

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 346

Short Title: Marijuana Justice and Reinvestment Act. (Public)

Sponsors: Senators Meyer, Chaudhuri, and Murdock (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 22, 2023

A BILL TO BE ENTITLED
AN ACT TO LEGALIZE AND REGULATE THE SALE, POSSESSION, AND USE OF
CANNABIS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

PART I. LEGALIZATION OF POSSESSION AND SALE OF CANNABIS

SECTION 1.1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 18D.

"Regulation of Cannabis.

"Article 1.

"General Provisions.

"§ 18D-100. Findings.

The General Assembly finds all of the following:

- (1) Cannabis prohibition, like alcohol prohibition before it, has been a wasteful and destructive failure. About half of Americans admit to having used cannabis despite more than eight decades of prohibition.
- (2) Regulating cannabis similarly to alcohol will replace the uncontrolled illicit market with a well-regulated system. Legalization allows regulation and control to protect consumers, workers, communities, and the environment.
- (3) The prohibition of cannabis has had an unfair, disparate impact on persons and communities of color. A 2020 report by the American Civil Liberties Union found black individuals are three and six-tenths times as likely as white individuals to be arrested for cannabis possession, despite nearly identical use rates.
- (4) The prohibition of cannabis diverts law enforcement resources from violent and property crimes and subjects civilians to unnecessary police interactions.
- (5) Keeping cannabis illegal deprives the State of thousands of legal jobs and hundreds of millions of dollars in tax revenue.
- (6) The use of cannabis should be legal for persons 21 years of age or older and subject to taxation and regulation in a manner that does all of the following:
 - a. Controls the production and distribution of cannabis under a system of licensing, regulation, and taxation.
 - b. Includes lab testing, potency labeling, secure packaging, restrictions on advertising, and education about responsible use and risks.



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- c. Fosters a responsible industry, whereby businesses will only be allowed to expand if they prioritize diversity, good wages, sustainability, and community investment.
- d. Promotes the participation of individuals most impacted by cannabis prohibition in the legal, regulated industry.
- e. Generates needed revenue, including to reinvest in communities that have been disproportionately impacted by prohibition, for substance abuse treatment and education, and to train more law enforcement officers to detect impaired driving.

- (7) It is necessary to ensure consistency and fairness in the application of this Chapter throughout the State and that, therefore, the matters addressed by this Chapter are, except as specified herein, matters of statewide concern.

"§ 18D-101. Definitions.

Unless the context requires otherwise, the following definitions apply in this Chapter:

- (1) Cannabis. – All parts of the plant of the genus cannabis, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including cannabis concentrate. "Cannabis" does not include hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, or sterilized seed of the plant, which is incapable of germination.
- (2) Cannabis accessories. – Any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body.
- (3) Cannabis cultivation facility. – An entity registered to cultivate, prepare, and package cannabis and sell cannabis to other cannabis establishments but not to consumers. A cannabis cultivation facility may not produce cannabis concentrates, tinctures, extracts, or other cannabis products unless it is also licensed as a cannabis product manufacturing facility.
- (4) Cannabis delivery service. – An entity registered to deliver cannabis to consumers.
- (5) Cannabis establishment. – A cannabis cultivation facility, a cannabis delivery service, an on-site consumption establishment, a cannabis testing facility, a cannabis product manufacturing facility, a cannabis transporter, a retail cannabis store, or any other type of cannabis business authorized and registered by the Department.
- (6) Cannabis product manufacturing facility. – An entity registered to purchase cannabis; manufacture, prepare, and package cannabis products; and sell cannabis and cannabis products to other cannabis establishments but not to consumers.
- (7) Cannabis products. – Products that are comprised of cannabis, cannabis concentrate, or cannabis extract and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.
- (8) Cannabis testing facility. – An entity registered to test cannabis for potency and contaminants.
- (9) Cannabis transporter. – An entity registered to transport cannabis between cannabis establishments.

- (10) Consumer. – A person 21 years of age or older who purchases cannabis or cannabis products for personal use by persons 21 years of age or older, but not for resale.
- (11) Department. – The Department of Public Safety.
- (12) Hemp. – The plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent (0.3%) on a dry weight basis of any part of the plant cannabis, or per volume or weight of cannabis product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the cannabis plant regardless of moisture content.
- (13) Locality. – A city or county.
- (14) Office. – The Office of Social Equity.
- (15) On-site consumption establishment. – An entity registered to sell cannabis or cannabis products for on-site consumption.
- (16) Possession limit. – Any of the following amounts:
- a. Two ounces of cannabis in a form other than concentrated cannabis or cannabis products.
 - b. Fifteen grams of concentrated cannabis.
 - c. Cannabis products containing no more than 2,000 milligrams of tetrahydrocannabinol.
 - d. Six cannabis plants.
 - e. Any additional cannabis produced by the person's cannabis plants provided that the possession of any amount of cannabis in excess of two ounces of cannabis, 15 grams of concentrated cannabis, and cannabis products containing no more than 2,000 milligrams of tetrahydrocannabinol must be limited to the same property where the plants were cultivated.
- (17) Public place. – Any place to which the general public has access. It does not include an on-site consumption establishment.
- (18) Retail cannabis store. – An entity registered to purchase cannabis from cannabis establishments and sell cannabis and cannabis products to consumers.

"§ 18D-102. Applicability.

This Chapter does not apply to medical cannabis regulated under Article 44 of Chapter 90 of the General Statutes.

"Article 2.

"Office of Social Equity.

"§ 18D-200. Creation of the Office of Social Equity.

There is established in the Department the Office of Social Equity. The Governor shall appoint an Executive Director of the Office, who shall have at least five years of experience in civil rights advocacy, civil rights litigation, or social justice.

"§ 18D-201. Establishment of funds.

(a) The following funds are established in the Department:

- (1) The Community Reinvestment and Repair Fund.
- (2) The Social Equity Fund.
- (3) The Cannabis Education and Technical Assistance Fund.

(b) No later than July 1 of each year, the Office shall produce and make publicly available a report on how the Community Reinvestment and Repair Fund, Social Equity Fund, and Cannabis Education and Technical Assistance Fund were allocated during the prior fiscal year.

(c) No later than November 1 of each year, the Office shall solicit public input on the uses of the Community Reinvestment and Repair Fund, Social Equity Fund, and Cannabis

Education and Technical Assistance Fund. The Office of Social Equity shall publish a review of feedback received no later than December 15 of each year.

"§ 18D-202. Powers and duties of the Office.

The Office shall promote and encourage full participation in the regulated cannabis industry by people from communities that have previously been disproportionately harmed by cannabis prohibition and enforcement in order to positively impact those communities. The Office shall have all of the following powers and duties:

(1) Defining, by rule, the term "social equity applicant" and considering whether the definition should include any or all of the following:

- a. Individuals with past convictions for a cannabis offense.
- b. Individuals whose parent had a prior conviction for a cannabis offense.
- c. Individuals who have had a less than honorable discharge from the military due to cannabis.
- d. Individuals from census tracts or other geographic areas disproportionately impacted by cannabis enforcement, poverty, unemployment, cannabis prohibition, mass incarceration, or systemic racism.
- e. Racial and ethnic minorities that have been disproportionately impacted by cannabis enforcement.
- f. Racial and ethnic minorities that have been disproportionately excluded from the legal cannabis industry.

(2) Administering the Community Reinvestment and Repair Fund to improve the well-being of individuals and communities that have experienced a disproportionate negative impact from poverty, unemployment, cannabis prohibition and enforcement, mass incarceration, or systemic racism. Before determining how funds from the Community Reinvestment and Repair Fund will be allocated, the Office shall promote and hold public meetings in at least 10 of the census tract areas that have been significantly impacted by poverty, unemployment, cannabis prohibition, mass incarceration, or systemic racism to seek input on the communities' needs and priorities for the Community Reinvestment and Repair Fund. The Office of Social Equity shall distribute funds from the Community Reinvestment and Repair Fund in a manner that improves the well-being of communities and individuals that have been significantly impacted by poverty, unemployment, cannabis prohibition, mass incarceration, or systemic racism. Permissible uses of the fund include, but are not limited to, grants to nonprofit organizations or allocations to government agencies for any of the following:

- a. Housing assistance, including to promote home ownership among members of minority groups that are underrepresented in home ownership due to redlining or discrimination.
- b. Reentry services, including job training and placement.
- c. Scholarship assistance for low-income students.
- d. Grants to community-based organizations to provide services to prevent violence, support youth development, provide early intervention for youth and families, and promote community stability and safety.
- e. Legal or civic aid.

(3) Administering the Social Equity Fund to issue zero-interest loans and grants to social equity applicants and cannabis establishments owned and operated by social equity applicants.

- (4) Administering the Cannabis Education and Technical Assistance Fund to provide free or low-cost training, education, and technical assistance for individuals working in the cannabis industry or owning a cannabis establishment, with a focus on individuals who would qualify as social equity applicants.
- (5) Advising the Department regarding regulations, including advising against implementing regulations and financial requirements that unnecessarily impose financial burdens that undermine the purposes of this Chapter and providing recommendations on regulations related to diversity, social equity applications, and the Race to the Top scoring system.
- (6) Producing reports and recommendations on diversity and equity in the legal cannabis economy, including in ownership, management, and employment.
- (7) Investigating whether businesses are adhering to their obligations, including those undertaken as part of the Race to the Top scoring system, and recommending corrective action or discipline if they fail to do so, which may include a suspension or revocation of licenses.

"Article 3.

"Registration and Licensure.

"§ 18D-300. Registration with the Department.

(a) Each application or renewal application for an annual registration to operate a cannabis establishment shall be submitted to the Department. A renewal application may be submitted up to 90 days prior to the expiration of the cannabis establishment's registration.

(b) The Department shall begin accepting and processing applications to operate cannabis establishments from social equity applicants one year after the effective date of this Chapter.

(c) The Department may begin accepting and processing applications to operate cannabis establishments from applicants other than social equity applicants no earlier than one year and 180 days after the effective date of this Chapter.

(d) Upon receiving an application or renewal application for a cannabis establishment, the Department shall immediately forward a copy of each application and half of the registration application fee to the local regulatory authority for the locality in which the applicant desires to operate the cannabis establishment, unless the locality has not designated a local regulatory authority.

(e) Within 120 days after receiving an application or renewal application, the Department shall issue an annual registration or a conditional registration to the applicant, unless the Department finds the applicant is not in compliance with rules enacted by the Department or the Department is notified by the relevant locality that the applicant is not in compliance with ordinances and regulations in effect at the time of application.

(f) Applicants may apply for conditional approval if they have not purchased or leased the property where their cannabis establishment would be located. If the applicant is otherwise qualified, the Department shall provide conditional approval. Once the applicant provides the Department with a completed, supplemental application that includes the premises, the Department shall forward the information to the local regulatory authority and approve or reject the final application within 45 days from the date of submission.

(g) Upon denial of an application, the Department shall notify the applicant in writing of the specific reason for its denial.

(h) Cannabis establishments, and the books and records maintained and created by cannabis establishments, are subject to inspection by the Department.

"§ 18D-301. Licensure and local control.

(a) An on-site consumption establishment shall only operate if the local regulatory authority in the locality where it is located issued a permit, license, or registration that expressly allows the operation of the on-site consumption establishment.

(b) Except as provided in this subsection, a locality may prohibit the operation of any or all types of cannabis establishments within its jurisdiction through the enactment of an ordinance. A locality's prohibition on cannabis establishments shall not prohibit transportation through the locality or deliveries within the locality by cannabis establishments located in other jurisdictions.

(c) A locality may enact ordinances or regulations not in conflict with this Chapter, or with rules enacted pursuant to this Chapter, governing the time, place, manner, and number of cannabis establishment operations. A locality may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of a cannabis establishment that may operate in such locality.

(d) No locality may negotiate or enter into a host community agreement with a cannabis establishment or a cannabis establishment applicant. As used in this subsection, a "host community agreement" means an agreement that the cannabis establishment or applicant provide monies, donations, in-kind contributions, services, or anything of value to the locality.

"Article 4.

"Possession and Use of Cannabis.

"§ 18D-400. Personal use of cannabis.

Notwithstanding any other provision of law, except as otherwise provided in this Chapter, the following acts are not unlawful and shall not be a criminal or civil offense under State law or an ordinance of any locality, or be a basis for seizure or forfeiture of assets under State law, for persons 21 years of age or older:

- (1) Possessing, consuming, ingesting, smoking, growing, using, processing, purchasing, or transporting an amount of cannabis that does not exceed the possession limit.
- (2) Transferring an amount of cannabis that does not exceed the possession limit to a person who is 21 years of age or older without remuneration.
- (3) Controlling property where actions described by this section occur.
- (4) Assisting another person who is 21 years of age or older in any of the acts described in this section.

"§ 18D-401. Restrictions on personal cultivation; penalty.

(a) It is unlawful to cultivate cannabis plants in any of the following ways:

- (1) Cannabis plants may not be cultivated in a location where the plants are subject to public view, including view from another private property, without the use of binoculars, aircraft, or other optical aids.
- (2) A person who cultivates cannabis must take reasonable precautions to ensure the plants are secure from unauthorized access and access by a person under 21 years of age. For purposes of illustration and not limitation, cultivating cannabis in an enclosed, locked space that persons under 21 years of age do not possess a key to constitutes reasonable precautions.
- (3) Cannabis cultivation may only occur on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property.

(b) A person who violates subsection (a) of this section is guilty of an infraction, punishable by a fine of up to seven hundred fifty dollars (\$750.00) or up to 75 hours of community service.

"§ 18D-402. Public smoking prohibited; penalty.

(a) It is unlawful to smoke cannabis in a public place.

(b) It is unlawful to smoke cannabis in an area of an on-site consumption establishment where cannabis smoking is prohibited.

(c) A person who violates this section is guilty of an infraction, punishable by a fine of up to fifty dollars (\$50.00) or up to five hours of community service.

"§ 18D-403. Consuming cannabis while operating a moving vehicle prohibited; penalty.

(a) No person shall consume cannabis while operating or driving a motor vehicle, boat, vessel, aircraft, or other motorized device used for transportation.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, a person who violates subsection (a) of this section, and only consumed cannabis, is guilty of an infraction, punishable as follows:

(1) For a first offense, any or all of the following:

a. A fine of not more than two hundred fifty dollars (\$250.00).

b. Not more than 25 hours of community service.

c. Suspension of the person's drivers license for up to six months.

(2) For a second or subsequent offense, any or all of the following:

a. A fine of not more than five hundred dollars (\$500.00).

b. Not more than 50 hours of community service.

c. Suspension of the person's drivers license for up to one year.

"§ 18D-404. False identification; penalty.

(a) A person who is under 21 years of age may not present or offer to a cannabis establishment or the cannabis establishment's agent or employee any written or oral evidence of age that is false, fraudulent, or not actually the minor's own for either of the following purposes:

(1) Purchasing, attempting to purchase, or otherwise procuring or attempting to procure cannabis.

(2) Gaining access to a cannabis establishment.

(b) A person who violates this section is guilty of an infraction, punishable by a fine of not more than one hundred fifty dollars (\$150.00) or up to 15 hours of community service.

"§ 18D-405. Unlawful cannabis extraction; penalty.

(a) No person, other than a cannabis product manufacturing facility complying with this Chapter and Department rules, may perform solvent-based extractions on cannabis using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol.

(b) No person may extract compounds from cannabis using ethanol in the presence or vicinity of open flame.

(c) A person who violates this section is guilty of a Class E felony, which shall include a fine of not more than five thousand dollars (\$5,000).

"§ 18D-406. Cannabis accessories authorized.

(a) Except as provided in this section, notwithstanding any other provision of law, it is not unlawful and shall not be an offense under State law or an ordinance of any locality, or be a basis for seizure or forfeiture of assets under State law, for persons 21 years of age or older to manufacture, possess, possess with intent to distribute, or purchase cannabis accessories, or to distribute or sell cannabis accessories to a person who is 21 years of age or older.

(b) Except as provided in this section, a person who is 21 years of age or older is authorized to manufacture, possess, and purchase cannabis accessories, and to distribute or sell cannabis accessories to a person who is 21 years of age or older. This section is intended to meet the requirements of section 863 of Title 21 of the United States Code by authorizing, under State law, any person in compliance with this Chapter to manufacture, possess, or distribute cannabis accessories.

(c) No person may manufacture, distribute, or sell cannabis accessories that violate rules adopted by the Department. A first offense under this section is an infraction punishable by a fine of up to one thousand dollars (\$1,000) and forfeiture of the cannabis accessories. A second or subsequent offense of this section is a Class A1 misdemeanor punishable by a fine of up to five thousand dollars (\$5,000), up to 180 days in jail, or both and forfeiture of the cannabis accessories.

"§ 18D-407. Purchasing of cannabis or cannabis accessories unlawful in certain cases; penalties; treatment and education programs and services.

(a) No person to whom cannabis or cannabis accessories may not lawfully be sold under this Chapter shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any cannabis or cannabis accessories.

(b) Any person 18 years of age or older who violates subsection (a) of this section is guilty of an infraction, punishable by a fine of up to twenty-five dollars (\$25.00) or up to five hours of community service. Additionally, the person shall be ordered to enter a substance abuse treatment or education program, or both, if available, that in the opinion of the court best suits the needs of the person.

(c) Any juvenile who violates subsection (a) of this section is guilty of an infraction, punishable by a fine of up to twenty-five dollars (\$25.00) or up to five hours of community service. Additionally, the juvenile shall be ordered to enter a substance abuse treatment or education program, or both, if available, that in the opinion of the court best suits the needs of the juvenile.

"§ 18D-408. Nondiscrimination for personal use of cannabis.

(a) A person shall not be subject to arrest, prosecution, or penalty in any manner, or be denied any right or privilege, including, but not limited to, disciplinary action by a business, occupational, or professional licensing board or bureau, solely for conduct permitted under this Chapter.

(b) Except as provided in this section, neither the State nor any of its political subdivisions may impose any penalty or deny any benefit or entitlement for conduct permitted under this Chapter or for the presence of cannabinoids or cannabinoid metabolites in the urine, blood, saliva, breath, hair, or other tissue or fluid of a person who is 21 years of age or older.

(c) Except as provided in this section, neither the State nor any of its political subdivisions may deny a drivers license, a professional license, housing assistance, social services, or other benefits based on cannabis use or for the presence of cannabinoids or cannabinoid metabolites in the urine, blood, saliva, breath, hair, or other tissue or fluid of a person who is 21 years of age or older.

(d) Notwithstanding any provision of law to the contrary, a person shall not be denied custody of or visitation with a minor for acting in accordance with this Chapter, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(e) Except as provided in this section, neither the State nor any of its political subdivisions may deny employment or a contract to a person for engaging in conduct permitted under this Chapter for a prior conviction for a nonviolent cannabis offense that does not involve distribution to minors, or for testing positive for the presence of cannabinoids or cannabinoid metabolites in the urine, blood, saliva, breath, hair, or other tissue or fluid of the individual's body.

(f) For the purposes of medical care, including organ and tissue transplants, the use of cannabis does not constitute the use of an illicit substance or otherwise disqualify a person from needed medical care and may only be considered with respect to evidence-based clinical criteria.

(g) Notwithstanding any provision of law to the contrary, unless there is a specific finding that the individual's use, cultivation, or possession of cannabis could create a danger to the individual or another person, it shall not be a violation of conditions of parole, probation, or pretrial release to do either of the following:

(1) Engage in conduct allowed by this Chapter.

(2) Test positive for cannabis, delta-9 tetrahydrocannabinol, or any other cannabinoid or metabolite of cannabis.

(h) This section does not do any of the following:

(1) Prevent a government employer from disciplining an employee or contractor for ingesting cannabis in the workplace or for working while impaired by cannabis.

(2) Apply to the extent that they conflict with a governmental employer's obligations under federal law or regulations or to the extent that they would disqualify the entity from a monetary or licensing-related benefit under federal law or regulations.

(3) Authorize any person to engage in, and does not prevent the imposition of any civil, criminal, discipline, or other penalties, including discipline or termination by a governmental employer, any task while under the influence of cannabis, when doing so would constitute negligence or professional malpractice.

"§ 18D-409. Lawful operation of cannabis-related facilities.

(a) Notwithstanding any other provision of law, engaging in any activities involving cannabis, cannabis accessories, or cannabis products, if the person conducting the activities has obtained a current, valid registration to operate a cannabis establishment or is acting in his or her capacity as an owner, employee, or agent of a registered cannabis establishment and the activities are within the scope of activities allowed by the Department for that type of cannabis establishment, is not unlawful and shall not be an offense under State law or be a basis for seizure or forfeiture of assets under State law.

(b) Nothing in this section prevents the imposition of penalties for violating this Chapter or rules adopted by the Department or localities pursuant to this Chapter.

"§ 18D-410. Verifying the age of cannabis consumers.

(a) A cannabis establishment or an agent or staffer of a cannabis establishment may not sell, deliver, distribute, give, transfer, or otherwise furnish cannabis to a person under the age of 21.

(b) Except as otherwise provided in this section, in a prosecution for selling, transferring, delivering, distributing, giving, or otherwise furnishing cannabis, cannabis products, or cannabis accessories to any person who is under 21 years of age, it is a complete defense if both of the following requirements are met:

(1) The person who sold, gave, or otherwise furnished cannabis, cannabis products, or cannabis accessories was a retail cannabis store or on-site consumption establishment or was acting in his or her capacity as an owner, employee, or agent of a retail cannabis store or on-site consumption establishment at the time the cannabis, cannabis products, or cannabis accessories were sold, given, or otherwise furnished to the person.

(2) Before selling, giving, or otherwise furnishing cannabis, cannabis products, or cannabis accessories to a person who is under 21 years of age, the person who sold, gave, or otherwise furnished the cannabis or cannabis accessories, or a staffer or agent of the retail cannabis store, was shown a document that appeared to be issued by an agency of a federal, state, tribal, or foreign sovereign government and that indicated that the person to whom the cannabis or cannabis accessories was sold, given, or otherwise furnished was 21 years of age or older at the time the cannabis or cannabis accessories were sold, given, or otherwise furnished to the person.

(c) Subsection (b) of this section does not apply if both of the following requirements are met:

(1) The document that was shown to the person who sold, gave, or otherwise furnished the cannabis, cannabis products, or cannabis accessories was counterfeit, forged, altered, or issued to a person other than the person to whom the cannabis, cannabis products, or cannabis accessories were sold, given, or otherwise furnished.

(2) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged, altered, or issued to a person other

than the person to whom the cannabis, cannabis products, or cannabis accessories were sold, given, or otherwise furnished.

"§ 18D-411. Occupational licensing.

(a) A holder of a professional or occupational license may not be subject to professional discipline for providing advice or services related to cannabis establishments or applications to operate cannabis establishments on the basis that cannabis is illegal under federal law.

(b) An applicant for a professional or occupational license may not be denied a license based on previous employment related to cannabis establishments operating in accordance with State law.

"§ 18D-412. Private property and tenant rights.

(a) Except as provided in this section, the provisions of this Chapter do not require any person, corporation, or any other entity that occupies, owns, or controls a property to allow the consumption, cultivation, display, sale, or transfer of cannabis on or in that property.

(b) Except as provided in this section, a landlord or property manager may not refuse to rent to a tenant, or otherwise discriminate against the tenant, based on a past conviction for a cannabis offense.

(c) Except as provided in this section, in the case of the rental of a residential dwelling, a landlord or property manager may not prohibit the possession of cannabis or the consumption of cannabis by nonsmoked means.

(d) Subsections (a) through (c) of this section do not apply if any of the following requirements are met:

(1) The tenant is not leasing the entire residential dwelling.

(2) The residence is incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service.

(3) The residence is a transitional housing or sober living facility.

(4) Failing to prohibit cannabis possession or consumption would violate federal law or regulations or cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(e) After a warning, a landlord or property manager may take action against a tenant if the tenant's use of cannabis creates an odor that interferes with others' peaceful enjoyment of their home or property.

"§ 18D-413. Contracts enforceable.

It is the public policy of this State that contracts related to the operation of a cannabis establishment registered pursuant to this Chapter should be enforceable. It is the public policy of this State that no contract entered into by a cannabis establishment or its employees or agents as permitted pursuant to a valid registration, or by those who allow property to be used by a cannabis establishment, its employees, or its agents as permitted pursuant to a valid registration, shall be unenforceable on the basis that cultivating, obtaining, manufacturing, distributing, dispensing, transporting, selling, possessing, or using cannabis or hemp is prohibited by federal law.

"§ 18D-414. Respecting State law.

(a) No law enforcement officer employed by an agency that receives State or local government funds shall expend any State or local resources, including the officer's time, to effect any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that such activity is in compliance with this Chapter, nor shall any such officer expend any State or local resources, including the officer's time, to provide any information or logistical support related to such activity to any federal law enforcement authority or prosecuting entity.

(b) No agency or political subdivision of the State may rely on a violation of federal law related to cannabis as the sole basis for taking an adverse action against a person.

(c) For the purposes of State law, actions related to cannabis are considered lawful as long as they are in accordance with this Chapter.

"§ 18D-415. Rulemaking.

(a) Not later than 180 days after the effective date of this Chapter, the Department shall adopt rules necessary for implementation of this Chapter. Such rules shall not prohibit the operation of cannabis establishments, either expressly or through application, nor require such a high investment of risk, money, time, or any other resource or asset that the operation of a cannabis establishment is not worthy of being carried out in practice by a reasonably prudent businessperson. Such regulations shall include all of the following:

- (1) Procedures for the issuance, renewal, suspension, and revocation of a registration to operate a cannabis establishment, with such procedures subject to all requirements of Chapter 150B of the General Statutes.
- (2) Rules, procedures, and policies to promote and encourage full participation in the regulated cannabis industry by people from communities that have previously been disproportionately harmed by cannabis prohibition and enforcement and to positively impact those communities, which shall reflect input from the Office of Social Equity, including all of the following:
 - a. Conducting necessary and appropriate outreach to diverse groups that may qualify for participation in activities under this Chapter.
 - b. Requiring each cannabis establishment to establish and adhere to policies that encourage diversity in employment, contracting, and other professional opportunities.
 - c. Requiring any cannabis establishment with 25 or more employees to retain a diversity officer.
 - d. Requiring each cannabis establishment to report on the diversity of its workforce, management, contracts, and ownership by January 1 of each year.
 - e. Issuing rules allowing social equity applicants to apply for, and be licensed for, cannabis establishment registrations no less than 180 days prior to applicants that are not social equity applicants.
- (3) A Race to the Top scoring system to make the expansion of a cannabis establishment to more than two locations contingent on the cannabis establishment's contributions to equity and to benefiting the community. The system must reflect input from the Office of Social Equity and shall include, but need not be limited to, considerations of diversity in the cannabis establishment's ownership and workforce, including in management; employment of reentering citizens with prior convictions; minority ownership; compensation packages and benefits for workers; investing in economically disadvantaged areas; whether the cannabis establishment incorporates principles of environmental resiliency or sustainability, including energy efficiency; or whether the principals are social equity applicants.
- (4) A limit on the number of cannabis establishments a major investor may invest in, unless each additional establishment is owned and operated by a social equity applicant.
- (5) A schedule of reasonable application, registration, and renewal fees, provided application fees shall not exceed five thousand dollars (\$5,000), with this upper limit adjusted annually for inflation, unless the Department determines a greater fee is necessary to carry out its responsibilities under this Chapter.
- (6) Qualifications for registration that are directly and demonstrably related to the operation of a cannabis establishment and that may not disqualify applicants solely for cannabis offenses prior to the effective date of this Chapter.
- (7) Security requirements.

- (8) Requirements for the transportation and storage of cannabis and cannabis products by cannabis establishments.
- (9) Requirements for the delivery of cannabis and cannabis products to consumers, including a prohibition on business names, logos, and other identifying language or images on delivery vehicles and a prohibition on delivering to any address located on land owned by the federal government or any address on land or in a building leased by the federal government.
- (10) Employment and training requirements, including requiring that each cannabis establishment create an identification badge for each employee or agent. These requirements may not disqualify applicants solely for cannabis offenses prior to the effective date of this Chapter.
- (11) Requirements designed to prevent the sale or diversion of cannabis and cannabis products to persons under the age of 21.
- (12) Requirements for cannabis and cannabis products sold or distributed by a cannabis establishment, including prohibiting any misleading labeling and requiring cannabis product labels to include all of the following:
- a. The length of time it typically takes for the product to take effect.
 - b. A disclosure of ingredients and possible allergens.
 - c. A nutritional fact panel.
 - d. Requiring opaque, child-resistant packaging, which must be designed or constructed to be significantly difficult for children under 5 years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. § 1700.20.
 - e. Requiring that edible cannabis products be clearly identifiable, when practicable, with a standard symbol indicating that they contain cannabis.
- (13) Health and safety regulations and standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by cannabis establishments.
- (14) Restrictions on advertising, marketing, and signage, including, but not limited to, a prohibition on mass-market campaigns that have a high likelihood of reaching minors.
- (15) Rules to create at least six tiers of cannabis cultivation facilities, based on the size of the facility or the number of plants cultivated, and whether the cultivation occurs outdoors, indoors, or in a greenhouse. Security regulations and licensing fees must vary based on the size of the cultivation facility.
- (16) Restrictions or prohibitions on additives to cannabis and cannabis-infused products, including, but not limited to, those that are toxic or designed to make the product more addictive.
- (17) Prohibitions on products that are designed to make the product more appealing to children, including prohibiting the use of any images designed or likely to appeal to minors, including cartoons, toys, animals, or children, and any other likeness to images, characters, or phrases that are popularly used to advertise to children.
- (18) Restrictions on the use of pesticides that are injurious to human health.
- (19) Regulations governing visits to cannabis cultivation facilities and cannabis product manufacturing facilities, including requiring the cannabis establishment to log visitors.
- (20) A definition of the amount of delta-9 tetrahydrocannabinol that constitutes a single serving in a cannabis product.
- (21) Standards for the safe manufacture of cannabis extracts and concentrates.

- (22) Requirements that educational materials be disseminated to consumers who purchase cannabis-infused products.
- (23) Requirements for random sample testing to ensure quality control, including by ensuring that cannabis and cannabis-infused products are accurately labeled for potency. Unless the Department determines that remediation or treatment is sufficient to ensure product safety, the testing analysis shall include testing for residual solvents, poisons, or toxins; harmful chemicals; dangerous molds or mildew; filth; and harmful microbials such as E. coli or salmonella and pesticides.
- (24) Standards for the operation of cannabis testing facilities, including requirements for equipment and qualifications for personnel.
- (25) Civil penalties for the failure to comply with rules made pursuant to this Chapter.
- (26) Procedures for collecting taxes levied on cannabis establishments.
- (27) Requirements for on-site consumption establishments, including for security, ventilation, odor control, and consumption by patrons. These rules may include a prohibition on smoking indoors.

(b) After consulting with researchers knowledgeable about the risks and benefits of cannabis and providing an opportunity for public comment, the Department shall develop a scientifically accurate safety information label, handout, or both, which shall be available to each adult-use cannabis consumer. The label or handout shall include both of the following:

- (1) Advice about the potential risks of cannabis, including all of the following:
- a. The risks of driving under the influence of cannabis and the fact that doing so is illegal.
 - b. Any adverse effects unique to younger adults, including related to the developing mind.
 - c. Potential adverse events and other risks.
 - d. Risks of using cannabis during pregnancy or breastfeeding.
- (2) The need to safeguard all cannabis and cannabis products from children and pets.

(c) The Department shall review and update the safety information materials at least once every two years to ensure they remain accurate. The review period shall include soliciting input from researchers knowledgeable about the risks and benefits of cannabis and an opportunity for public comment.

(d) In order to ensure that individual privacy is protected, the Department shall not require a consumer to provide a retail cannabis store with personal information other than government-issued identification to determine the consumer's age and a retail cannabis store shall not be required to acquire and record personal information about consumers.

"Article 5.

"Taxes and Use of Revenue.

"§ 18D-500. Cannabis Regulation Fund.

The Cannabis Regulation Fund is established in the Department. The Fund shall consist of fees collected under this Chapter and appropriations made by the General Assembly to the Fund. The Department shall administer the Fund, and funds in the Fund are hereby appropriated for the purposes set forth in this Article.

"§ 18D-501. Cannabis excise tax.

(a) There is imposed a cannabis excise tax equal to twenty percent (20%) of the sales price of each sale of cannabis and cannabis products to a consumer. Sales to registered medical cannabis patients pursuant to Article 43 of Chapter 90 of the General Statutes are exempt from the tax imposed under this section.

(b) The tax imposed by this section shall be paid by the consumer to the cannabis establishment. Each cannabis establishment shall collect from the consumer the full amount of the tax payable on each taxable sale.

(c) On the fifteenth day of each month, every cannabis establishment that sells cannabis to consumers shall pay the excise taxes due on the cannabis that the cannabis establishment sold in the prior calendar month.

(d) The cannabis excise tax shall be separately itemized from the cannabis local option tax on the receipt provided to the purchaser.

"§ 18D-502. Cannabis local option tax.

(a) Any municipality may collect a cannabis local option tax of three percent (3%) of the sales price on each sale of cannabis and cannabis products to a consumer in the municipality. Sales to registered medical cannabis patients pursuant to Article 43 of Chapter 90 of the General Statutes are exempt from the tax imposed under this section.

(b) The cannabis local option tax may be adopted by a municipality that has provided (i) notice of the imposition and (ii) the amount to the Department of Revenue at least 90 days prior to the first day of the tax quarter when the cannabis local option tax will be collected.

(c) The tax imposed by this section shall be paid by the consumer to the cannabis establishment. Each cannabis establishment shall collect from the consumer the full amount of the tax payable on each taxable sale.

(d) On the fifteenth day of each month, every cannabis establishment that sells cannabis to consumers shall pay the local option taxes due on the cannabis that the cannabis establishment sold in the prior calendar month.

(e) The tax imposed by this section is separate from and in addition to the cannabis excise tax authorized under G.S. 18D-501. The tax imposed by this section shall not be part of the sales price to which the cannabis excise tax applies. The cannabis local option tax shall be separately itemized from the cannabis excise tax on the receipt provided to the purchaser.

"§ 18D-503. Apportionment of revenue.

Revenues generated in excess of the amount needed to implement and enforce this Chapter by the cannabis excise tax shall be distributed every three months as follows:

- (1) Twenty-five percent (25%) shall be distributed to the Community Reinvestment and Repair Fund established by this Chapter.
- (2) Ten percent (10%) shall be distributed to the Social Equity Fund established by this Chapter.
- (3) Three percent (3%) shall be distributed to the Cannabis Education and Technical Assistance Fund established by this Chapter.
- (4) Seven percent (7%) shall be distributed to the Department of Health and Human Services for use in evidence-based, voluntary programs for the prevention or treatment of substance abuse.
- (5) Two percent (2%) shall be distributed to the Department of Health and Human Services for a scientifically and medically accurate public education campaign educating youth and adults about the health and safety risks of alcohol, tobacco, cannabis, and other substances, including the risks of driving while impaired.
- (6) Two percent (2%) shall be distributed to the Department of Health and Human Services to fund diverse scientific, academic, or medical research on cannabis or endocannabinoids, including research exploring the benefits of cannabis, provided that all funded research data, results, and papers shall be released into the public domain and shall be published for free and open access by the public and by other researchers.

(7) Up to one percent (1%) shall be distributed to the Department of Public Safety to fund Advanced Roadside Impaired Driving Enforcement and drug recognition expert training.

(8) Any remaining funds shall be deposited in the General Fund."

SECTION 1.2. This Part becomes effective January 1, 2024, and applies to offenses committed on or after that date.

PART II. LEGALIZATION OF MEDICAL CANNABIS

SECTION 2.1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 44.

"North Carolina Medical Cannabis Act.

"§ 90-748. Short title.

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

"§ 90-749. Protections for the medical use of cannabis.

(a) A patient shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the possession or purchase of cannabis for medical use by the patient if the quantity of usable cannabis possessed or purchased does not exceed an adequate supply, as determined by the North Carolina Medical Care Commission.

(b) A designated caregiver shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including imposition of a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the possession or purchase of cannabis for medical use by the patient if the quantity of cannabis possessed or purchased does not exceed an adequate supply for the patient, as determined by the North Carolina Medical Care Commission.

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

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

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

(d) A patient or a designated caregiver shall be granted the full legal protections provided by this Article as long as the patient or designated caregiver is in possession of a registry identification card issued by the Department of Health and Human Services. If the patient or designated caregiver is not in possession of a registry identification card, the individual shall be given an opportunity to produce the registry identification card before the initiation of any arrest, criminal charges, or other penalties.

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

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

(g) A school, employer, or landlord shall neither refuse to enroll, employ, or lease to nor otherwise penalize a patient or a designated caregiver solely because of (i) the individual's status as a patient or a designated caregiver or (ii) the presence of cannabis metabolites resulting from medical use of cannabis in the individual's bodily fluids.

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

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

(1) Advising a patient about the risks and benefits of the medical use of cannabis or that the patient may benefit from the medical use of cannabis if, in the physician's medical judgment, the potential benefits of the medical use of cannabis would likely outweigh the health risks for that particular patient.

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

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

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

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

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

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

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

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

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

"§ 90-750. Registry identification cards for patients and designated caregivers.

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

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

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

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

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

(d) The Department shall verify the information contained in a registry identification card application or renewal application submitted pursuant to this section and shall approve or deny an application or renewal application within 45 days after receipt. The Department may deny a registry identification card application or renewal application only if the applicant fails to provide the information required pursuant to this section or if the Department determines that the application or renewal application contains false information. If the Department fails to approve or deny a registration application or renewal application submitted pursuant to this section within 45 days after receipt, the application or renewal application shall be deemed approved and a copy of the application or renewal application together with proof of receipt by the Department at least 45 days prior to the date this information is presented in lieu of a registry identification card shall be deemed a valid registry identification card.

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

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

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

(1) The date of issuance.

(2) The date of expiration.

(3) A random registry identification number.

(4) A photograph of the registry identification cardholder.

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

(1) A patient who has been issued a registry identification card shall notify the Department of any change in the patient's name, address, or designated

caregiver and submit a ten dollar (\$10.00) fee to the Department within 15 days after the change occurs. A patient who fails to notify the Department of any of these changes within the specified time frame commits an infraction and is subject to a fine not to exceed more than one hundred fifty dollars (\$150.00).

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

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

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

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

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

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

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

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

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

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

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

(p) Not later than 120 days after the effective date of this act, the North Carolina Medical Care Commission shall adopt rules to implement the provisions of this section, including defining what constitutes a qualifying medical condition and an adequate supply of medical cannabis. The rules shall establish requirements for the issuance of registry identification cards to patients and designated caregivers, which shall include at least all of the following:

(1) Written certification of a statement in a patient's medical records or a statement signed by a physician with whom the patient has a bona fide physician patient relationship indicating that, in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition and the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient.

(2) An application or renewal fee.

(3) The name, address, and date of birth of the patient, except that if a patient is homeless, no address is required.

(4) The name, address, and telephone number of the patient's physician.

(5) The name, address, and date of birth of each of the patient's designated caregivers, if any.

"§ 90-751. Definitions.

For purposes of this Article, the term "patient" means a person who has been issued a written certification described in G.S. 90-750 and the term "physician" means a person who is licensed to prescribe drugs under the laws of this State."

SECTION 2.2. This Part becomes effective January 1, 2024, and applies to acts committed on or after that date.

PART III. AUTOMATIC EXPUNCTION OF MARIJUANA OFFENSES

SECTION 3.1. Article 5 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-145.8B. Automatic expunction of certain marijuana offenses.

(a) If a person was charged with an offense involving marijuana or hashish that is legal under Chapter 18D of the General Statutes, and such person was convicted, such conviction shall be ordered to be automatically expunged no later than July 1, 2026, in the manner set forth in this section.

(b) The Administrative Office of the Courts shall determine which offenses meet the criteria for expunction set forth in subsection (a) of this section. Upon completing the determination required under this subsection, the Administrative Office of the Courts shall provide an electronic list of the offenses to the clerk of each superior court. Upon receipt of the electronic list required under this subsection, the clerk of each superior court shall prepare an order of expungement for each case that meets the criteria set forth in subsection (a) of this section and was finalized in his or her court. Upon completion of the order of expungement, the court shall order the expunction. Upon order of expungement, the clerk shall forward the petition to the Administrative Office of the Courts.

(c) No person as to whom such an order has been entered under this section shall be held thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for any purpose, by reason of the person's failure to recite or acknowledge any expunged entries concerning apprehension, charge, or trial.

(d) The court shall also order that the conviction ordered expunged under this section be expunged from the records of the court and direct all law enforcement agencies bearing record of the same to expunge their records of the conviction. The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150.

(e) Any other applicable State or local government agency shall expunge from its records entries made as a result of the conviction ordered expunged under this section. The agency shall also reverse any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged. This subsection shall not apply to the Department of Justice for DNA records and samples stored in the State DNA Database and the State DNA Databank."

SECTION 3.2. The Administrative Office of the Courts shall provide the list required under G.S. 15A-145.8B(b), as enacted by this Part, by October 1, 2025.

SECTION 3.3. This Part becomes effective January 1, 2024.

PART IV. CONFORMING CHANGES

SECTION 4.1. G.S. 90-87(16) is repealed.

SECTION 4.2. G.S. 90-94 is repealed.

SECTION 4.3. G.S. 90-95 reads as rewritten:

"§ 90-95. Violations; penalties.

...

(b) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(1) with respect to:

...

(2) A controlled substance classified in Schedule III, IV, ~~V, or VI or V~~ shall be punished as a Class I felon, except that the sale of a controlled substance classified in Schedule III, IV, ~~V, or VI or V~~ shall be punished as a Class H felon. ~~The transfer of less than 5 grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).~~

...

(d) Except as provided in subsections (h) and (i) of this section, any person who violates G.S. 90-95(a)(3) with respect to:

...

~~(4) A controlled substance classified in Schedule VI shall be guilty of a Class 3 misdemeanor, but any sentence of imprisonment imposed must be suspended and the judge may not require at the time of sentencing that the defendant serve a period of imprisonment as a special condition of probation. If the quantity of the controlled substance exceeds one half of an ounce (avoirdupois) of marijuana or one twentieth of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, the violation shall be punishable as a Class 1 misdemeanor. If the quantity of the controlled substance exceeds one and one-half ounces (avoirdupois) of marijuana, or three twentieths of an ounce (avoirdupois) of the extracted resin of marijuana, commonly known as hashish, or if the controlled substance consists of any quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of marijuana, the violation shall be punishable as a Class I felony.~~

...

(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

...

(8) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for a child care center, or for an elementary or secondary school or within 1,000 feet of the boundary of real property used for a child care center, or for an elementary or secondary school shall be punished as a Class E felon. ~~For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).~~ For purposes of this subdivision, a child care center is as defined in G.S. 110-86(3)a., and that is licensed by the Secretary of the Department of Health and Human Services.

...

(10) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property that is a public park or within 1,000 feet of the boundary of real property that is a public park shall be punished as a Class E felon. ~~For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).~~

...

(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article:

(1) ~~Any person who sells, manufactures, delivers, transports, or possesses in excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as "trafficking in marijuana" and if the quantity of such substance involved:~~

- a. ~~Is in excess of 10 pounds, but less than 50 pounds, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of 25 months and a maximum term of 39 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);~~
- b. ~~Is 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of 51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);~~
- c. ~~Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of 93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);~~
- d. ~~Is 10,000 pounds or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of 222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).~~

...."

SECTION 4.4. G.S. 90-113.22A is repealed.

SECTION 4.5. G.S. 90-113.21 reads as rewritten:

"§ 90-113.21. General provisions.

(a) As used in this Article, "drug paraphernalia" means all equipment, products and materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of the Controlled Substances Act, including planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, and concealing controlled substances and injecting, ingesting, inhaling, or otherwise introducing controlled substances into the human body. "Drug paraphernalia" includes, but is not limited to, the following:

- 1 ...
2 (7) ~~Separation gins and sifters for removing twigs and seeds from, or otherwise~~
3 ~~cleaning or refining, marijuana;~~
4 ...
5 (12) Objects for ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine,~~
6 ~~hashish, or hashish oil~~ cocaine into the body, such as:
7 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or
8 without screens, permanent screens, hashish heads, or punctured metal
9 bowls;
10 b. Water pipes;
11 c. Carburetion tubes and devices;
12 d. Smoking and carburetion masks;
13 e. Objects, commonly called roach clips, for holding burning ~~material,~~
14 ~~such as a marijuana cigarette, material~~ that has become too small or
15 too short to be held in the hand;
16"

17 **SECTION 4.6.** G.S. 105-113.106 reads as rewritten:

18 **"§ 105-113.106. Definitions.**

19 The following definitions apply in this Article:

- 20 ...
21 (3) Dealer. – Any of the following:
22 a. A person who actually or constructively possesses ~~more than 42.5~~
23 ~~grams of marijuana,~~ seven or more grams of any ~~other~~ controlled
24 substance other than marijuana that is sold by weight, or 10 or more
25 dosage units of any other controlled substance that is not sold by
26 weight.
27 b. A person who in violation of Chapter 18B of the General Statutes
28 possesses illicit spirituous liquor for sale.
29 c. A person who in violation of Chapter 18B of the General Statutes
30 possesses mash.
31 d. A person who in violation of Chapter 18B of the General Statutes
32 possesses an illicit mixed beverage for sale.
33 ...
34 (6) ~~Marijuana.—All parts of the plant of the genus Cannabis, whether growing or~~
35 ~~not; the seeds of this plant; the resin extracted from any part of this plant; and~~
36 ~~every compound, salt, derivative, mixture, or preparation of this plant, its~~
37 ~~seeds, or its resin.~~

38"

39 **SECTION 4.7.** G.S. 105-113.107 reads as rewritten:

40 **"§ 105-113.107. Excise tax on unauthorized substances.**

- 41 (a) Controlled Substances. – An excise tax is levied on controlled substances possessed,
42 either actually or constructively, by dealers at the following rates:
43 (1) ~~At the rate of forty cents (40¢) for each gram, or fraction thereof, of harvested~~
44 ~~marijuana stems and stalks that have been separated from and are not mixed~~
45 ~~with any other parts of the marijuana plant.~~
46 (1a) ~~At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction~~
47 ~~thereof, of marijuana, other than separated stems and stalks taxed under~~
48 ~~subdivision (1) of this [sub]section, or synthetic cannabinoids.~~
49 (1b) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of
50 cocaine.

- (1c) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of any low-street-value drug that is sold by weight.
- (2) At the rate of two hundred dollars (\$200.00) for each gram, or fraction thereof, of any other controlled substance that is sold by weight.
- (2a) At the rate of fifty dollars (\$50.00) for each 10 dosage units, or fraction thereof, of any low-street-value drug that is not sold by weight.
- (3) At the rate of two hundred dollars (\$200.00) for each 10 dosage units, or fraction thereof, of any other controlled substance that is not sold by weight.
- (a1) Weight. – A quantity of ~~marijuana or other~~ controlled substance is measured by the weight of the substance whether pure or impure or dilute, or by dosage units when the substance is not sold by weight, in the dealer's possession. A quantity of a controlled substance is dilute if it consists of a detectable quantity of pure controlled substance and any excipients or fillers.

...."

SECTION 4.8. G.S. 105-113.107A reads as rewritten:

"§ 105-113.107A. Exemptions.

(a) ~~Authorized Possession.~~—The tax levied in this Article does not apply to a substance in the possession of a dealer who is authorized by law to possess the substance. This exemption applies only during the time the dealer's possession of the substance is authorized by law.

(b) ~~Certain Marijuana Parts.~~—~~The tax levied in this Article does not apply to the following marijuana:~~

- (1) ~~Harvested mature marijuana stalks when separated from and not mixed with any other parts of the marijuana plant.~~
- (2) ~~Fiber or any other product of marijuana stalks described in subdivision (1) of this subsection, except resin extracted from the stalks.~~
- (3) ~~Marijuana seeds that have been sterilized and are incapable of germination.~~
- (4) ~~Roots of the marijuana plant."~~

SECTION 4.9. G.S. 105-113.108(b)(1) is repealed.

SECTION 4.10. G.S. 106-134(4) reads as rewritten:

- "(4) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alphaeucaine, barbituric acid, betaeucaine, bromal, ~~cannabis~~, carbromal, chloral, coca, cocaine, codeine, heroin, ~~marijuana~~, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substances, which derivative has been by the Board after investigation, found to be, and by regulations under this Article, designated as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning – May be habit forming.""

SECTION 4.11. G.S. 148-64.1(a)(2)e. is repealed.

SECTION 4.12. G.S. 90-94.1 is repealed.

SECTION 4.13. This Part becomes effective January 1, 2024, and applies to offenses committed on or after that date.

PART V. SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND EFFECTIVE DATE

SECTION 5.1. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 5.2. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

1 **SECTION 5.3.** Except as otherwise provided in this act, this act is effective when it
2 becomes law.