

## HOUSE BILL No. 2198

By Committee on Vision 2020

2-1

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1 AN ACT enacting the cannabis compassion and care act; providing for the  
2 legal use of cannabis for certain debilitating medical conditions;  
3 providing for the registration and functions of compassion centers;  
4 authorizing the issuance of identification cards; establishing the  
5 compassion board; providing for administration of the act by the  
6 department of health and environment; amending and repealing the  
7 existing section; amending K.S.A. 79-5210 and repealing the existing  
8 section.  
9

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

11 New Section 1. Sections 1 through 11, and amendments thereto, of  
12 this act shall be known as the cannabis compassion and care act.

13 New Sec. 2. (a) Modern medical research has discovered beneficial  
14 uses for cannabis in treating or alleviating the pain, nausea and other  
15 symptoms associated with a variety of debilitating medical conditions, as  
16 found by the national academy of sciences' institute of medicine in March,  
17 1999.

18 (b) Subsequent studies since the 1999 national academy of sciences'  
19 institute of medicine report continue to show the therapeutic value of  
20 cannabis in treating a wide array of debilitating medical conditions,  
21 including increasing the chances of patients finishing their treatments for  
22 HIV/AIDS and hepatitis C.

23 (c) Data from the federal bureau of investigation's uniform crime  
24 reports and the compendium of federal justice statistics show that  
25 approximately 99 out of every 100 cannabis arrests in the United States are  
26 made under state law, rather than under federal law. Consequently,  
27 changing state law will have the practical effect of protecting from arrest  
28 the vast majority of seriously ill patients who have a medical need to use  
29 cannabis.

30 (d) Although federal law currently prohibits any use of cannabis  
31 except under very limited circumstances, Alaska, Arizona, California,  
32 Colorado, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New  
33 Mexico, Oregon, Vermont, Rhode Island and Washington have removed  
34 state-level criminal penalties from the medical use and cultivation of  
35 cannabis. Under this bill Kansas joins in this effort for the health and  
36 welfare of its citizens.

1 (e) States are not required to enforce federal law or prosecute people  
2 for engaging in activities prohibited by federal law. Therefore, compliance  
3 with this act does not put the state of Kansas in violation of federal law.

4 (f) State law should make a distinction between the medical and  
5 nonmedical uses of cannabis. Hence, the purpose of this act is to protect  
6 patients with debilitating medical conditions, as well as their practitioners  
7 and providers, from arrest and prosecution, criminal and other penalties,  
8 and property forfeiture if such patients engage in the medical use of  
9 cannabis.

10 (g) The legislature of the state of Kansas declares that this act is  
11 enacted pursuant to the police power of the state to protect the health of its  
12 citizens that is reserved to the state of Kansas and its people under the 10<sup>th</sup>  
13 amendment to the United States constitution.

14 New Sec. 3. The following terms, as used in this act, shall have the  
15 meanings set forth in this section:

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

20 (b) "Compassion board" means the board created under section 11,  
21 and amendments thereto.

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

31 (d) "Compassion center staffer" means a principal officer, board  
32 member, employee, couriers, volunteer or agent of a compassion center  
33 who has been issued and possesses a valid registry identification card.

34 (e) "Courier" means a compassion center staffer who may deliver  
35 cannabis or related supplies to home-bound patients.

36 (f) "Debilitating medical condition" means one or more of the  
37 following:

38 (1) Cancer, glaucoma, positive status for human immunodeficiency  
39 virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic  
40 lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail  
41 patella, migraine, inflammatory bowel disease, arthritis, lupus, spinal  
42 disorders, post traumatic stress disorder, depression, and conditions for  
43 which cannabis has been found to be beneficial or the treatment of these

1 conditions;

2 (2) a chronic or debilitating disease or medical condition or its  
3 treatment that produces one or more of the following: Cachexia or wasting  
4 syndrome; severe pain; severe nausea; seizures, including, but not limited to,  
5 those characteristic of epilepsy or severe and persistent muscle spasms,  
6 including, but not limited to, those characteristic of multiple sclerosis; or

7 (3) any other medical condition or its treatment approved by the  
8 department, as provided for in subsection (a) of section 6, and amendments  
9 thereto.

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

11 (h) "Designated caregiver" means a person who is at least 21 years of  
12 age, who has agreed to assist with a patient's medical use of cannabis and  
13 who has never been convicted of an excluded felony offense. A designated  
14 caregiver may assist no more than five qualifying patients with their  
15 medical use of cannabis.

16 (i) "Enclosed, locked facility" means a closet, room, greenhouse or  
17 other enclosed area equipped with locks or other security devices that  
18 permit access only by a cardholder.

19 (j) (1) Except as provided in subsection (j)(2), "excluded felony  
20 offense" means:

21 (A) A crime involving violence against another person that was  
22 classified as a felony in the jurisdiction where the conviction occurred; or

23 (B) a violation of a state or federal controlled substance law that was  
24 classified as a felony in the jurisdiction where the conviction occurred.

25 (2) An "excluded felony offense" does not include:

26 (A) An offense for which the sentence, including any term of  
27 probation, incarceration or supervised release, was completed 10 or more  
28 years earlier; or

29 (B) an offense that consisted of conduct for which this act would  
30 likely have prevented a conviction, but the conduct either occurred prior to  
31 the enactment of this act or was prosecuted by an authority other than the  
32 state of Kansas.

33 (k) "Medical use" means the acquisition, possession, cultivation,  
34 manufacture, use, delivery, sale, transfer or transportation of cannabis or  
35 paraphernalia relating to the administration of cannabis to treat or alleviate  
36 a registered qualifying patient's debilitating medical condition or  
37 symptoms associated with the patient's debilitating medical condition.

38 (l) "Practitioner" means a person who is licensed to practice medicine  
39 and surgery.

40 (m) "Qualifying patient" means a person who has been diagnosed by  
41 a practitioner as having a debilitating medical condition.

42 (n) "Registered compassion center" means a not-for-profit entity  
43 registered pursuant to section 5, and amendments thereto, that acquires,

1 possesses, cultivates, manufactures, delivers, transfers, transports, supplies  
2 or dispenses cannabis or related supplies and educational materials to  
3 cardholders. A registered compassion center may receive compensation for  
4 all expenses incurred in its operation.

5 (o) "Registry identification card" means a document issued by the  
6 department that identifies a person as a registered qualifying patient,  
7 registered designated caregiver or a registered principal officer, board  
8 member, employee, volunteer or agent of a registered compassion center.

9 (p) "Unusable cannabis" means cannabis seeds, stalks, seedlings and  
10 unusable roots. "Seedling" means a cannabis plant that has no flowers and  
11 is less than 12 inches in height and less than 12 inches in diameter. A  
12 seedling must meet all three criteria set forth above.

13 (q) "Usable cannabis" means the dried leaves and flowers of the  
14 cannabis plant and any mixture or preparation thereof, but does not include  
15 the seeds, stalks and roots of the plant and does not include the weight of  
16 any noncannabis ingredients combined with cannabis and prepared for  
17 consumption as food or drink.

18 (r) "Verification system" means a secure, password-protected, web-  
19 based system that is operational 24 hours each day that law enforcement  
20 personnel and compassion center staffers shall use to verify registry  
21 identification cards and that shall be established and maintained by the  
22 department pursuant to subsection (h)(4) of section 7, and amendments  
23 thereto.

24 (s) "Visiting qualifying patient" means a patient with a debilitating  
25 medical condition who is not a resident of Kansas or who has been a  
26 resident of Kansas less than 30 days.

27 (t) "Written certification" means a document signed by a practitioner,  
28 stating that in the practitioner's professional opinion the patient is likely to  
29 receive therapeutic or palliative benefit from the medical use of cannabis  
30 to treat or alleviate the patient's debilitating medical condition or  
31 symptoms associated with the debilitating medical condition. A written  
32 certification shall be made only in the course of a bona fide practitioner-  
33 patient relationship after the practitioner has completed a full assessment  
34 of the qualifying patient's medical history. The written certification shall  
35 specify the qualifying patient's debilitating medical condition.

36 New Sec. 4. (a) A qualifying patient who has been issued and  
37 possesses a registry identification card shall not be subject to arrest,  
38 prosecution or penalty in any manner, or denied any right or privilege,  
39 including, but not limited to, civil penalty or disciplinary action by a court  
40 or occupational or professional licensing board or bureau, for the medical  
41 use of cannabis in accordance with this act, provided that the qualifying  
42 patient possesses an amount of cannabis that does not exceed 12 cannabis  
43 plants and six ounces of usable cannabis. The plants shall be kept in an

1 enclosed, locked facility, unless they are being transported because the  
2 qualifying patient is moving or if they are being transported to the  
3 qualifying patient's or designated caregiver's property. This subsection  
4 shall not apply to matters and entities that are covered by subsections (f) or  
5 (g).

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

22 (c) Registered designated caregivers and registered qualifying  
23 patients may possess a reasonable amount of unusable cannabis, including  
24 up to 12 seedlings, which shall not be counted toward the limits in this  
25 section.

26 (d) (1) There shall be a presumption that a qualifying patient or  
27 designated caregiver is engaged in the medical use of cannabis in  
28 accordance with this act if the qualifying patient or designated caregiver:

29 (A) Is in possession of a registry identification card; and

30 (B) is in possession of an amount of cannabis that does not exceed the  
31 amount allowed under this act.

32 (2) The presumption may be rebutted by evidence that conduct  
33 related to cannabis was not for the purpose of treating or alleviating the  
34 qualifying patient's debilitating medical condition or symptoms associated  
35 with the debilitating medical condition, in accordance with this act.

36 (e) A registered qualifying patient or designated primary caregiver  
37 shall not be subject to arrest, prosecution or penalty in any manner, or  
38 denied any right or privilege, including, but not limited to, civil penalty or  
39 disciplinary action by a court or occupational or professional licensing  
40 board or bureau, for giving cannabis to a registered qualifying patient or a  
41 registered designated caregiver for the registered qualifying patient's  
42 medical use where nothing of value is transferred in return, or for offering  
43 to do the same, provided that the person giving the cannabis does not

1 knowingly cause the recipient to possess more cannabis than is permitted  
2 by section 4, and amendments thereto.

3 (f) (1) No school or landlord may refuse to enroll or lease to, or  
4 otherwise penalize, a person solely for such person's status as a registered  
5 qualifying patient or a registered designated caregiver, unless failing to do  
6 so would put the school or landlord in violation of federal law or  
7 regulations.

8 (2) For the purposes of medical care, including organ transplants, a  
9 registered qualifying patient's authorized use of cannabis in accordance  
10 with this act shall be considered the equivalent of the authorized use of any  
11 other medication used at the direction of a physician, and shall not  
12 constitute the use of an illicit substance.

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

18 (A) The person's status as a registered qualifying patient or registered  
19 designated caregiver; or

20 (B) a registered qualifying patient's positive drug test for cannabis  
21 components or metabolites, unless the patient used, possessed or was  
22 impaired by cannabis on the premises of the place of employment or  
23 during the hours of employment.

24 (g) A person shall not be denied custody of, visitation or parenting  
25 time with a minor and there shall be no presumption of neglect or child  
26 endangerment for conduct allowed under this act, unless the person's  
27 behavior is such that it creates an unreasonable danger to the safety of the  
28 minor as established by clear and convincing evidence.

29 (h) A registered designated caregiver may receive compensation for  
30 costs associated with assisting a registered qualifying patient's medical use  
31 of cannabis, provided that registered designated caregiver is connected to  
32 the registered qualifying patient through the department's registration  
33 process. Any such compensation shall not constitute the sale of controlled  
34 substances.

35 (i) A practitioner shall not be subject to arrest, prosecution or penalty  
36 in any manner, or denied any right or privilege, including, but not limited  
37 to, civil penalty or disciplinary action by the state board of healing arts or  
38 by any other occupational or professional licensing board or bureau, solely  
39 for providing written certifications or for otherwise stating that, in the  
40 practitioner's professional opinion, a patient is likely to receive therapeutic  
41 benefit from the medical use of cannabis to treat or alleviate the patient's  
42 serious or debilitating medical condition or symptoms associated with the  
43 serious or debilitating medical condition. Nothing in this act shall prevent

1 a professional licensing board from sanctioning a practitioner for failing to  
2 properly evaluate a patient's medical condition or otherwise violating the  
3 standard of care for evaluating medical conditions.

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

11 (k) Any cannabis, cannabis paraphernalia, licit property or interest in  
12 licit property that is possessed, owned or used in connection with the  
13 medical use of cannabis as allowed under this act, or acts incidental to  
14 such use, shall not be seized or forfeited. This act shall not prevent the  
15 seizure or forfeiture of cannabis exceeding the amounts allowed under this  
16 act.

17 (l) A person shall not be subject to arrest, prosecution or penalty in  
18 any manner, or denied any right or privilege, including, but not limited to,  
19 civil penalty or disciplinary action by a court or occupational or  
20 professional licensing board or bureau, simply for being in the presence or  
21 vicinity of the medical use of cannabis as allowed under this act, or for  
22 assisting a registered qualifying patient with using or administering  
23 cannabis.

24 (m) A registry identification card, or its equivalent, that is issued  
25 under the laws of another state, district, territory, commonwealth or insular  
26 possession of the United States that allows, in the jurisdiction of issuance,  
27 a visiting qualifying patient to possess cannabis for medical purposes, shall  
28 have the same force and effect as a registry identification card issued by  
29 the department.

30 New Sec. 5. (a) The following provisions govern the registration of  
31 compassion centers:

32 (1) The department shall register a compassion center and issue a  
33 registration certificate, with a random 20-digit alphanumeric identification  
34 number, within 90 days of receiving an application for a compassion  
35 center if the following conditions are met:

36 (A) The prospective compassion center provided the following, in  
37 accordance with the department's rules and regulations:

38 (i) An application or renewal fee;

39 (ii) the legal name of the compassion center;

40 (iii) the physical address of the compassion center and the physical  
41 address of one additional location, if any, where cannabis will be  
42 cultivated, neither of which may be within 500 feet of a preexisting public  
43 or private school;

1 (iv) the name, address and date of birth of each principal officer and  
2 board member of the compassion center;

3 (v) the name, address and date of birth of any person who is an agent  
4 of or employed by the compassion center;

5 (vi) operating regulations that include procedures for the oversight of  
6 the compassion center and procedures to ensure accurate record-keeping  
7 and security measures, that are in accordance with the rules and  
8 regulations issued by the department under subsection (c) of section 6, and  
9 amendments thereto; and

10 (vii) if the city or county in which the compassion center would be  
11 located has enacted reasonable zoning restrictions, a sworn and truthful  
12 statement that the registered compassion center would be in compliance  
13 with those restrictions;

14 (B) issuing the compassion center a registration would not be in  
15 violation of a reasonable limitation on the number of registered  
16 compassion centers that can operate in the jurisdiction in which it would  
17 operate;

18 (C) none of the principal officers or board members have been  
19 convicted of an offense that was classified as a felony in the jurisdiction  
20 where the person was convicted, unless the offense consisted of conduct  
21 for which this act would likely have prevented a conviction, but the  
22 conduct either occurred prior to the enactment of this act or was  
23 prosecuted by an authority other than the state of Kansas;

24 (D) none of the prospective principal officers or board members have  
25 served as a principal officer or board member for a registered compassion  
26 center that has had its registration certificate revoked;

27 (E) none of the principal officers or board members are younger than  
28 21 years of age; and

29 (F) the compassion center has been approved for registration by the  
30 compassion board.

31 (2) Except as provided in subsection (a)(3), the department shall issue  
32 each compassion center staffer a registry identification card and log-in  
33 information for the verification system within 10 days of receipt of the  
34 person's name, address, date of birth and a fee in an amount established by  
35 the department. Each card shall specify that the cardholder is a principal  
36 officer, board member, agent, volunteer or employee of a registered  
37 compassion center and shall contain the following:

38 (A) The name, address and date of birth of the compassion center  
39 staffer;

40 (B) the legal name of the registered compassion center with which the  
41 compassion center staffer is affiliated;

42 (C) a random 20-digit alphanumeric identification number that is  
43 unique to the cardholder;



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

3 (E) a photograph, if the department decides to require one; and

4 (F) a statement signed by the prospective principal officer, board  
5 member, agent, volunteer or employee pledging not to divert cannabis to  
6 anyone who is not allowed to possess cannabis pursuant to this act.

7 (3) (A) The department shall not issue a registry identification card to  
8 any compassion center staffer who has been convicted of an offense that  
9 was classified as a felony in the jurisdiction where the person was  
10 convicted, unless the offense consisted of conduct for which this act would  
11 likely have prevented a conviction, but the conduct either occurred prior to  
12 the enactment of this act or was prosecuted by an authority other than the  
13 state of Kansas. The department may conduct a background check of each  
14 compassion center staffer in order to carry out this provision. The  
15 department shall notify the registered compassion center in writing of the  
16 reason for denying the registry identification card.

17 (B) The department shall not issue a registry identification card to  
18 any principal officer, board member, agent, volunteer or employee of a  
19 registered compassion center who is younger than 21 years of age.

20 (C) The department may refuse to issue a registry identification card to  
21 a compassion center staffer who has had a card revoked for violating  
22 this act.

23 (b) (1) A registered compassion center's registration certificate and  
24 the registry identification card for each compassion center staffer shall  
25 expire one year after the date of issuance. The department shall issue a  
26 renewal compassion center registration certificate within 10 days to any  
27 registered compassion center that submits a renewal fee, provided that its  
28 registration is not suspended and has not been revoked. The department  
29 shall issue a renewal registry identification card within 10 days to any  
30 compassion center staffer who submits a renewal fee, except as provided  
31 by subsection (a)(3).

32 (2) A registry identification card of a compassion center staffer shall  
33 expire and the person's login information to the verification system shall  
34 be deactivated upon notification by a registered compassion center that  
35 such person ceases to work at the registered compassion center.

36 (c) Registered compassion centers are subject to reasonable  
37 inspection by the department. The department shall give at least 24 hours'  
38 notice of an inspection under this subsection.

39 (d) (1) A registered compassion center may not be located within 500  
40 feet of the property line of a preexisting public or private school.

41 (2) A registered compassion center shall be operated on a not-for-  
42 profit basis for the mutual benefit of its members and patrons. The bylaws  
43 of a registered compassion center or its contracts with patrons shall contain

1 such provisions relative to the disposition of revenues and receipts as may  
2 be necessary and appropriate to establish and maintain its nonprofit  
3 character. A registered compassion center need not be recognized as tax  
4 exempt by the internal revenue service and is not required to be  
5 incorporated.

6 (3) A registered compassion center shall notify the department within  
7 10 days of when a compassion center staffer ceases to work at the  
8 registered compassion center.

9 (4) A registered compassion center shall notify the department in  
10 writing of the name, address and date of birth of any new compassion  
11 center staffer and shall submit a fee in an amount established by the  
12 department for a new registry identification card before a new compassion  
13 center staffer begins working at the registered compassion center.

14 (5) A registered compassion center shall implement appropriate  
15 security measures to deter and prevent unauthorized entrance into areas  
16 containing cannabis and the theft of cannabis.

17 (6) The operating documents of a registered compassion center shall  
18 include procedures for the oversight of the registered compassion center  
19 and procedures to ensure accurate record keeping.

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

25 (8) All principal officers and board members of a registered  
26 compassion center must be residents of the state of Kansas.

27 (9) All cultivation of cannabis must take place in an enclosed, locked  
28 facility which can only be accessed by principal officers, board members,  
29 agents, volunteers or employees of the registered compassion center who  
30 are cardholders.

31 (10) County and city governments may enact reasonable limits on the  
32 number of registered compassion centers that can operate in their  
33 jurisdictions and may enact zoning regulations that reasonably limit  
34 registered compassion centers to certain areas of their jurisdictions.

35 (e) (1) Before cannabis may be dispensed to a designated caregiver or  
36 a registered qualifying patient, a compassion center staffer must look up  
37 the registered qualifying patient for whom the cannabis is intended, and  
38 the designated caregiver transporting the cannabis to the patient, if any, in  
39 the verification system and must verify each of the following:

40 (A) That the registry identification card presented to the registered  
41 compassion center is valid;

42 (B) that the person presenting the card is the person identified on the  
43 registry identification card presented to the compassion center staffer; and

1 (C) that the amount to be dispensed would not cause the registered  
2 qualifying patient to exceed such person's limit of obtaining six ounces of  
3 cannabis during any 30-day period.

4 (2) After verifying the information in subsection (e)(1), but before  
5 dispensing cannabis to a registered qualifying patient or a registered  
6 designated caregiver on a registered qualifying patient's behalf, a  
7 compassion center staffer must make an entry in the verification system,  
8 specifying how much cannabis is being dispensed to the registered  
9 qualifying patient and whether it was dispensed directly to the registered  
10 qualifying patient or to the registered qualifying patient's registered  
11 designated caregiver. The entry must include the date and time the  
12 cannabis was dispensed.

13 (f) (1) A registered compassion center shall not be subject to  
14 prosecution; search, except by the department pursuant to subsection (c);  
15 seizure; or penalty in any manner or be denied any right or privilege,  
16 including, but not limited to, civil penalty or disciplinary action by a court  
17 or business licensing board or entity, solely for acting in accordance with  
18 this act and department rules and regulations to acquire, possess, cultivate,  
19 manufacture, deliver, transfer, transport, supply or dispense cannabis or  
20 related supplies and educational materials to registered qualifying patients,  
21 to registered designated caregivers on behalf of registered qualifying  
22 patients or to other registered compassion centers.

23 (2) No compassion center staffers shall be subject to arrest,  
24 prosecution, search, seizure or penalty in any manner or denied any right  
25 or privilege, including, but not limited to, civil penalty or disciplinary  
26 action by a court or occupational or professional licensing board or entity,  
27 solely for working for a registered compassion center in accordance with  
28 this act and department rules and regulations to acquire, possess, cultivate,  
29 manufacture, deliver, transfer, transport, supply or dispense cannabis or  
30 related supplies and educational materials to registered qualifying patients,  
31 to registered designated caregivers on behalf of registered qualifying  
32 patients or to other registered compassion centers.

33 (g) (1) A registered qualifying patient shall not directly, or through a  
34 designated caregiver, obtain more than six ounces of cannabis from  
35 registered compassion centers in any 30-day period.

36 (2) A registered compassion center may not dispense, deliver or  
37 otherwise transfer cannabis to a person other than another registered  
38 compassion center, a registered qualifying patient or a registered  
39 qualifying patient's registered designated caregiver.

40 (3) A registered compassion center may not obtain cannabis from  
41 outside the state of Kansas.

42 (4) Except as provided in subsection (a)(3), no person who has been  
43 convicted of an offense that was classified as a felony in the jurisdiction

1 where the person was convicted may be a compassion center staffer. A  
2 person who works as an agent, volunteer, employee, principal officer, or  
3 board member of a registered compassion center in violation of this  
4 section is subject to a civil violation punishable by a penalty of not to  
5 exceed \$1,000 levied by the department. A subsequent violation of this  
6 section is a class C misdemeanor.

7 (5) A registered compassion center may not acquire usable cannabis  
8 or mature cannabis plants from any person other than another registered  
9 compassion center, a registered qualifying patient or a registered  
10 designated caregiver. A registered compassion center is only allowed to  
11 acquire usable cannabis or cannabis plants from a registered qualifying  
12 patient or a registered designated caregiver if the registered qualifying  
13 patient or registered designated caregiver receives no compensation for the  
14 cannabis.

15 (6) A person who violates paragraph (2) or (5) of this subsection may  
16 not be a compassion center staffer, and such person's registry identification  
17 card shall be immediately revoked. The department may suspend or revoke  
18 a compassion center staffer's registry identification card for violating this  
19 act.

20 (7) A registered compassion center that violates paragraph (2) or (5)  
21 of this subsection shall immediately have its registration revoked, and its  
22 board members and principal officers may not serve as the board members  
23 or principal officers for any other registered compassion centers.

24 New Sec. 6. (a) Not later than 90 days after the effective date of this  
25 act, the department, in consultation with the compassion board, shall adopt  
26 rules and regulations governing the manner in which the department shall  
27 consider petitions from the public to add debilitating medical conditions or  
28 treatments to the list of debilitating medical conditions set forth in  
29 subsection (f) of section 3, and amendments thereto. In considering such  
30 petitions, the department shall include public notice of, and an opportunity  
31 to comment in a public hearing upon, the petitions. The department, after  
32 hearing, shall approve or deny a petition within 90 days of its submission.  
33 The approval or denial of a petition is a final department action, subject to  
34 judicial review. Jurisdiction and venue for judicial review are vested in the  
35 district court.

36 (b) Not later than 90 days after the effective date of this act, the  
37 department, in consultation with the compassion board, shall adopt rules  
38 and regulations governing the manner in which it shall consider  
39 applications for and renewals of registry identification cards.

40 (c) (1) Not later than 90 days after the effective date of this act, the  
41 department, in consultation with the compassion board, shall adopt rules  
42 and regulations governing the manner in which it shall consider  
43 applications for and renewals of registration certificates for registered

1 compassion centers, including reasonable rules and regulations governing:

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

3 (B) minimum oversight requirements for registered compassion  
4 centers;

5 (C) minimum record keeping requirements for registered compassion  
6 centers;

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

11 (E) procedures for suspending or terminating the registration of  
12 registered compassion centers that violate the provisions of this act or the  
13 rules and regulations promulgated pursuant to this section.

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

24 (d) Not later than 90 days after the effective date of this act, the  
25 department, in consultation with the compassion board, shall adopt rules  
26 and regulations establishing application and renewal fees for registry  
27 identification cards and registered compassion center registration  
28 certificates. The fees shall be in accordance with the following parameters:

29 (1) The total fees collected must generate revenues sufficient to offset  
30 all expenses of implementing and administering this act;

31 (2) compassion center application fees may not exceed \$5,000;

32 (3) compassion center renewal fees may not exceed \$1,000;

33 (4) the total revenue from compassion center application and renewal  
34 fees and registry identification card fees for compassion center staffers  
35 must be sufficient to offset all expenses of implementing and  
36 administering the compassion center aspects of this act, including the  
37 verification system;

38 (5) the department may establish a sliding scale of patient application  
39 and renewal fees based upon a qualifying patient's family income; and

40 (6) the department may accept donations from private sources in  
41 order to reduce the application and renewal fees.

42 New Sec. 7. (a) The department shall issue registry identification  
43 cards to qualifying patients who submit the following, in accordance with

1 the department's rules and regulations:

2 (1) Written certification;

3 (2) application or renewal fee;

4 (3) name, address and date of birth of the qualifying patient, except  
5 that if the applicant is homeless, no address is required;

6 (4) name, address and telephone number of the qualifying patient's  
7 practitioner;

8 (5) name, address and date of birth of the designated caregiver  
9 designated, if any, by the qualifying patient;

10 (6) a statement signed by the qualifying patient, pledging not to divert  
11 cannabis to anyone who is not allowed to possess cannabis pursuant to this  
12 act; and

13 (7) a signed statement from the designated caregiver, if any, agreeing  
14 to be designated as the patient's designated caregiver and pledging not to  
15 divert cannabis to anyone who is not allowed to possess cannabis pursuant  
16 to this act.

17 (b) The department shall not issue a registry identification card to a  
18 qualifying patient who is younger than 18 years of age unless:

19 (1) The qualifying patient's practitioner has explained the potential  
20 risks and benefits of the medical use of cannabis to the custodial parent or  
21 legal guardian with responsibility for health care decisions for the  
22 qualifying patient; and

23 (2) the custodial parent or legal guardian with responsibility for  
24 health care decisions for the qualifying patient consents in writing to:

25 (A) Allow the qualifying patient's medical use of cannabis;

26 (B) serve as the qualifying patient's designated caregiver; and

27 (C) control the acquisition of the cannabis, the dosage and the  
28 frequency of the medical use of cannabis by the qualifying patient.

29 (c) The department shall verify the information contained in an  
30 application or renewal submitted pursuant to this section and shall approve  
31 or deny an application or renewal within 15 days of receiving it. The  
32 department may deny an application or renewal only if the applicant did  
33 not provide the information required pursuant to this section, the applicant  
34 previously had a registry identification card revoked for violating this act  
35 or if the department determines that the information provided was  
36 falsified. Rejection of an application or renewal is considered a final  
37 department action, subject to judicial review. Jurisdiction and venue for  
38 judicial review are vested in the district court.

39 (d) The department shall issue a registry identification card to the  
40 designated caregiver, if any, who is named in a qualifying patient's  
41 approved application, up to a maximum of three designated caregivers per  
42 qualifying patient so as to give a designated caregiver of very ill patients a  
43 chance for respite, provided that the designated caregiver meets the

1 requirements of subsection (h) of section 3, and amendments thereto. The  
2 department shall notify the qualifying patient who has designated someone  
3 to serve as the patient's designated caregiver if a registry identification  
4 card will not be issued to the designated person. A designated caregiver  
5 shall be issued a registry identification card each time the designated  
6 caregiver is designated by a qualifying patient.

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

- 15 (1) Name, address and date of birth of the qualifying patient;
- 16 (2) name, address and date of birth of the designated caregiver, if any,  
17 of the qualifying patient;
- 18 (3) the date of issuance and expiration date of the registry  
19 identification card;
- 20 (4) a random 20-digit alphanumeric identification number, containing  
21 at least four numbers and at least four letters, that is unique to the  
22 cardholder;
- 23 (5) if the cardholder is a designated caregiver, the random  
24 identification number of the registered qualifying patient the designated  
25 caregiver is assisting; and
- 26 (6) a photograph, if the department decides to require one.

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

29 (1) A registered qualifying patient shall notify the department of any  
30 change of name, address or designated caregiver, or if the registered  
31 qualifying patient ceases to have a debilitating medical condition, within  
32 30 days of such change.

33 (2) A registered qualifying patient who fails to notify the department  
34 of any of these changes is subject to a civil penalty of no more than \$150  
35 levied by the department. If the registered qualifying patient's certifying  
36 practitioner notifies the department in writing that either the registered  
37 qualifying patient has ceased to suffer from a debilitating medical  
38 condition or that the practitioner no longer believes the patient would  
39 receive therapeutic or palliative benefit from the medical use of cannabis,  
40 the card is null and void upon notification by the department to the  
41 qualifying patient.

42 (3) Any registered designated caregiver or compassion center staffer  
43 must notify the department of any change in name or address within 30

1 days of such change. A registered designated caregiver or compassion  
2 center staffer who fails to notify the department of any of these changes is  
3 subject to a civil penalty of no more than \$150 levied by the department.

4 (4) When a cardholder notifies the department of any changes listed  
5 in this subsection, the department shall issue the cardholder a new registry  
6 identification card with new random 20-digit alphanumeric identification  
7 numbers within 10 days of receiving the updated information and a \$10  
8 fee. If the person notifying the department is a registered qualifying  
9 patient, the department shall also issue the patient's registered designated  
10 caregiver, if any, a new registry identification card within 10 days of  
11 receiving the updated information.

12 (5) When a registered qualifying patient ceases to be a registered  
13 qualifying patient or changes the registered designated caregiver, the  
14 department shall notify the designated caregiver within 10 days. The  
15 registered designated caregiver's protections under this act as to that  
16 qualifying patient shall expire 10 days after notification by the department.

17 (6) If a cardholder loses the registry identification card, the  
18 cardholder shall notify the department and submit a \$10 fee within 10 days  
19 of losing the card. Within five days after such notification, the department  
20 shall issue a new registry identification card with a new random  
21 identification number to the cardholder and, if the cardholder is a  
22 registered qualifying patient, to the registered qualifying patient's  
23 registered designated caregiver, if any.

24 (g) Mere possession of, or application for, a registry identification  
25 card shall not constitute probable cause or reasonable suspicion, nor shall  
26 it be used to support the search of the person or property of the person  
27 possessing or applying for the registry identification card. The possession  
28 of, or application for, a registry identification card shall not preclude the  
29 existence of probable cause if probable cause exists on other grounds.

30 (h) The following confidentiality rules shall apply:

31 (1) Applications and supporting information submitted by qualifying  
32 patients and designated caregivers, including information regarding their  
33 designated caregivers and practitioners, are confidential.

34 (2) Applications and supporting information submitted by  
35 compassion centers and compassion center personnel operating in  
36 compliance with this act, including the physical addresses of compassion  
37 centers, are confidential.

38 (3) The department shall maintain a confidential list of the persons to  
39 whom the department has issued registry identification cards. Individual  
40 names and other identifying information on the list shall be confidential,  
41 exempt from the Kansas open records act, and not subject to disclosure,  
42 except to authorized employees of the department as necessary to perform  
43 official duties of the department and as provided in paragraph (4) of this



1 subsection.

2 (4) Within 90 days of the effective date of this act, the department  
3 shall establish a secure, password-protected, web-based verification  
4 system that is operational 24 hours each day, which law enforcement  
5 personnel and compassion center staffers can use to verify registry  
6 identification cards. The verification system must allow law enforcement  
7 personnel and compassion center staffers to enter in a registry  
8 identification number to determine whether or not the number corresponds  
9 with a current, valid ID card. The system shall disclose the name and  
10 photograph of the cardholder but shall not disclose the cardholder's  
11 address. The system shall also display the amount and quantity of cannabis  
12 that each registered qualifying patient received from compassion centers  
13 during the past 60 days. The system shall allow compassion center staffers  
14 to add the amount of cannabis dispensed to registered qualifying patients,  
15 directly or through their designated caregivers, and the date and time the  
16 cannabis was dispensed. The verification system must include the  
17 following data security features:

18 (A) Any time an authorized user enters five invalid registry  
19 identification numbers within five minutes, that user cannot log in to the  
20 system again for 10 minutes; and

21 (B) the server must reject any log-in request that is not over an  
22 encrypted connection.

23 (5) Any hard drives containing cardholder information must be  
24 destroyed once they are no longer in use, and the department shall retain a  
25 signed statement from a department employee confirming the destruction.

26 (6) (A) It shall be a class B misdemeanor for any person, including an  
27 employee or official of the department or another state agency or local  
28 government, to breach the confidentiality of information obtained pursuant  
29 to this act.

30 (B) Notwithstanding this provision, this section shall not prevent the  
31 following notifications:

32 (i) Department employees may notify law enforcement about falsified  
33 or fraudulent information submitted to the department, so long as the  
34 employee who suspects that falsified or fraudulent information has been  
35 submitted confers with such employee's supervisor and both agree that  
36 circumstances exist that warrant reporting;

37 (ii) the department may notify state or local law enforcement about  
38 apparent criminal violations of this act, if the employee who suspects the  
39 offense confers with such employee's supervisor and both agree that  
40 circumstances exist that warrant reporting; and

41 (iii) compassion center staffers may notify the department of a  
42 suspected violation or attempted violation of this act or the rules and  
43 regulations issued pursuant to it.

1 (i) Any cardholder who sells cannabis to a person who is not allowed  
2 to possess cannabis for medical purposes under this act shall have the  
3 cardholder's identification card revoked and shall be subject to other  
4 penalties for the unauthorized sale of cannabis. The department may  
5 revoke the registry identification card of any cardholder who violates this  
6 act, and the cardholder shall be subject to any other penalties for the  
7 violation.

8 (j) The department shall submit to the legislature an annual report that  
9 does not disclose any identifying information about cardholders,  
10 compassion centers or practitioners but does contain, at a minimum, all of  
11 the following information:

12 (1) The number of applications and renewals filed for registry  
13 identification cards;

14 (2) the number of qualifying patients and designated caregivers  
15 approved in each county;

16 (3) the nature of the debilitating medical conditions of the qualifying  
17 patients;

18 (4) the number of registry identification cards revoked;

19 (5) the number of practitioners providing written certifications for  
20 qualifying patients;

21 (6) the number of registered compassion centers; and

22 (7) the number of compassion center staffers.

23 (k) Where a state-funded or locally-funded law enforcement agency  
24 encounters an individual who, during the course of the investigation,  
25 credibly asserts that such individual is a registered cardholder or an entity  
26 whose personnel credibly assert that it is a compassion center, the law  
27 enforcement agency shall not provide any information from any cannabis-  
28 related investigation of the person to any law enforcement authority that  
29 does not recognize the protection of this act, and any prosecution of the  
30 individual, individuals or entity for a violation of this act shall be  
31 conducted pursuant to the laws of this state. The application for qualifying  
32 patients' registry identification cards shall include a question asking  
33 whether the patient would like the department to notify the patient of any  
34 clinical studies regarding cannabis' risk or efficacy that seek human  
35 subjects. The department shall inform those patients who answer in the  
36 affirmative of any such studies it is notified of that will be conducted in the  
37 United States.

38 New Sec. 8. (a) Except as provided in section 9, and amendments  
39 thereto, a patient may assert the medical purpose for using cannabis as a  
40 defense to any prosecution of an offense involving cannabis intended for  
41 the patient's medical use, and this defense shall be presumed valid where  
42 the evidence shows that:

43 (1) A practitioner has stated that, in the practitioner's professional

1 opinion, after having completed a full assessment of the patient's medical  
2 history and current medical condition made in the course of a bona fide  
3 practitioner-patient relationship, the patient is likely to receive therapeutic  
4 or palliative benefit from the medical use of cannabis to treat or alleviate  
5 the patient's serious or debilitating medical condition or symptoms  
6 associated with the patient's serious or debilitating medical condition;

7 (2) the patient and the patient's designated caregiver, if any, were  
8 collectively in possession of a quantity of cannabis that was not more than  
9 was reasonably necessary to ensure the uninterrupted availability of  
10 cannabis for the purpose of treating or alleviating the patient's serious or  
11 debilitating medical condition or symptoms associated with the patient's  
12 serious or debilitating medical condition; and

13 (3) the patient was engaged in the acquisition, possession, cultivation,  
14 manufacture, use or transportation of cannabis, paraphernalia, or both,  
15 relating to the administration of cannabis solely to treat or alleviate the  
16 patient's serious or debilitating medical condition or symptoms associated  
17 with the patient's serious or debilitating medical condition.

18 (b) A person may assert the medical purpose for using cannabis in a  
19 motion to dismiss, and the charges shall be dismissed following an  
20 evidentiary hearing where the person shows the elements listed in  
21 subsection (a).

22 (c) If a patient demonstrates the patient's medical purpose for using  
23 cannabis pursuant to this section, except as provided in section 9, and  
24 amendments thereto, the patient and the patient's designated caregiver  
25 shall not be subject to the following for the patient's use of cannabis for  
26 medical purposes: (1) Disciplinary action by an occupational or  
27 professional licensing board or bureau; or (2) forfeiture of any interest in  
28 or right to noncannabis, licit property.

29 (d) A practitioner who provides a medical opinion in subsection (a)  
30 (1) of this section shall attend continuing medical education regarding the  
31 medicinal applications of cannabis.

32 New Sec. 9. (a) This act shall not permit any person to do any of the  
33 following, nor shall it prevent the imposition of any civil, criminal or other  
34 penalties for any such actions:

35 (1) Undertake any task under the influence of cannabis, when doing  
36 so would constitute negligence or professional malpractice.

37 (2) Possess cannabis, or otherwise engage in the medical use of  
38 cannabis: (A) In a school bus; (B) on the grounds of any preschool,  
39 primary or secondary school; or (C) in any correctional facility.

40 (3) Smoke cannabis: (A) On any form of public transportation; or (B)  
41 in any public place.

42 (4) Operate, navigate or be in actual physical control of any motor  
43 vehicle, aircraft or motorboat while under the influence of cannabis.

1 However, a registered qualifying patient shall not be considered to be  
2 under the influence of cannabis solely because of the presence of  
3 metabolites or components of cannabis that appear in insufficient  
4 concentration to cause impairment.

5 (5) Use cannabis if that person does not have a serious or debilitating  
6 medical condition.

7 (b) Nothing in this act shall be construed to require:

8 (1) A government medical assistance program or private health  
9 insurer to reimburse a person for costs associated with the medical use of  
10 cannabis;

11 (2) any person or establishment in lawful possession of property to  
12 allow a guest, client, customer or other visitor to use cannabis on or in that  
13 property. This act shall not limit a person or entity in lawful possession of  
14 property, or an agent of such person or entity, from expelling a person who  
15 uses cannabis without permission from their property and from seeking  
16 civil and criminal penalties for the unauthorized use of cannabis on their  
17 property; or

18 (3) an employer to accommodate the ingestion of cannabis in any  
19 workplace or any employee working while under the influence of  
20 cannabis, provided that a qualifying patient shall not be considered to be  
21 under the influence of cannabis solely because of the presence of  
22 metabolites or components of cannabis that appear in insufficient  
23 concentration to cause impairment. This act shall in no way limit an  
24 employer's ability to discipline an employee for ingesting cannabis in the  
25 workplace or working while under the influence of cannabis.

26 (c) Fraudulent representation to a law enforcement official of any fact  
27 or circumstance relating to the medical use of cannabis to avoid arrest or  
28 prosecution shall be punishable by a fine of \$500, which shall be in  
29 addition to any other penalties that may apply for making a false statement  
30 or for the use of cannabis other than use undertaken pursuant to this act.

31 New Sec. 10. (a) If the department fails to adopt rules and regulations  
32 to implement this act within 90 days of the effective date of this act, a  
33 qualifying patient or a prospective board member or prospective principal  
34 officer of a compassion center may commence an action in district court to  
35 compel the department to perform the actions mandated pursuant to the  
36 provisions of this act.

37 (b) If the department fails to issue a valid registry identification card  
38 in response to a valid application or renewal submitted pursuant to this act  
39 within 20 days of its submission, the registry identification card shall be  
40 deemed granted, and a copy of the registry identification application or  
41 renewal shall be deemed a valid registry identification card.

42 (c) If at any time after the 110 days following the effective date of  
43 this act, the department is not accepting applications, including if it has not

1 created rules and regulations allowing qualifying patients to submit  
2 applications, a notarized statement by a qualifying patient containing the  
3 information required in an application, pursuant to subsection (a) of  
4 section 7, and amendments thereto, together with a written certification  
5 shall be deemed a valid registry identification card.

6 New Sec. 11. (a) There is established within the department of health  
7 and environment a compassion board. The board shall consist of 11  
8 members appointed by the secretary of health and environment. The  
9 secretary, insofar as possible, shall appoint persons from different  
10 geographical areas and persons who represent various economic interests.  
11 If a vacancy occurs on the board, the secretary shall appoint a person to fill  
12 the vacant position for the unexpired term, if any. Members of the board  
13 shall be appointed for terms of three years and until their successors are  
14 appointed and qualified, except that of the members first appointed by the  
15 secretary on or after the effective date of this act, three shall be appointed  
16 for a term of one year, three shall be appointed for a term of two years and  
17 five shall be appointed for a term of three years, as designated by the  
18 secretary. The board shall advise the secretary about the administration of  
19 the cannabis compassion and care act and shall perform such duties as are  
20 required by this act.

21 (b) Members of the board attending meetings of the board, or  
22 attending a subcommittee meeting thereof authorized by the board, shall  
23 be paid amounts provided in subsection (e) of K.S.A. 75-3223, and  
24 amendments thereto, from moneys appropriated to the department of  
25 health and environment.

26 Sec. 12. K.S.A. 79-5210 is hereby amended to read as follows: 79-  
27 5210. Nothing in this act requires persons registered under article 16 of  
28 chapter 65 of the Kansas Statutes, *and amendments thereto*, Annotated or  
29 otherwise lawfully in possession of marijuana or a controlled substance to  
30 pay the tax required under this act, *except that persons lawfully in*  
31 *possession of cannabis under the cannabis compassion and care act shall*  
32 *pay the tax required by K.S.A. 79-5201 et seq., and amendments thereto.*

33 New Sec. 13. Any section of this act being held invalid as to any  
34 person or circumstances shall not affect the application of any other  
35 section of this act that can be given full effect without the invalid section  
36 or application.

37 Sec. 14. K.S.A. 79-5210 is hereby repealed.

38 Sec. 15. This act shall take effect and be in force from and after its  
39 publication in the statute book.