

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 185

Short Title: Legalize Medical Marijuana. (Public)

Sponsors: Representatives Alexander, Carney, Harrison, and R. Moore (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

February 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING THE NORTH CAROLINA MEDICAL CANNABIS ACT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 43.

7 "North Carolina Medical Cannabis Act.

8 **"§ 90-730. Short title.**

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

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

11 The General Assembly makes the following findings:

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



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

5 (5) Although federal law currently prohibits any use of cannabis outside of the IND
6 program, the laws of Alaska, Arizona, Arkansas, California, Colorado,
7 Connecticut, District of Columbia, Delaware, Florida, Hawaii, Illinois, Maine,
8 Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New
9 Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio,
10 Oregon, Pennsylvania, Rhode Island, Vermont, and Washington permit the
11 medical use and cultivation of cannabis. North Carolina joins in this effort for
12 the health and welfare of its citizens.

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

16 (7) Compassion dictates that State law should make a distinction between the
17 medical and nonmedical use of cannabis. Hence, the purpose of this Article is
18 to protect patients with debilitating medical conditions, and their physicians and
19 caregivers, from arrest and prosecution, criminal and other penalties, and
20 property forfeiture by allowing the beneficial use of medical cannabis in a
21 regulated system for alleviating symptoms caused by debilitating medical
22 conditions and their medical treatments.

23 (8) This Article is intended to make only those changes to existing North Carolina
24 laws that are necessary to protect patients and their doctors from criminal and
25 civil penalties and is not intended to change current civil and criminal laws
26 governing the use of cannabis for nonmedical purposes.

27 (9) Based on data gathered from other states where medical cannabis has been
28 regulated, this Article will result in approximately two hundred fifty million
29 dollars (\$250,000,000) per year in revenues for the State within four years of
30 implementation.

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

34 **"§ 90-730.2. Definitions.**

35 The following definitions apply in this Article:

36 (1) "Adequate supply" has the following meanings:

37 a. An amount of usable cannabis derived solely from an intrastate source
38 that is possessed by a qualified patient, or collectively possessed by a
39 qualified patient and the qualified patient's designated caregiver, in an
40 amount that does not exceed what is reasonably necessary to assure the
41 uninterrupted availability of cannabis for a period of three months, in
42 any form recommended by the qualified patient's physician for the
43 purpose of alleviating the symptoms or effects of the qualified patient's
44 debilitating medical condition.

45 b. For a qualified patient for whom a delivery method of inhalation of
46 cannabis vapor or smoking is recommended by the qualified patient's
47 physician, "adequate supply" means not more than 24 ounces of
48 cannabis in a form usable for that purpose. The term also includes a
49 garden cultivated by the qualified patient or the qualified patient's
50 designated caregiver of not more than 250 feet of total garden canopy of
51 mature female cannabis plants, measured by the combined vegetative

- 1 growth area, excluding any garden space devoted to cannabis plants that
2 are not mature and female but which are cultivated for the purpose of
3 maintaining the largest and most productive canopy of mature female
4 cannabis plants allowed by this Article.
- 5 c. For a qualified patient for whom a delivery method other than inhalation
6 of cannabis vapor or smoking has been recommended by the patient's
7 physician, "adequate supply" means a garden of cannabis cultivated by
8 the qualified patient or the qualified patient's designated caregiver of a
9 size reasonably necessary to assure the uninterrupted availability of
10 cannabis for a period of three months, in a form recommended by the
11 qualified patient's physician, for the purpose of alleviating the
12 symptoms or effects of the qualified patient's debilitating medical
13 condition.
- 14 (2) "Bona fide physician-patient relationship" means a physician and a patient have
15 a treatment or counseling relationship in which the physician has completed a
16 full assessment of the patient's medical history and current medical condition,
17 including an appropriate physical examination; and the physician is available or
18 offers to provide follow-up care and treatment to the patient, including patient
19 examinations, to determine the efficacy of the use of medical cannabis as a
20 treatment for the patient's medical condition.
- 21 (3) "Cannabis" means marijuana as defined in G.S. 90-87(16).
- 22 (4) "Cannabis-infused product" means a product infused with cannabis that is
23 intended for use or consumption other than by inhalation, smoking, or
24 otherwise. The term includes edible products, ointments, and tinctures.
- 25 (5) "Canopy" means the foliage of growing plants.
- 26 (6) "Canopy cover" means the area shaded by the foliage of growing plants.
- 27 (7) "Debilitating medical condition" means any of the following:
- 28 a. Cancer, gliomas, glaucoma, positive status for human
29 immunodeficiency virus (HIV), acquired immune deficiency syndrome
30 (AIDS), hepatitis C, porphyria, amyotrophic lateral sclerosis (Lou
31 Gehrig's disease or ALS), Alzheimer's disease, nail-patella syndrome,
32 fibromyalgia, severe migraines, multiple sclerosis, celiac disease,
33 Crohn's disease, diabetes mellitus, dystonia, gastrointestinal disorders,
34 hypertension, incontinence, injury or disease to the spinal cord, spinal
35 column, or vertebra, methicillin-resistant Staphylococcus aureus
36 (MRSA), myelomalacia, osteoporosis, pruritus, rheumatoid arthritis,
37 sleep apnea, Tourette's syndrome, or the treatment of such conditions.
- 38 b. A chronic or debilitating disease or medical condition or its treatment
39 that produces one or more of the following: cachexia or wasting
40 syndrome; severe pain; severe nausea; anorexia; seizures, including
41 those characteristic of epilepsy; or severe and persistent muscle spasms,
42 including those characteristic of multiple sclerosis (MS), amyotrophic
43 lateral sclerosis (Lou Gehrig's disease or ALS), or Crohn's disease.
- 44 c. Any other serious medical or mental condition or its treatment approved
45 by a physician or other practitioner authorized to prescribe or
46 recommend a controlled substance classified in the schedules set forth
47 in either the Controlled Substances Act (Article 5 of Chapter 90 of the
48 General Statutes) or the federal Comprehensive Drug Abuse Prevention
49 and Control Act of 1970, P.L. 91-513, 84 Stat. 1236 (Oct. 27, 1970).
- 50 (8) "Designated caregiver" means a person who is at least 21 years of age and who
51 has agreed to assist with a qualified patient's medical use of cannabis.

- 1 (9) "Licensed medical cannabis center" means a person licensed pursuant to
2 G.S. 90-730.6 to operate a business that sells cannabis and cannabis-infused
3 products to registry identification cardholders and other licensed medical
4 cannabis centers.
- 5 (10) "Licensed producer of cannabis-infused products" means a person licensed
6 pursuant to G.S. 90-730.6 to operate a business producing cannabis-infused
7 products.
- 8 (11) "Licensed producer of medical cannabis" means a person licensed pursuant to
9 G.S. 90-730.6 to cultivate cannabis for sale to a licensed medical cannabis
10 center.
- 11 (12) "Medical use of cannabis" means the acquisition, possession, cultivation,
12 manufacture, use, internal possession, delivery, transfer, or transportation of
13 cannabis or paraphernalia relating to the administration of cannabis to treat or
14 alleviate a qualified patient's medical condition or symptoms associated with
15 the medical condition or its treatment.
- 16 (13) "Physician" means a person licensed under Article 1 of Chapter 90 of the
17 General Statutes who is in good standing to practice medicine in this State.
- 18 (14) "Producer" includes a producer of medical cannabis and a producer of
19 cannabis-infused products.
- 20 (15) "Qualified patient" means a person who has been diagnosed by a physician as
21 having a debilitating medical condition.
- 22 (16) "Registry identification card" means a document issued by the North Carolina
23 Department of Health and Human Services pursuant to G.S. 90-730.5 that
24 identifies a person as a qualified patient or designated caregiver.
- 25 (17) "Registry identification cardholder" means a qualified patient or a designated
26 caregiver who holds a valid registry identification card issued by the North
27 Carolina Department of Health and Human Services pursuant to G.S. 90-730.5.
- 28 (18) "Regulated medical cannabis supply system" or "system" means the system
29 established by the North Carolina Department of Agriculture and Consumer
30 Services pursuant to G.S. 90-730.6 to provide a safe method for producing and
31 distributing cannabis to registry identification cardholders and persons licensed
32 to produce and distribute cannabis and cannabis-infused products to registry
33 identification cardholders.
- 34 (19) "Usable cannabis" means the dried buds and mature female flowers of the plant
35 of the genus Cannabis, and any mixture or preparation thereof, that are
36 appropriate for medical use as provided in this Article.
- 37 (20) "Written certification" means a statement in a patient's medical records or a
38 statement signed by a physician with whom the patient has a bona fide
39 physician-patient relationship indicating that, in the physician's professional
40 opinion, the patient has a debilitating medical condition and the potential health
41 benefits of the medical use of cannabis would likely outweigh the health risks
42 for the patient.

43 **"§ 90-730.3. Protections for the medical use of cannabis.**

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

50 (b) A designated caregiver shall not be subject to arrest, prosecution, or penalty in any
51 manner, or denied any right or privilege, including imposition of a civil penalty or disciplinary

1 action by a business or occupational or professional licensing board or bureau, for the possession
2 or purchase of cannabis for medical use by the qualified patient if the quantity of cannabis
3 possessed or purchased does not exceed an adequate supply for the qualified patient, as
4 determined by the qualified patient's physician.

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

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

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

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

19 (e) A qualified patient or a designated caregiver shall be granted the full legal protections
20 provided in this section as long as the qualified patient or designated caregiver is in possession of
21 a registry identification card. If the qualified patient or designated caregiver is not in possession of
22 a registry identification card, the individual shall be given an opportunity to produce the registry
23 identification card before the initiation of any arrest, criminal charges, or other penalties.

24 (f) A qualified patient or a designated caregiver is presumed to be engaged in the medical
25 use of cannabis if the qualified patient or designated caregiver is in possession of a registry
26 identification card and an amount of cannabis that does not exceed the qualified patient's adequate
27 supply. This presumption may be rebutted only by evidence that the qualified patient or designated
28 caregiver engaged in conduct related to cannabis for a purpose other than alleviating the qualified
29 patient's debilitating medical condition or symptoms associated with the debilitating medical
30 condition.

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

34 (h) A school, employer, or landlord shall not refuse to enroll, employ, lease, or otherwise
35 penalize a qualified patient or a designated caregiver solely because of (i) the individual's status as
36 a qualified patient or a designated caregiver or (ii) the presence of cannabis metabolites in the
37 individual's bodily fluids.

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

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

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

50 (1) Advising a patient about the risks and benefits of the medical use of cannabis or
51 that the patient may benefit from the medical use of cannabis if, in the

1 physician's medical judgment, the potential benefits of the medical use of
2 cannabis would likely outweigh the health risks for that particular patient.

3 (2) Providing a patient with valid documentation, based upon the physician's
4 assessment of the patient's medical history and current medical condition, that
5 the potential benefits of the medical use of cannabis would likely outweigh the
6 health risks for that particular patient.

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

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

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

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

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

35 (q) Possession of or application for a registry identification card shall not alone constitute
36 probable cause to search the person or the property of the person possessing or applying for a
37 registry identification card or otherwise subject the person or the person's property to inspection
38 by any government agency.

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

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

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

5 **"§ 90-730.4. Prohibitions, restrictions, and limitations on medical use of cannabis.**

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

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

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

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

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

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

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

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

21 (d) Fraudulent representation to a law enforcement official of any fact or circumstance
22 relating to the medical use of cannabis to avoid arrest or prosecution is a Class 2 misdemeanor
23 punishable by a fine of five hundred dollars (\$500.00) in addition to any other applicable penalties
24 for making a false statement about the medical use of cannabis.

25 (e) A licensed producer of medical cannabis that sells, distributes, dispenses, or transfers
26 cannabis to an individual other than a registry identification cardholder or to a person other than a
27 person licensed pursuant to G.S. 90-730.6, or obtains or transports cannabis outside of North
28 Carolina in violation of federal law, is subject to arrest, prosecution, and civil or criminal penalties
29 pursuant to State law.

30 (f) Nothing in this Article shall be construed as a waiver of sovereign immunity by the
31 State.

32 **"§ 90-730.5. Registry identification cards for qualified patients and designated caregivers.**

33 (a) As used in this section, "Department" means the North Carolina Department of Health
34 and Human Services.

35 (b) The Department shall issue a registry identification card to any qualified patient or
36 designated caregiver who meets the requirements of this section.

37 (c) The Department shall not issue or renew a registry identification card to a qualified
38 patient under 18 years of age unless each of the following criteria is met:

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

42 (2) A parent, guardian, or person having legal custody of the qualified patient
43 consents in writing to (i) allow the qualified patient's medical use of cannabis,
44 (ii) serve as one of the qualified patient's designated caregivers, and (iii) control
45 the acquisition of the cannabis, the dosage, and the frequency of the medical
46 use of cannabis by the qualified patient.

47 (d) The Department shall verify the information contained in a registry identification card
48 application or renewal application submitted pursuant to this section and shall approve or deny an
49 application or renewal application within 45 days after receipt. The Department may deny a
50 registry identification card application or renewal application only if the applicant fails to provide
51 the information required pursuant to this section or if the Department determines that the

1 application or renewal application contains false information. If the Department fails to approve or
2 deny a registration application or renewal application submitted pursuant to this section within 45
3 days after receipt, the application or renewal application shall be deemed approved, and a copy of
4 the application or renewal application together with proof of receipt by the Department at least 45
5 days prior to the date this information is presented in lieu of a registry identification card shall be
6 deemed a valid registry identification card.

7 (e) The Department may issue a registry identification card to a maximum of two
8 designated caregivers named in a qualified patient's approved application.

9 (f) The Department shall issue a registry identification card to an applicant within five
10 days after approving an application or renewal. The application or renewal expires two years after
11 the date of issuance.

12 (g) Each registry identification card shall contain at least all of the following information:

13 (1) The date of issuance.

14 (2) The date of expiration.

15 (3) A random registry identification number.

16 (4) A photograph of the registry identification cardholder.

17 (h) Persons issued registry identification cards shall be subject to the following:

18 (1) A qualified patient who has been issued a registry identification card shall
19 notify the Department of any change in the qualified patient's name, address, or
20 designated caregiver and submit a ten-dollar (\$10.00) fee to the Department
21 within 15 days after the change occurs. A qualified patient who fails to notify
22 the Department of any of these changes within the specified time frame
23 commits an infraction and is subject to a fine not to exceed more than one
24 hundred fifty dollars (\$150.00).

25 (2) A designated caregiver shall notify the Department of any change in name or
26 address and submit a ten-dollar (\$10.00) fee to the Department within 15 days
27 after the change occurs. A designated caregiver who fails to notify the
28 Department of any of these changes within the specified time frame commits an
29 infraction and is subject to a fine not to exceed one hundred fifty dollars
30 (\$150.00).

31 (3) When a qualified patient or designated caregiver notifies the Department of any
32 change, as required by this subsection, the Department shall issue the qualified
33 patient and each designated caregiver a new registry identification card within
34 10 days after receiving the updated information and the ten-dollar (\$10.00) fee.

35 (4) When a qualified patient who possesses a registry identification card notifies
36 the Department of a change in designated caregiver, the Department shall notify
37 the designated caregiver of record of the change within 15 days after receiving
38 notification of the change. The protections afforded under this Article to the
39 designated caregiver of record shall expire 30 days after the designated
40 caregiver of record is notified by the Department of the change in designated
41 caregiver.

42 (5) If a qualified patient or a designated caregiver loses a registry identification
43 card, the cardholder shall notify the Department within 15 days after losing the
44 card. The notification shall include a ten-dollar (\$10.00) replacement fee for a
45 new card. Within five days after receiving notification of a lost registry
46 identification card, the Department shall issue the cardholder a new registry
47 identification card with a new random identification number.

48 (i) If the Department determines that a qualified patient or designated caregiver has
49 willfully violated any provision of this Article, the Department may suspend or revoke the
50 qualified patient's or designated caregiver's registry identification card.

1 (j) Applications and supporting information submitted by qualified patients, including
2 information regarding their designated caregivers and physicians, are confidential and protected
3 under the federal Health Insurance Portability and Accountability Act of 1996.

4 (k) The Department shall maintain a confidential list of the persons to whom the
5 Department has issued registry identification cards. Individual names and other identifying
6 information on the list shall be confidential, exempt from the provisions of Chapter 132 of the
7 General Statutes, and not subject to disclosure, except to authorized employees of the Department
8 as necessary to perform official duties of the Department.

9 (l) The Department shall verify to law enforcement personnel whether a registry
10 identification card is valid solely by confirming the validity of the random registry identification
11 number and the name of the person to whom the Department has assigned the random registry
12 identification number.

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

17 (n) Nothing in this section shall be construed to prevent Department employees from
18 notifying law enforcement officers about falsified or fraudulent information submitted to the
19 Department by any individual in support of an application for a registry identification card.

20 (o) Article 4 of Chapter 150B of the General Statutes governs judicial review of an
21 administrative decision made under this section.

22 **"§ 90-730.6. Regulated medical cannabis supply system.**

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

25 (b) Not later than 120 days after the effective date of this act, the Department shall
26 establish a medical cannabis supply system that (i) provides a safe, regulated supply of quality
27 medical cannabis for use by qualified patients who hold valid registry identification cards and (ii)
28 generates sufficient revenue for the Department to maintain and operate the system. The
29 Department shall not use any appropriations from the General Fund to establish or operate the
30 system. The system shall be funded by the fees authorized in this section.

31 (c) Medical Cannabis Center License. –

32 (1) No person shall establish or operate a medical cannabis center without first
33 applying for a license to the Department and submitting the required
34 information on application forms provided by the Department. The application
35 form shall require at least all of the following:

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

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

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

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

44 e. For first-year licensees, a nonrefundable license fee in the amount of
45 five thousand dollars (\$5,000).

46 f. For licensees seeking license renewal, a nonrefundable renewal fee in an
47 amount not less than five thousand dollars (\$5,000), as specified in rules
48 adopted pursuant to subsection (s) of this section.

49 g. Proof of North Carolina residency for each principal officer, board
50 member, and employee of the medical cannabis center.

- 1 h. Any other information the Department considers necessary to ensure
2 compliance with the terms of this Article.
- 3 (2) Unless suspended or revoked, a medical cannabis center license is valid for a
4 period not to exceed 12 months from the date of issuance.
- 5 (3) A licensee shall apply for renewal, as necessary, at least 30 days prior to the
6 expiration of a current license.
- 7 (4) No later than 30 days after issuing or renewing a license under this subsection,
8 the Department shall issue a medical cannabis center registry identification card
9 to each director and employee listed on the application or renewal form upon
10 receipt of a ten-dollar (\$10.00) fee per cardholder.
- 11 (5) A licensee shall notify the Department of any change in the information
12 submitted on the license application or renewal form within 30 days after the
13 change.
- 14 (6) A medical cannabis center licensee may do all of the following:
- 15 a. Sell cannabis, cannabis-infused products, cannabis plants, cannabis
16 seeds, cultivation equipment, and related supplies and educational
17 materials only to registry identification cardholders.
- 18 b. Contract with a producer to sell live plants on the premises of the
19 medical cannabis center to registry identification cardholders.
- 20 c. Assist registry identification cardholders with other products and
21 services, including equipment, supplies, and educational materials.
- 22 (7) A medical cannabis center licensee shall not cultivate cannabis unless
23 separately licensed as a producer of medical cannabis under subsection (c) of
24 this section.
- 25 (8) A medical cannabis center licensee and its directors, agents, and employees are
26 exempt from the criminal laws of this State for possession, production,
27 delivery, or transportation of cannabis, or aiding and abetting another in the
28 possession, production, delivery, or transportation of cannabis, or any other
29 criminal offense in which possession, production, delivery, or transportation of
30 cannabis is an element if the medical cannabis center and the directors, agents,
31 and employees of the medical cannabis center are in substantial compliance
32 with this section and the applicable rules adopted by the Department for
33 regulating medical cannabis centers.
- 34 (9) The records of a licensed medical cannabis center are subject to the same
35 restrictions imposed on pharmacy records pursuant to G.S. 90-85.36.
36 G.S. 90-85.36 shall apply to each medical cannabis center as if it were a
37 pharmacy regulated under Article 4A of Chapter 90 of the General Statutes.
- 38 (d) Producer of Medical Cannabis License. –
- 39 (1) No person shall cultivate cannabis for sale to a licensed medical cannabis center
40 without first applying for a license to the Department and submitting the
41 required information on application forms provided by the Department. The
42 application form shall require at least all of the following:
- 43 a. The name of the person responsible for the medical cannabis production
44 site and the name of each individual employed by that person.
- 45 b. The address of each property, location, or premises used or proposed for
46 use by the producer to produce cannabis.
- 47 c. The name, address, and date of birth of each principal officer and board
48 member of the producer.
- 49 d. The name, address, and date of birth of each employee of the producer.
- 50 e. For first-year licensees, a nonrefundable license fee in the amount of
51 five thousand dollars (\$5,000).

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

- 1 (3) A licensee shall notify the Department of any change in the information
2 submitted on the application form within 30 days after the change.
- 3 (4) A licensee shall apply for renewal, as necessary, at least 30 days prior to the
4 expiration of a current license.
- 5 (5) Not later than 30 days after issuing or renewing a license to produce
6 cannabis-infused products, the Department shall issue a registry identification
7 card to the licensed producer of cannabis-infused products and to each of the
8 producer's employees upon payment of a fee of ten dollars (\$10.00) per
9 cardholder.
- 10 (6) The Department shall issue a medical cannabis production site card to each
11 producer of cannabis-infused products for each property, location, or premises
12 approved for production of cannabis-infused products under this section. The
13 card shall be conspicuously posted at the location of the medical cannabis
14 production site.
- 15 (f) Permissible Sales Transactions. – All cannabis sold through the regulated medical
16 cannabis supply system established under this section shall be subject to the following limitations
17 and requirements:
- 18 (1) Only persons licensed as a medical cannabis center under subsection (b) of this
19 section are authorized to sell cannabis or cannabis-infused products to qualified
20 patients or designated caregivers through the system.
- 21 (2) Only persons licensed as a producer of medical cannabis under subsection (c)
22 of this section or a producer of cannabis-infused products under subsection (d)
23 of this section are authorized to produce cannabis for sale to licensed medical
24 cannabis centers through the system.
- 25 (3) A licensed medical cannabis center shall not sell cannabis, cannabis-infused
26 products, cannabis plants, cannabis seeds, cultivation equipment, and related
27 supplies and educational materials to any person other than a qualified patient
28 or designated caregiver.
- 29 (4) A licensed producer of medical cannabis shall not sell cannabis, cannabis
30 plants, or cannabis seeds to any person other than a licensed medical cannabis
31 center or a licensed producer of cannabis-infused products. However, a licensed
32 producer of medical cannabis may transfer for no consideration cannabis,
33 cannabis plants, or cannabis seeds to any qualified patient or designated
34 caregiver.
- 35 (5) A producer of cannabis-infused products shall not sell cannabis-infused
36 products for resale to any person other than a licensed medical cannabis center.
- 37 (6) A medical cannabis center, producer of medical cannabis, or producer of
38 cannabis-infused products shall not sell to any registry identification cardholder
39 cannabis or cannabis plants in an amount that exceeds an adequate supply.
- 40 (g) Exemption From Criminal Laws. – A medical cannabis center, producer of medical
41 cannabis, or producer of cannabis-infused products with a valid license for that function is exempt
42 from the criminal laws of this State for possession, production, delivery, or transportation of
43 cannabis, or aiding and abetting another in the possession, production, delivery, or transportation
44 of cannabis, or any other criminal offense in which possession, production, delivery, or
45 transportation of cannabis is an element if the medical cannabis center, producer of medical
46 cannabis, or producer of cannabis-infused products is in substantial compliance with this section
47 and any rules adopted under this section.
- 48 (h) Loss of Exemption From Criminal Laws. – A person who is not a qualified patient or
49 licensed caregiver but who is otherwise authorized to possess, produce, deliver, or transport
50 cannabis for medical use pursuant to this Article ceases to be exempt as provided in subsection (g)
51 of this section upon committing any of the following acts:

- 1 (1) Driving while impaired by cannabis, provided that the person shall not be
2 considered to be impaired solely for having cannabis metabolites in his or her
3 system.
- 4 (2) Delivering cannabis to any individual who the person knows is not a registry
5 identification cardholder or qualified patient.
- 6 (3) Manufacturing or distributing cannabis at an address not registered with the
7 Department.
- 8 (4) Failing to report transfer of cannabis authorized under this section to the
9 Department.
- 10 (i) Monthly Fees and Reporting. –
- 11 (1) Each medical cannabis center, producer of medical cannabis, and producer of
12 cannabis-infused products licensed under this section shall submit quarterly
13 reports to the Department on all financial transactions, including, but not
14 limited to, sales and purchases of cannabis and cannabis-infused products, and
15 transfers of cannabis and cannabis-infused products for no consideration.
- 16 (2) Each medical cannabis center licensed and operating under this section shall
17 pay to the Department monthly fees equal to ten percent (10%) of the medical
18 cannabis center's gross revenue derived from the sale of cannabis and
19 cannabis-infused products.
- 20 (3) Each producer of medical cannabis or cannabis-infused products producer
21 licensed and operating under this section shall pay to the Department monthly
22 fees equal to ten percent (10%) of the producer's gross revenue derived from the
23 sale of cannabis and cannabis-infused products.
- 24 (4) Each person who (i) holds a medical cannabis center license and either a
25 producer of medical cannabis license or cannabis-infused products producer
26 license, or both, and (ii) operates both a retail medical cannabis center and one
27 or more production sites shall pay to the Department monthly fees equal to
28 fifteen percent (15%) of that person's gross revenue derived from retail sales of
29 cannabis and cannabis-infused products produced by that person.
- 30 (5) Nothing in this subsection shall be construed to exempt persons licensed under
31 this section from the reporting or remittance of sales tax for any transaction
32 upon which a sales tax may be levied.
- 33 (j) The Department shall use system revenues from license fees and monthly gross
34 revenue fees to fund, in the following order of priority:
- 35 (1) Costs associated with establishing and operating the regulated medical cannabis
36 supply system established under this section.
- 37 (2) The registry system established under G.S. 90-730.5.
- 38 (3) The medical cannabis research program established under G.S. 90-730.9.
- 39 (4) Other Department programs.
- 40 (k) Disqualifications for Licensure. – The Department shall not issue a license authorized
41 by this section to any of the following persons:
- 42 (1) A person who has not paid the appropriate license or license renewal fee.
- 43 (2) An individual who is less than 21 years of age.
- 44 (3) A person who has served a sentence for any of the following felonies in the five
45 years immediately preceding the date of license application: any Class A
46 through E felony; any felony that includes assault as an essential element of the
47 offense; any felony under Article 14 (Burglary and Housebreakings) of Chapter
48 14 of the General Statutes; any felony under Article 16 (Larceny), Article 16A
49 (Organized Retail Theft), Article 17 (Robbery), Article 18 (Embezzlement),
50 Article 19 (False Pretenses and Cheats), Article 19A (Obtaining Property or
51 Services by False or Fraudulent Use of Credit Device or Other Means), Article

1 19B (Financial Transaction Card Crime Act), or Article 19C (Identity Theft) of
2 Chapter 14 of the General Statutes. In order to ensure compliance with this
3 subdivision, the Department shall conduct a criminal history record check of
4 any person whose name is submitted on an application as the director or an
5 employee of the medical cannabis center or as a producer or employee of a
6 producer.

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

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

20 (l) Inspection. – The Department may inspect the premises of any person seeking or
21 holding licensure as a medical cannabis center or a licensed producer of medical cannabis solely to
22 determine compliance with this Article.

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

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

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

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

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

50 (r) A person licensed under subsection (c), (d), or (e) of this section shall be granted the
51 full legal protections provided in this section as long as the person is in possession of a valid

1 license. If the person is not in possession of a valid license, the person shall be given a reasonable
2 period of time to produce the license before the initiation of any arrest, criminal charges, or other
3 penalties.

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

7 (1) Establish requirements for the issuance of registry identification cards to
8 qualified patients and designated caregivers, which shall include at least all of
9 the following:

10 a. Written certification, as defined in G.S. 90-730.1.

11 b. An application or renewal fee.

12 c. The name, address, and date of birth of the qualified patient, except that
13 if a qualified patient is homeless, no address is required.

14 d. The name, address, and telephone number of the qualified patient's
15 physician.

16 e. The name, address, and date of birth of each of the qualified patient's
17 designated caregivers, if any.

18 (2) Establish qualifications and requirements for licensure of medical cannabis
19 centers, producers of medical cannabis, and producers of cannabis-infused
20 products.

21 (3) Establish civil penalties for minor violations of the provisions of this section.

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

24 **§ 90-730.7. Affirmative defenses.**

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

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

31 a. Has been diagnosed with a chronic or debilitating medical condition and
32 has been advised by the person's attending physician that the medical
33 use of cannabis may mitigate the symptoms or effects of that chronic or
34 debilitating medical condition.

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

36 c. Possesses, delivers, or produces cannabis only in the amount described
37 in this Article as an adequate supply, or in an amount exceeding an
38 adequate supply if the person proves by a preponderance of the evidence
39 that the greater amount is medically necessary to mitigate the symptoms
40 or effects of the person's chronic or debilitating medical condition, as
41 determined by the person's attending physician.

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

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

45 b. Possesses, delivers, or produces cannabis only in the amount described
46 herein as an adequate supply or in excess of that amount if the person
47 proves by a preponderance of the evidence that the greater amount is
48 medically necessary as determined by the assisted person's attending
49 physician to mitigate the symptoms or effects of the assisted person's
50 chronic or debilitating medical condition.

1 (b) A person does not need to be a registry identification cardholder in order to assert an
2 affirmative defense described in this section.

3 (c) A qualified patient or designated caregiver who has not received a registry
4 identification card may present evidence supporting the need for the medical use of cannabis. Such
5 evidence may constitute a defense to a charge of cannabis possession or cultivation and is
6 admissible in the courts of the State of North Carolina if such evidence otherwise properly
7 qualifies as admissible under the rules of evidence.

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

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

13 (2) Presenting evidence supporting the medical necessity of using cannabis for
14 treatment of a specific disease or medical condition if (i) the amount of
15 cannabis at issue is not greater than the amount described in this Article as an
16 adequate supply and (ii) the person has taken steps to substantially comply with
17 the provisions of this Article.

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

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

27 **"§ 90-730.8. Immunity for physicians.**

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

31 **"§ 90-730.9. North Carolina Cannabis Research Program.**

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

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

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

48 **"§ 90-730.10. Severability.**

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

1 **SECTION 2.** During the period between the effective date of this act and 30 days
2 after the effective date of rules adopted under G.S. 90-730.6(s), the following provisions apply:

- 3 (1) The Department of Agriculture and Consumer Services shall issue a temporary
4 certificate for participation in the regulated medical supply system established
5 under G.S. 90-730.6 to any individual who would be eligible to participate in
6 the system as a qualified patient but for the adoption of rules to fully implement
7 the system, upon presentation of a written certification for the medical use of
8 cannabis from the individual's treating physician. The certificate shall specify
9 the amount of cannabis the certificate holder may possess for the medical use of
10 cannabis. The Department of Agriculture and Consumer Services shall maintain
11 a list of all temporary certificates issued pursuant to this section.
- 12 (2) An individual in possession of a temporary certificate issued pursuant to
13 subdivision (1) of this section and that individual's designated caregiver are not
14 subject to arrest, prosecution, civil or criminal penalty, or denial of any right or
15 privilege for possessing cannabis if the amount of usable cannabis possessed
16 collectively is not more than the amount specified on the temporary certificate
17 issued by the Department of Agriculture and Consumer Services.
- 18 (3) A physician shall not be subject to arrest or prosecution, penalized in any
19 manner, or denied any right or privilege for recommending the medical use of
20 cannabis or providing written certification for the medical use of cannabis
21 pursuant to this Article.

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

- 23 "(6) The term "drug" means
24 a. Articles recognized in the official United States Pharmacopoeia, official
25 Homeopathic Pharmacopoeia of the United States, or official National
26 Formulary, or any supplement to any of them; and
27 b. Articles intended for use in the diagnosis, cure, mitigation, treatment or
28 prevention of disease in man or other ~~animals~~animals, except for
29 cannabis-infused products, as defined in G.S. 90-730.1, that are
30 manufactured or sold by a licensed medical cannabis center or a
31 licensed producer of cannabis-infused products; and
32 c. Articles (other than food) intended to affect the structure or any function
33 of the body of man or other animals; and
34 d. Articles intended for use as a component of any article specified in
35 paragraphs a, b or c; but does not include devices or their components,
36 parts, or accessories."

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

- 38 "(8) The term "food" means
39 a. Articles used for food or drink for man or other animals, except for
40 cannabis-infused products, as defined in G.S. 90-730.1, that are
41 manufactured or sold by a licensed medical cannabis center or a
42 licensed producer of cannabis-infused products,
43 b. Chewing gum, and
44 c. Articles used for components of any such article."

45 **SECTION 5.** G.S. 105-164.4(a) is amended by adding a new subdivision to read:

- 46 "(17) The rate of five percent (5%) applies to the sales price of cannabis,
47 cannabis-infused products as defined in G.S. 90-730.1, cannabis plants,
48 cannabis seeds, cannabis cultivation equipment, and related cannabis supplies.
49 A person who sells cannabis, cannabis-infused products as defined in
50 G.S. 90-730.1, cannabis plants, cannabis seeds, cannabis cultivation equipment,
51 and related cannabis supplies is considered a retailer under this Article. For the

1 purpose of this subdivision, cannabis has the same meaning as marijuana under
2 G.S. 90-87(16)."

3 **SECTION 6.** This act becomes effective only upon approval by the voters of a
4 constitutional amendment to legalize the medical use and cultivation of cannabis for individuals
5 with debilitating medical conditions verified by a physician licensed to practice medicine in North
6 Carolina. If the constitutional amendment is approved by the voters, this act becomes effective
7 December 1, 2018, and applies to acts committed on and after that date.