knowingly made a false statement or
representation, or has knowingly failed to disclose a material fact to obtain
or increase benefits under this act or any other unemployment
compensation law administered by the secretary of labor. In addition to the
penalties set forth in K.S.A. 44-719, and amendments thereto, an
individual who has knowingly made a false statement or representation or
who has knowingly failed to disclose a material fact to obtain or increase
benefits under this act or any other unemployment compensation law
administered by the secretary of labor shall be liable for a penalty in the
amount equal to 25% of the amount of benefits unlawfully received.
Notwithstanding any other provision of law, such penalty shall be
deposited into the employment security trust fund.

(h) For any week with respect to which the individual is receiving
compensation for temporary total disability or permanent total disability
under the workmen's compensation law of any state or under a similar law
of the United States.

(i) For any week of unemployment on the basis of service in an
instructional, research or principal administrative capacity for an
educational institution as defined in K.S.A. 44-703(v), and amendments
thereto, if such week begins during the period between two successive
academic years or terms or, when an agreement provides instead for a
similar period between two regular but not successive terms during such
period or during a period of paid sabbatical leave provided for in the
individual's contract, if the individual performs such services in the first of
such academic years or terms and there is a contract or a reasonable
assurance that such individual will perform services in any such capacity
for any educational institution in the second of such academic years or
terms.

(j) For any week of unemployment on the basis of service in any
capacity other than service in an instructional, research, or administrative
capacity in an educational institution, as defined in K.S.A. 44-703(v), and
amendments thereto, if such week begins during the period between two
successive academic years or terms if the individual performs such
services in the first of such academic years or terms and there is a
reasonable assurance that the individual will perform such services in the
second of such academic years or terms, except that if benefits are denied
to the individual under this subsection and the individual was not offered
an opportunity to perform such services for the educational institution for
the second of such academic years or terms, such individual shall be
entitled to a retroactive payment of benefits for each week for which the
individual filed a timely claim for benefits and for which benefits were
denied solely by reason of this subsection.

(k) For any week of unemployment on the basis of service in any
capacity for an educational institution as defined in K.S.A. 44-703(v), and
amendments thereto, if such week begins during an established and
customary vacation period or holiday recess, if the individual performs
services in the period immediately before such vacation period or holiday
recess and there is a reasonable assurance that such individual will perform
such services in the period immediately following such vacation period or
holiday recess.

(l) For any week of unemployment on the basis of any services,
substantially all of which consist of participating in sports or athletic
events or training or preparing to so participate, if such week begins during
the period between two successive sport seasons or similar period if such
individual performed services in the first of such seasons or similar periods
and there is a reasonable assurance that such individual will perform such
services in the later of such seasons or similar periods.

(m) For any week on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the federal immigration and nationality act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

(n) For any week in which an individual is receiving a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment under a plan maintained by a base period employer and to which the entire contributions were provided by such employer, except that: (1) If the entire contributions to such plan were provided by the base period employer but such individual's weekly benefit amount exceeds such governmental or other pension, retirement or retired pay, annuity or other similar periodic payment attributable to such week, the weekly benefit amount payable to the individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity or other similar periodic payment which is attributable to such week; or (2) if only a portion of contributions to such plan were provided by the base period employer, the weekly benefit amount payable to such individual for such week shall be reduced, but not below zero, by the prorated weekly amount of the pension, retirement or retired pay, annuity or other similar periodic payment after deduction of that portion of the pension, retirement or retired pay, annuity or other similar periodic payment that is directly attributable to the percentage of the contributions made to the plan by such individual; or (3) if the entire contributions to the plan were provided by such individual, or by the individual and an employer, or any person or organization, who is not a base period employer, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection; or (4) whatever portion of contributions to such plan were provided by the base period employer, if the services performed for the employer by such individual during the base period, or remuneration received for the services, did not affect the individual's eligibility for, or increased the
amount of, such pension, retirement or retired pay, annuity or other similar
periodic payment, no reduction in the weekly benefit amount payable to
the individual for such week shall be made under this subsection. No
reduction shall be made for payments made under the social security act or

(o) For any week of unemployment on the basis of services
performed in any capacity and under any of the circumstances described in
subsection (i), (j) or (k)—which that an individual performed in an
educational institution while in the employ of an educational service
agency. For the purposes of this subsection, the term "educational service
agency" means a governmental agency or entity which is established and
operated exclusively for the purpose of providing such services to one or
more educational institutions.

(p) For any week of unemployment on the basis of service as a school
bus or other motor vehicle driver employed by a private contractor to
transport pupils, students and school personnel to or from school-related
functions or activities for an educational institution, as defined in K.S.A.
44-703(v), and amendments thereto, if such week begins during the period
between two successive academic years or during a similar period between
two regular terms, whether or not successive, if the individual has a
contract or contracts, or a reasonable assurance thereof, to perform
services in any such capacity with a private contractor for any educational
institution for both such academic years or both such terms. An individual
shall not be disqualified for benefits as provided in this subsection for any
week of unemployment on the basis of service as a bus or other motor
vehicle driver employed by a private contractor to transport persons to or
from nonschool-related functions or activities.

(q) For any week of unemployment on the basis of services
performed by the individual in any capacity and under any of the
circumstances described in subsection (i), (j), (k) or (o)—which that are
provided to or on behalf of an educational institution, as defined in K.S.A.
44-703(v), and amendments thereto, while the individual is in the employ
of an employer which is a governmental entity, Indian tribe or any
employer described in section 501(c)(3) of the federal internal revenue
code of 1986 which is exempt from income under section 501(a) of the
code.

(r) For any week in which an individual is registered at and attending
an established school, training facility or other educational institution, or is
on vacation during or between two successive academic years or terms. An
individual shall not be disqualified for benefits as provided in this
subsection provided:

(1) The individual was engaged in full-time employment concurrent
with the individual's school attendance;
(2) the individual is attending approved training as defined in K.S.A. 44-703(s), and amendments thereto; or
(3) the individual is attending evening, weekend or limited day time classes, which would not affect availability for work, and is otherwise eligible under K.S.A. 44-705(c), and amendments thereto.

(s) For any week with respect to which an individual is receiving or has received remuneration in the form of a back pay award or settlement. The remuneration shall be allocated to the week or weeks in the manner as specified in the award or agreement, or in the absence of such specificity in the award or agreement, such remuneration shall be allocated to the week or weeks in which such remuneration, in the judgment of the secretary, would have been paid.

(1) For any such weeks that an individual receives remuneration in the form of a back pay award or settlement, an overpayment will be established in the amount of unemployment benefits paid and shall be collected from the claimant.

(2) If an employer chooses to withhold from a back pay award or settlement, amounts paid to a claimant while they claimed unemployment benefits, such employer shall pay the department the amount withheld. With respect to such amount, the secretary shall have available all of the collection remedies authorized or provided in K.S.A. 44-717, and amendments thereto.

(t) (1) Any applicant for or recipient of unemployment benefits who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary of labor, secretary of commerce or secretary for children and families, and a job skills program approved by the secretary of labor, secretary of commerce or the secretary for children and families. Subject to applicable federal laws, any applicant for or recipient of unemployment benefits who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive unemployment benefits until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of unemployment benefits may be subject to periodic drug screening, as determined by the secretary of labor. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or recipient of unemployment benefits shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from unemployment benefits for a period of 12 months, or until such applicant for or recipient of unemployment benefits completes both substance abuse treatment and job skills programs,
whichever is later. Upon a third positive test for unlawful use of a 
controlled substance or controlled substance analog, an applicant for or a 
recipient of unemployment benefits shall be terminated from receiving 
unemployment benefits, subject to applicable federal law.

(2) Any individual who has been discharged or refused employment 
for failing a preemployment drug screen required by an employer may 
request that the drug screening specimen be sent to a different drug testing 
facility for an additional drug screening. Any such individual who requests 
an additional drug screening at a different drug testing facility shall be 
required to pay the cost of drug screening.

(3) The provisions of this subsection shall not apply to any individual 
who is a patient holding an identification card issued pursuant to section 
10, and amendments thereto.

(u) If the individual was found not to have a disqualifying 
adjudication or conviction under K.S.A. 39-970 or 65-5117, and 
amendments thereto, was hired and then was subsequently convicted of a 
disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments 
thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and 
amendments thereto. The disqualification shall begin the day following the 
separation and shall continue until after the individual becomes 
reemployed and has had earnings from insured work of at least three times 
the individual's determined weekly benefit amount.

(v) Notwithstanding the provisions of any subsection, an individual 
shall not be disqualified for such week of part-time employment in a 
substitute capacity for an educational institution if such individual's most 
recent employment prior to the individual's benefit year begin date was for 
a non-educational institution and such individual demonstrates application 
for work in such individual's customary occupation or for work for which 
the individual is reasonably fitted by training or experience.

Sec. 46. K.S.A. 44-1009 is hereby amended to read as follows: 44-
1009. (a) It shall be an unlawful employment practice:

(1) For an employer, because of the race, religion, color, sex, 
disability, national origin or ancestry of any person to refuse to hire or 
employ such person to bar or discharge such person from employment or 
to otherwise discriminate against such person in compensation or in terms, 
conditions or privileges of employment; to limit, segregate, separate, 
classify or make any distinction in regards to employees; or to follow any 
employment procedure or practice which, in fact, results in discrimination, 
segregation or separation without a valid business necessity.

(2) For a labor organization, because of the race, religion, color, sex, 
disability, national origin or ancestry of any person, to exclude or to expel 
from its membership such person or to discriminate in any way against any 
of its members or against any employer or any person employed by an
(3) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or ancestry, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

(4) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this act or because such person has filed a complaint, testified or assisted in any proceeding under this act.

(5) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of such person's race, religion, color, sex, disability, national origin or ancestry; or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or ancestry.

(6) For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job, or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of race, religion, color, sex, disability, national origin or ancestry, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

(7) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or attempt to do so.

(8) For an employer, labor organization, employment agency or joint labor-management committee to: (A) Limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee; (B) participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to
an employee or an organization providing training and apprenticeship
programs that has the effect of subjecting a qualified applicant or
employee with a disability to the discrimination prohibited by this act; (C)
utilize standards criteria, or methods of administration that have the effect
of discrimination on the basis of disability or that perpetuate the
discrimination of others who are subject to common administrative
control; (D) exclude or otherwise deny equal jobs or benefits to a qualified
individual because of the known disability of an individual with whom the
qualified individual is known to have a relationship or association; (E) not
make reasonable accommodations to the known physical or mental
limitations of an otherwise qualified individual with a disability who is an
applicant or employee, unless such employer, labor organization,
employment agency or joint labor-management committee can
demonstrate that the accommodation would impose an undue hardship on
the operation of the business thereof; (F) deny employment opportunities
to a job applicant or employee who is an otherwise qualified individual
with a disability, if such denial is based on the need to make reasonable
accommodation to the physical or mental impairments of the employee or
applicant; (G) use qualification standards, employment tests or other
selection criteria that screen out or tend to screen out an individual with a
disability or a class of individuals with disabilities unless the standard, test
or other selection criteria, as used, is shown to be job-related for the
position in question and is consistent with business necessity; or (H) fail to
select and administer tests concerning employment in the most effective
manner to ensure that, when such test is administered to a job applicant or
employee who has a disability that impairs sensory, manual or speaking
skills, the test results accurately reflect the skills, aptitude or whatever
other factor of such applicant or employee that such test purports to
measure, rather than reflecting the impaired sensory, manual or speaking
skills of such employee or applicant—except where such skills are the
factors that the test purports to measure).

(9) For any employer to:

(A) Seek to obtain, to obtain or to use genetic screening or testing
information of an employee or a prospective employee to distinguish
between or discriminate against or restrict any right or benefit otherwise
due or available to an employee or a prospective employee; or

(B) subject, directly or indirectly, any employee or prospective
employee to any genetic screening or test.

(10) (A) For an employer, because a person is a patient or caregiver
holding an identification card issued pursuant to section 10, and
amendments thereto, or possesses or uses medical cannabis in accordance
with the Kansas equal access act, section 1 et seq., and amendments
thereto, to:
(i) Refuse to hire or employ a person;
(ii) bar or discharge such person from employment; or
(iii) otherwise discriminate against such person in compensation or
in terms, conditions or privileges of employment without a valid business
necessity.

(B) For a labor organization, because a person is a patient or
caregiver holding an identification card issued pursuant to section 10, and
amendments thereto, or possesses or uses medical cannabis in accordance
with the Kansas equal access act, section 1 et seq., and amendments
thereto, to exclude or expel such person from its membership.

(C) Nothing in this paragraph shall be construed to prohibit a person
from taking any action necessary to procure or retain any monetary
benefit provided under federal law, or any rules and regulations adopted
thereunder, or to obtain or maintain any license, certificate, registration
or other legal status issued or bestowed under federal law, or any rules
and regulations adopted thereunder.

(b) It shall not be an unlawful employment practice to fill vacancies
in such way as to eliminate or reduce imbalance with respect to race,
religion, color, sex, disability, national origin or ancestry.

(c) It shall be an unlawful discriminatory practice:
(1) For any person, as defined herein being the owner, operator,
lessee, manager, agent or employee of any place of public accommodation
to refuse, deny or make a distinction, directly or indirectly, in offering its
goods, services, facilities, and accommodations to any person as covered
by this act because of race, religion, color, sex, disability, national origin or
ancestry, except where a distinction because of sex is necessary because of the
intrinsic nature of such accommodation.

(2) For any person, whether or not specifically enjoined from
discriminating under any provisions of this act, to aid, abet, incite, compel
or coerce the doing of any of the acts forbidden under this act, or to
attempt to do so.

(3) For any person, to refuse, deny, make a distinction, directly or
indirectly, or discriminate in any way against persons because of the race,
religion, color, sex, disability, national origin or ancestry of such persons
in the full and equal use and enjoyment of the services, facilities,
privileges and advantages of any institution, department or agency of the
state of Kansas or any political subdivision or municipality thereof.

Sec. 47. K.S.A. 44-1015 is hereby amended to read as follows: 44-
1015. As used in this act, unless the context otherwise requires:
(a) "Commission" means the Kansas human rights commission.
(b) "Real property" means and includes:
(1) All vacant or unimproved land; and
(2) any building or structure which that is occupied or designed or
intended for occupancy, or any building or structure having a portion thereof which is occupied or designed or intended for occupancy.

(c) "Family" includes a single individual.

(d) "Person" means an individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver and fiduciary.

(e) "To rent" means to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means any act that is unlawful under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto, or section 28, and amendments thereto.

(g) "Person aggrieved" means any person who claims to have been injured by a discriminatory housing practice or believes that such person will be injured by a discriminatory housing practice that is about to occur.

(h) "Disability" has the meaning provided by means the same as defined in K.S.A. 44-1002, and amendments thereto.

(i) "Familial status" means having one or more individuals less than 18 years of age domiciled with:

(1) A parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

Sec. 48. K.S.A. 2019 Supp. 65-1120 is hereby amended to read as follows: 65-1120. (a) Grounds for disciplinary actions. The board may deny, revoke, limit or suspend any license or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or as a registered nurse anesthetist that is issued by the board or applied for under this act, or may require the licensee to attend a specific number of hours of continuing education in addition to any hours the licensee may already be required to attend or may publicly or privately censure a licensee or holder of a temporary permit or authorization, if the applicant, licensee or holder of a temporary permit or authorization is found after hearing:

(1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;

(2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered
nurse or registered nurse anesthetist shall be granted to a person with a
felony conviction for a crime against persons as specified in article 34 of
chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2019 Supp.
21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;
(3) has been convicted or found guilty or has entered into an agreed
disposition of a misdemeanor offense related to the practice of nursing as
determined on a case-by-case basis;
(4) to have committed an act of professional incompetency as defined
in subsection (e);
(5) to be unable to practice with skill and safety due to current abuse
of drugs or alcohol;
(6) to be a person who has been adjudged in need of a guardian or
conservator, or both, under the act for obtaining a guardian or conservator,
or both, and who has not been restored to capacity under that act;
(7) to be guilty of unprofessional conduct as defined by rules and
regulations of the board;
(8) to have willfully or repeatedly violated the provisions of the
Kansas nurse practice act or any rules and regulations adopted pursuant to
that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;
(9) to have a license to practice nursing as a registered nurse or as a
practical nurse denied, revoked, limited or suspended, or to be publicly or
privately censured, by a licensing authority of another state, agency of the
United States government, territory of the United States or country or to
have other disciplinary action taken against the applicant or licensee by a
licensing authority of another state, agency of the United States
government, territory of the United States or country. A certified copy of
the record or order of public or private censure, denial, suspension,
limitation, revocation or other disciplinary action of the licensing authority
of another state, agency of the United States government, territory of the
United States or country shall constitute prima facie evidence of such a
fact for purposes of this paragraph (9); or
(10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
its repeal, or K.S.A. 2019 Supp. 21-5407, and amendments thereto, as
established by any of the following:
(A) A copy of the record of criminal conviction or plea of guilty for a
felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2019
Supp. 21-5407, and amendments thereto.
(B) A copy of the record of a judgment of contempt of court for
violating an injunction issued under K.S.A. 2019 Supp. 60-4404, and
amendments thereto.
(C) A copy of the record of a judgment assessing damages under
(b) **Proceedings.** Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct an investigation. After investigation, the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) **Witnesses.** No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 2019 Supp. 21-5903, and amendments thereto.

(d) **Costs.** If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

(e) **Professional incompetency defined.** As used in this section, "professional incompetency" means:

1. One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;
2. repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or
3. a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

(f) **Criminal justice information.** The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board.
Medical cannabis exemption. The board shall not deny, revoke, limit or suspend an advanced practice registered nurse's license or publicly or privately censure an advanced practice registered nurse for any of the following:

1. The advanced practice registered nurse has:
   a. Advised a patient about the possible benefits and risks of using medical cannabis; or
   b. Advised a patient that using medical cannabis may mitigate the patient's symptoms; or
2. The advanced practice registered nurse is a patient or caregiver holding an identification card issued pursuant to section 10, and amendments thereto, possesses or has possessed, or uses or has used medical cannabis in accordance with the Kansas equal access act, section 1 et seq., and amendments thereto.

Sec. 49. K.S.A. 79-5201 is hereby amended to read as follows: 79-5201. As used in this act article 52 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto:

a. "Marijuana" means any marijuana, whether real or counterfeit, as defined by K.S.A. 2019 Supp. 21-5701, and amendments thereto, which is held, possessed, transported, transferred, sold or offered to be sold in violation of the laws of Kansas;

b. "Controlled substance" means any drug or substance, whether real or counterfeit, as defined by K.S.A. 2019 Supp. 21-5701, and amendments thereto, which is held, possessed, transported, transferred, sold or offered to be sold in violation of the laws of Kansas. Such term shall not include marijuana;

c. "dealer" means any person who, in violation of Kansas law, manufactures, produces, ships, transports or imports into Kansas or in any manner acquires or possesses more than 28 grams of marijuana, or more than one gram of any controlled substance, or 10 or more dosage units of any controlled substance which is not sold by weight;

d. "domestic marijuana plant" means any cannabis plant at any level of growth which is harvested or tended, manicured, irrigated, fertilized or where there is other evidence that it has been treated in any other way in an effort to enhance growth;

e. "marijuana" means any marijuana, whether real or counterfeit, as defined in K.S.A. 2019 Supp. 21-5701, and amendments thereto, that is held, possessed, transported, transferred, sold or offered for sale in violation of the laws of Kansas; and

Sec. 50. K.S.A. 79-5210 is hereby amended to read as follows: 79-5210. Nothing in this act requires persons registered under article 16 of
chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or otherwise lawfully in possession of marijuana, medical cannabis or a controlled substance to pay the tax required under this act.


Sec. 52. This act shall take effect and be in force from and after its publication in the statute book.