



# Model Bill to Equitably Legalize and Regulate Cannabis

## Section 1. Purpose and findings.

(a) 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.

(b) 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.

(c) The prohibition of cannabis has had an unfair, disparate impact on persons and communities of color. A 2020 report by the ACLU found Black individuals are 3.6 times as likely as white individuals to be arrested for cannabis possession, despite nearly identical use rates.

(d) The prohibition of cannabis diverts law enforcement resources from violent and property crimes and subjects civilians to unnecessary police interactions.

(e) Keeping cannabis illegal deprives the state of thousands of legal jobs and hundreds of millions of dollars in tax revenue.

(f) The State of [State] finds and declares that 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:

(1) controls the production and distribution of cannabis under a system of licensing, regulation, and taxation;

(2) includes lab testing, potency labeling, secure packaging, restrictions on advertising, and education about responsible use and risks;

(3) fosters a responsible industry, whereby businesses will only be allowed to expand if they prioritize diversity, good wages, sustainability, and community investment;

(4) promotes the participation of individuals most impacted by cannabis prohibition in the legal, regulated industry; and

(5) 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.

(g) The State of [State] further finds and declares that 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.

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## Section 2. Definitions.

As used in this chapter unless the context otherwise requires:

(a) “Consumer” means 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.

(b) “Department” means [the appropriate department, which in most cases will be the one regulating alcohol sales] or its successor agency.

(c) “Hemp” means “hemp” as defined by 7 USC § 1639o (1).

(d) “Locality” means a municipality or, in reference to a location outside the boundaries of a municipality, a county.

(e) “Cannabis” means 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.

(f) “Cannabis accessories” means 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.

(g) “Cannabis cultivation facility” means 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.

(h) “Cannabis delivery service” or “delivery service” means an entity registered to deliver cannabis to consumers.

(i) “Cannabis establishment” means 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.

(j) “Cannabis product manufacturing facility” means 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.

(k) “Cannabis products” means 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.

(l) “Cannabis testing facility” means an entity registered to test cannabis for potency and contaminants.

(m) “Cannabis transporter” means an entity registered to transport cannabis between cannabis establishments.

(n) “On-site consumption establishment” means an entity registered to sell cannabis or cannabis products for on-site consumption.

(o) “Possession limit” means:

(1) Two-and-a-half ounces of cannabis in a form other than concentrated cannabis or cannabis products;

(2) Fifteen grams of concentrated cannabis, which includes hashish and pre-filled cartridges of cannabis extracts intended for vaporization;

(3) Cannabis products other than concentrated cannabis containing no more than 2,500 milligrams of THC;

(4) Six cannabis plants; and

(5) Any additional cannabis produced by the person’s cannabis plants provided that the possession of any amount of cannabis in excess of 2.5 ounces of cannabis, 15 grams of concentrated cannabis, and cannabis products containing no more than 2,500 milligrams of THC must be limited to the same property where the plants were cultivated.

(p) “Public place” means any place to which the general public has access. It does not include an on-site consumption establishment.

(q) “Retail cannabis store” means an entity registered to purchase cannabis from cannabis establishments and sell cannabis and cannabis products to consumers.

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### **Section 3. 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 the law of any political subdivision of [State] 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, except that no adult other than one who is acting in his or her capacity as a staffer of a cannabis product manufacturer may perform extractions using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol;

(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; and

(4) Assisting another person who is 21 years of age or older in any of the acts described in this section.

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#### **Section 4. Restrictions on personal cultivation, penalty.**

(a) It is unlawful to cultivate cannabis plants in a manner that is contrary to this section:

(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.

(b) A person who violates this section is guilty of a civil violation punishable by a fine of up to \$750 or up to 75 hours of community service.

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#### **Section 5. 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 a civil violation punishable by a fine of up to \$50 or up to five hours of community service.

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#### **Section 6. 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 the purpose of:

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

(2) Gaining access to a cannabis establishment.

(b) A person who violates this section is guilty of a civil violation punishable by a fine of not more than \$150 or up to 15 hours of community service.

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## **Section 7. Odor and personal possession of cannabis not grounds for a search.**

(a) Except as provided in this section, the odor of cannabis or burnt cannabis, or the possession of a quantity of cannabis that the officer does not have probable cause to believe exceeds the possession limit, shall not constitute in part or in whole probable cause or reasonable suspicion and shall not be used as a basis to support any stop or search of a person or motor vehicle.

(b) Nothing in this section prevents a law enforcement official from conducting a test for impairment based in part on the odor of recently burnt cannabis if the law enforcement official would otherwise be permitted to do so under law.

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## **Section 8. 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 the law of any political subdivision of [State] 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 subsection (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. Sec. 863(f)) 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 reasonable regulations enacted by the department. A first offense violation is a civil fine of up to \$1,000 and forfeiture of the cannabis accessories. A second or subsequent offense is a misdemeanor punishable by a fine of up to \$5,000, up to 180 days in jail, or both and forfeiture of the cannabis accessories.

## **Section 9. Non-discrimination 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) It is unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalizing a person, if the discrimination is based upon any of the following:

(1) The person's use of cannabis off the job and away from the workplace.

(2) An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.

(3) A prior arrest or conviction for a non-violent cannabis offense that does not involve distribution to

minor.

(c) Nothing in this section permits an employee to possess, to be impaired by, or to use cannabis on the job, or any other rights or obligations of an employer specified by federal law or regulation.

(d) This section does not preempt federal laws requiring applicants or employees to be tested for controlled substances, including laws and regulations requiring applicants or employees to be tested, or the manner in which they are tested, as a condition of employment, receiving federal funding or federal licensing-related benefits, or entering into a federal contract.

(e) (1) 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.

(2) Except as provided in this section, neither the state nor any of its political subdivisions may deny a driver's 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.

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

(g) 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.

(h) Notwithstanding any other provision of law, 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 pre-trial release to:

(1) engage in conduct allowed by this chapter; or

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

(i) No state or local agency, and no employee or agent of any state or local agency, may:

(1) restrict, revoke, suspend, or otherwise infringe upon a person's right to own, purchase, or possess a firearm, ammunition, or any related firearms certification based solely on the person's possession, use, or purchase of cannabis, or for other actions allowed by this chapter; or

(2) directly or indirectly inform a federal agency or federal official that a person owns, possess, purchases, or may attempt to own, possess, purchases a firearm or ammunition while possessing or using cannabis, or for other actions allowed by this chapter.

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## **Section 10. Lawful operation of cannabis-related facilities.**

(a) Notwithstanding any other provision of law, the following acts, when performed by a cannabis establishment with a current, valid registration, or a person 21 years of age or older who is acting in his or her capacity as an owner, employee, or agent of a cannabis establishment, are not unlawful and shall not be an offense under [State] law or be a basis for seizure or forfeiture of assets under [State] 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.

(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.

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### **Section 11. 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 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:

(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 was sold, given, or otherwise furnished to the person; and

(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 was sold, given, or otherwise furnished to the person.

(c) The complete defense set forth in this section does not apply if:

(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 was sold, given, or otherwise furnished; and

(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 was sold, given, or otherwise furnished.

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## **Section 12. 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.

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## **Section 13. Office of Social Equity.**

(a) There shall be established an Office of Social Equity within the department. The governor shall appoint an executive director who must have at least five years of experience in civil rights advocacy, civil rights litigation, or social justice.

(b) The Office of Social Equity 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. Its duties shall include:

(1) defining “social equity applicant,” and considering whether the definition should include any or all of the following:

(i) individuals with past convictions for a cannabis offense,

(ii) individuals whose parent had a prior conviction for a cannabis offense,

(iii) individuals who have had a less than honorable discharge from the military due to cannabis,

(iv) individuals from census tracts or other geographic areas disproportionately impacted by cannabis enforcement, poverty, unemployment, cannabis prohibition, mass incarceration, and/or systemic racism,

(v) racial and ethnic minorities that have been disproportionately impacted by cannabis enforcement, and

(vi) 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 wellbeing of individuals and communities that have experienced a disproportionate negative impact from poverty, unemployment, cannabis prohibition and enforcement, mass incarceration, and/or systemic racism;

(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 section 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; and

(7) investigating whether businesses are adhering to their obligations, including those undertaken as part of the Race to the Top scored system, and recommending corrective action or discipline if they fail to do so, which may include a suspension or revocation of licenses.

(c) (1) Before determining how funds from the Community Reinvestment and Repair Fund will be allocated, the Office of Social Equity 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, and/or systemic racism to seek input on the communities' needs and priorities for the Community Reinvestment and Repair Fund.

(2) The Office of Social Equity shall distribute funds from the Community Reinvestment and Repair Fund in a manner that improves the wellbeing of communities and individuals that have been significantly impacted by poverty, unemployment, cannabis prohibition, mass incarceration, and/or systemic racism. Permissible uses of the fund include but are not limited to grants to nonprofit organizations or allocations to government agencies for:

(i) housing assistance, including to promote home ownership among members of minority groups that are underrepresented in home ownership due to redlining or discrimination;

(ii) re-entry services, including job training and placement;

(iii) scholarship assistance for low-income students;

(iv) 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; and

(v) legal or civic aid.

(d) No later than August 1 of each year, the Office of Social Equity must 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 year.

(e) No later than November 1 of each year, the Office of Social Equity 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.

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## Section 14. Rulemaking.

(a) Not later than 180 days after the effective date of this act, the department shall adopt regulations necessary for implementation of this chapter. Such regulations shall not prohibit the operation of cannabis establishments, either expressly or through regulations, 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:

(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 the [state administrative procedure act];

(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:

(i) Conducting necessary and appropriate outreach to diverse groups that may qualify for participation in activities under this chapter;

(ii) Requiring each cannabis establishment to establish and adhere to policies that encourage diversity in employment, contracting, and other professional opportunities;

(iii) Requiring any cannabis establishment with 25 or more employees to retain a diversity officer;

(iv) Requiring each cannabis establishment to report on the diversity of its workforce, management, contracts, and ownership by January 1 of each year; and

(v) Issuing regulations 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” scored system to make the expansion of a cannabis establishment to more than one location or to expand beyond a tier 1 cultivation facility, contingent on the 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 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 establishment incorporates principles of environmental resiliency or sustainability, including energy efficiency; and/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 that, unless the department determines a greater fee is necessary to carry out its responsibilities under this chapter:

- (i) tier 1 cultivation facility application and licensing fees shall not exceed \$500, and tier 1 cultivation facility renewal fees shall not exceed \$1,500; and
  - (ii) application fees shall not exceed \$2,500, with this upper limit adjusted annually for inflation;
  - (iii) all other registration and annual renewal fees shall not exceed \$10,000;
  - (iv) application, licensing, and renewal fees must be tiered based on the size or revenue of the establishments;
- (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 act;
- (7) Security requirements, including but not limited to requiring the Department to implement a single statewide inventory monitoring system that:
- (i) tracks all cannabis from immature plant until the cannabis is sold to a consumer;
  - (ii) includes tracking laboratory testing results;
  - (iii) is capable of facilitating a complete product recall; and
  - (iv) shall not require or allow cannabis establishments to identify consumers who cannabis is distributed to.
- (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. These requirements must allow cannabis delivery services to purchase directly from cannabis cultivation facilities and cannabis product manufacturing facilities and to operate a warehouse;
- (10) Employment and training requirements, including requiring that each cannabis establishment create an identification badge for each employee or agent and training on checking photo identifications. These requirements may not disqualify applicants solely for cannabis offenses prior to the effective date of this act;
- (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 the following:
- (i) The length of time it typically takes for the product to take effect;
  - (ii) A disclosure of ingredients and possible allergens;
  - (iii) A nutritional fact panel;

- (iv) Requiring opaque, child-resistant packaging, which must be designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995); and
- (v) Requiring that edible cannabis products be clearly identifiable, when practicable, with a standard symbol indicating that it contains 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) Regulations on advertising, marketing, and signage including but not limited to:
- (i) a prohibition on mass-market campaigns that have a high likelihood of reaching minors; and
  - (ii) a prohibition on cannabis products that are named, packaged, marketed, or designed in a way that mimics or is likely to cause confusion with commercially available, trademarked non-cannabis products, including relating to their logos, the sound of the product or brand, packaging, taste, appearance, and commercial impression.
- (15) Regulations 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. The smallest tier, tier 1, is limited to 5,000 square feet of canopy for indoor or greenhouse cultivation and 15,000 square feet of canopy for outdoor cultivation, and provided that if a vertically-tiered or shelving system is included in the canopy area, the surface area of each tier or shelf must be included in calculating the canopy area. 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 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 are sufficient to ensure product safety, the testing analysis must 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 regulations made pursuant to this chapter;

(26) Procedures for collecting taxes levied on cannabis establishments; and

(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;

(28) Regulations governing intoxicating products derived from hemp, including for labeling, lab testing, and age-verification;

(29) Requirements that cannabis retail stores stock cannabis products, including flower, with low and moderate amounts of THC and that they be at least as prominently displayed as high potency products.

(b) After consulting with researchers knowledgeable about the risks and benefits of cannabis and providing an opportunity for public comment, the department shall develop at least two versions of a scientifically accurate safety information handout, which shall be available to each adult-use cannabis consumer. One of the versions must be specific to high potency products. The handout shall include:

(1) advice about the potential risks of cannabis and, in the case of the high potency handout, risks specific to high potency products, including:

(i) the risks of driving under the influence of cannabis, and the fact that doing so is illegal;

(ii) any adverse effects unique to younger adults, including related to the developing mind;

(iii) potential adverse events and other risks, including related to mental health; and

(iv) risks of using cannabis during pregnancy or breastfeeding; and

(2) the need to safeguard all cannabis and cannabis products from children and pets; and

(3) unless federal statutory law or case law has changed and such a warning is no longer accurate, a disclosure that:

(i) cannabis is illegal under U.S. federal law, and

(ii) under the United States government's 1986 Gun Control Act, any "unlawful" user of a controlled substance is prohibited from purchasing or owning a gun.

(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) The department may require retail stores to display informational posters in conspicuous locations about the risks of cannabis use, risks specific to high potency products, or both.

(e) 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.

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## **Section 15. Cannabis Advisory Board.**

(a) There shall be a cannabis advisory board to study and make recommendations consistent with the purpose and findings of this chapter on the regulation of cannabis and cannabis products.

(b) No later than 90 days after the effective date of this chapter, the governor shall nominate members of the advisory board, who shall be confirmed with the advice and consent of the Senate. The board shall consist of 11 members:

1. one expert in public health;
1. one registered medical cannabis patient;
1. one individual who represents cannabis consumers;
1. four or five individuals with backgrounds in the cannabis industry, at least one of whom has a background in each cannabis cultivation, cannabis retailing, cannabis product manufacturing, and cannabis testing, and at least three of whom qualify as social equity applicants;
1. one individual with background in civil rights advocacy;
1. one individual with background in law enforcement or security;
1. one attorney with experience in cannabis policy or providing legal services related to cannabis; and
1. an attorney designated by the office of the Attorney General to advise the taskforce.

(c) No more than one advisory board member may work for or hold a financial or equitable interest in a business that sells, grows, or manufactures cannabis in a jurisdiction outside of [State].

(d) Members of the board shall serve terms of two years. Except in the case of members serving in their capacity as state employees, members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties, including mileage at the state employee rate for attendance to meetings and other official functions.

(e) The board shall meet no less frequently than once every two months for the nine months after the effective date of this section and once every six months thereafter.

(f) The cannabis advisory board shall:

- (1) Advise the department on regulations to ensure the thorough and efficient implementation of this chapter.
  - (2) Advise the department on what additional types of cannabis establishments, if any, the department should register, along with recommendations on their licensure and regulation.
  - (3) Consider all matters submitted to it by the department.
  - (4) Hold a hearing to solicit public input no less frequently than once every six months, including to solicit input on:
    - (i) the impact of adult-use cannabis regulations on medical access; and
    - (ii) the experience of social equity operators, and the effectiveness of measures to ensure they have the opportunity to succeed.
  - (5) Issue a preliminary report no later than 18 months after the effective date of this act, and a second report no later than nine months after federal legalization, reviewing the impacts of the potential legalization of cannabis under federal law on the state program, including a consideration of:
    - (i) whether federal legalization requires [State] to allow the sale of cannabis produced in other states;
    - (ii) what changes to state law and regulations are advisable or necessary due to federal legalization;
    - (iii) potential impacts to medical cannabis access and affordability; and
    - (iv) potential impacts to social equity and small business licensees.
  - (6) Make recommendations for whether the personal possession, cultivation, and purchase limits should be modified or eliminated.
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## **Section 16. Cannabis establishment registrations.**

- (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 act.
- (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 act.
- (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) Each application applies to a single parcel of real property. Any additional address requires a separate application and registration.

(f) Except as provided in Sec. 17, nothing in this chapter prevents a person or entity from holding multiple types of cannabis registration and from co-locating the businesses.

(g) 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 regulations enacted pursuant to Section 14 or the department is notified by the relevant locality that the applicant is not in compliance with ordinances and regulations made pursuant to Section 18 and in effect at the time of application.

(h) 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 for licensure, 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.

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

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

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## **Section 17. Financial interests prohibited.**

(a) No cannabis testing facility or individual with a significant interest in a cannabis testing facility shall have a direct or indirect financial interest in any other type of cannabis establishment.

(b) Prior to three years after the effective date of this act, no person or business entity may have a significant interest in more than five cannabis establishments of any single category.

(c) Beginning three years after the effective date of this chapter, no person or business entity may have a significant interest in more than 10 percent of any type of cannabis establishment other than a cannabis testing facility unless the person or entity has a significant interest in no more than five cannabis establishments.

(d) No person or business entity may have a significant interest in more than five percent of the canopy licensed for cultivation.

(e) Beginning three years after the effective date of this chapter, no person or business entity may have a significant interest in more than 30 percent of cannabis testing facilities, unless the person or entity has a significant interest in no more than five cannabis testing facilities.

(f) No cannabis establishment or individual with a significant interest in a cannabis establishment may hold a significant interest in a vendor that provides cannabis inventory tracking in [State].



(g) No vendor that provides cannabis inventory tracking in [State] and no individual with a significant interest in a vendor that provides cannabis inventory tracking in [State] may hold a significant interest in a cannabis establishment.

(h) In this section, “significant interest” means any of the following:

1. a financial or voting interest of five percent or greater;

(2) a financial or voting interest of five percent or greater in an entity that exercises management or operational control of the cannabis establishments.

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## **Section 18. Local control.**

(a) An on-site consumption establishment may 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, voters in a locality may prohibit the operation of one or more types of cannabis establishments within its jurisdiction through the enactment of an ordinance through an initiated or referred measure, provided, any initiated or referred measure to prohibit or allow the operation of establishments must appear on a general election ballot.

(1) A locality’s prohibition on cannabis establishments may not prohibit transportation through the locality or deliveries within the locality by cannabis establishments located in other jurisdictions.

(2) Voters in a locality that previously prohibited the operation of one or more types of cannabis establishments may authorize their operation through an initiated or referred measure, provided, any initiated or referred measure to allow or prohibit the operation of establishments must appear on a general election ballot.

(c) Except as provided for in this section, localities are hereby preempted from adopting any law, rule, ordinance, regulation, or prohibition pertaining to the operation or licensure of cannabis establishments, other than on-site consumption establishments. However, localities may pass local laws and regulations governing the time, place, and manner of the operation of other licensed cannabis establishments and limiting the number of each type of cannabis establishment, provided such law or regulation does not make the operation of such cannabis establishments unreasonably impracticable as determined by the department.

(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 section, 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.

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## **Section 19. Driving under the influence prohibited.**

Nothing in this chapter is intended to allow driving under the influence of cannabis or driving while

impaired by cannabis or to supersede laws related to driving under the influence of cannabis or driving while impaired by cannabis.

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## **Section 20. Minors.**

Nothing in this chapter is intended to permit the transfer of cannabis, with or without remuneration, to a person under the age of 21 or to allow a person under the age of 21 to purchase, possess, use, transport, grow, or consume cannabis.

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## **Section 21. 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 non-smoked means.

(1) The limitations in this subsection do not apply if:

(i) The tenant is a roomer who is not leasing the entire residential dwelling;

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

(iii) The residence is a transitional housing or sober living facility; or

(iv) 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.

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

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## **Section 22. Contracts enforceable.**

It is the public policy of [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 an 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.

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### **Section 23. 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 act, 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 [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.

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### **Section 24. Cannabis Fund.**

The Cannabis Fund is established consisting of fees collected and civil penalties imposed under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.

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### **Section 25. Cannabis excise tax.**

(a) There is imposed a cannabis excise tax equal to 20 percent of the sales price of each sale in [State] of cannabis and cannabis products to a consumer. Sales to registered medical cannabis patients pursuant to a medical cannabis program 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 15th 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 tax imposed by this section shall not be part of the sales price to which a cannabis local option tax applies. The cannabis excise tax shall be separately itemized from the cannabis excise tax on the

receipt provided to the purchaser.

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### **Section 26. Cannabis local option tax.**

(a) Any municipality may collect a cannabis local option tax of three percent of the sales price on each sale in [State] of cannabis and cannabis products to a consumer in the municipality. Sales to registered medical cannabis patients pursuant to a medical cannabis program are exempt from the tax imposed under this section.

(b) In the case of deliveries:

1. any municipality may collect a cannabis local option tax of 1.5 percent of the sales price on each sale in [State] for deliveries to locations within the municipality; and
1. any municipality may collect a cannabis local option tax of 1.5 percent of the sales price on each sale in [State] for deliveries originating within the municipality;

(c) A cannabis local option tax may be adopted by a municipality that has: provided notice of the imposition and the amount to the [department of taxation] at least 90 days prior to the first day of the tax quarter when the cannabis local option tax will be collected.

(d) 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.

(e) On the 15th 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.

(f) The tax imposed by this section is separate from and in addition to the cannabis excise tax authorized under Section 25 of this title. 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.

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### **Section 27. Apportionment of revenue.**

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

(a) Twenty-five percent shall be distributed to the Community Reinvestment and Repair Fund, administered by the Office of Social Equity pursuant to section 13xx (xx);

(b) Ten percent shall be distributed to the Social Equity Fund, administered by the Office of Social Equity pursuant to section 13 xx (b);

- (c) Three percent shall be distributed to the Cannabis Education and Technical Assistance Fund, administered by the Office of Social Equity pursuant to section 13 xx (b);
- (d) Seven percent shall be distributed to the [State health department] for use in evidence-based, voluntary programs for the prevention or treatment of substance abuse;
- (e) Two percent shall be distributed to the [State health department] 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;
- (f) Two percent shall be distributed to the [State health department] 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; and
- (g) Up to one percent shall be distributed to the [State public safety department] to fund Advanced Roadside Impaired Driving Enforcement and drug recognition expert training. If the entire one percent is not needed for the training, any excess shall be distributed to the General Fund; and
- (h) Fifty percent shall be distributed to the General Fund.
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## **Section 28. Vacatur for certain cannabis arrests and convictions.**

- (a) All arrests, convictions, and civil adjudications for possession of cannabis shall be automatically vacated and expunged.
- (b) Within 12 months of the effective date of this act, [appropriate state and local agency or agencies] shall remove all records of arrests or convictions for possession of cannabis from its records and notify the court from which the case originated, which shall place an order of vacatur in the court file and process the file in the same manner as any other expunged case.
- (c) Any person who believes themselves to be eligible for automatic expungement may request that the [appropriate agency] examine his or her conviction to determine whether it should be annulled and vacated. Should the [appropriate agency] fail to annul a qualified conviction, any person so aggrieved may petition the court without fee for further review of eligibility.
- (d) The [appropriate state and local agency or agencies] shall determine the actual costs of processing such vacatur and expungement and be reimbursed from the Cannabis Fund.
- (d) Eligible expungements and vacatures of arrests, convictions, and civil adjudications pursuant to this section shall be granted notwithstanding the existence of outstanding court-imposed or court-related fees, fines, costs, assessments, or charges.
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## Section 29. Re-sentencing for cannabis sentences

(a) As used in this section, “cannabis-related offense” means any of the following:

- (1) any offense involving cannabis or paraphernalia intended for cannabis; and
- (2) any other offense that would not have been an offense were it not for the illegality of cannabis.

(b) No later than 90 days after the effective date of this act, the [appropriate state agency] and the [administrator of each state prison, and county and city jail] shall conduct a search to determine all individuals serving a period of incarceration or supervision for a cannabis-related offense and notify the court in which each person was convicted and the [appropriate state agency].

(c) Any person who was convicted of any cannabis-related offense who has not completed the sentence may, at any time, petition the court in which the person was convicted for re-sentencing.

(d) The court in which the person was convicted shall furnish a copy of the petition to the office of the prosecutor of the underlying offense. The prosecutor may object within 14 days of receiving a copy of the petition and request a hearing. If the prosecutor does not object within 14 days, the court shall grant the petition and re-sentence the person to the portion of the sentence the individual has already completed.

(e) If the prosecutor timely objects, the court shall hold a hearing. In a hearing on the petition for re-sentencing, the prosecutor shall be required to prove by clear and convincing evidence that:

- (1) The offense is not eligible for re-sentencing under this section because it was not a cannabis-related offense;
- (2) Re-sentencing would not be in the interests of justice; or
- (3) Re-sentencing would be in the interests of justice, but that the appropriate sentence is something other than the portion of the sentence the individual has already completed.

(f) The court shall grant the petition and re-sentence the individual to any sentence they have already completed unless the prosecutor has proven that:

- (1) The offense is not eligible for re-sentencing under this section because it was not a cannabis-related offense;
- (2) Re-sentencing would not be in the interests of justice; or
- (3) Re-sentencing would be in the interests of justice, but that the appropriate sentence is something other than the portion of the sentence the individual has already completed.

(g) There shall be a presumption that granting the petition would be in the interests of justice due to the legalization of cannabis for adults and the unequal enforcement of cannabis laws. The presumption may be overcome, including in instances where the prosecutor proves by clear and convincing evidence that re-sentencing would not be in the interests of justice because:

- (1) additional, more serious charges unrelated to cannabis were dismissed as part of a plea deal; or

(2) the offense involved distribution of cannabis to a minor or using a minor to distribute cannabis.

(h) The court may find that re-sentencing is in the interests of justice, but that a complete reduction in the sentence is not in the interests of justice. In those instances, the court shall re-sentence the individual to the lowest sentence that is in the interests of justice, in light of legalization of cannabis and disparities in arrests and sentencing.

(i) A court may not increase any aspect of a sentence in response to a re-sentencing petition filed pursuant this section.

(j) No fee shall be charged for filing a petition under this section.

(k) The [public defender's office] shall provide representation with no charge to any person who files a petition for relief pursuant to this section. An individual is not required to provide indigence to receive representation pursuant to this section.

(l) The [appropriate state and local agency or agencies, including the public defender's office] shall determine the actual costs of duties under this section and be reimbursed from the Cannabis Fund.

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### **Section 30. Dismissal of cannabis charges.**

(a) Except to the extent required to dismiss, withdraw, or terminate the charge, no prosecutor shall pursue any charge based on crimes or offenses pending with a court that occurred prior to the effective date of this act that consist of a person 21 years of age or older knowingly or purposely obtaining, purchasing, transporting, manufacturing, or possessing, actually or constructively, or having under his or her control no more than the possession limit of cannabis or paraphernalia for cannabis.

(b) The existence of convictions in other courts within the same case that are not eligible for dismissal pursuant to this section or other applicable laws shall not prevent any conviction otherwise eligible for dismissal under this section from being dismissed pursuant to this section.

(c) On the first day of the fifth month following the effective date of this act, any guilty verdict, plea, placement in a diversionary program, or other entry of guilt on a matter that was entered prior to the effective date of this, but the judgment of conviction or final disposition on the matter was not entered prior to that date, and the guilty verdict, plea, placement in a diversionary program, or other entry of guilt solely involved one or more crimes or offenses involving a person 21 years of age or older knowingly or purposely obtaining, purchasing, transporting, manufacturing or possessing, actually or constructively, or having under his or her control, no more than the possession limit of cannabis or paraphernalia for cannabis, shall be vacated by operation of law. The [appropriate agency], in consultation with the Attorney General, may take any administrative action as may be necessary to vacate the guilty verdict, plea, placement in a diversionary program, or other entry of guilt.

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### **Section 31. Self-executing, severability, conflicting provisions.**

All provisions of this chapter are severable, and, except where otherwise indicated in the text, shall supersede conflicting statutes, local charter, ordinance, or resolution, and other state and local provisions.

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### **Section 32. Effective date.**

This chapter shall take effect upon its approval.

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### **Additional Sections That Will Vary**

Depending on State Law

1. Revising criminal laws, consider descheduling cannabis.

Existing laws prohibiting cannabis and paraphernalia need to be revised to remove penalties for the conduct that was made legal. At a minimum, the following should be included in the chapter with criminal penalties for drug offenses:

The possession, cultivation, harvest, display, distribution, packaging, processing, purchase, transportation, transfer, delivery, sale, storage, and consumption of cannabis as provided for in [section 2 to 30 of this bill] shall not constitute a violation of this chapter.

It is worth considering removing cannabis from the state's schedule of controlled substances. However, doing so may require rewriting all existing prohibitions on conduct that remains illegal, such as illegal sales or large-scale cultivation.

1. Providing for decriminalization and education for those under 21, if the state has not already done so.

For example:

Possession of one ounce or less of cannabis by a person under the age of 21 is a civil offense punishable by forfeiture of the cannabis and completion of up to four hours of instruction in a drug awareness program. The parents or legal guardian of any offender under the age of 18 shall be notified of the offense and of available drug awareness programs, which shall be established by the [State youth, health, or education department]. The [State youth, health, or education department] shall set fees for the program sufficient to cover all costs of administering the program, which shall not exceed \$100. If an offender fails within one year of such notice of the offense and available programs to complete a drug awareness program, a civil penalty of up to \$150, up to 15 hours of community service, or both may be imposed.

If possession of paraphernalia is a crime in the state, it should either become legal or should also be decriminalized for minors.

1. Providing that medical cannabis provisions, if any, are not affected.



For example:

Nothing in this chapter shall be construed to limit any privileges or rights of a medical cannabis patient, primary caregiver, or medical cannabis establishment, under [State medical cannabis law].

The precise language should track the terms used in the state’s medical cannabis law. In addition, states may want to allow retailers to dispense cannabis to registered medical cannabis patients under 21 years of age.

1. If the state has a medical cannabis law, consider providing for dual licensing for medical cannabis businesses.

Medical cannabis businesses should be allowed to also serve the adult-use market if they prioritize medical access and meet other requirements. A single regulatory authority should oversee both types of businesses, so this may require moving the medical cannabis program to a new agency.

Some states allow medical businesses to begin sales to adult-use consumers before other businesses — often if they pay a hefty fee and meet requirements, but this can disadvantage social equity applicants and other new licensees.

In addition, if medical businesses are allowed to serve adult-use consumers, adult-use retailers should also be allowed to sell to registered patients tax-free if they meet requirements that apply to other medical businesses (such as requiring dispensing staff to meet additional training requirements, prioritizing patient access and stocking a variety of medical products).

1. Modifying driving under the influence law, if it penalizes having any metabolites of THC in one’s system.

Cannabis metabolites can stay in one’s system for up to a month, and active THC can stay for well over a week. Some state laws penalize individuals for driving with metabolites or THC in their system. If that is the case, state law needs to be modified to avoid criminalizing sober drivers – and instead only penalize those driving while impaired. Language will vary and will modify existing statutes.

1. Fixing state income tax so that business expenses are deductible, though they are not deductible at the federal level.

Existing tax statutes will need to be modified and language will need to mirror the statutory language. Here is an example:

A deduction from gross business profits of an amount equal to all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business as a cannabis establishment as defined by [Section 1], including reasonable allowance for salaries or other compensation for personal services actually rendered, notwithstanding any federal tax law to the contrary.