HOUSE BILL No. 2184
By Committee on Federal and State Affairs

AN ACT concerning health and healthcare; enacting the Kansas medical
marijuana regulation act; relating to medical cannabis; licensure and
regulation of the manufacture, transportation and sale of medical
cannabis; providing certain fines and penalties for violations; amending
K.S.A. 44-1009, 44-1015, 65-28b08, 79-5201 and 79-5210 and K.S.A.
2020 Supp. 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710,
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. The provisions of sections 1 through 46, and
amendments thereto, shall be known and may be cited as the Kansas
medical marijuana regulation act.

New Sec. 2. As used in the Kansas medical marijuana regulation act,
section 1 et seq., and amendments thereto:
(a) "Academic medical center" means a medical school and its
affiliated teaching hospitals and clinics.
(b) "Associated employee" means an owner or prospective owner,
officer or board member or prospective board member of an entity seeking
a retail dispensary license.
(c) "Board of healing arts" means the state board of healing arts.
(d) "Caregiver" means an individual registered pursuant to section 8,
and amendments thereto, who may purchase and possess medical
cannabis in accordance with section 11, and amendments thereto.
(e) "Cultivator" means a person issued a license pursuant to section
20, and amendments thereto, who may grow and sell medical marijuana in
accordance with section 21, and amendments thereto.
(f) "Disqualifying offense" means a criminal offense, the conviction
of which renders the offender unfit for registration or licensure under this
act.
(g) "Distributor" means a person issued a license pursuant to section
28, and amendments thereto, who may purchase and sell medical
marijuana in accordance with section 30, and amendments thereto.
(h) "Electronic cigarette" means the same as defined in K.S.A. 79-
3301, and amendments thereto.
(i) "Key employee" means a manager or other person responsible for
the daily operation of a licensed retail dispensary.

(j) "Marijuana" means the same as defined in K.S.A. 65-4101, and amendments thereto.

(k) "Medical marijuana" means marijuana that is cultivated, processed, dispensed, possessed or used for a medical purpose.

(l) "Owned and controlled" means ownership of at least 51% of the business, including corporate stock if a corporation, control over the management and day-to-day operations of the business and an interest in the capital, assets and profits and losses of the business proportionate to such owner's percentage of ownership.

(m) "Patient" means an individual registered pursuant to section 8, and amendments thereto, who may purchase and possess medical marijuana in accordance with section 10, and amendments thereto.

(n) "Postsecondary educational institution" means the same as defined in K.S.A. 74-3201b, and amendments thereto.

(o) "Processor" means a person issued a license pursuant to section 28, and amendments thereto, who may purchase, process and sell medical marijuana in accordance with section 29, and amendments thereto.

(p) "Physician" means an individual licensed to practice medicine and surgery in this state and who is certified by the board of healing arts to recommend treatment with medical marijuana pursuant to section 17, and amendments thereto.

(q) "Qualifying medical condition" means any of the following:

1. Acquired immune deficiency syndrome;
2. Alzheimer's disease;
3. amyotrophic lateral sclerosis;
4. cancer;
5. chronic traumatic encephalopathy;
6. Crohn's disease;
7. epilepsy or another seizure disorder;
8. fibromyalgia;
9. glaucoma;
10. hepatitis C;
11. inflammatory bowel disease;
12. multiple sclerosis;
13. pain that is either chronic and severe or intractable;
14. Parkinson's disease;
15. positive status for HIV;
16. post-traumatic stress disorder;
17. sickle cell anemia;
18. spinal cord disease or injury;
19. Tourette's syndrome;
20. traumatic brain injury;
(21) ulcerative colitis; or
(22) any other disease or condition approved by the secretary of health and environment pursuant to section 19, and amendments thereto.
(r) "Retail dispensary" means a person issued a license pursuant to section 31, and amendments thereto, who may purchase and sell medical marijuana in accordance with section 32, and amendments thereto.
(s) "Smoking" means the use of a lighted cigarette, cigar or pipe or otherwise burning marijuana in any other form for the purpose of consuming such marijuana.
(t) "Support employee" means an individual employed by a licensed retail dispensary who does not have authority to make operational decisions.
(u) "Vaporization" means the use of an electronic cigarette for the purpose of consuming marijuana.
(v) "Veteran" means a person who:
(1) Has served in the army, navy, marine corps, air force, coast guard, air or army national guard or any branch of the military reserves of the United States; and
(2) has been separated from the branch of service in which the person was honorably discharged or received a general discharge under honorable conditions.

New Sec. 3. (a) No person shall grow, harvest, process, sell, barter, transport, deliver, furnish or otherwise possess any form of marijuana, except as specifically provided in the Kansas medical marijuana regulation act or the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et seq., and amendments thereto.
(b) Nothing in the Kansas medical marijuana regulation act shall be construed to:
(1) Require a physician to recommend that a patient use medical marijuana to treat a qualifying medical condition;
(2) permit the use, possession or administration of medical marijuana other than as authorized by this act;
(3) permit the use, possession or administration of medical marijuana on federal land located in this state;
(4) require any public place to accommodate a registered patient's use of medical marijuana;
(5) prohibit any public place from accommodating a registered patient's use of medical marijuana; or
(6) restrict research related to marijuana conducted at a postsecondary educational institution, academic medical center or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

New Sec. 4. (a) There is hereby established a Kansas medical
marijuana regulation program.

(b) The secretary of health and environment shall administer the program in accordance with the provisions of this act and provide for the registration of patients and caregivers, including the issuance of identification cards to registered patients and caregivers.

(c) The secretary of agriculture shall administer the program in accordance with the provisions of this act and provide for the licensure of cultivators and laboratories that test medical marijuana.

(d) The director of alcoholic beverage control shall administer the program in accordance with the provisions of this act and provide for the licensure of processors, distributors and retail dispensaries.

New Sec. 5. (a) The medical marijuana advisory committee is hereby created in the department of health and environment. The committee shall consist of the following:

(1) Eight members appointed by the governor as follows:
   (A) Two members who are practicing pharmacists, at least one of whom supports the use of medical marijuana and at least one of whom is a member of the state board of pharmacy;
   (B) two members who are practicing physicians, at least one of whom supports the use of medical marijuana and at least one of whom is a member of the board of healing arts;
   (C) one member who represents employers;
   (D) one member who represents agriculture;
   (E) one member who represents persons involved in the treatment of alcohol and drug addiction; and
   (F) one member who engages in academic research on the use or regulation of medical marijuana;

(2) two members appointed by the president of the senate as follows:
   (A) One member who represents law enforcement; and
   (B) one member who represents caregivers;

(3) one member, who is a nurse, appointed by the minority leader of the senate;

(4) two members appointed by the speaker of the house of representatives as follows:
   (A) One member who represents persons involved in mental health treatment; and
   (B) one member who represents patients;

(5) one member, who represents employees, appointed by the minority leader of the house of representatives; and

(6) the secretary of health and environment, who shall serve as chairperson.

(b) The initial appointments to the committee shall be made on or before July 31, 2021.
(c) Except for the secretary of health and environment, each member
of the committee shall serve from the date of appointment until the
committee ceases to exist, except that members shall serve at the pleasure
of the appointing authority. A vacancy shall be filled in the same manner
as the original appointment.
(d) Each member of the committee shall be paid compensation,
subsistence allowances, mileage and other expenses as provided in K.S.A.
75-3223(e), and amendments thereto.
(e) The committee shall hold its initial meeting not later than 30 days
after the last member of the committee is appointed. The committee may
develop and submit to the secretary of health and environment, the
secretary of agriculture and the director of alcoholic beverage control any
recommendations related to the Kansas medical marijuana regulation
program and the implementation and enforcement of this act.
(f) The medical marijuana advisory committee shall develop policies
and procedures for the review, approval and denial of petitions for
approval of a qualifying medical condition submitted pursuant to section
19, and amendments thereto.
(g) The medical marijuana advisory committee shall make
recommendations to the secretary of health and environment, the secretary
of agriculture and the director of alcoholic beverage control regarding
those offenses that would disqualify an applicant from registration or
licensure by the respective state agency. The committee shall annually
review such offenses and make any subsequent recommendations the
committee deems necessary.
(h) The provisions of this section shall expire on July 1, 2026.

New Sec. 6. (a) Except as permitted under subsection (c), the
following individuals shall not solicit or accept, directly or indirectly, any
gift, gratuity, emolument or employment from any person who is an
applicant for any license or is a licensee under the provisions of the Kansas
medical marijuana regulation act or any officer, agent or employee thereof,
or solicit requests from or recommend, directly or indirectly, to any such
person, the appointment of any individual to any place or position:
(1) The secretary of health and environment or any officer, employee
or agent of the department of health and environment;
(2) the secretary of agriculture or any officer, employee or agency of
the department of agriculture;
(3) the secretary of revenue, the director of alcoholic beverage control
or any officer, employee or agent of the division of alcoholic beverage
control; or
(4) any member of the board of healing arts.
(b) Except as permitted under subsection (c), an applicant for a
license or a licensee under the provisions of the Kansas medical marijuana
regulation act shall not offer any gift, gratuity, emolument or employment to any of the following:

(1) The secretary of health and environment or any officer, employee or agent of the department of health and environment;
(2) the secretary of agriculture or any officer, employee or agency of the department of agriculture;
(3) the secretary of revenue, the director of alcoholic beverage control or any officer, employee or agent of the division of alcoholic beverage control; or
(4) any member of the board of healing arts.

(c) The board of healing arts and the secretaries of health and environment, agriculture and revenue may adopt rules and regulations for their respective agencies allowing the acceptance of official hospitality by members of the board of healing arts or the respective secretary and employees of each such respective agency, subject to any limits as prescribed by such rules and regulations.

(d) If any member of the board of healing arts, the secretary of health and environment, the secretary of agriculture, the secretary of revenue or any employee of each such respective agency violates any provision of this section, such person shall be removed from such person's office or employment.

(e) Violation of any provision of this section is a misdemeanor punishable by a fine of not to exceed $500 or imprisonment of not less than 60 days nor more than six months, or both such fine and imprisonment.

(f) Nothing in this section shall be construed to prohibit the prosecution and punishment of any person for bribery as defined in the Kansas criminal code.

New Sec. 7. All actions taken by the board of healing arts, the secretary of health and environment, the secretary of agriculture or the director of alcoholic beverage control under the Kansas medical marijuana regulation 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) A patient seeking to use medical marijuana or a caregiver seeking to assist a patient in the use or administration of medical marijuana shall apply to the department of health and environment for registration. The physician who is treating the patient, or such physician's designee, shall submit the application on the patient's or caregiver's behalf in such form and manner as prescribed by the secretary of health and environment.

(b) The application for registration shall include the following:

(1) A statement from the physician certifying that:
(A) A bona fide physician-patient relationship exists between the physician and patient;

(B) the patient has been diagnosed with a qualifying medical condition;

(C) the physician, or such physician's designee, has requested from the prescription monitoring program database a report of information related to the patient that covers at least the 12 months immediately preceding the date of the report;

(D) the physician has informed the patient of the risks and benefits of medical marijuana as it pertains to the patient's qualifying medical condition and medical history; and

(E) the physician has informed the patient that it is the physician's opinion that the benefits of medical marijuana outweigh its risks;

(2) in the case of an application submitted on behalf of a patient, the name or names of one or more caregivers, if any, who will assist the patient in the use or administration of medical marijuana;

(3) in the case of an application submitted on behalf of a caregiver, the name of the patient or patients whom the caregiver seeks to assist in the use or administration of medical marijuana; and

(4) in the case of a patient who is a minor, the name of the patient's parent or legal guardian who has consented to treatment with medical marijuana and who shall be designated as the patient's caregiver.

(c) If the application is complete and meets the requirements of this act and rules and regulations adopted thereunder and the patient or caregiver has paid the required fee, the secretary of health and environment shall register the patient or caregiver and issue to the patient or caregiver an identification card.

(d) (1) A registered caregiver must be at least 21 years of age, except that, if the caregiver is the parent or legal guardian of a patient who is a minor, then the registered caregiver must be at least 18 years of age.

(2) A registered patient may designate up to two registered caregivers. If the patient is a minor, a parent or legal guardian of such patient shall be designated as a registered caregiver for such patient.

(3) A registered caregiver may provide assistance to not more than two registered patients, unless the secretary approves a greater number of registered patients.

(4) A physician who submits an application on behalf of a patient may not also serve as such patient's registered caregiver.

(e) Any information collected by the department of health and environment pursuant to this section is confidential and not a public record. The department may share information identifying a specific patient with a licensed retail dispensary or any law enforcement agency for the purpose of confirming that such patient has a valid registration.
Information that does not identify a person may be released in summary, statistical or aggregate form. The provisions of this subsection shall expire on July 1, 2026, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

(f) The fees for a patient or caregiver registration, or the renewal thereof, shall be set by rules and regulations adopted by the secretary of health and environment in an amount not to exceed:

(1) Except as specified in paragraph (2), $50 for a patient registration;
(2) $25 for a patient registration if the patient is indigent or is a veteran; and
(3) $25 for a caregiver registration.

(g) A registration shall be valid for a period of one year from the date the identification card is issued and may be renewed by submitting a registration renewal application and paying the required fee.

New Sec. 9. The department of health and environment shall assign a unique 24-character identification number to each registered patient and caregiver when issuing an identification card. Licensed retail dispensaries may request verification by the department that a patient or caregiver has a valid registration.

New Sec. 10. (a) A patient registered pursuant to section 8, and amendments thereto, who obtains medical marijuana from a licensed retail dispensary may:

(1) Use medical marijuana;
(2) subject to subsection (b), possess medical marijuana; and
(3) possess any paraphernalia or accessories as specified in rules and regulations adopted by the secretary of health and environment.

(b) A registered patient may possess medical marijuana in an amount not to exceed a 90-day supply.

(c) Nothing in this section shall be construed to authorize a registered patient to operate a motor vehicle, watercraft or aircraft while under the influence of medical marijuana.

New Sec. 11. (a) A caregiver registered pursuant to section 8, and amendments thereto, who obtains medical marijuana from a licensed retail dispensary may:

(1) Subject to subsection (b), possess medical marijuana on behalf of a registered patient under the caregiver's care;
(2) assist a registered patient under the caregiver's care in the use or administration of medical marijuana; and
(3) possess any paraphernalia or accessories as specified in rules and regulations adopted by the secretary of health and environment.

(b) A registered caregiver may possess medical marijuana on behalf of a registered patient in an amount not to exceed a 90-day supply. If a
caregiver provides care to more than one registered patient, the caregiver shall maintain separate inventories of medical marijuana for each patient.

(c) Nothing in this section shall be construed to permit a registered caregiver to personally use medical marijuana unless the caregiver is also a registered patient.

New Sec. 12. (a) In addition to or in lieu of any other civil or criminal penalty as provided by law, the secretary of health and environment may impose a civil penalty or suspend or revoke a registration upon a finding that the patient or caregiver committed a violation as provided in this section.

(b) Nothing in this act shall be construed to require the secretary to enforce minor violations if the secretary determines that the public interest is adequately served by a notice or warning to the alleged offender.

(c) Upon a finding that a registrant has submitted fraudulent information or otherwise falsified or misrepresented information required to be submitted by such registrant, the secretary may impose a civil fine of not to exceed $500 for a first offense and may suspend or revoke the individual's registration for a second or subsequent offense.

(d) If the secretary suspends, revokes or refuses to renew any registration issued pursuant to this act and determines that there is clear and convincing evidence of a danger of immediate and serious harm to any person, the secretary may place under seal all medical marijuana owned by or in the possession, custody or control of the affected registrant. Except as provided in this section, the secretary shall not dispose of the sealed medical marijuana until a final order is issued authorizing such disposition. During the pendency of an appeal from any order issued by the secretary, a court may order the secretary to sell medical marijuana that is perishable, and the proceeds of any such sale shall be deposited with the court.

New Sec. 13. (a) There is hereby established the medical marijuana registration fund in the state treasury. The secretary of health and environment shall administer the medical marijuana registration fund and shall remit all moneys collected from the payment of all fees and fines imposed by the secretary pursuant to the Kansas medical marijuana regulation act and any other moneys received by or on behalf of the secretary 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 marijuana registration fund. Moneys credited to the medical marijuana registration 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 reports issued pursuant to vouchers approved by the secretary or the secretary's designee.
(b) Moneys in the medical marijuana registration fund shall be used for the payment or reimbursement of costs related to the regulation and enforcement of the possession and use of medical marijuana by the secretary.

New Sec. 14. (a) On or before July 1, 2022, the secretary of health and environment shall adopt rules and regulations to administer the Kansas medical marijuana regulation program and implement and enforce the provisions of the Kansas medical marijuana regulation act. Such rules and regulations shall:

1. Establish procedures for registration of patients and caregivers and eligibility requirements for registration;
2. Establish procedures for the issuance of patient or caregiver identification cards;
3. Establish a renewal schedule, renewal procedures and renewal fees for registrations;
4. Specify, by form and tetrahydrocannabinol content, a maximum 90-day supply of medical marijuana that may be possessed;
5. Specify the paraphernalia or other accessories that may be used in the administration to a registered patient of medical marijuana;
6. Specify the forms or methods of using medical marijuana that are attractive to children;
7. Establish procedures for reviewing, approving and denying petitions for approval of new forms or methods of using medical marijuana;
8. Establish a program to assist patients who are indigent or who are veterans in obtaining medical marijuana; and
9. Establish procedures for reviewing, approving and denying a petition for approval of a qualifying medical condition submitted pursuant to section 19, and amendments thereto.

(b) When adopting rules and regulations under this section, the secretary shall consider standards and procedures that have been found to be best practices relative to the use and regulation of medical marijuana.

New Sec. 15. On or before July 1, 2022, the department of health and environment shall make a website available for the public to access information regarding patient and caregiver registration under the Kansas medical marijuana regulation act.

New Sec. 16. (a) The secretary of health and environment shall negotiate in good faith to enter into a reciprocity agreement with any other state under which a medical marijuana registry identification card or equivalent authorization that is issued by the other state is recognized in this state. A reciprocity agreement may be entered into only if the secretary determines that the following apply:

1. The eligibility requirements imposed by the other state for
authorization to purchase, possess and use medical marijuana are substantially comparable to the eligibility requirements for a patient or caregiver registration and identification card issued under section 8, and amendments thereto; and

(2) the other state recognizes a patient or caregiver registration and identification card issued under section 8, and amendments thereto.

(b) If a reciprocity agreement is entered into in accordance with this section, the authorization issued by the other state shall be recognized in this state, shall be accepted and valid in this state and shall grant the patient or caregiver the same right to use, possess, obtain or administer medical marijuana in this state as a patient or caregiver who was registered and issued an identification card under section 8, and amendments thereto.

New Sec. 17. (a) Except as provided in subsection (j), a physician seeking to recommend treatment with medical marijuana shall apply to the board of healing arts for a certificate authorizing such physician to recommend treatment with medical marijuana. The application shall be submitted in such form and manner as prescribed by the board. The board 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 by the board of healing arts; 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 department of health and environment, the department of agriculture or the director of alcoholic beverage control under this act or an applicant for such licensure.

(b) A certificate to recommend shall be renewed when the holder's license to practice medicine and surgery is renewed, conditioned upon the holder's certification of having met the requirements in subsection (a) and having completed at least two hours of continuing medical education in medical marijuana annually in accordance with subsection (g).

(c) A physician who holds a certificate to recommend treatment with medical marijuana may recommend that a patient be treated with medical marijuana if:

(1) The patient has been diagnosed with a qualifying medical condition;

(2) a bona fide physician-patient relationship has existed for a minimum of 12 months, or as otherwise specified by rules and regulations adopted by the board;

(3) an in-person physical examination of the patient was performed by the physician; and

(4) the physician, or the physician's designee, has requested from the
prescription monitoring program database a report of information related
to the patient that covers at least the 12 months immediately preceding the
date of the report, and the physician has reviewed such report.
(d) In the case of a patient who is a minor, the physician may
recommend treatment with medical marijuana only after obtaining the
consent of the patient's parent or other person responsible for providing
consent to treatment.
(e) When issuing a written recommendation to a patient, the
physician shall specify any information required by rules and regulations
adopted by the board of healing arts. A written recommendation issued to a
patient under this section is valid for a period of not more than 90 days.
The physician may renew the recommendation for not more than three
additional periods of not more than 90 days each. Thereafter, the physician
may issue another recommendation to the patient only upon a physical
examination of the patient.
(f) Each year a physician holding a certificate to recommend
treatment with medical marijuana shall submit to the board of healing arts
a report that describes the physician's observations regarding the
effectiveness of medical marijuana in treating the physician's patients
during the year covered by the report. When submitting reports, a
physician shall not include any information that identifies or would tend to
identify any specific patient.
(g) Annually, each physician who holds a certificate to recommend
treatment with medical marijuana shall complete at least two hours of
continuing medical education in the treatment with and use of medical
marijuana as approved by the board of healing arts.
(h) A physician shall not issue a recommendation for treatment with
medical marijuana for a family member or the physician's self, or
personally furnish or otherwise dispense medical marijuana.
(i) A physician who holds a certificate to recommend treatment with
medical marijuana shall be immune from civil liability, shall not be subject
to professional disciplinary action by the board of healing arts 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 marijuana to treat a qualifying medical
condition;
(2) recommending that a patient use medical marijuana to treat or
alleviate a qualifying medical condition; and
(3) monitoring a patient's treatment with medical marijuana.
(j) This section shall not apply to a physician who recommends
treatment with marijuana or a drug derived from marijuana 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. 18. (a) On or before July 1, 2022, the board of healing arts
shall adopt rules and regulations to implement and enforce the provisions
of section 17, and amendments thereto. Such rules and regulations shall
include:

(1) The procedures for applying for a certificate to recommend
treatment with medical marijuana;
(2) the conditions for eligibility for a certificate to recommend
treatment with medical marijuana;
(3) the schedule and procedures for renewing such a certificate;
(4) the reasons for which a certificate may be suspended or revoked;
(5) the standards under which a certificate suspension may be lifted;
and
(6) the minimum standards of care when recommending treatment
with medical marijuana.

(b) The board of healing arts shall approve one or more continuing
medical education courses of study that assist physicians holding
certificates to recommend treatment with medical marijuana in diagnosing
and treating qualifying medical conditions with medical marijuana.

New Sec. 19. (a) Any person may submit a petition to the medical
marijuana advisory committee requesting that a disease or condition be
added as a qualifying medical condition for the purposes of this act. The
petition shall be submitted in such form and manner as prescribed by the
secretary of health and environment. A petition shall not seek to add a
broad category of diseases or conditions, but shall be limited to one
disease or condition and shall include a description of such disease or
condition.

(b) Upon receipt of a petition, the committee shall review such
petition to determine whether to recommend the approval or denial of the
disease or condition described in the petition as an addition to the list of
qualifying medical conditions. The committee may consolidate the review
of petitions for the same or similar diseases or conditions. In making its
determination, the committee shall:

(1) Consult with one or more experts who specialize in the study of
the disease or condition;
(2) review any relevant medical or scientific evidence pertaining to
the disease or condition;
(3) consider whether conventional medical therapies are insufficient
(4) review evidence supporting the use of medical marijuana to treat or alleviate the disease or condition; and
(5) review any letters of support provided by physicians with knowledge of the disease or condition, including any letter provided by a physician treating the petitioner.
(c) Upon completion of its review, the committee shall make a recommendation to the secretary of health and environment whether to approve or deny the addition of the disease or condition to the list of qualifying medical conditions. The secretary shall adopt rules and regulations in accordance with the recommendation of the committee.

New Sec. 20. (a) Any entity that seeks to cultivate medical marijuana or to conduct laboratory testing of medical marijuana shall submit an application for the appropriate license to the department of agriculture in such form and manner as prescribed by the secretary of agriculture. A separate license application shall be submitted for each location to be operated by the licensee.
(b) The secretary shall issue a license to an applicant if:
(1) The criminal history record check conducted pursuant to section 43, and amendments thereto, with respect to the applicant demonstrates the following:
   (A) Subject to subparagraph (B), that the individual subject to the criminal history record check requirement has not been convicted of or pleaded guilty to any of the disqualifying offenses as specified in rules and regulations adopted by the secretary; or
   (B) that the disqualifying offense such individual was convicted of or pleaded guilty to is one of the offenses specified in rules and regulations as one that will not disqualify the applicant if the applicant was convicted of or pleaded guilty to the offense more than five years prior to the date the application for licensure is submitted;
(2) the applicant is not applying for a laboratory license and demonstrates that it does not have an ownership or investment interest in or compensation arrangement with a laboratory licensed under this section or an applicant for such license;
(3) the applicant is not applying for a laboratory license and demonstrates that it does not share any corporate officers or employees with a laboratory licensed under this section or an applicant for such license;
(4) the applicant demonstrates that it will not violate the provisions of section 42, and amendments thereto;
(5) the applicant has submitted a tax clearance certificate issued by the department of revenue; and
(6) the applicant meets all other licensure eligibility conditions
established in rules and regulations adopted by the secretary and has paid all required fees.

(c) The secretary shall issue not less than 15% of cultivator and laboratory licenses to entities that are owned and controlled by United States citizens who are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos and Asians. If no applications or an insufficient number of applications are submitted by such entities that meet the conditions set forth in subsection (b), licenses shall be issued in accordance with subsections (a) and (b).

(d) A license shall be valid for a period of one year from the date such license is issued and may be renewed by submitting a license renewal application and paying the required fee.

New Sec. 21. (a) (1) A level I cultivator licensee may cultivate medical marijuana in an area that shall not exceed 25,000 square feet and may deliver or sell medical marijuana to one or more licensed processors.

(2) A level II cultivator licensee may cultivate medical marijuana in an area that shall not exceed 3,000 square feet and may deliver or sell medical marijuana to one or more licensed processors.

(b) (1) A licensee may submit an application to the department of agriculture for approval of an expansion of such licensee's cultivation area. Expansion approval applications shall be submitted in such form and manner as prescribed by the secretary and shall include an expansion plan that shall include the following:

(A) Specifications for the expansion or alteration that demonstrate compliance with all applicable zoning ordinances, building codes and any other state and local laws and rules and regulations adopted thereunder;

(B) a proposed timeline for completion of the expansion that, if approved, will become a mandatory condition; and

(C) a history of compliance with the Kansas medical marijuana regulation act and all rules and regulations adopted thereunder, including a history of enforcement actions and sanctions issued by the department or any law enforcement agency against the licensee.

(2) The secretary shall review all expansion approval applications. In determining whether to approve or deny any application, the secretary shall consider the population of this state and the number of patients seeking to use medical marijuana. No licensee may submit an application for expansion more than once during any 12-month period.

(3) In no event shall the aggregate area of cultivation of a licensee exceed 75,000 square feet if the licensee holds a level I cultivator license or 9,000 square feet if the licensee holds a level II cultivator license.

(c) When establishing the number of cultivator licenses that will be permitted at any one time, the secretary shall consider the population of
this state and the number of patients seeking to use medical marijuana.

(d) A licensed cultivator shall not cultivate medical marijuana for personal, family or household use or on any public land.

New Sec. 22. (a) A laboratory licensee may:

(1) Obtain medical marijuana from one or more licensed cultivators, processors or retail dispensaries; and

(2) conduct medical marijuana testing in accordance with rules and regulations adopted by the secretary of agriculture.

(b) When testing medical marijuana, a licensed laboratory shall:

(1) Test the marijuana for potency, homogeneity and contamination; and

(2) prepare and submit a report of the test results to the licensee requesting such testing.

New Sec. 23. (a) The fees for a cultivator license shall be set by rules and regulations adopted by the secretary of agriculture in an amount not to exceed:

(1) (A) $20,000 for a level I cultivator license application;
(2) (A) $2,000 for a level II cultivator license application;
(B) $180,000 for a level I cultivator license; and
(B) $18,000 for a level II cultivator license; and
(C) $200,000 for a renewal of a level I cultivator license; and
(C) $20,000 for a renewal of a level II cultivator license.

(b) The fees for a laboratory license shall be set by rules and regulations adopted by the secretary of agriculture in an amount not to exceed:

(1) $2,000 for a laboratory license application;
(2) $18,000 for a laboratory license; and
(3) $20,000 for a renewal of a laboratory license.

New Sec. 24. The secretary of agriculture may refuse to issue or renew a license, or may revoke or suspend a license for any of the following reasons:

(a) The applicant has failed to comply with any provision of the Kansas medical marijuana regulation act or any rules and regulations adopted thereunder;
(b) the applicant has falsified or misrepresented any information submitted to the secretary in order to obtain a license;
(c) the applicant has failed to adhere to any acknowledgment, verification or other representation made to the secretary when applying for a license; or
(d) the applicant has failed to submit or disclose information requested by the secretary.

New Sec. 25. (a) In addition to or in lieu of any other civil or criminal penalty as provided by law, the secretary of agriculture 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 licensee has submitted fraudulent information or otherwise falsified or misrepresented information required to be submitted by such licensee, the secretary may impose a civil fine not to exceed $5,000 for a first offense and may suspend or revoke such licensee's license for a second or subsequent offense.

(2) Upon a finding that a licensee has sold, transferred or otherwise distributed medical marijuana in violation of this act, the secretary may impose a civil fine not to exceed $5,000 for a first offense and may suspend or revoke such licensee's license for a second or subsequent offense.

(c) If the secretary suspends, revokes or refuses to renew any license issued pursuant to this act and determines that there is clear and convincing evidence of a danger of immediate and serious harm to any person, the secretary may place under seal all medical marijuana owned by or in the possession, custody or control of the affected license holder. Except as provided in this section, the secretary shall not dispose of the sealed medical marijuana until a final order is issued authorizing such disposition. During the pendency of an appeal from any order by the secretary, a court may order the secretary to sell medical marijuana that is perishable, and the proceeds of any such sale shall be deposited with the court.

New Sec. 26. (a) There is hereby established the medical marijuana cultivation regulation fund in the state treasury. The secretary of agriculture shall administer the medical marijuana cultivation regulation fund and shall remit all moneys collected from the payment of all fees and fines imposed by the secretary pursuant to the Kansas medical marijuana regulation act and any other moneys received by or on behalf of the secretary 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 marijuana cultivation regulation fund. Moneys credited to the medical marijuana cultivation 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 reports issued pursuant to vouchers approved by the secretary or the secretary's designee.

(b) Moneys in the medical marijuana cultivation regulation fund shall be used for the payment or reimbursement of costs related to the regulation and enforcement of the cultivation, possession, testing and sale of medical marijuana by the department of agriculture.
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New Sec. 27. (a) On or before July 1, 2022, the secretary of agriculture shall adopt rules and regulations to administer the Kansas medical marijuana regulation program and implement and enforce the provisions of the Kansas medical marijuana regulation act. Such rules and regulations shall:

1. Establish application procedures and fees for licenses issued under section 20, and amendments thereto;
2. specify the following:
   (A) The conditions for eligibility for licensure;
   (B) subject to paragraph (C), the criminal offenses for which an applicant will be disqualified from licensure; and
   (C) the criminal offenses that will not disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years prior to the date the application for licensure is filed;
3. establish the number of cultivator licenses that will be permitted at any one time in accordance with section 21, and amendments thereto;
4. establish a license renewal schedule, renewal procedures and renewal fees; and
5. establish standards and procedures for the testing of medical marijuana by a licensed laboratory.

(b) When adopting rules and regulations under this section, the secretary shall consider standards and procedures that have been found to be best practices relative to the use and regulation of medical marijuana.

New Sec. 28. (a) Any entity that seeks to process or distribute medical marijuana shall submit an application for the appropriate license to the director of alcoholic beverage control in such form and manner as prescribed by the director. A separate license application shall be submitted for each location to be operated by the licensee.

(b) The director shall issue a license to an applicant if:

1. The criminal history record check conducted pursuant to section 43, and amendments thereto, with respect to the applicant demonstrates the following:
   (A) Subject to subparagraph (B), that the individual subject to the criminal history record check requirement has not been convicted of or pleaded guilty to any of the disqualifying offenses as specified in rules and regulations adopted by the secretary; or
   (B) that the disqualifying offense such individual was convicted of or pleaded guilty to is one of the offenses specified in rules and regulations as one that will not disqualify the applicant if the applicant was convicted of or pleaded guilty to the offense more than five years prior to the date the application for licensure is submitted;
2. the applicant demonstrates that it does not have an ownership or investment interest in or compensation arrangement with a laboratory
licensed under section 20, and amendments thereto, or an applicant for such license;
(3) the applicant demonstrates that it does not share any corporate officers or employees with a laboratory licensed under section 20, and amendments thereto, or an applicant for such license;
(4) the applicant demonstrates that it will not violate the provisions of section 42, and amendments thereto;
(5) the applicant has submitted a tax clearance certificate issued by the department of revenue; and
(6) the applicant meets all other licensure eligibility conditions established in rules and regulations adopted by the secretary and has paid all required fees.

(c) The director shall issue not less than 15% of processor and distributor licenses to entities that are owned and controlled by United States citizens who are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos and Asians. If no applications or an insufficient number of applications are submitted by such entities that meet the conditions set forth in subsection (b), licenses shall be issued in accordance with subsections (a) and (b).

(d) A license shall be valid for a period of one year from the date such license is issued, and may be renewed by submitting a license renewal application and paying the required fee.

New Sec. 29. (a) A processor licensee may:
(1) Obtain medical marijuana from one or more licensed cultivators or processors;
(2) subject to subsection (b), process medical marijuana obtained from one or more licensed cultivators into a form described in section 20, and amendments thereto; and
(3) deliver or sell processed medical marijuana to one or more licensed processors, distributors or retail dispensaries.

(b) When processing medical marijuana, a licensed processor shall:
(1) Package the medical marijuana in accordance with child-resistant effectiveness standards described in 16 C.F.R. § 1700.15(b) in effect on July 1, 2021;
(2) label the medical marijuana packaging with the product's tetrahydrocannabinol and cannabidiol content; and
(3) comply with any packaging or labeling requirements established by rules and regulations adopted by the secretary of revenue.

(c) When establishing the number of processor licenses that will be permitted at any one time, the director of alcoholic beverage control shall consider the population of this state and the number of patients seeking to use medical marijuana.
New Sec. 30. (a) A distributor licensee may:

(1) Purchase at wholesale medical marijuana from one or more licensed processors;

(2) store medical marijuana obtained from one or more licensed processors in a form described in section 33, and amendments thereto; and

(3) deliver or sell processed medical marijuana to one or more licensed retail dispensaries.

(b) When storing or selling medical marijuana, a licensed distributor shall ensure that such medical marijuana meets the packaging and labeling requirements established by rules and regulations adopted by the secretary of revenue.

(c) When establishing the number of distributor licenses that will be permitted at any one time, the director shall consider the population of this state and the number of patients seeking to use medical marijuana.

New Sec. 31. (a) Any entity that seeks to dispense at retail medical marijuana shall submit an application for a retail dispensary license in such form and manner as prescribed by the director of alcoholic beverage control. A separate license application shall be submitted for each location to be operated by the licensee.

(b) The director shall issue a license to an applicant if:

(1) The criminal history record check conducted pursuant to section 43, and amendments thereto, with respect to the applicant demonstrates the following:

(A) Subject to subparagraph (B), that the individual subject to the criminal history record check requirement has not been convicted of or pleaded guilty to any of the disqualifying offenses as specified in rules and regulations adopted by the secretary of revenue; or

(B) that the disqualifying offense such individual was convicted of or pleaded guilty to is one of the offenses specified in rules and regulations as one that will not disqualify the applicant if the applicant was convicted of or pleaded guilty to the offense more than five years prior to the date the application for licensure is submitted;

(2) the applicant demonstrates that it does not have an ownership or investment interest in or compensation arrangement with a laboratory licensed under section 20, and amendments thereto, or an applicant for such license;

(3) the applicant demonstrates that it does not share any corporate officers or employees with a laboratory licensed under section 20, and amendments thereto, or an applicant for such license;

(4) the applicant demonstrates that it will not violate the provisions of section 42, and amendments thereto;

(5) the applicant has submitted a tax clearance certificate issued by the department of revenue; and
(6) the applicant meets all other licensure eligibility conditions established in rules and regulations adopted by the secretary and has paid all required fees.

(c) The director shall issue not less than 15% of retail dispensary licenses to entities that are owned and controlled by United States citizens who are residents of this state and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos and Asians. If no application or an insufficient number of applications are submitted by such entities that meet the conditions set forth in subsection (b), licenses shall be issued in accordance with subsections (a) and (b).

(d) Each associated, key and support employee of a licensed retail dispensary shall submit an application for an employee license for such employee in such form and manner as prescribed by the director. A separate license application shall be submitted for each employee. The director shall issue a license to an applicant if all of the following conditions are met:

(1) The criminal history record check conducted pursuant to section 43, and amendments thereto, with respect to the applicant demonstrates the following:
   (A) Subject to subparagraph (B), that the individual subject to the criminal history record check requirement has not been convicted of or pleaded guilty to any of the disqualifying offenses as specified in rules and regulations adopted by the secretary of revenue; or
   (B) that the disqualifying offense such individual was convicted of or pleaded guilty to is one of the offenses specified in rules and regulations as one that will not disqualify the applicant if the applicant was convicted of or pleaded guilty to the offense more than five years prior to the date the application for licensure is submitted; and

(2) the applicant meets all other licensure eligibility conditions established in rules and regulations adopted by the secretary and has paid all required fees.

(e) A license shall be valid for a period of two years from the date such license is issued and may be renewed by submitting a license renewal application and paying the required fee.

(f) When establishing the number of retail dispensary licenses that will be permitted at any one time, the director shall consider all of the following:

(1) The population of this state;

(2) the number of patients seeking to use medical marijuana; and

(3) the geographic distribution of retail dispensaries in an effort to ensure patient access to medical marijuana.

New Sec. 32. (a) A retail dispensary licensee may:
(1) Obtain medical marijuana from one or more licensed processors or distributors; and

(2) dispense or sell medical marijuana in accordance with subsection (b).

(b) When dispensing or selling medical marijuana, a retail dispensary shall:

(1) Dispense or sell medical marijuana only to a person who shows a current, valid identification card and only in accordance with a written recommendation issued by a physician;

(2) report to the prescription monitoring program database the information required by K.S.A. 65-1683, and amendments thereto;

(3) label the package containing medical marijuana with the following information:

(A) The name and address of the licensed processor that produced the product and the retail dispensary;

(B) the name of the patient and caregiver, if any;

(C) the name of the physician who recommended treatment with medical marijuana;

(D) the directions for use, if any, as recommended by the physician;

(E) a health warning as specified in rules and regulations adopted by the secretary of health and environment;

(F) the date on which the medical marijuana was dispensed; and

(G) the quantity, strength, kind or form of medical marijuana contained in the package.

(c) A retail dispensary shall employ only those individuals who hold a current, valid employee license issued pursuant to section 31, and amendments thereto, and who have completed the training requirements established by rules and regulations adopted by the secretary of revenue.

(d) A retail dispensary shall not make public any information it collects that identifies or would tend to identify any specific patient.

New Sec. 33. (a) Only the following forms of medical marijuana may be dispensed under the Kansas medical marijuana regulation act:

(1) Oils;

(2) tinctures;

(3) plant material;

(4) edibles;

(5) patches; or

(6) any other form approved by the secretary of revenue under section 34, and amendments thereto.

(b) The smoking, combustion or vaporization of medical marijuana is prohibited.

(c) Any form or method of using medical marijuana that is considered attractive to children is prohibited.
(d) Plant material shall have a tetrahydrocannabinol content of not more than 35%.
(e) Extracts shall have a tetrahydrocannabinol content of not more than 70%.
(f) No form of medical marijuana shall be dispensed from a vending machine or through electronic commerce.

New Sec. 34. (a) Any person may submit a petition to the director of alcoholic beverage control requesting that a form or method of using medical marijuana be approved for the purposes of section 33, and amendments thereto. The petition shall be submitted in such form and manner as prescribed by the director.
(b) Upon receipt of a petition, the director shall review such petition to determine whether to recommend approval of the form or method of using medical marijuana described in the petition. The director may consolidate the review of petitions for the same or similar forms or methods. The director shall consult with the medical marijuana advisory committee and review any relevant scientific evidence when reviewing a petition. The director shall recommend to the secretary of revenue whether to approve or deny the proposed form or method of using medical marijuana. The secretary shall approve or deny such proposed form or method. The secretary's decision is final.
(c) The secretary shall not approve any petition that seeks approval of a form or method of using medical marijuana that involves smoking, combustion or vaporization.

New Sec. 35. (a) The fees for a processor license shall be set by rules and regulations adopted by the secretary of revenue in an amount not to exceed:
(1) $10,000 for a processor license application;
(2) $90,000 for a processor license; and
(3) $100,000 for a renewal of a processor license.
(b) The fees for a distributor license shall be set by rules and regulations adopted by the secretary of revenue in an amount not to exceed:
(1) $10,000 for a distributor license application;
(2) $90,000 for a distributor license; and
(3) $100,000 for a renewal of a distributor license.
(c) The fees for a retail dispensary license shall be set by rules and regulations adopted by the secretary of revenue in an amount not to exceed:
(1) $5,000 for a retail dispensary license application;
(2) $70,000 for a retail dispensary license and any renewal thereof;
(3) $500 for each associated employee license application;
(4) $250 for each key employee license application; and
(5) $100 for each support employee license application.

New Sec. 36. The director of alcoholic beverage control may refuse to issue or renew a license, or may revoke or suspend a license for any of the following reasons:

(a) The applicant has failed to comply with any provision of the Kansas medical marijuana regulation act or any rules and regulations adopted thereunder;

(b) the applicant has falsified or misrepresented any information submitted to the director in order to obtain a license;

(c) the applicant has failed to adhere to any acknowledgment, verification or other representation made to the director when applying for a license; or

(d) the applicant has failed to submit or disclose information requested by the director.

New Sec. 37. (a) In addition to or in lieu of any other civil or criminal penalty as provided by law, the director of alcoholic beverage control 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 licensee has submitted fraudulent information or otherwise falsified or misrepresented information required to be submitted by such licensee, the director may impose a civil fine not to exceed $5,000 for a first offense and may suspend or revoke such licensee's license for a second or subsequent offense.

(2) Upon a finding that a licensee has sold, transferred or otherwise distributed medical marijuana in violation of this act, the director may impose a civil fine not to exceed $5,000 for a first offense and may suspend or revoke such licensee's license for a second or subsequent offense.

(c) If the director suspends, revokes or refuses to renew any license issued pursuant to this act and determines that there is clear and convincing evidence of a danger of immediate and serious harm to any person, the director may place under seal all medical marijuana owned by or in the possession, custody or control of the affected license holder. Except as provided in this section, the director shall not dispose of the sealed medical marijuana until a final order is issued authorizing such disposition. During the pendency of an appeal from any order by the director, a court may order the director to sell medical marijuana that is perishable, and the proceeds of any such sale shall be deposited with the court.

New Sec. 38. (a) There is hereby established the medical marijuana business entity regulation fund in the state treasury. The director of alcoholic beverage control shall administer the medical marijuana business entity regulation fund and shall remit all moneys collected from the
payment of all fees and fines imposed by the director pursuant to the Kansas medical marijuana regulation 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 marijuana business entity regulation fund. Moneys credited to the medical marijuana business entity 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 reports issued pursuant to vouchers approved by the director or the director's designee.

(b) Moneys in the medical marijuana business entity regulation fund shall be used for the payment or reimbursement of costs related to the regulation and enforcement of the possession, processing and sale of medical marijuana by the division of alcoholic beverage control.

New Sec. 39. (a) On or before July 1, 2022, the secretary of revenue shall adopt rules and regulations to administer the Kansas medical marijuana regulation program and implement and enforce the provisions of the Kansas medical marijuana regulation act. Such rules and regulations shall:

(1) Establish application procedures and fees for licenses issued under sections 28 and 31, and amendments thereto;

(2) specify the following:

(A) The conditions for eligibility for licensure;

(B) subject to paragraph (C), the criminal offenses for which an applicant will be disqualified from licensure; and

(C) the criminal offenses that will not disqualify an applicant from licensure if the applicant was convicted of or pleaded guilty to the offense more than five years prior to the date the application for licensure is filed;

(3) establish the number of licenses that will be permitted at any one time in accordance with sections 29, 30 and 31, and amendments thereto;

(4) establish a license renewal schedule, renewal procedures and renewal fees; and

(5) establish training requirements for employees of retail dispensaries.

(b) The director shall propose such rules and regulations as necessary to carry out the intent and purposes of this act. After the 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 of revenue who, if the secretary approves it, shall adopt the rule and regulation.

(c) When adopting rules and regulations under this section, the secretary shall consider standards and procedures that have been found to
be best practices relative to the use and regulation of medical marijuana.

New Sec. 40. (a) The director of alcoholic beverage control shall establish and maintain an electronic database to monitor medical marijuana 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 division of alcoholic beverage control.

(b) The electronic database shall allow for information regarding medical marijuana to be updated instantaneously. Any licensed cultivator, laboratory, processor, distributor or retail dispensary shall submit such information to the director as the director determines is necessary for maintaining the electronic database.

(c) The director, any employee of the division, any entity under contract with the director and any employee or agent thereof shall not make public any information reported to or collected by the director under this section that identifies or would tend to identify any specific patient. Such information shall be kept confidential to protect the privacy of the patient. The provisions of this subsection shall expire on July 1, 2026, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

New Sec. 41. (a) The director of alcoholic beverage control may, in cooperation with the state treasurer, establish a closed-loop payment processing system whereby the state treasurer creates accounts to be used only by registered patients and caregivers at licensed retail dispensaries and all licensed cultivators, laboratories, processors and distributors. The system may include record-keeping and accounting functions that identify all parties in transactions involving the purchase and sale of medical marijuana. If established, such system shall be designed to prevent:

(1) Revenue from the sale of marijuana going to criminal enterprises, gangs and cartels;

(2) the diversion of marijuana from a state where it is legal in some form under that state's law to another state;

(3) the distribution of marijuana to minors; and

(4) the use of state-authorized marijuana activity as a cover or pretext for the trafficking of other illegal drugs or for other illegal activity.

(b) The information recorded by the system shall be fully accessible to the department of health and environment, the department of agriculture, the director and all state and federal law enforcement agencies, including the United States department of the treasury's financial crimes enforcement network.

New Sec. 42. (a) Except as provided in subsections (b) and (c), no licensed cultivator, laboratory, processor, distributor or retail dispensary shall be located within 1,000 feet of the boundaries of a parcel of real
estate having situated on it a school, religious organization, public library
or public park. If the relocation of a licensed cultivator, laboratory,
processor, distributor or retail dispensary results in such licensee being
located within 1,000 feet of the boundaries of a parcel of real estate having
situated on it a school, religious organization, public library or public park,
the secretary of agriculture or the director shall revoke the license such
agency previously issued to such cultivator, laboratory, processor,
distributor or retail dispensary.

(b) The secretary or the director may, in such officer's discretion, not
revoke the license of a cultivator, laboratory, processor, distributor or retail
dispensary if such licensee existed at a location prior to the establishment
of a school, religious organization, public library or public park within
1,000 feet of such licensee.

c) This section shall not apply to research related to marijuana
conducted at a postsecondary educational institution, academic medical
center or private research and development organization as part of a
research protocol approved by an institutional review board or equivalent
entity.

d) As used in this section:

1) "Public library" means any library established pursuant to article
12 of chapter 12 of the Kansas Statutes Annotated, and amendments
thereto, and any other library that serves the general public and is funded
in whole, or in part, from moneys derived from tax levies;

2) "public park" means any park or other outdoor recreational area or
facility, including, but not limited to, parks, open spaces, trails, swimming
pools, playgrounds and playing courts and fields, established by the state,
or any political subdivision thereof;

3) "religious organization" means any organization, church, body of
communicants or group, gathered in common membership for mutual
support and edification in piety, worship and religious observances, or a
society of individuals united for religious purposes at a definite place and
such religious organization maintains an established place of worship
within this state and has a regular schedule of services or meetings at least
on a weekly basis and has been determined to be organized and created as
a bona fide religious organization; and

4) "school" means any public or private educational institution,
including, but not limited to, any college, university, community college,
technical college, high school, middle school, elementary school, trade
school, vocational school or other professional school providing training
or education.

New Sec. 43. Each applicant for a cultivator license, laboratory
license, processor license, distributor license or retail dispensary license
shall require any owner, director, officer and any employee or agent of
such applicant to be fingerprinted and to submit to a state and national
criminal history record check. The secretary of agriculture and the director
of alcoholic beverage control are 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 department of
agriculture and 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.

New Sec. 44. (a) A financial institution that provides financial
services to any licensed cultivator, laboratory, processor, distributor or
retail dispensary shall be exempt from any criminal law of this state an
element of which may be proven by substantiating that a person provides
financial services to a person who possesses, delivers or manufactures
marijuana or marijuana-derived products, including any of the offenses
specified in article 53 or 57 of chapter 21 of the Kansas Statutes
Annotated, and amendments thereto, if the cultivator, laboratory,
processor, distributor or retail dispensary is in compliance with the
provisions of this act and all applicable tax laws of this state.

(b) (1) Upon the request of a financial institution, the department of
agriculture or the director of alcoholic beverage control shall provide to
the financial institution the following information:
(A) Whether a person with whom the financial institution is seeking
to do business is a licensed cultivator, laboratory, processor, distributor or
retail dispensary;
(B) the name of any other business or individual affiliated with the
person;
(C) an unredacted copy of such person's application for a license, and
any supporting documentation, that was submitted by the person;
(D) if applicable, information relating to sales and volume of product
sold by the person;
(E) whether the person is in compliance with the provisions of this
act; and
(F) any past or pending violations of the Kansas medical marijuana
regulation act or any rules and regulations adopted thereunder committed
by such person, and any penalty imposed on the person for such violation.
(2) The secretary or the director may charge a financial institution a
reasonable fee to cover the administrative cost of providing information
requested under this section.
(c) Information received by a financial institution under subsection
(b) is confidential. Except as otherwise permitted by any other state or federal law, a financial institution shall not make the information available to any person other than the customer to whom the information applies and any trustee, conservator, guardian, personal representative or agent of that customer.

(d) As used in this section:

(1) "Financial institution" means any bank, trust company, savings bank, credit union or savings and loan association or any other financial institution regulated by the state of Kansas, any agency of the United States or other state with an office in Kansas; and

(2) "financial services" means services that a financial institution is authorized to provide under chapter nine or article 22 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, as applicable.

New Sec. 45. Nothing in this act authorizes the secretary of agriculture or the director of alcoholic beverage control to oversee or limit research conducted at a postsecondary educational institution, academic medical center or private research and development organization that is related to marijuana and is approved by an agency, board, center, department or institute of the United States government, including any of the following:

(a) The agency for health care research and quality;
(b) the national institutes of health;
(c) the national academy of sciences;
(d) the centers for medicare and medicaid services;
(e) the United States department of defense;
(f) the centers for disease control and prevention;
(g) the United States department of veterans affairs;
(h) the drug enforcement administration;
(i) the food and drug administration; and
(j) any board recognized by the national institutes of health for the purpose of evaluating the medical value of health care services.

New Sec. 46. The provisions of the Kansas medical marijuana regulation act are hereby declared to be severable. If any part or provision of the Kansas medical marijuana regulation 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 medical marijuana regulation act, and any such remaining provisions shall continue in full force and effect.

New Sec. 47. (a) It shall be unlawful to store or otherwise leave medical marijuana where it is readily accessible to a child under the age of 18 years. Such conduct shall be unlawful with no requirement of a culpable mental state.

(b) Violation of this section is a class A person misdemeanor.
(c) This section shall not apply to any person who stores or otherwise leaves medical marijuana where it is readily accessible to a child under the age of 18 years if:

   (1) Such child is a patient registered pursuant to section 8, and amendments thereto; and

   (2) such medical marijuana is not readily accessible to any child under the age of 18 years other than the child described in paragraph (1).

(d) As used in this section:

   (1) "Medical marijuana" means the same as defined in section 2, and amendments thereto; and

   (2) "readily accessible" means the medical marijuana is not stored in a locked container, and that restricts entry to such container solely to individuals who are over the age of 17, or who are registered patients pursuant to section 8, and amendments thereto.

(e) This section shall be a part of and supplemental to the Kansas criminal code.

New Sec. 48. (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 marijuana in accordance with section 10, 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 marijuana in accordance with section 10, 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 marijuana in accordance with section 10, 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 marijuana in accordance with section 10, 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 marijuana in accordance with section 10, 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. 49. (a) A covered entity, solely on the basis that an individual consumes medical marijuana in accordance with section 10, 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 marijuana.

(b) A covered entity may take into account an individual's consumption of medical marijuana 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
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K.S.A. 65-3276, and amendments thereto.

New Sec. 50. (a) No order shall be issued pursuant to K.S.A. 2020 Supp. 38-2242, 38-2243 or 38-2244, and amendments thereto, if the sole basis for the threat to the child's safety or welfare is that the child resides with an individual who consumes medical marijuana in accordance with section 10, and amendments thereto, or the child consumes medical marijuana in accordance with section 10, and amendments thereto.

(b) The provisions of this section shall be a part of and supplemental to the revised Kansas code for care of children.

New Sec. 51. Notwithstanding the provisions of K.S.A. 65-2836, and amendments thereto, the board shall not revoke, suspend or limit a physician's license, publicly censure a physician or place a physician's license under probationary conditions upon any of the following:

(a) The physician has:

1. Advised a patient about the possible benefits and risks of using medical marijuana;
2. Advised the patient that using medical marijuana may mitigate the patient's symptoms; or
3. Submitted an application on behalf of a patient or caregiver for registration as a patient or caregiver under section 8, and amendments thereto; or
(b) the physician is a registered patient or caregiver pursuant to section 8, and amendments thereto, possesses or has possessed or uses or has used medical marijuana in accordance with the Kansas medical marijuana regulation act, section 1 et seq., and amendments thereto.

New Sec. 52. Notwithstanding the provisions of K.S.A. 65-28a05, and amendments thereto, the board shall not revoke, suspend or limit a physician assistant's license, publicly or privately censure a physician assistant or deny an application for a license or for reinstatement of a license upon any of the following:

(a) The physician assistant has:

1. Advised a patient about the possible benefits and risks of using medical marijuana; or
2. Advised the patient that using medical marijuana may mitigate the patient's symptoms; or
(b) the physician assistant is a registered patient or caregiver pursuant to section 8, and amendments thereto, possesses or has possessed or uses or has used medical marijuana in accordance with the Kansas medical marijuana regulation act, section 1 et seq., and amendments thereto.

New Sec. 53. (a) Notwithstanding any other provision of law, any person, board, commission or similar body that determines the qualifications of individuals for licensure, certification or registration shall not disqualify an individual from licensure, certification or registration.
solely because such individual consumes medical marijuana in accordance with section 10, and amendments thereto.

(b) The provisions of this section shall not apply to the:

(1) Kansas commission on peace officers' standards and training;
(2) Kansas highway patrol;
(3) office of the attorney general;
(4) department of health and environment;
(5) department of agriculture; or
(6) division of alcoholic beverage control.

Sec. 54. K.S.A. 2020 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. 2020 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. 2020 Supp. 21-5705, and amendments thereto.

(g) The provisions of this section shall not apply to a cultivator licensed by the department of agriculture pursuant to section 20, and amendments thereto, or a processor licensed by the director of alcoholic beverage control pursuant to section 28, and amendments thereto, that is producing medical marijuana, as defined in section 2, and amendments thereto, when used for acts authorized by the Kansas medical marijuana regulation act, section 1 et seq., and amendments thereto.

Sec. 55. K.S.A. 2020 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 (c) 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
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.

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.

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.

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.

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.

The provisions of subsections (a)(4) and (a)(5) shall not apply to:
(1) Any cultivator licensed by the department of agriculture pursuant
to section 20, and amendments thereto, or any employee or agent thereof,
that is growing medical marijuana for the purpose of sale to a licensed
processor as authorized by section 21, and amendments thereto;
(2) any processor licensed by the director of alcoholic beverage
control pursuant to section 28, and amendments thereto, or any employee
or agent thereof, that is processing medical marijuana for the purpose of
sale or distribution to a licensed processor, distributor or retail dispensary
as authorized by section 29, and amendments thereto;

(3) any distributor licensed by the director of alcoholic beverage control pursuant to section 28, and amendments thereto, or any employee or agent thereof, that is storing or distributing medical marijuana for the purpose of wholesale or distribution to a licensed retail dispensary as authorized by section 30, and amendments thereto; or

(4) any retail dispensary licensed by the director of alcoholic beverage control pursuant to section 31, and amendments thereto, or any employee or agent thereof, that is engaging in the sale of medical marijuana in a manner authorized by section 32, 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).

(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 medium.

(3) "Medical marijuana" means the same as defined in section 2, and amendments thereto.

Sec. 56. K.S.A. 2020 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)
(4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;
(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) and (D);
(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; and
(D) nonperson misdemeanor punishable by a fine not to exceed $400,
if that person is not a registered patient or caregiver under the Kansas
medical marijuana regulation act, section 1 et seq., and amendments
thereto, is found in possession of not more than 1.5 ounces of marijuana and provides a statement from such person's physician recommending the use of medical marijuana to treat such person's symptoms.

(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.2020 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. 2020 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 marijuana, as defined in section 2, and amendments thereto, the provisions of subsections (b) and (c) shall not apply to any person who is registered or licensed pursuant to the Kansas medical marijuana regulation act, section 1 et seq., and amendments thereto, whose possession is authorized by such act.

(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. 57. K.S.A. 2020 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. 2020 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. 2020 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 medical marijuana regulation 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. 58. K.S.A. 2020 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 registered or licensed pursuant to the Kansas medical marijuana regulation act, section 1 et seq., and amendments thereto, whose possession of such equipment or material is used solely to produce or for the administration of medical marijuana, as defined in section 2, and amendments thereto, in a manner authorized by the Kansas medical marijuana regulation act, section 1 et seq., and amendments thereto.

Sec. 59. K.S.A. 2020 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. 2020 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. 2020 Supp. 21-5701 through 21-5717, and amendments thereto, except subsection (b) of K.S.A. 2020 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. 2020 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)
(B) subparagraph (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
subparagraph (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
subparagraph (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 person
licensed pursuant to the Kansas medical marijuana regulation act, section
1 et seq., and amendments thereto, whose distribution or manufacture is
used solely to distribute or produce medical marijuana, as defined in
section 2, and amendments thereto, in a manner authorized by the Kansas
medical marijuana regulation 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. 60. K.S.A. 2020 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 marijuana in accordance with section 10, and
amendments thereto, when determining the legal custody, residency or
parenting time of a child.

Sec. 61. K.S.A. 2020 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 marijuana in accordance with section 10, 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;
(3) 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. 2020 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. 2020 Supp. 38-2270, and amendments thereto, appointment of a permanent custodian pursuant to K.S.A. 2020 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. 2020 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. 2020 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. 2020 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. 62. K.S.A. 2020 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—which 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 registered as a patient pursuant to section 8, and amendments
thereto, such cannabis or cannabis derivative was used in accordance
with the Kansas medical marijuana regulation act, section 1 et seq., and
amendments thereto, and there has been no prior incidence 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>Drug</th>
<th>Confirmatory test cutoff levels (ng/ml)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marijuana metabolite¹</td>
<td>15</td>
</tr>
<tr>
<td>Cocaine metabolite²</td>
<td>150</td>
</tr>
<tr>
<td>Opiates:</td>
<td></td>
</tr>
<tr>
<td>Morphine</td>
<td>2000</td>
</tr>
<tr>
<td>Codeine</td>
<td>2000</td>
</tr>
<tr>
<td>6-Acetylmorphine³</td>
<td>10 ng/ml</td>
</tr>
<tr>
<td>Phencyclidine</td>
<td>25</td>
</tr>
<tr>
<td>Amphetamines:</td>
<td></td>
</tr>
<tr>
<td>Amphetamine</td>
<td>500</td>
</tr>
<tr>
<td>Methamphetamine³</td>
<td>500</td>
</tr>
</tbody>
</table>

¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid.
² Benzoylcegonine.
³ Specimen must also contain amphetamine at a concentration greater
than or equal to 200 ng/ml.
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Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

(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.

(I) 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. 63. K.S.A. 2020 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, and amendments thereto,
       or
       K.S.A. 2020 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 registered patient pursuant to section 8, and amendments thereto; and
(ii) the basis for the violation is the possession of an identification card issued under section 8, and amendments thereto, or the possession or use of medical marijuana in accordance with the Kansas medical marijuana regulation 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 registered patient pursuant to section 8, and
amendments thereto; and

(b) the basis for such conduct is the possession of an identification
card issued under section 8, and amendments thereto, or the possession or
use of medical marijuana in accordance with the Kansas medical
marijuana regulation 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. 2020 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" shall mean 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" shall mean 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" shall mean 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
persons 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 customary 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 railroad retirement act of 1974.

(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 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 registered patient pursuant to section 8, and amendments thereto,
for activities authorized by the Kansas medical marijuana regulation act,
section 1 et seq., 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. 64. 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
employer.

(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 registered patient or caregiver pursuant to section 8, and amendments thereto, or possesses or uses medical marijuana in accordance with the Kansas medical marijuana regulation 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 registered patient or caregiver pursuant to section 8, and amendments thereto, or possesses or uses medical marijuana in accordance with the Kansas medical marijuana regulation 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. 65. 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 that 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 48, 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. 66. K.S.A. 2020 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, *and amendments thereto*, or K.S.A. 2020 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. 2020 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. 2020 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. 2020 Supp. 60-4404, and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 2020 Supp. 60-4405, and amendments thereto.

(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. 2020 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.

(g) Medical marijuana 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:
   - Advised a patient about the possible benefits and risks of using medical marijuana; or
   - advised a patient that using medical marijuana may mitigate the patient's symptoms; or
2. the advanced practice registered nurse is a registered patient or caregiver pursuant to section 8, and amendments thereto, possesses or has possessed, or uses or has used medical marijuana in accordance with the Kansas medical marijuana regulation act, section 1 et seq., and amendments thereto.

Sec. 67. K.S.A. 65-28b08 is hereby amended to read as follows: 65-28b08. (a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

1. To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to
engage in the independent practice of midwifery;

(2) to have been found guilty of a felony or to have been found 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 and engage in the independent practice of midwifery 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 its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) to have committed an act of professional incompetence as defined in subsection (c);

(4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding. The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022;

(5) 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;

(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

(7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been 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; or

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its
repeal, or K.S.A. 2020 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 to a
felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2020
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. 60-4404, and amendments
thereto; or
   (C) a copy of the record of a judgment assessing damages under
K.S.A. 60-4405, and amendments thereto.
(b) 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. 2020 Supp. 21-
5903, and amendments thereto.
(c) The board shall not deny, revoke, limit or suspend any license or
authorization issued to a certified nurse-midwife or publicly censure a
certified nurse-midwife upon any of the following:
   (1) The certified nurse-midwife has:
       (A) Advised a patient about the possible benefits and risks of using
medical marijuana; or
       (B) advised the patient that using medical marijuana may mitigate
the patient's symptoms; or
   (2) the certified nurse-midwife is a registered patient or caregiver
pursuant to section 8, and amendments thereto, possesses or has
possessed, or uses or has used medical marijuana in accordance with the
Kansas medical marijuana regulation act, section 1 et seq., and
amendments thereto.
(d) 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 engage in the independent practice
of midwifery.
   (d)(e) 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 and applicants for
licensure by the board.

(e) The provisions of this section shall become effective on January 1,
2017.

Sec. 68. 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
declared by K.S.A. 2020 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. 2020 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. 2020 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

(f) "medical marijuana" means the same as defined in section 2, and
amendments thereto.

Sec. 69. 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 marijuana or a
controlled substance to pay the tax required under this act.

Sec. 70. K.S.A. 44-1009, 44-1015, 65-28b08, 79-5201 and 79-5210
and K.S.A. 2020 Supp. 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-
5710, 23-3201, 38-2269, 44-501, 44-706 and 65-1120 are hereby repealed.

Sec. 71. This act shall take effect and be in force from and after its
publication in the statute book.