

HOUSE BILL NO. 1420

Introduced by

Representatives Dockter, Becker, Mitskog, Mock, Porter, Roers Jones, M. Ruby

Senator Meyer

1 A BILL ~~for an Act to create and enact chapter 19-24.3 of the North Dakota Century Code,~~
2 ~~relating to the personal use of marijuana; to amend and reenact subsection 1 of section~~
3 ~~19-03.1-22.2, subsection 7 of section 19-03.1-23, subsection 4 of section 19-03.4-03,~~
4 ~~subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of~~
5 ~~the North Dakota Century Code, relating to the legalization of marijuana; to provide a statement~~
6 ~~of legislative intent; to provide for a legislative management report; and to provide a penalty; for~~
7 an Act to create and enact two new subsections to section 19-03.4-02 and chapter 19-24.2 of
8 the North Dakota Century Code, relating to the personal use of marijuana; to amend and
9 reenact section 19-03.1-01, subdivision n of subsection 5 of section 19-03.1-05, subsection 1 of
10 section 19-03.1-22.2, sections 19-03.1-22.3 and 19-03.1-23, subsection 1 of section
11 19-03.1-23.1, subsection 12 of section 19-03.4-01, sections 19-03.4-03 and 19-03.4-04,
12 subsection 1 of section 39-20-01, section 39-20-14, and subsection 12 of section 65-05-08 of
13 the North Dakota Century Code, relating to the legalization of marijuana; to provide for a
14 legislative management report; to provide a penalty; and to provide an effective date.

15 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

16 ~~— **SECTION 1. AMENDMENT.** Subsection 1 of section 19-03.1-22.2 of the North Dakota~~
17 ~~Century Code is amended and reenacted as follows:~~

18 ~~— 1. For purposes of this section:~~

19 ~~— a. "Chemical substance" means a substance intended to be used as a precursor in~~
20 ~~the manufacture of a controlled substance or any other chemical intended to be~~
21 ~~used in the manufacture of a controlled substance. Intent under this subsection~~
22 ~~may be demonstrated by the substance's use, quantity, manner of storage, or~~
23 ~~proximity to other precursors or to manufacturing equipment.~~

24 ~~— b. "Child" means an individual who is under the age of eighteen years.~~

1 ~~_____ c. "Controlled substance" means the same as that term is defined in section~~
2 ~~19-03.1-01, except the term does not include less than one-half ~~one ounce [28.35-~~~~
3 ~~grams] of marijuana.~~

4 ~~_____ d. "Drug paraphernalia" means the same as that term is defined in section~~
5 ~~19-03.4-01.~~

6 ~~_____ e. "Prescription" means the same as that term is described in section 19-03.1-22.~~

7 ~~_____ f. "Vulnerable adult" means a vulnerable adult as the term is defined in section~~
8 ~~50-25.2-01.~~

9 ~~_____ **SECTION 2. AMENDMENT.** Subsection 7 of section 19-03.1-23 of the North Dakota~~
10 ~~Century Code is amended and reenacted as follows:~~

11 ~~_____ 7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess~~
12 ~~a controlled substance or a controlled substance analog unless the substance~~
13 ~~was obtained directly from, or pursuant to, a valid prescription or order of a~~
14 ~~practitioner while acting in the course of the practitioner's professional practice, or~~
15 ~~except as otherwise authorized by this chapter, but any person who violates~~
16 ~~section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.~~

17 ~~_____ b. Except as otherwise provided in this subsection, any person who violates this~~
18 ~~subsection is guilty of a class A misdemeanor for the first offense under this~~
19 ~~subsection and a class C felony for a second or subsequent offense under this~~
20 ~~subsection.~~

21 ~~_____ c. If, at the time of the offense the person is in or on the real property comprising a~~
22 ~~public or private elementary or secondary school or a public career and technical~~
23 ~~education school, the person is guilty of a class B felony, unless the offense~~
24 ~~involves marijuana.~~

25 ~~_____ d. A person who violates this subsection by possessing:~~

26 ~~_____ (1) Marijuana in an amount of less than one-half ~~More than one ounce~~~~
27 ~~~~[14.17528.35 grams] but not more than one and one-half ounce [42.524-~~~~
28 ~~grams] of marijuana is guilty of an infraction.~~

29 ~~_____ (2) At least ~~More than one and one-half ounce [14.17542.524 grams] but not~~~~
30 ~~more than 500 grams of marijuana is guilty of a class B misdemeanor.~~

31 ~~_____ (3) More than 500 grams of marijuana is guilty of a class A misdemeanor.~~

1 ~~———— e. — If an individual is sentenced to the legal and physical custody of the department~~
2 ~~of corrections and rehabilitation under this subsection, the department may place~~
3 ~~the individual in a drug and alcohol treatment program designated by the~~
4 ~~department. Upon the successful completion of the drug and alcohol treatment~~
5 ~~program, the department shall release the individual from imprisonment to begin~~
6 ~~any court-ordered period of probation.~~

7 ~~———— f. — If the individual is not subject to any court-ordered probation, the court shall order~~
8 ~~the individual to serve the remainder of the sentence of imprisonment on~~
9 ~~supervised probation subject to the terms and conditions imposed by the court.~~

10 ~~———— g. — Probation under this subsection may include placement in another facility,~~
11 ~~treatment program, or drug court. If an individual is placed in another facility or~~
12 ~~treatment program upon release from imprisonment, the remainder of the~~
13 ~~sentence must be considered as time spent in custody.~~

14 ~~———— h. — An individual incarcerated under this subsection as a result of a second probation~~
15 ~~revocation is not eligible for release from imprisonment upon the successful~~
16 ~~completion of treatment.~~

17 ~~———— i. — A person who violates this subsection regarding possession of five or fewer~~
18 ~~capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or~~
19 ~~controlled substance analog is guilty of a class A misdemeanor.~~

20 ~~———— **SECTION 3. AMENDMENT.** Subsection 4 of section 19-03.4-03 of the North Dakota~~
21 ~~Century Code is amended and reenacted as follows:~~

22 ~~———— 4. — A person under twenty-one years of age may not use or possess with the intent to use~~
23 ~~drug paraphernalia to ingest, inhale, or otherwise introduce into the human body~~
24 ~~marijuana or possess with the intent to use drug paraphernalia to store or contain~~
25 ~~marijuana in violation of chapter 19-03.1. A person violating this subsection is guilty of~~
26 ~~an infraction.~~

27 ~~———— **SECTION 4.** Chapter 19-24.3 of the North Dakota Century Code is created and enacted as~~
28 ~~follows:~~

29 ~~———— **19-24.3-01. Definitions.**~~

30 ~~———— As used in this chapter, unless the context indicates otherwise:~~

- 1 — ~~1. "Allowable amount" means the quantity of edible marijuana products an individual may~~
2 ~~purchase during a single transaction, as determined by the health council.~~
- 3 — ~~2. "Compassion center" means a manufacturing facility or dispensary.~~
- 4 — ~~3. "Department" means the state department of health.~~
- 5 — ~~4. "Dispensary" means an entity registered by the department as a compassion center~~
6 ~~authorized to sell marijuana and edible marijuana products.~~
- 7 — ~~5. "Edible marijuana product" means a marijuana product intended to be consumed~~
8 ~~orally, including any type of food, drink, or pill.~~
- 9 — ~~6. "Manufacturing facility" means an entity registered by the department as a compassion~~
10 ~~center authorized to produce, process, and sell marijuana and edible marijuana~~
11 ~~products to a dispensary.~~
- 12 — ~~7. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant;~~
13 ~~the resin extracted from any part of the plant; and every compound, manufacture, salt,~~
14 ~~derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin~~
15 ~~extracted from any part of the plant. The term marijuana does not include hemp as~~
16 ~~defined in section 4.1-18.1-01.~~
- 17 — ~~8. "Marijuana paraphernalia" means any equipment, product, or material of any kind~~
18 ~~used, intended for use, or designed for use in planting, propagating, cultivating,~~
19 ~~growing, harvesting, manufacturing, compounding, converting, producing, processing,~~
20 ~~preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing,~~
21 ~~ingesting, inhaling, or otherwise introducing marijuana into the human body.~~
- 22 — ~~9. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount~~
23 ~~of tetrahydrocannabinol and tetrahydrocannabinolic acid in an edible marijuana~~
24 ~~product as determined by the health council.~~
- 25 — ~~10. "Producing", "produce", or "production" means the same as defined in~~
26 ~~section 19-24.1-01.~~
- 27 — **19-24.3-02. Marijuana – Edible marijuana products – Rules.**
- 28 — ~~1. The department shall implement the sale of marijuana and edible marijuana products~~
29 ~~under this chapter, including the production, processing, sale, and dispensing of~~
30 ~~marijuana and edible marijuana products.~~

1 ~~2. Except as otherwise authorized in this chapter, a person may not sell, cultivate,~~
2 ~~possess, transport, dispense, or use marijuana unless the person is authorized to do~~
3 ~~so as a compassion center or is otherwise authorized by rule adopted under this~~
4 ~~chapter.~~

5 ~~3. The health council shall adopt rules as necessary for the implementation and~~
6 ~~administration of this chapter, including the allowable maximum concentration or~~
7 ~~amount of tetrahydrocannabinol in an edible marijuana product, the production of~~
8 ~~marijuana and edible marijuana products, transportation and storage of marijuana and~~
9 ~~edible marijuana products, advertising, packaging and labeling, standards for testing~~
10 ~~facilities, inventory management, and accurate recordkeeping.~~

11 ~~4. The health council may adopt rules regarding the operation and governance of~~
12 ~~additional categories of compassion centers, including the registration of additional~~
13 ~~compassion centers in the state.~~

14 ~~5. Except as otherwise provided in section 19-24.1-12, the health council shall license~~
15 ~~additional compassion centers for purposes of implementing this chapter.~~

16 ~~6. The department shall utilize compassion centers registered under chapter 19-24.1 to~~
17 ~~implement this chapter.~~

18 ~~**19-24.3-03. Personal use of marijuana.**~~

19 ~~1. Except as otherwise provided in this chapter, an individual who is at least twenty-one~~
20 ~~years of age may use, possess, or transport up to one ounce [28.35 grams] of~~
21 ~~marijuana or the allowable amount of edible marijuana products.~~

22 ~~2. Notwithstanding section 19-03.4-03, an individual may possess marijuana~~
23 ~~paraphernalia to store, contain, or use marijuana and edible marijuana products as~~
24 ~~authorized under this chapter.~~

25 ~~**19-24.3-04. Compassion centers - Authority - Operation.**~~

26 ~~1. Notwithstanding sections 19-03.1-23, 19-03.4-03, and 19-24.1-20, during a single~~
27 ~~transaction, a dispensary may dispense up to one ounce [28.35 grams] of marijuana~~
28 ~~or edible marijuana products to an individual who is at least twenty-one years of age.~~

29 ~~2. Notwithstanding sections 19-03.1-23, 19-03.4-03, and 19-03.4-04, a manufacturing~~
30 ~~facility may grow an amount of marijuana sufficient to meet the demands of the public.~~

1 ~~3. The health council shall adopt rules regulating the growth and sale of marijuana and~~
2 ~~edible marijuana products under this section.~~

3 ~~**19-24.3-05. Possession – Motor vehicle – Restriction – Penalty.**~~

4 ~~1. An individual may not possess an open container of marijuana in a motor vehicle upon~~
5 ~~a highway or upon a public or private area to which the public has a right of access for~~
6 ~~vehicular use in this state.~~

7 ~~2. An individual who violates this section is guilty of an infraction punishable by a fine of~~
8 ~~up to fifty dollars.~~

9 ~~**19-24.3-06. Packaging – Labeling.**~~

10 ~~Any marijuana or edible marijuana product sold at a dispensary under this chapter must be~~
11 ~~packaged in opaque, resealable, child-resistant packaging. The packaging must be designed or~~
12 ~~constructed to be difficult for children under five years of age to open.~~

13 ~~**19-24.3-07. Restriction.**~~

14 ~~1. This chapter may not be construed to limit any privileges or rights of a qualifying~~
15 ~~patient or designated caregiver under chapter 19-24.1.~~

16 ~~2. This chapter does not require:~~

17 ~~a. A government medical assistance program or private insurer to reimburse a~~
18 ~~person for costs associated with the use of marijuana;~~

19 ~~b. A person in lawful possession of property to allow a guest, client, customer, or~~
20 ~~other visitor to possess or consume marijuana or edible marijuana products on or~~
21 ~~in that property; or~~

22 ~~c. A landlord to allow production or processing on rental property.~~

23 ~~2. This chapter does not prohibit an employer from disciplining an employee for~~
24 ~~possessing or consuming marijuana in the workplace or for working while under the~~
25 ~~influence of marijuana.~~

26 ~~**19-24.3-08. Limitations.**~~

27 ~~This chapter does not authorize a person to engage in, and does not prevent the imposition~~
28 ~~of any civil liability or criminal liability or other penalties for engaging in the following conduct:~~

29 ~~1. Undertaking an activity under the influence of marijuana if doing so would constitute~~
30 ~~negligence or professional malpractice.~~

31 ~~2. Possessing or consuming marijuana or edible marijuana products:~~

- 1 ~~a. On a school bus or school van that is used for school purposes;~~
- 2 ~~b. On the grounds of any public or private school;~~
- 3 ~~c. At any location while a public or private school sanctioned event is occurring at~~
- 4 ~~that location;~~
- 5 ~~d. On the grounds of a correctional facility; or~~
- 6 ~~e. On the grounds of a child care facility or licensed home day care.~~
- 7 ~~3. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2,~~
- 8 ~~23-12-10.4, 23-12-10.5, or 23-12-11.~~
- 9 ~~4. Using a combustible delivery form of marijuana under this chapter if the smoke would~~
- 10 ~~be inhaled by an individual who is under twenty one years of age.~~
- 11 ~~5. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft,~~
- 12 ~~train, or motorboat, while under the influence of marijuana.~~

13 ~~**SECTION 5. AMENDMENT.** Subsection 1 of section 39-20-01 of the North Dakota Century~~

14 ~~Code is amended and reenacted as follows:~~

- 15 ~~1. Any individual who operates a motor vehicle on a highway or on public or private~~
- 16 ~~areas to which the public has a right of access for vehicular use in this state is deemed~~
- 17 ~~to have given consent, and shall consent, subject to the provisions of this chapter, to a~~
- 18 ~~chemical test, or tests, of the blood, breath, saliva~~oral fluid~~, or urine for the purpose of~~
- 19 ~~determining the alcohol concentration or presence of other drugs, or combination~~
- 20 ~~thereof, in the individual's blood, breath, saliva~~oral fluid~~, or urine. As used in this~~
- 21 ~~chapter, the word "drug" means any drug or substance or combination of drugs or~~
- 22 ~~substances which renders an individual incapable of safely driving, and the words~~
- 23 ~~"chemical test" or "chemical analysis" mean any test to determine the alcohol~~
- 24 ~~concentration or presence of other drugs, or combination thereof, in the individual's~~
- 25 ~~blood, breath, or urine, approved by the director of the state crime laboratory or the~~
- 26 ~~director's designee under this chapter.~~

27 ~~**SECTION 6. AMENDMENT.** Section 39-20-14 of the North Dakota Century Code is~~

28 ~~amended and reenacted as follows:~~

29 ~~**39-20-14. Screening tests.**~~

- 30 ~~1. Any individual who operates a motor vehicle upon the public highways of this state is~~
- 31 ~~deemed to have given consent to submit to an onsite screening test or tests of the~~

1 individual's ~~breath or oral fluid~~ for the purpose of estimating the alcohol concentration
2 ~~or presence of drugs or substances~~ in the individual's ~~breath or oral fluid~~ upon the
3 request of a law enforcement officer who has reason to believe that the individual
4 committed a moving traffic violation or a violation under section 39-08-01 or an
5 equivalent offense, or was involved in a traffic accident as a driver, and in conjunction
6 with the violation or the accident the officer has, through the officer's observations,
7 formulated an opinion that the individual's body contains alcohol ~~or other drugs or~~
8 ~~substances that render the individual incapable of safely operating a motor vehicle.~~

9 ~~2.~~ An individual may not be required to submit to a screening test or tests of ~~breath or~~
10 ~~oral fluid~~ while at a hospital as a patient if the medical practitioner in immediate charge
11 of the individual's case is not first notified of the proposal to make the requirement, or
12 objects to the test or tests on the ground that such would be prejudicial to the proper
13 care or treatment of the patient.

14 ~~3.~~ The screening test or tests must be performed by an enforcement officer certified as a
15 chemical test operator by the director of the state crime laboratory or the director's
16 designee and according to methods and with devices approved by the director of the
17 state crime laboratory or the director's designee. The results of such screening test
18 must be used only for determining whether or not a further test shall be given under
19 the provisions of section 39-20-01. The officer shall inform the individual that North
20 Dakota law requires the individual to take the screening test to determine whether the
21 individual is under the influence of alcohol ~~or other drugs or substances~~ and that
22 refusal of the individual to submit to a screening test may result in a revocation for at
23 least one hundred eighty days and up to three years of that individual's driving
24 privileges. If such individual refuses to submit to such screening test or tests, none
25 may be given, but such refusal is admissible in a court proceeding if the individual was
26 arrested in violation of section 39-08-01 and did not take any additional chemical tests
27 requested by the law enforcement officer. Such refusal is sufficient cause to revoke
28 such individual's license or permit to drive in the same manner as provided in section
29 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as
30 provided in section 39-20-06 must be available.

1 ~~4. The director must not revoke an individual's driving privileges for refusing to submit to~~
2 ~~a screening test requested under this section if the individual provides a sufficient~~
3 ~~breath, blood, oral fluid, or urine sample for a chemical test requested under section~~
4 ~~39-20-01 for the same incident.~~

5 ~~5. No provisions of this section may supersede any provisions of chapter 39-20, nor may~~
6 ~~any provision of chapter 39-20 be construed to supersede this section except as~~
7 ~~provided herein.~~

8 ~~6. For the purposes of this section, "chemical test operator" means an individual certified~~
9 ~~by the director of the state crime laboratory or the director's designee as qualified to~~
10 ~~perform analysis for alcohol or other drugs or substances in an individual's blood,~~
11 ~~breath, oral fluid, or urine.~~

12 ~~**SECTION 7. AMENDMENT.** Subsection 12 of section 65-05-08 of the North Dakota~~
13 ~~Century Code is amended and reenacted as follows:~~

14 ~~12. The organization may not pay wage loss benefits if the wage loss is related to the use~~
15 ~~or presence of medical marijuana, edible marijuana products, or personal use of~~
16 ~~marijuana.~~

17 ~~**SECTION 8. LEGISLATIVE INTENT - RULEMAKING.** It is the intent of the sixty-seventh~~
18 ~~legislative assembly that the health council adopt any rules necessary to implement the sale of~~
19 ~~marijuana and edible marijuana products for personal use in the state by February 1, 2022.~~

20 ~~**SECTION 9. ATTORNEY GENERAL - REPORT TO LEGISLATIVE MANAGEMENT.** The~~
21 ~~attorney general shall provide a report to the legislative management during the 2021-22 interim~~
22 ~~regarding any inconsistencies in criminal penalties as a result of the passage of this Act.~~

23 **SECTION 1. AMENDMENT.** Section 19-03.1-01 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **19-03.1-01. Definitions.**

26 As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise
27 requires:

- 28 1. "Administer" means to apply a controlled substance, whether by injection, inhalation,
29 ingestion, or any other means, directly to the body of a patient or research subject by:
- 30 a. A practitioner or, in the practitioner's presence, by the practitioner's authorized
31 agent; or

- 1 b. The patient or research subject at the direction and in the presence of the
2 practitioner.
- 3 2. "Agent" means an authorized person who acts on behalf of or at the direction of a
4 manufacturer, distributor, or dispenser. It does not include a common or contract
5 carrier, public warehouseman, or employee of the carrier or warehouseman.
- 6 3. "Anabolic steroids" means any drug or hormonal substance, chemically and
7 pharmacologically related to testosterone, other than estrogens, progestins, and
8 corticosteroids.
- 9 4. "Board" means the state board of pharmacy.
- 10 5. "Bureau" means the drug enforcement administration in the United States department
11 of justice or its successor agency.
- 12 6. "Controlled substance" means a drug, substance, or immediate precursor in schedules
13 I through V as set out in this chapter.
- 14 7. "Controlled substance analog":
- 15 a. Means a substance the chemical structure of which is substantially similar to the
16 chemical structure of a controlled substance in a schedule I or II and:
- 17 (1) Which has a stimulant, depressant, or hallucinogenic effect on the central
18 nervous system which is substantially similar to or greater than the
19 stimulant, depressant, or hallucinogenic effect on the central nervous
20 system of a controlled substance in schedule I or II; or
- 21 (2) With respect to a particular individual, which the individual represents or
22 intends to have a stimulant, depressant, or hallucinogenic effect on the
23 central nervous system substantially similar to or greater than the stimulant,
24 depressant, or hallucinogenic effect on the central nervous system of a
25 controlled substance in schedule I or II.
- 26 b. Does not include:
- 27 (1) A controlled substance;
- 28 (2) Any substance for which there is an approved new drug application; or
- 29 (3) With respect to a particular individual, any substance, if an exemption is in
30 effect for investigational use, for that individual, under section 505 of the

1 Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct
2 with respect to the substance is pursuant to the exemption.

3 8. "Counterfeit substance" means a controlled substance which, or the container or
4 labeling of which, without authorization, bears the trademark, trade name, or other
5 identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer,
6 distributor, or dispenser other than the person who in fact manufactured, distributed, or
7 dispensed the substance.

8 9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one
9 person to another of a controlled substance whether or not there is an agency
10 relationship.

11 10. "Dispense" means to deliver a controlled substance to an ultimate user or research
12 subject by or pursuant to the lawful order of a practitioner, including the prescribing,
13 administering, packaging, labeling, or compounding necessary to prepare the
14 substance for that delivery.

15 11. "Dispenser" means a practitioner who dispenses.

16 12. "Distribute" means to deliver other than by administering or dispensing a controlled
17 substance.

18 13. "Distributor" means a person who distributes.

19 14. "Drug" means:

20 a. Substances recognized as drugs in the official United States pharmacopeia
21 national formulary, or the official homeopathic pharmacopeia of the United States,
22 or any supplement to any of them;

23 b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or
24 prevention of disease in individuals or animals;

25 c. Substances, other than food, intended to affect the structure or any function of
26 the body of individuals or animals; and

27 d. Substances intended for use as a component of any article specified in
28 subdivision a, b, or c. The term does not include devices or their components,
29 parts, or accessories.

1 15. ~~"Hashish" means the resin extracted from any part of the plant cannabis with or~~
2 ~~without its adhering plant parts, whether growing or not, and every compound,~~
3 ~~manufacture, salt, derivative, mixture, or preparation of the resin.~~

4 ~~16.~~ "Immediate precursor" means a substance:

- 5 a. That the board has found to be and by rule designates as being the principal
6 compound commonly used or produced primarily for use in the manufacture of a
7 controlled substance;
- 8 b. That is an immediate chemical intermediary used or likely to be used in the
9 manufacture of the controlled substance; and
- 10 c. The control of which is necessary to prevent, curtail, or limit the manufacture of
11 the controlled substance.

12 ~~17.~~ 16. "Manufacture" means the production, preparation, propagation, compounding,
13 conversion, or processing of a controlled substance, either directly or indirectly by
14 extraction from substances of natural origin, or independently by means of chemical
15 synthesis, or by a combination of extraction and chemical synthesis and includes any
16 packaging or repackaging of the substance or labeling or relabeling of its container.
17 The term does not include the preparation or compounding of a controlled substance
18 by an individual for the individual's own use or the preparation, compounding,
19 packaging, or labeling of a controlled substance:

- 20 a. By a practitioner as an incident to the practitioner's administering or dispensing of
21 a controlled substance in the course of the practitioner's professional practice; or
- 22 b. By a practitioner, or by the practitioner's authorized agent under the practitioner's
23 supervision, for the purpose of, or as an incident to, research, teaching, or
24 chemical analysis and not for sale.

25 ~~18.~~ 17. "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not;
26 the seeds thereof; the resin extracted from any part of the plant; and every compound,
27 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

28 The term does not include ~~the~~:

- 29 a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made
30 from the seeds of the plant, any other compound, manufacture, salt, derivative,
31 mixture, or preparation of mature stalks, except the resin extracted therefrom,

1 fiber, oil, or cake, or the sterilized seed of the plant which is incapable of
2 germination. ~~The term marijuana does not include hemp as defined in title 4-1.~~

3 b. Hemp as defined in chapter 4.1-18.1;

4 c. A prescription drug approved by the United States food and drug administration
5 under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355];
6 or

7 d. Adult-use cannabis products purchased, possessed, or consumed by an adult-
8 use cannabis consumer in accordance with chapter 19-24.2.

9 ~~19.18.~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by
10 extraction from substances of vegetable origin, or independently by means of chemical
11 synthesis, or by a combination of extraction and chemical synthesis:

12 a. Opium and opiate and any salt, compound, derivative, or preparation of opium or
13 opiate.

14 b. Any salt, compound, isomer, derivative, or preparation thereof which is
15 chemically equivalent or identical with any of the substances referred to in
16 subdivision a, but not including the isoquinoline alkaloids of opium.

17 c. Opium poppy and poppy straw.

18 d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves,
19 any salt, compound, isomer, derivative, or preparation thereof which is chemically
20 equivalent or identical with any of these substances, but not including
21 decocainized coca leaves or extractions of coca leaves which do not contain
22 cocaine or ecgonine.

23 ~~20.19.~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining
24 liability similar to morphine or being capable of conversion into a drug having
25 addiction-forming or addiction-sustaining liability. The term does not include, unless
26 specifically designated as controlled under section 19-03.1-02, the dextrorotatory
27 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term
28 includes its racemic and levorotatory forms.

29 ~~21.20.~~ "Opium poppy" means the plant of the species papaver somniferum L., except its
30 seeds.

- 1 | ~~22-21.~~ "Over-the-counter sale" means a retail sale of a drug or product other than a
2 | controlled, or imitation controlled, substance.
- 3 | ~~23-22.~~ "Person" means individual, corporation, limited liability company, government or
4 | governmental subdivision or agency, business trust, estate, trust, partnership or
5 | association, or any other legal entity.
- 6 | ~~24-23.~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- 7 | ~~25-24.~~ "Practitioner" means:
- 8 | a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other
9 | person licensed, registered, or otherwise permitted by the jurisdiction in which the
10 | individual is practicing to distribute, dispense, conduct research with respect to,
11 | or to administer a controlled substance in the course of professional practice or
12 | research.
- 13 | b. A pharmacy, hospital, or other institution licensed, registered, or otherwise
14 | permitted to distribute, dispense, conduct research with respect to, or to
15 | administer a controlled substance in the course of professional practice or
16 | research in this state.
- 17 | ~~26-25.~~ "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of
18 | a controlled substance.
- 19 | ~~27-26.~~ "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction
20 | made by a person, whether as principal, proprietor, agent, servant, or employee.
- 21 | ~~28-27.~~ "Scheduled listed chemical product" means a product that contains ephedrine,
22 | pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and
23 | salts of optical isomers of each chemical, and that may be marketed or distributed in
24 | the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301
25 | et seq.] as a nonprescription drug unless prescribed by a licensed physician.
- 26 | ~~29-28.~~ "State" when applied to a part of the United States includes any state, district,
27 | commonwealth, territory, insular possession thereof, and any area subject to the legal
28 | authority of the United States.
- 29 | ~~30-29.~~ "Ultimate user" means an individual who lawfully possesses a controlled substance for
30 | the individual's own use or for the use of a member of the individual's household or for

1 administering to an animal owned by the individual or by a member of the individual's
2 household.

3 **SECTION 2. AMENDMENT.** Subdivision n of subsection 5 of section 19-03.1-05 of the
4 North Dakota Century Code is amended and reenacted as follows:

5 n. (1) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained
6 in a plant of the genus Cannabis (cannabis plant), as well as synthetic
7 equivalents of the substances contained in the cannabis plant, or in the
8 resinous extractives of such plant, including synthetic substances,
9 derivatives, and their isomers with similar chemical structure and
10 pharmacological activity to those substances contained in the plant;
11 ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1;~~ such
12 as the following:

13 ~~(1)~~(a) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers.

14 Other names: Delta-9-tetrahydrocannabinol.

15 ~~(2)~~(b) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.

16 ~~(3)~~(c) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

17 (Since nomenclature of these substances is not internationally standardized,
18 compounds of these structures, regardless of numerical designation of atomic
19 positions covered.)

20 (2) Tetrahydrocannabinols does not include:

21 (a) Tetrahydrocannabinols found in hemp as defined in chapter 4.1-18.1;

22 or

23 (b) Adult-use cannabis products purchased, possessed, or consumed by
24 an adult-use cannabis consumer in accordance with chapter 19-24.2.

25 **SECTION 3. AMENDMENT.** Subsection 1 of section 19-03.1-22.2 of the North Dakota
26 Century Code is amended and reenacted as follows:

27 1. For purposes of this section:

28 a. "Chemical substance" means a substance intended to be used as a precursor in
29 the manufacture of a controlled substance or any other chemical intended to be
30 used in the manufacture of a controlled substance. Intent under this subsection

1 may be demonstrated by the substance's use, quantity, manner of storage, or
2 proximity to other precursors or to manufacturing equipment.

3 b. "Child" means an individual who is under the age of eighteen years.

4 c. "Controlled substance" means the same as that term is defined in section
5 19-03.1-01, ~~except the term does not include less than one-half ounce of~~
6 ~~marijuana.~~

7 d. "Drug paraphernalia" means the same as that term is defined in section
8 19-03.4-01.

9 e. "Prescription" means the same as that term is described in section 19-03.1-22.

10 f. "Vulnerable adult" means a vulnerable adult as the term is defined in section
11 50-25.2-01.

12 **SECTION 4. AMENDMENT.** Section 19-03.1-22.3 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

- 15 1. Except as provided in subsection 2, a person who intentionally ingests, inhales,
16 injects, or otherwise takes into the body a controlled substance, unless the substance
17 was obtained directly from a practitioner or pursuant to a valid prescription or order of
18 a practitioner while acting in the course of the practitioner's professional practice, is
19 guilty of a class A misdemeanor. ~~This subsection does not apply to ingesting, inhaling,~~
20 ~~injecting, or otherwise taking into the body marijuana.~~
- 21 2. A person who is under twenty-one years of age and intentionally ingests, inhales,
22 injects, or otherwise takes into the body a controlled substance that is marijuana or
23 tetrahydrocannabinol, unless the substance was medical marijuana obtained in
24 accordance with chapter 19-24.1, is guilty of ~~a class B misdemeanor~~ an infraction.
- 25 3. The venue for a violation of this section exists in either the jurisdiction in which the
26 controlled substance was ingested, inhaled, injected, or otherwise taken into the body
27 or the jurisdiction in which the controlled substance was detected in the body of the
28 accused.

29 **SECTION 5. AMENDMENT.** Section 19-03.1-23 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **19-03.1-23. Prohibited acts - Penalties.**

2 1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined
3 in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or
4 deliver, a controlled substance, or to deliver, distribute, or dispense a controlled
5 substance by means of the internet, but a person who violates section 12-46-24 or
6 12-47-21 may not be prosecuted under this subsection. A person who violates this
7 subsection with respect to:

8 a. A controlled substance classified in schedule I or II which is a narcotic drug, or
9 methamphetamine, is guilty of a class B felony.

10 b. Any other controlled substance classified in schedule I, II, or III, or a controlled
11 substance analog is guilty of a class B felony.

12 c. A substance classified in schedule IV, is guilty of a class C felony.

13 d. A substance classified in schedule V, is guilty of a class A misdemeanor.

14 2. A prior misdemeanor conviction under subsection 7 or a prior conviction under
15 subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under
16 subsection 1.

17 3. Except as authorized by this chapter, it is unlawful for any person to willfully, as
18 defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit
19 substance by means of the internet or any other means, or possess with intent to
20 deliver, a counterfeit substance by means of the internet or any other means, but any
21 person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this
22 subsection. Any person who violates this subsection with respect to:

23 a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B
24 felony.

25 b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.

26 c. A counterfeit substance classified in schedule V, is guilty of a class A
27 misdemeanor.

28 4. A person at least eighteen years of age who solicits, induces, intimidates, employs,
29 hires, or uses a person under eighteen years of age to aid or assist in the
30 manufacture, delivery, or possession with intent to manufacture or deliver a controlled
31 substance for the purpose of receiving consideration or payment for the manufacture

1 or delivery of any controlled substance is guilty of a class B felony. It is not a defense
2 to a violation of this subsection that the defendant did not know the age of a person
3 protected under this subsection.

4 5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or
5 a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title
6 or a law of another state or the federal government which is equivalent to an offense
7 with respect to the manufacture, delivery, or intent to deliver a controlled substance
8 under this title committed while the offender was an adult and which resulted in a plea
9 or finding of guilt must be considered a prior offense under subsection 1. The prior
10 offense must be alleged in the complaint, information, or indictment. The plea or
11 finding of guilt for the prior offense must have occurred before the date of the
12 commission of the offense or offenses charged in the complaint, information, or
13 indictment.

14 6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:

- 15 a. Serve as an agent, intermediary, or other entity that causes the internet to be
16 used to bring together a buyer and seller to engage in the delivery, distribution, or
17 dispensing of a controlled substance in a manner not authorized by this chapter;
18 or
19 b. Offer to fill or refill a prescription for a controlled substance based solely on a
20 consumer's completion of an online medical questionnaire.

21 A person who violates this subsection is guilty of a class C felony.

22 7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess
23 a controlled substance or a controlled substance analog unless the substance
24 was obtained directly from, or pursuant to, a valid prescription or order of a
25 practitioner while acting in the course of the practitioner's professional practice, or
26 except as otherwise authorized by this chapter, but any person who violates
27 section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.
28 b. Except as otherwise provided in this subsection, any person who violates this
29 subsection is guilty of a class A misdemeanor for the first offense under this
30 subsection and a class C felony for a second or subsequent offense under this
31 subsection.

1 c. If, at the time of the offense the person is in or on the real property comprising a
2 public or private elementary or secondary school or a public career and technical
3 education school, the person is guilty of a class B felony, unless the offense
4 involves marijuana.

5 d. A person ~~who violates this subsection by possessing:~~

6 ~~(1) Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty~~
7 ~~of an infraction.~~

8 ~~(2) At least one-half ounce [14.175 grams] but not more than 500 grams of~~
9 ~~marijuana is guilty of a class B misdemeanor.~~

10 ~~(3) More than 500 grams of marijuana is guilty of a class A misdemeanor.~~under
11 the age of twenty-one is in violation of this subsection by possessing:

12 (1) Marijuana:

13 (a) In an amount less than one ounce [28.35 grams] is guilty of an
14 infraction.

15 (b) At least one ounce [28.35 grams] but not more than two ounces
16 [56.70 grams] is guilty of a class B misdemeanor.

17 (c) More than two ounces [56.70 grams] but less than 500 grams is guilty
18 of a class A misdemeanor.

19 (2) Tetrahydrocannabinol:

20 (a) In an amount up to the applicable maximum amount authorized by
21 chapter 19-24.2 is guilty of an infraction.

22 (b) More than the applicable maximum amount authorized by chapter
23 19-24.2 but less than two times the applicable maximum amount
24 authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

25 (c) At least two times the applicable maximum amount authorized by
26 chapter 19-24.2 is guilty of a class A misdemeanor.

27 e. A person age twenty-one or older is in violation of this section by possessing:

28 (1) More than one ounce [28.35 grams] of marijuana but not more than two
29 ounces [56.70 grams] of marijuana is guilty of a class B misdemeanor.

30 (2) More than two ounces [56.70 grams] but less than 500 grams is guilty of a
31 class A misdemeanor.

1 (3) More than the applicable maximum amount of tetrahydrocannabinol
2 authorized by chapter 19-24.2 but less than two times the applicable
3 maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 is
4 guilty of a class B misdemeanor.

5 (4) At least two times the applicable maximum amount of tetrahydrocannabinol
6 authorized by chapter 19-24.2 authorized by chapter 19-24.2 is guilty of a
7 class A misdemeanor.

8 e.f. If an individual is sentenced to the legal and physical custody of the department
9 of corrections and rehabilitation under this subsection, the department may place
10 the individual in a drug and alcohol treatment program designated by the
11 department. Upon the successful completion of the drug and alcohol treatment
12 program, the department shall release the individual from imprisonment to begin
13 any court-ordered period of probation.

14 f.g. If the individual is not subject to any court-ordered probation, the court shall order
15 the individual to serve the remainder of the sentence of imprisonment on
16 supervised probation subject to the terms and conditions imposed by the court.

17 g.h. Probation under this subsection may include placement in another facility,
18 treatment program, or drug court. If an individual is placed in another facility or
19 treatment program upon release from imprisonment, the remainder of the
20 sentence must be considered as time spent in custody.

21 h.i. An individual incarcerated under this subsection as a result of a second probation
22 revocation is not eligible for release from imprisonment upon the successful
23 completion of treatment.

24 i.j. A person who violates this subsection regarding possession of five or fewer
25 capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or
26 controlled substance analog is guilty of a class A misdemeanor.

27 8. Except as provided by section 19-03.1-45, a court may order a person who violates
28 this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed
29 addiction counselor. The evaluation must indicate the prospects for rehabilitation and
30 whether addiction treatment is required. If ordered, the evaluation must be submitted

1 to the court before imposing punishment for a felony violation or a misdemeanor
2 violation.

- 3 9. If a person pleads guilty or is found guilty of a first offense regarding possession of
4 one ounce [28.35 grams] or less of marijuana or an amount up to the applicable
5 maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 and a
6 judgment of guilt is entered, a court, upon motion, shall seal the court record of that
7 conviction if the person is not subsequently convicted within two years of a further
8 violation of this chapter. Once sealed, the court record may not be opened even by
9 order of the court.
- 10 10. Upon successful completion of a drug court program, a person who has been
11 convicted of a felony under this section and sentenced to drug court is deemed to
12 have been convicted of a misdemeanor.
- 13 11. If a person convicted of a misdemeanor under this section is sentenced to drug court
14 and successfully completes a drug court program, the court shall dismiss the case and
15 seal the file in accordance with section 12.1-32-07.2.

16 **SECTION 6. AMENDMENT.** Subsection 1 of section 19-03.1-23.1 of the North Dakota
17 Century Code is amended and reenacted as follows:

- 18 1. A person who violates section 19-03.1-23 is subject to the penalties provided in
19 subsection 2 if:
- 20 a. The offense was committed during a school sponsored activity or was committed
21 during the hours of six a.m. to ten p.m. if school is in session, the offense
22 involved the manufacture, delivery, or possession, with intent to manufacture or
23 deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of
24 the real property comprising a preschool facility, a public or private elementary or
25 secondary school, or a public career and technical education school, the
26 defendant was at least twenty-one years of age at the time of the offense, and
27 the offense involved the delivery of a controlled substance to a minor;
- 28 b. The offense involved:
- 29 (1) Fifty grams or more of a mixture or substance containing a detectable
30 amount of heroin;

- 1 (2) Fifty grams or more of a mixture or substance containing a detectable
2 amount of:
- 3 (a) Coca leaves, except coca leaves and extracts of coca leaves from
4 which cocaine, ecgonine, and derivatives of ecgonine or their salts
5 have been removed;
- 6 (b) Cocaine, its salts, optical and geometric isomers, and salts of
7 isomers;
- 8 (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
9 (d) Any compound, mixture, or preparation that contains any quantity of
10 any of the substance referred to in subparagraphs a through c;
- 11 (3) Twenty-eight grams or more of a mixture or substance described in
12 paragraph 2 which contains cocaine base;
- 13 (4) Ten grams or more of phencyclidine or one hundred grams or more of a
14 mixture or substance containing a detectable amount of phencyclidine;
- 15 (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a
16 mixture or substance containing a detectable amount of lysergic acid
17 diethylamide;
- 18 (6) Forty grams or more of a mixture or substance containing a detectable
19 amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide or ten
20 grams or more of a mixture or substance containing a detectable amount of
21 any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide;
- 22 (7) Fifty grams or more of a mixture or substance containing a detectable
23 amount of methamphetamine;
- 24 (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a
25 mixture or substance containing a detectable amount of
26 3,4-methylenedioxy-N-methylamphetamine, C₁₁H₁₅NO₂;
- 27 (9) One hundred dosage units or one-half liquid ounce of a mixture or
28 substance containing a detectable amount of gamma-hydroxybutyrate or
29 gamma-butyrolactone or 1,4 butanediol or any substance that is an analog
30 of gamma-hydroxybutyrate;

1 (10) One hundred dosage units or one-half liquid ounce of a mixture or
2 substance containing a detectable amount of flunitrazepam; ~~or~~

3 (11) Five hundred grams or more of marijuana; or

4 (12) Tetrahydrocannabinol in an amount more than four times the applicable
5 maximum amount authorized by chapter 19-24.2; or

6 c. The defendant had a firearm in the defendant's actual possession at the time of
7 the offense.

8 **SECTION 7. AMENDMENT.** Subsection 12 of section 19-03.4-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise
11 introducing marijuana, or cocaine, ~~hashish, or hashish oil~~ into the human body,
12 including:

13 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
14 screens, permanent screens, ~~hashish heads~~, or punctured metal bowls.

15 b. Water pipes.

16 c. Carburetion tubes and devices.

17 d. Smoking and carburetion masks.

18 e. Objects, sometimes commonly referred to as roach clips, used to hold burning
19 material, for example, a marijuana cigarette, that has become too small or too
20 short to be held in the hand.

21 f. Miniature cocaine spoons and cocaine vials.

22 g. Chamber pipes.

23 h. Carburetor pipes.

24 i. Electric pipes.

25 j. Air-driven pipes.

26 k. Chillums.

27 l. Bonges.

28 m. Ice pipes or chillers.

29 **SECTION 8.** Two new subsections to section 19-03.4-02 of the North Dakota Century Code
30 are created and enacted as follows:

1 Whether the object is used by a registered qualifying patient, registered designated
2 caregiver, compassion center, or compassion center agent in accordance with chapter
3 19-24.1.

4
5 Whether the object is used by an adult-use cannabis consumer, adult-use cannabis
6 business, or adult-use cannabis business agent in accordance with chapter 19-24.2.

7 **SECTION 9. AMENDMENT.** Section 19-03.4-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.**

- 10 1. A person may not use or possess with intent to use drug paraphernalia to plant,
11 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
12 process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled
13 substance in violation of chapter 19-03.1. A person violating this subsection is guilty of
14 a class C felony if the drug paraphernalia is used, or possessed with intent to be used,
15 to manufacture, compound, convert, produce, process, prepare, test, or analyze a
16 controlled substance, other than marijuana or tetrahydrocannabinol, classified in
17 schedule I, II, or III of chapter 19-03.1.
- 18 2. A person may not use or possess with the intent to use drug paraphernalia to inject,
19 ingest, inhale, or otherwise induce into the human body a controlled substance, other
20 than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of
21 chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor.
22 If a person previously has been convicted of an offense under this title, other than an
23 offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from
24 another court in the United States, a violation of this subsection is a class C felony.
- 25 3. A person may not use or possess with intent to use drug paraphernalia to plant,
26 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
27 process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in
28 violation of chapter 19-03.1. A person violating this subsection is guilty of a class A
29 misdemeanor. An adult-use cannabis business or adult-use cannabis business agent
30 acting in accordance with chapters 19-24.1 and 19-24.2 is not subject to prosecution
31 under this subsection.

1 4. A person may not use or possess with the intent to use drug paraphernalia to ingest,
2 inhale, or otherwise introduce into the human body marijuana or tetrahydrocannabinol
3 or possess with the intent to use drug paraphernalia to store or contain marijuana or
4 tetrahydrocannabinol in violation of chapter 19-03.1. A person violating this subsection
5 is guilty of an infraction. The following persons are not subject to prosecution under
6 this subsection:

7 a. A registered qualifying patient, registered designated caregiver, compassion
8 center, or compassion center agent acting in accordance with chapter 19-24.1.

9 b. An adult-use cannabis consumer, adult-use cannabis business, or adult-use
10 cannabis business agent acting in accordance with chapter 19-24.2.

11 5. A person sentenced to the legal and physical custody of the department of corrections
12 and rehabilitation under this section may be placed in a drug and alcohol treatment
13 program as designated by the department. Upon the successful completion of the drug
14 and alcohol treatment program, the department shall release the person from
15 imprisonment to begin any court-ordered period of probation. If the person is not
16 subject to court-ordered probation, the court may order the person to serve the
17 remainder of the sentence of imprisonment on supervised probation subject to the
18 terms and conditions imposed by the court.

19 6. Probation under this section may include placement in another facility, treatment
20 program, or drug court. If the person is placed in another facility or treatment program
21 upon release from imprisonment, the remainder of the sentence must be considered
22 as time spent in custody.

23 **SECTION 10. AMENDMENT.** Section 19-03.4-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia - Penalty.**

26 1. A person may not deliver, possess with intent to deliver, or manufacture with intent to
27 deliver, drug paraphernalia, if that person knows or should reasonably know that the
28 drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest,
29 manufacture, compound, convert, produce, process, prepare, test, analyze, pack,
30 repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the
31 human body a controlled substance in violation of chapter 19-03.1. Any person

1 violating this section is guilty of a class C felony if the drug paraphernalia will be used
2 to manufacture, compound, convert, produce, process, prepare, test, inject, ingest,
3 inhale, or analyze a controlled substance, other than marijuana or
4 tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a
5 violation of this section is a class A misdemeanor.

6 2. The following persons are not subject to prosecution under this subsection:

7 a. A registered designated caregiver, compassion center, or compassion center
8 agent acting in accordance with chapter 19-24.1.

9 b. An adult-use cannabis business or adult-use cannabis business agent acting in
10 accordance with chapter 19-24.2.

11 **SECTION 11.** Chapter 19-24.2 of the North Dakota Century Code is created and enacted
12 as follows:

13 **19-24.2-01. Definitions.**

14 As used in this chapter, unless the context indicates otherwise:

15 1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of
16 gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use
17 cannabinoid concentrate intended for consumption. The maximum concentration or
18 amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid
19 capsule is ten milligrams.

20 2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or
21 extract obtained by separating cannabinoids from cannabis by a mechanical,
22 chemical, or other process.

23 3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric
24 square shape into which an adult-use cannabinoid concentrate or the dried leaves or
25 flowers of the plant of the genus cannabis is incorporated. The maximum
26 concentration or amount of tetrahydrocannabinol permitted in a serving of a an
27 adult-use cannabinoid edible product is ten milligrams and in a package is one
28 hundred milligrams.

29 4. "Adult-use cannabinoid product" means a product intended for human consumption or
30 use which contains cannabinoids.

31 a. Adult-use cannabinoid products are limited to the following forms:

- 1 (1) Adult-use cannabinoid solution;
- 2 (2) Adult-use cannabinoid capsule;
- 3 (3) Adult-use cannabinoid transdermal patch;
- 4 (4) Adult-use cannabinoid topical; and
- 5 (5) Adult-use cannabinoid edible product.
- 6 b. The term does not include:
- 7 (1) An adult-use cannabinoid concentrate by itself; or
- 8 (2) The dried leaves or flowers of the plant of the genus cannabis by itself.
- 9 5. "Adult-use cannabinoid solution" means a solution consisting of a mixture created from
- 10 an adult-use cannabinoid concentrate and other ingredients. A container holding an
- 11 adult-use cannabinoid solution for dispensing may not exceed thirty milliliters.
- 12 6. "Adult-use cannabinoid topical" means an adult-use cannabinoid product intended to
- 13 be applied to the skin or hair. The maximum concentration or amount of
- 14 tetrahydrocannabinol permitted in an adult-use cannabinoid topical is six percent.
- 15 7. "Adult-use cannabinoid transdermal patch" means an adhesive substance applied to
- 16 the skin which contains an adult-use cannabinoid product or an adult-use cannabinoid
- 17 concentrate for absorption into the bloodstream. The maximum concentration or
- 18 amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid
- 19 transdermal patch is ten milligrams.
- 20 8. "Adult-use cannabis" means the dried leaves or flowers of the plant of the genus
- 21 cannabis.
- 22 9. "Adult-use cannabis business" means a manufacturing facility or dispensary.
- 23 10. "Adult-use cannabis business agent" means a principal officer, board member,
- 24 member, manager, governor, employee, volunteer, or agent of an adult-use cannabis
- 25 business. The term does not include a lawyer representing an adult-use cannabis
- 26 business in civil or criminal litigation or in an adversarial administrative proceeding.
- 27 11. "Adult-use cannabis consumer" means in individual, twenty-one years of age or older,
- 28 who purchases approved adult-use cannabis products for personal use, but not for
- 29 resale to others.
- 30 12. "Adult-use cannabis product" means adult-use cannabis, an adult-use cannabinoid
- 31 concentrate, or adult-use cannabinoid product.

- 1 13. "Cannabinoid" means a chemical compound that is one of the active constituents of
2 cannabis.
- 3 14. "Cannabis" is a genus of flowering plants within the Cannabaceae family and means
4 all parts of the plant, whether growing or not; the seeds of the plant; the resin
5 extracted from any part of the plant; and every compound, manufacturer, salt,
6 derivative, mixture, or preparation of the plant, its seeds or resin. The term does not
7 include:
- 8 a. Hemp regulated under chapter 4.1-18.1; or
- 9 b. A prescription drug approved by the United States food and drug administration
10 under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
- 11 15. "Cannabis waste" means unused, surplus, returned, or out-of-date adult-use cannabis
12 products; recalled adult-use cannabis products; unused cannabis; or plant debris of
13 the plant of the genus cannabis, including dead plants and all unused plant parts and
14 roots.
- 15 16. "Cardholder" means an adult-use cannabis business agent who has been issued and
16 possesses a valid registry identification card.
- 17 17. "Department" means the state department of health.
- 18 18. "Dispensary" means an entity registered by the department as an adult-use cannabis
19 business authorized to sell adult-use cannabis products.
- 20 19. "Enclosed and locked facility" means a closet, room, greenhouse, building, or other
21 enclosed area equipped with locks or other security devices that permit access limited
22 to individuals authorized under this chapter or rules adopted under this chapter.
- 23 20. "Manufacturing facility" means an entity registered by the department as an adult-use
24 cannabis business authorized to produce and process cannabis and to sell adult-use
25 cannabis products to a dispensary.
- 26 21. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount
27 of tetrahydrocannabinol and tetrahydrocannabinolic acid in an adult-use cannabinoid
28 concentrate or an adult-use cannabinoid product.
- 29 22. "Owner" means an individual or an organization with an ownership interest in an
30 adult-use cannabis business.

1 23. "Ownership interest" means an aggregate ownership interest of five percent or more in
2 an adult-use cannabis business, unless such interest is solely a security, lien, or
3 encumbrance, or an individual that will be participating in the direction, control, or
4 management of the adult-use cannabis business.

5 24. "Processing" or "process" means the compounding or conversion of cannabis into an
6 adult-use cannabinoid concentrate or adult-use cannabinoid product.

7 25. "Producing", "produce", or "production" mean the planting, cultivating, growing,
8 trimming, or harvesting of cannabis or the drying of the leaves or flowers of cannabis.

9 26. "Registration certificate" means written authorization provided by the department
10 under this chapter permitting an adult-use cannabis business to engage in a specified
11 activity authorized pursuant to this chapter.

12 27. "Registry identification card" means a document issued by the department which
13 identifies an individual as a registered adult-use cannabis business agent.

14 28. "School" means an institution of learning and education especially for children, the
15 collective body of students under instruction in an institution of learning, and a group of
16 individuals adhering to the same philosophy or system of beliefs.

17 29. "Substantial corporate change" means:

18 a. For a corporation, a change of ten percent or more of the officers or directors, or
19 a transfer of ten percent or more of the stock of such corporation, or an existing
20 stockholder obtaining ten percent or more of the stock of the corporation;

21 b. For a limited liability company, a change of ten percent or more of the managing
22 members of the company, or a transfer of ten percent or more of the ownership
23 interest in the company, or an existing member obtaining a cumulative of ten
24 percent or more of the ownership interest in the company; or

25 c. For a partnership, a change of ten percent or more of the managing partners of
26 the partnership, or a transfer of ten percent or more of the ownership interest in
27 the partnership, or an existing member obtaining a cumulative of ten percent or
28 more of the ownership interest in the partnership.

29 30. "Verification system" means the system maintained by the department for verification
30 of registry identification cards.

19-24.2-02. Adult-use cannabis program.

The department shall establish and implement an adult-use cannabis program to allow for the production and processing of cannabis and the sale of adult-use cannabis products to an individual who is twenty-one years of age and older, subject to the provisions of this chapter. A person may not produce, process, sell, possess, consume, transport, or transfer cannabis or adult-use cannabis products unless the person is authorized to do so in accordance with this chapter or by rule adopted pursuant to this chapter.

19-24.2-03. Adult-use cannabis business.

1. A person may not process, produce, or transfer adult-use cannabis products or otherwise act as an adult-use cannabis business in this state unless the person is registered as an adult-use cannabis business.

2. As of July 1, 2023, the department may not register more than:

a. Seven adult-use cannabis businesses with the sole purpose of operating as a manufacturing facility; and

b. Eighteen adult-use cannabis businesses with the sole purpose of operating as a dispensary.

3. An adult-use cannabis business registered under this chapter may not sell adult-use cannabis products to adult-use cannabis consumers until July 1, 2022.

4. An adult-use cannabis business registered under this chapter shall provide registered qualifying patients and registered designated caregivers access to usable marijuana in accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all requirements in chapter 19-24.1.

5. The department shall establish an open application period for the submission of adult-use cannabis business applications. At the completion of the open application period, the department shall review each complete application using a competitive process established in accordance with rules adopted under this chapter and shall determine which applicants to register as adult-use cannabis businesses.

6. If the department revokes or does not renew an adult-use cannabis business registration certificate, the department may establish an open application period for the submission of adult-use cannabis business applications.

1 7. The department of commerce may not certify an adult-use cannabis business as a
2 primary sector business.

3 **19-24.2-04. Adult-use cannabis business - Authority - Ownership.**

4 1. The activities of a manufacturing facility are limited to producing, processing, and
5 related activities, including acquiring, possessing, storing, transferring, and
6 transporting cannabis and adult-use cannabis products, for the sole purpose of selling
7 adult-use cannabis products to a dispensary.

8 2. The activities of a dispensary are limited to purchasing adult-use cannabis products
9 from a manufacturing facility and related activities, including storing, delivering,
10 transferring, and transporting adult-use cannabis products, for the sole purpose of
11 dispensing adult-use cannabis products to adult-use cannabis consumers.

12 3. The activities of a dispensary includes providing education material and selling
13 supplies related to the consumption and storage of adult-use cannabis products. A
14 dispensary may sell only supplies related to the consumption and storage of adult-use
15 cannabis products to an adult-use cannabis consumer. All education material and
16 supplies related to the consumption and storage of adult-use cannabis products are
17 subject to prior department approval.

18 4. An individual or an organization may not hold an ownership interest in:

19 a. More than one manufacturing facility.

20 b. More than four dispensaries.

21 c. More than one dispensary within a twenty-mile [32.19 kilometers] radius of
22 another dispensary.

23 5. A manufacturing facility and dispensary may not enter an agreement under which a
24 dispensary agrees to limit purchases or sales of adult-use cannabis products to one
25 manufacturing facility.

26 **19-24.2-05. Adult-use cannabis business - Application.**

27 1. The department shall establish forms for an applicant to be registered as an adult-use
28 cannabis business. For an adult-use cannabis business registration application to be
29 complete and eligible for review, the applicant shall submit to the department:

30 a. A nonrefundable application fee, not to exceed five thousand dollars, made
31 payable to the "State Department of Health".

- 1 b. The legal name, articles of incorporation or articles of organization, and bylaws or
2 operating agreement of the proposed adult-use cannabis business applicant.
- 3 c. Evidence of the proposed adult-use cannabis business applicant's registration
4 with the secretary of state and certificate of good standing.
- 5 d. The physical address of the proposed location of the proposed adult-use
6 cannabis business and:
- 7 (1) Evidence of approval from local officials as to the proposed adult-use
8 cannabis business applicant's compliance with local zoning laws for the
9 physical address to be used by the proposed cannabis business; and
- 10 (2) Evidence the physical address of the proposed adult-use cannabis business
11 is not located within one thousand feet [304.80 meters] of a property line of
12 a pre-existing public or private school.
- 13 e. For a manufacturing facility applicant, a description of the enclosed and locked
14 facility that would be used in the production and processing of cannabis,
15 including steps that will be taken to ensure the production and processing is not
16 visible from the street or other public areas.
- 17 f. The name, address, and date of birth of each principal officer and board member,
18 or of each member-manager, manager, or governor, of the proposed adult-use
19 cannabis business applicant and verification each officer and board member, or
20 each member-manager, manager, or governor, has consented to a criminal
21 history record check conducted under section 12-60-24.
- 22 g. For each of the proposed adult-use cannabis business applicant's principal
23 officers and board members, or for each of the proposed adult-use cannabis
24 business applicant's member-managers, managers, or governors, a description
25 of that individual's relevant experience, including training or professional licensing
26 related to medicine, pharmaceuticals, natural treatments, botany, food science,
27 food safety, production, processing, and the individual's experience running a
28 business entity.
- 29 h. A description of proposed security and safety measures.
- 30 i. An example of the design and security features of adult-use cannabis product
31 containers.

- 1 j. A complete operations manual.
- 2 k. A description of the plans for making usable marijuana available on an affordable
3 basis to registered qualifying patients with limited financial resources in
4 accordance with chapter 19-24.1.
- 5 l. A list of all individuals and business entities having direct or indirect authority over
6 the management or policies of the proposed adult-use cannabis business
7 applicant.
- 8 m. A list of all individuals and business entities having an ownership interest in the
9 proposed adult-use cannabis business applicant, whether direct or indirect, and
10 whether the interest is in profits, land, or building, including owners of any
11 business entity that owns all or part of the land or building.
- 12 n. The identity of any creditor holding a security interest in the proposed adult-use
13 cannabis business premises.
- 14 2. The department is not required to review an application submitted under this section
15 unless the department determines the application is complete. The criteria considered
16 by the department in reviewing an application must include:
- 17 a. The suitability of the proposed adult-use cannabis business location, including
18 compliance with any local zoning laws, and the geographic convenience to
19 access adult-use cannabis businesses for adult-use consumers throughout the
20 state;
- 21 b. The character and relevant experience of the principal officers and board
22 members, or of the member-managers, managers, or governors, including
23 training or professional licensing and business experience;
- 24 c. The applicant's plan for operations and services, including staffing and training
25 plans, whether the applicant has sufficient capital to operate, and the applicant's
26 ability to provide an adequate supply of adult-use cannabis products and usable
27 marijuana as defined in chapter 19-24.1.
- 28 d. The sufficiency of the applicant's plans for recordkeeping;
- 29 e. The sufficiency of the applicant's plans for safety, security, and the prevention of
30 diversion, including the proposed location and security devices employed;

1 f. The applicant's plan for making usable marijuana, as defined in chapter 19-24.1,
2 available on an affordable basis to registered qualifying patients with limited
3 financial resources;

4 g. The applicant's plan for safe and accurate packaging and labeling of adult-use
5 cannabis products; and

6 h. The applicant's plans for testing adult-use cannabis products and cannabis.

7 3. Following completion of the review under subsection 2, the department shall select the
8 applicants eligible for registration.

9 **19-24.2-06. Adult-use cannabis business - Registration.**

10 1. Upon receiving notification by the department that an adult-use cannabis business
11 application is eligible for registration, the applicant shall submit all of the following
12 items to the department to qualify for registration:

13 a. A certification fee, made payable to the "State Department of Health", in an
14 amount not to exceed ninety thousand dollars for a dispensary and one hundred
15 ten thousand dollars for a manufacturing facility.

16 b. A financial assurance or security bond to ensure the protection of the public
17 health and safety and the environment in the event of abandonment, default, or
18 other inability or unwillingness to meet the requirements of this chapter.

19 c. The physical address of the proposed adult-use cannabis business; confirmation
20 the information in the application regarding the physical location of the proposed
21 adult-use cannabis business has not changed, and if the information has
22 changed the department shall determine whether the new information meets the
23 requirements of this chapter; and a current certificate of occupancy, or equivalent
24 document, to demonstrate compliance with the provisions of state and local fire
25 code for the physical address of the proposed adult-use cannabis business. It is
26 not necessary for an applicant to resubmit any information provided in the initial
27 application unless there has been a change in that information.

28 d. An update to previously submitted information, including information about
29 adult-use cannabis business agents.

30 2. If an applicant complies with subsection 1, the department shall issue the applicant a
31 registration certificate.

19-24.2-07. Adult-use cannabis business - Renewal.

1. An adult-use cannabis business registration certificate expires two years after issuance. An adult-use cannabis business may submit a renewal application at any time beginning ninety calendar days before the expiration of the registration certificate. An adult-use cannabis business shall submit a renewal application a minimum of sixty calendar days before the expiration of the registration certificate to avoid suspension of the certificate.

2. The department shall approve an adult-use cannabis business's renewal application within sixty calendar days of submission if:

a. The adult-use cannabis business submits a renewal fee, in the amount not to exceed ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility, which the department shall refund if the department rejects the renewal application;

b. The adult-use cannabis business submits a complete renewal application;

c. The department has at no time suspended the adult-use cannabis business's registration for violation of this chapter or chapter 19-24.1;

d. Inspections conducted under this chapter do not raise any serious concerns about the continued operation of the adult-use cannabis business; and

e. The adult-use cannabis business continues to meet all the requirements for the operation of an adult-use cannabis business as set forth in this chapter, chapter 19-24.1, and rules adopted under this chapter.

3. If an adult-use cannabis business does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the adult-use cannabis business with written notice of the determination. If an adult-use cannabis business's certificate is not renewed, the adult-use cannabis business shall dispose of all cannabis and adult-use cannabis products in accordance with rules adopted under this chapter.

19-24.2-08. Adult-use cannabis business - Registration certificates.

A registration certificate authorizing the operation of an adult-use cannabis must include:

1. The name and address of the adult-use cannabis business;

1 2. Whether the type of adult-use cannabis business is a manufacturing facility or
2 dispensary;

3 3. A unique license number issued by the department; and

4 4. Any other information deemed necessary by the department.

5 **19-24.2-09. Adult-use cannabis business - Notification of changes.**

6 1. Upon application of an adult-use cannabis business to the department, a registration
7 certificate of an adult-use cannabis business may be amended to authorize a change
8 in the authorized physical location of the adult-use cannabis business, or to amend the
9 ownership or organizational structure of the adult-use cannabis business with the
10 registration certificate. An adult-use cannabis business shall provide the department a
11 written notice of any change described under this section at least sixty calendar days
12 before the proposed effective date of the change.

13 2. A registration certificate authorizing the operation of an adult-use cannabis business is
14 void upon a change in ownership, substantial corporate change, change in location, or
15 discontinued operation, without prior approval of the department. The health council
16 may adopt rules allowing for certain types of changes in ownership without the need
17 for prior written approval from the department.

18 3. The department shall authorize the use of additional structures located within five
19 hundred feet [152.40 meters] of the location described in the original application,
20 unless the department makes an affirmative finding the use of additional structures
21 would jeopardize public health or safety or would result in the cannabis business being
22 within one thousand feet [304.80 meters] of a property line of a pre-existing public or
23 private school. The department may waive all or part of the required advance notice to
24 address emergent or emergency situations.

25 **19-24.2-10. Adult-use cannabis business - Agents - Registry identification cards.**

26 1. Upon issuance of an adult-use cannabis business registry certificate, the department
27 shall issue a registry identification card to each qualified adult-use cannabis business
28 agent associated with the adult-use cannabis business.

29 2. To qualify to be issued a registry identification card, each adult-use cannabis business
30 agent must be at least twenty-one years of age and shall submit all of the following
31 registry identification card application material to the department:

- 1 a. A photographic copy of the agent's department-approved identification. The agent
2 shall make the identification available for inspection and verification by the
3 department.
- 4 b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
- 5 c. A written and signed statement from an officer or executive staff member of the
6 adult-use cannabis business stating the applicant is associated with the adult-use
7 cannabis business and the capacity of the association.
- 8 d. The name, address, and telephone number of the agent.
- 9 e. The name, address, and telephone number of the adult-use cannabis business
10 with which the agent is associated.
- 11 f. The agent's signature and the date.
- 12 g. A nonrefundable application or renewal fee in the amount of two hundred dollars.
- 13 3. Each adult-use cannabis business agent shall consent to a criminal history record
14 check conducted under section 12-60-24 to demonstrate compliance with the eligibility
15 requirements.
- 16 a. All applicable fees associated with the required criminal history record checks
17 must be paid by the adult-use cannabis business or the agent.
- 18 b. A criminal history record check must be performed upon initial application and
19 biennially upon renewal. An adult-use cannabis business agent shall consent to a
20 criminal history record check at any time the department determines necessary.
- 21 c. An individual convicted of a drug-related misdemeanor offense within the
22 five-year period before the date of application or a felony offense is prohibited
23 from being an adult-use cannabis business agent.
- 24 4. The department shall notify the adult-use cannabis business in writing of the purpose
25 for denying an adult-use cannabis business agent application for a registry
26 identification card. The department shall deny an application if the agent fails to meet
27 the registration requirements or to provide the information required, or if the
28 department determines the information provided is false. The cardholder may appeal a
29 denial or revocation of a registry identification card to the district court of Burleigh
30 County. The court may authorize the cardholder to appear by reliable electronic
31 means.

1 5. The department shall issue an adult-use cannabis business agent a registry
2 identification card within thirty calendar days of approval of an application.

3 6. Within ten calendar days of a change in the cardholder's name or address or
4 knowledge of a change that would render the adult-use cannabis business agent no
5 longer eligible to be a cardholder, an adult-use cannabis business agent with a registry
6 identification card shall notify the department in a manner prescribed by the
7 department.

8 7. If an adult-use cannabis business agent loses the agent's registry identification card,
9 that agent shall notify the department in writing within twenty-four hours of becoming
10 aware the card has been lost.

11 8. If a cardholder notifies the department of items listed in this section but the nature of
12 the item reported results in the cardholder remaining eligible, the department may
13 issue the cardholder a new registry identification card with a new random ten-digit
14 alphanumeric identification number within twenty calendar days of approving the
15 updated information and the cardholder shall pay a fee, not to exceed twenty-five
16 dollars. If a cardholder notifies the department of an item that results in the cardholder
17 being ineligible, the registry identification card becomes void immediately.

18 9. An adult-use cannabis business shall notify the department in writing within two
19 calendar days of the date an adult-use cannabis business agent ceases to work for or
20 be associated with the adult-use cannabis business. Upon receipt of the notification,
21 that individual's registry identification card is void.

22 10. The registry identification card of an adult-use cannabis business agent expires one
23 year after issuance or upon the termination of the adult-use cannabis business's
24 registration certificate, whichever occurs first. To prevent interruption of possession of
25 a valid registry identification card, an adult-use cannabis business agent shall renew a
26 registry identification card by submitting a complete renewal application no fewer than
27 forty-five calendar days before the expiration date of the existing registry identification
28 card.

29 **19-24.2-11. Registry identification card - Nontransferable.**

30 A registry identification card of an adult-use cannabis business agent is not transferable, by
31 assignment or otherwise, to another person. If a person attempts to transfer a card in violation

1 of this section, the registry identification card is void and the person is prohibited from all
2 privileges provided under this chapter.

3 **19-24.2-12. Registry identification card.**

4 1. The registry identification card of an adult-use cannabis business agent must include:

5 a. The name of the cardholder;

6 b. The cardholder's affiliated adult-use cannabis business;

7 c. The date of issuance and expiration date;

8 d. A random ten-digit alphanumeric identification number containing at least four
9 numbers and at least four letters which is unique to the cardholder;

10 e. A photograph of the cardholder; and

11 f. The phone number or website address at which the card can be verified.

12 2. Except as otherwise provided in this section or rule adopted under this chapter, a
13 registry identification card expiration date is one year after the date of issuance.

14 **19-24.2-13. Adult-use cannabis business - Adult-use cannabis agents - Suspension -**
15 **Revocation.**

16 1. The department may suspend or revoke the registry identification card of an adult-use
17 cannabis business agent or a registration certificate of an adult-use cannabis business
18 for a material misstatement by an applicant in an application or renewal.

19 2. The department may suspend or revoke a registry identification card of an adult-use
20 cannabis business agent or registration certificate of an adult-use cannabis business
21 for a violation of this chapter or rules adopted under this chapter.

22 3. If an adult-use cannabis business agent or an adult-use cannabis business sells or
23 otherwise transfers cannabis or adult-use cannabis products to a person not
24 authorized to possess cannabis or adult-use cannabis products under this chapter, the
25 department may suspend or revoke the registry identification card of the adult-use
26 cannabis business agent or the registration certificate of the adult-use cannabis
27 business, or both.

28 4. If an adult-use cannabis business agent or an adult-use cannabis business sells or
29 otherwise transfers cannabis or adult-use cannabis products in a form not authorized
30 under this chapter or chapter 19-24.1, the department may suspend or revoke the

1 registry identification card of the adult-use cannabis business agent or the registration
2 certificate of the adult-use cannabis business, or both.

3 5. The department shall provide written notice of suspension or revocation of a registry
4 identification card or registration certificate.

5 a. A suspension may not be for a period longer than six months.

6 b. A manufacturing facility may continue to produce, process, and possess cannabis
7 and adult-use cannabis products during a suspension, but may not transfer or
8 sell adult-use cannabis products.

9 c. A dispensary may continue to possess adult-use cannabis products during a
10 suspension, but may not purchase or transfer adult-use cannabis products.

11 d. An adult-use cannabis business agent or adult-use cannabis business may
12 appeal a suspension or revocation of a registry identification card or registration
13 certificate to the district court of Burleigh County. The court may authorize the
14 adult-use cannabis business agent or adult-use cannabis business to appear by
15 reliable electronic means.

16 6. If the department revokes a registry identification card of an adult-use cannabis
17 business agent under this chapter, the adult-use cannabis business agent is
18 disqualified from further participation under this chapter.

19 **19-24.2-14. Adult-use cannabis business - Adult-use cannabis business agents -**
20 **Violations - Penalties.**

21 1. An adult-use cannabis business agent or adult-use cannabis business that fails to
22 provide a notice as required under this chapter shall pay to the department a fee in an
23 amount established by the department, not to exceed one hundred fifty dollars.

24 2. In addition to any other penalty applicable in law, a manufacturing facility or an
25 adult-use cannabis business agent of a manufacturing facility is guilty of a class B
26 felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis
27 products in any form, to a person other than a dispensary, or for intentionally selling or
28 otherwise transferring cannabis in any form other than adult-use cannabis products, to
29 a dispensary.

30 3. In addition to any other penalty applicable in law, a dispensary or an adult-use
31 cannabis business agent of a dispensary for intentionally selling or otherwise

1 transferring adult-use cannabis products, to an individual who is under twenty-one
2 years of age, in a form not allowed under this chapter, or in an amount that would
3 cause the adult-use cannabis consumer to purchase or possess more than the
4 amount of adult-use cannabis products authorized by this chapter is guilty of a class B
5 felony.

6 4. In addition to any other penalty applicable in law, a dispensary or an adult-use
7 cannabis business agent of a dispensary which intentionally sells or otherwise
8 transfers paraphernalia, to an individual who is under twenty-one years of age, or in a
9 form not allowed under this chapter is guilty of a class A misdemeanor. A dispensary or
10 an adult-use cannabis business agent is not subject to prosecution under this
11 subsection for selling paraphernalia to a registered qualifying patient who is nineteen
12 years of age or older under chapter 19-24.1.

13 5. In addition to any other penalty applicable in law, an adult-use cannabis business or
14 an adult-use cannabis business agent that intentionally sells or otherwise transfers
15 adult-use cannabis products in a form not allowed under this chapter is guilty of a
16 class B felony.

17 6. An adult-use cannabis business or an adult-use cannabis business agent that
18 knowingly submits false records or documentation required by the department to
19 certify an adult-use cannabis business under this chapter is guilty of a class C felony.

20 7. In addition to any other penalty applicable in law, if an adult-use cannabis business
21 violates this chapter the department may fine the adult-use cannabis business up to
22 one thousand dollars per violation, per day, and upon subsequent violations a fine not
23 to exceed five thousand dollars per violation, per day.

24 8. In addition to any other penalty applicable in law, an adult-use cannabis consumer
25 who intentionally sells or otherwise transfers adult-use cannabis products, to an
26 individual who is under twenty-one years of age, is guilty of a class B felony. An
27 individual convicted under this subsection is disqualified from further participation
28 under this chapter.

29 9. An individual who knowingly submits false records or documentation required by the
30 department to receive an adult-use cannabis business agent registry identification

1 card is guilty of a class A misdemeanor. An individual convicted under this subsection
2 may not continue to be affiliated with an adult-use cannabis business.

3 **19-24.2-15. Adult-use cannabis business - Transfer - Sale.**

4 1. An adult-use cannabis business shall comply with the transfer and sale requirements
5 of this section.

6 2. Design and security features of adult-use cannabis products containers must be in
7 accordance with rules adopted under this chapter.

8 3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing
9 facility may not transfer or sell cannabis or adult-use cannabis products. A
10 manufacturing facility or an adult-use cannabis business agent of a manufacturing
11 facility may sell adult-use cannabis products to a dispensary.

12 4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell
13 or provide adult-use cannabis products to:

14 a. An individual under twenty-one years of age, unless the individual is a registered
15 qualifying patient and the sale or dispensing is in accordance with chapter
16 19-24.1; or

17 b. An adult-use cannabis consumer in an amount that would cause the adult-use
18 cannabis consumer to purchase or possess more adult-use cannabis products
19 than permitted by this chapter.

20 5. Before selling or providing an adult-use cannabis product to an individual, a
21 dispensary or an adult-use cannabis business agent of the dispensary shall verify:

22 a. The age of the individual by requiring the individual to produce one of the
23 following pieces of identification:

24 (1) The individual's passport, issued by the United States or a foreign
25 government;

26 (2) The individual's driver's license, issued by the state or another state of the
27 United States;

28 (3) An identification card issued by the state;

29 (4) A United States military identification card;

30 (5) An identification card issued by a federally recognized Indian tribe; or

1 (6) Any other identification card issued by a state or territory of the United
2 States which bears a picture of the individual, the name of the individual, the
3 individual's date of birth, and a physical description of the individual.

4 b. The purchase history of the adult-use cannabis consumer using the department-
5 approved information technology system to ensure the adult-use cannabis
6 consumer does not purchase more than the amount of adult-use cannabis
7 products authorized by this chapter.

8 6. The health council may adopt rules requiring a dispensary to use an age verification
9 scanner or any other equipment used to verify the age of an individual for the purpose
10 of ensuring that the dispensary does not sell adult-use cannabis products to an
11 individual who is under twenty-one years of age. Information obtained under this
12 section may not be retained after verifying the age of an individual and may not be
13 used for any purpose other than verifying the age of an individual.

14 **19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.**

15 The maximum amount an adult-use cannabis consumer is authorized to purchase for:

16 1. The first day of a calendar month through the fifteenth day of the same calendar
17 month:

18 a. Twenty-one grams of adult-use cannabis;

19 b. One gram of adult-use cannabinoid concentrates; and

20 c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use
21 cannabinoid products.

22 2. The sixteenth day of the calendar month through the last day of the same calendar
23 month:

24 a. Twenty-one grams of adult-use cannabis;

25 b. One gram of adult-use cannabinoid concentrates; and

26 c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use
27 cannabinoid products.

28 **19-24.2-17. Maximum possession amount for adult-use cannabis consumer.**

29 1. It is unlawful for an adult-use cannabis consumer to possess more than the following:

30 a. One ounce [28.35 grams] of adult-use cannabis;

31 b. One and one-half grams of an adult use cannabinoid concentrate; and

1 c. Four hundred milligrams of total tetrahydrocannabinol in the form of an adult-use
2 cannabinoid product.

3 2. An adult-use cannabis consumer who possesses more than the maximum amount of
4 adult-use cannabis products authorized by this chapter is subject to prosecution under
5 chapter 19-03.1.

6 **19-24.2-18. Adult-use cannabis business - Inspection.**

7 1. An adult-use cannabis business is subject to random inspection by the department.
8 During an inspection, the department may review the records of the adult-use
9 cannabis business, including the adult-use cannabis business's financial, inventory,
10 and sales records.

11 2. The department shall conduct inspections of adult-use cannabis businesses to ensure
12 compliance with this chapter and chapter 19-24.1. The department shall conduct
13 inspections of manufacturing facilities for the presence of contaminants. The
14 department shall select a certified laboratory to conduct random quality sampling
15 testing in accordance with rules adopted under this chapter. An adult-use cannabis
16 business shall pay the cost of all random quality sampling testing.

17 3. The provisions of chapter 54-44.4 do not apply to the selection of a certified laboratory
18 required by this chapter.

19 **19-24.2-19. Adult-use cannabis business - Pesticide testing.**

20 A manufacturing facility shall test cannabis at a manufacturing facility for the presence of
21 pesticides. If a cannabis test indicates the presence of a pesticide, the manufacturing facility
22 immediately shall report the test result to the department and to the agriculture commissioner.
23 Upon the order of the department or agriculture commissioner, the manufacturing facility
24 immediately shall destroy all affected or contaminated cannabis and adult-use cannabis
25 products inventory in accordance with rules adopted under this chapter and shall certify to the
26 department and to the agriculture commissioner that all affected or contaminated inventory has
27 been destroyed.

28 **19-24.2-20. Adult-use cannabis business - Cannabis plant.**

29 1. A manufacturing facility may have no more than ten thousand plants. For every five
30 hundred plants in excess of one thousand plants that a manufacturing facility
31 possesses, the manufacturing facility shall pay the department an additional

1 certification fee of ten thousand dollars. This fee is due at the time of increase and
2 again at renewal of the adult-use cannabis business registration certificate.

3 2. A dispensary may not possess more than three thousand five hundred ounces [99.22
4 kilograms] of adult-use cannabis products at any time, regardless of formulation.

5 3. The health council shall adopt rules to allow a manufacturing facility to possess no
6 more than an additional fifty plants for the exclusive purpose of department-authorized
7 research and development related to production and processing. These plants are not
8 counted in a manufacturing facility possession amount and are not subject to an
9 additional fee.

10 **19-24.2-21. Adult-use cannabis business - Security and safety.**

11 1. In compliance with rules adopted under this chapter, an adult-use cannabis business
12 shall implement appropriate security and safety measures to deter and prevent the
13 unauthorized entrance to areas containing cannabis and adult-use cannabis products
14 and to prevent the theft of cannabis and adult-use cannabis products.

15 2. An adult-use cannabis business shall limit entry to an area in which production or
16 processing takes place or in which cannabis or adult-use cannabis products are held
17 and access is limited to authorized personnel.

18 3. An adult-use cannabis business must have a fully operational security alarm system at
19 the authorized physical address which includes an electrical support backup system
20 for the alarm system to provide suitable protection against theft and diversion.

21 4. An adult-use cannabis business shall maintain documentation in an auditable form for:

22 a. All maintenance inspections and tests conducted under this section, and any
23 servicing, modification, or upgrade performed on the security alarm system;

24 b. An alarm activation or other event that requires response by public safety
25 personnel; and

26 c. Any breach of security.

27 **19-24.2-22. Adult-use cannabis business - Inventory control.**

28 1. An adult-use cannabis business shall comply with the inventory control requirements
29 provided under this section and rules adopted under this chapter.

30 a. A manufacturing facility shall:

1 (1) Employ a bar coding inventory control system to track batch, strain, and
2 amounts of cannabis and adult-use cannabis products in inventory and to
3 track amounts of adult-use cannabis products sold to dispensaries; and

4 (2) Host a secure computer interface to transfer inventory amounts and
5 dispensary purchase information to the department.

6 b. A dispensary shall:

7 (1) Employ a bar coding inventory control system to track batch, strain, and
8 amounts of adult-use cannabis products in inventory and to track amounts
9 sold to adult-use cannabis consumers; and

10 (2) Host a secure computer interface to transfer inventory amounts and
11 adult-use cannabis consumer purchase information to the department.

12 2. An adult-use cannabis business shall store the adult-use cannabis business's
13 cannabis and adult-use cannabis products in an enclosed and locked facility with
14 adequate security, in accordance with rules adopted under this chapter.

15 3. An adult-use cannabis business shall conduct inventories of cannabis and adult-use
16 cannabis products at the authorized location at the frequency and in the manner
17 provided by rules adopted under this chapter. If an inventory results in the
18 identification of a discrepancy, the adult-use cannabis business immediately shall
19 notify the department and appropriate law enforcement authorities within seventy-two
20 hours. An adult-use cannabis business shall document each inventory conducted by
21 the adult-use cannabis business.

22 4. The provisions of chapter 54-44.4 do not apply to the selection of the information
23 technology system selected by the department.

24 **19-24.2-23. Adult-use cannabis business - Operating manual - Training.**

25 1. An adult-use cannabis business shall maintain a current copy of the operating manual
26 of the adult-use cannabis business which meets the requirements of rules adopted
27 under this chapter.

28 2. An adult-use cannabis business shall develop, implement, and maintain on the
29 premises an onsite training curriculum or shall enter contractual relationships with
30 outside resources capable of meeting adult-use cannabis business agent training
31 needs.

1 **19-24.2-24. Adult-use cannabis business - Bylaws and operating agreements.**

2 As part of the initial application of a proposed adult-use cannabis business, the applicant
3 shall provide to the department a current copy of the applicant's bylaws or operating agreement.
4 Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the
5 bylaws or operating agreement in accordance with this chapter. In addition to any other
6 requirements, the bylaws or operating agreement must include the ownership or management
7 structure of the adult-use cannabis business; the composition of the board of directors, board of
8 governors, member-managers, or managers; and provisions relative to the disposition of
9 revenues and earnings.

10 **19-24.2-25. Adult-use cannabis business - Retention of and access to records and**
11 **reports.**

12 An adult-use cannabis business shall keep detailed financial reports of proceeds and
13 expenses. An adult-use cannabis business shall maintain all inventory, sales, and financial
14 records in accordance with generally accepted accounting principles. The adult-use cannabis
15 business shall maintain all reports and records required under this section for a period of seven
16 years. An adult-use cannabis business shall allow the department, or an audit firm contracted
17 by the department, access at all times to all books and records kept by the adult-use cannabis
18 business.

19 **19-24.2-26. Adult-use cannabis business - Recordkeeping - Adult-use cannabis**
20 **business agents - Registry identification cards.**

21 1. Each adult-use cannabis business shall maintain:

22 a. In compliance with rules adopted under this chapter, a personnel record for each
23 adult-use cannabis business agent for a period of at least three years following
24 termination of the individual's affiliation with the adult-use cannabis business. The
25 personnel record must comply with minimum requirements set by rule adopted
26 under this chapter.

27 b. A record of the source of funds that will be used to open or maintain the adult-use
28 cannabis business, including the name, address, and date of birth of any
29 investor.

30 c. A record of each instance in which a current or prospective board member,
31 member-manager, manager, or governor, who managed or served on the board

1 of a business or not-for-profit entity and in the course of that service was
2 convicted, fined, or censured or had a registration or license suspended or
3 revoked in any administrative or judicial proceeding.

4 2. Each adult-use cannabis business agent shall hold a valid registry identification card.

5 **19-24.2-27. Verification system.**

6 1. The department shall maintain a confidential list of cardholders and each cardholder's
7 registry identification number.

8 2. The department shall establish a secure verification system. The verification system
9 must allow law enforcement personnel twenty-four hour access to enter a registry
10 identification number to determine whether the number corresponds with a current
11 valid registry identification card. The system may disclose:

12 a. Whether an identification card is valid;

13 b. The name of the cardholder; and

14 c. The cardholder's affiliated adult-use cannabis business.

15 **19-24.2-28. Protections.**

16 Except as provided in sections 19-24.2-14 and 19-24.1-28:

17 1. An adult-use cannabis consumer is not subject to arrest or prosecution or the denial of
18 any right or privilege, including a civil penalty or disciplinary action by a court or
19 occupational or professional regulating entity for the acquisition, use, consumption, or
20 possession of adult-use cannabis products or related supplies under this chapter.

21 2. It is presumed an adult-use cannabis consumer is engaged in the acquisition, use,
22 consumption, or possession of adult-use cannabis products or related supplies in
23 accordance with this chapter if the adult-use consumer is not in possession of adult-
24 use cannabis products in an amount that exceeds what is authorized under this
25 chapter. This presumption may be rebutted by evidence that the conduct related to
26 acquisition, use, consumption, or possession of adult-use cannabis products or related
27 supplies was not in accordance with this chapter.

28 3. A manufacturing facility is not subject to prosecution, search or inspection, or seizure,
29 except by the department or the department's designee, under this chapter for acting
30 under this chapter to:

- 1 a. Produce, process, or conduct related activities for the sole purpose of selling
2 adult-use cannabis products to a dispensary; or
- 3 b. Transfer, transport, or deliver cannabis or adult-use cannabis products to and
4 from a department designee or manufacturing facility in accordance with this
5 chapter.
- 6 4. A dispensary is not subject to prosecution, search or inspection, or seizure, except by
7 the department or the department's designee, under this chapter for acting under this
8 chapter to:
- 9 a. Purchase adult-use cannabis products from a manufacturing facility and
10 conducting related activities for the sole purpose of selling adult-use cannabis
11 products and related supplies, and providing educational materials to adult-use
12 cannabis consumers; or
- 13 b. Transfer adult-use cannabis products to and from a department designee or
14 related manufacturing facility in accordance with this chapter.
- 15 5. If the action performed by the adult-use cannabis business agent on behalf of the
16 adult-use cannabis business is authorized under this chapter, a registered adult-use
17 cannabis business agent is not subject to arrest or prosecution or the denial of any
18 right or privilege, including a civil penalty or disciplinary action by a court or
19 occupational or professional regulating entity, for working or volunteering for an adult-
20 use cannabis business.
- 21 6. The sale and possession of supplies related to possession and consumption of adult-
22 use cannabis products by a dispensary is lawful if in accordance with this chapter.
- 23 7. The adult-use of cannabis by an adult-use cannabis consumer or the producing and
24 processing and the selling of adult-use cannabis products by an adult-use cannabis
25 business is lawful if in accordance with this chapter.
- 26 8. An adult-use cannabis consumer, adult-use cannabis business agent, or adult-use
27 cannabis business is not subject to arrest or prosecution for use of drug paraphernalia
28 or possession with intent to use drug paraphernalia in a manner consistent with this
29 chapter.

1 9. A person in possession of cannabis waste in the course of transporting or disposing of
2 the waste under this chapter and rules adopted under this chapter may not be subject
3 to arrest or prosecution for that possession or transportation.

4 10. A person in possession of cannabis, adult-use cannabis products, or cannabis waste
5 in the course of performing laboratory tests as provided under this chapter and rules
6 adopted under this chapter is not subject to arrest or prosecution for possession or
7 testing.

8 **19-24.2-29. Limitations.**

9 1. An adult-use cannabis consumer may use adult-use cannabis products in the following
10 locations:

11 a. A private residence, including the person's curtilage, or yard;

12 b. On private property, not generally accessible by the public, if the adult-use
13 cannabis consumer is explicitly permitted to consume the adult-use cannabis
14 products on the property by the owner of the property.

15 2. This chapter does not authorize an adult-use cannabis consumer to engage in, and
16 does not prevent the imposition of any civil liability or criminal liability or other penalties
17 for engaging in:

18 a. Use, possession, or transportation of adult-use cannabis products by an
19 individual under twenty-one years of age.

20 b. Use or consumption of adult-use cannabis products by an adult-use consumer in
21 any public place, including an indoor or outdoor area used by, or open to, the
22 general public or on any form of public transportation.

23 c. Use or consumption of an adult-use cannabis product on the grounds of any
24 adult-use cannabis business.

25 d. Undertaking an activity under the influence of cannabis if doing so would
26 constitute negligence or professional malpractice.

27 e. Possession or consumption of adult-use cannabis products in any of the following
28 locations:

29 (1) On a school bus or school van that is used for school purposes;

1 (2) On the grounds of any public or private school, including all facilities,
2 whether owned, rented, or leased, and all vehicles that a public or private
3 school owns, leases, rents, contracts for, or controls;

4 (3) At any location while a public or private school sanctioned event is occurring
5 at that location;

6 (4) On state or federal property, including all facilities, whether owned, rented or
7 leased, and all vehicles the state or federal government leases, rents,
8 contracts for, or controls;

9 (5) On the grounds of a correctional facility;

10 (6) On the grounds of a child care facility or licensed home day care, unless
11 authorized under rules adopted by the department of human services.

12 f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2,
13 23-12-10.4, 23-12-10.5, or 23-12-11.

14 g. Use of adult-use cannabis products in a motor vehicle as defined by chapter
15 39-01.

16 h. Using a combustible delivery form of adult-use cannabis products or vaporizing
17 adult-use cannabis products under this chapter if the smoke or vapor would be
18 inhaled by an individual under twenty-one years of age.

19 i. Operating, navigating, or being in actual physical control of a motor vehicle,
20 aircraft, train, snowmobile, or motorboat, while under the influence of cannabis. A
21 registered qualifying patient may not be considered to be under the influence of
22 cannabis solely because of the presence of metabolites or components of
23 cannabis that appear in insufficient concentration to cause impairment.

24 3. This chapter does not require:

25 a. A person in lawful possession of property to allow a guest, client, customer, or
26 other visitor to possess or consume adult-use cannabis products on or in the
27 property; or

28 b. A landlord to allow production and processing of cannabis or possession and
29 consumption of adult-use cannabis products on rental property.

30 4. This chapter does not prohibit an employer from:

1 a. Disciplining or terminating the employment of an employee for possessing or
2 consuming adult-use cannabis products in the workplace or for working while
3 under the influence of cannabis. "Working" as used in this subdivision includes
4 when an employee is on call.

5 b. Adopting reasonable zero tolerance or drug-free workplace policies, or
6 employment policies concerning drug testing, smoking, consumption, storage, or
7 use of cannabis in the workplace or while on call provided that the policy is
8 applied in a nondiscriminatory manner.

9 c. Disciplining or terminating the employment of an employee for violating an
10 employer's employment policies or workplace drug policy.

11 5. An employer may consider an employee to be impaired or under the influence of
12 cannabis if the employer has a good faith belief that an employee manifests specific,
13 articulable symptoms while working which decrease or lessen the employee's
14 performance of the duties or tasks of the employee's job position, including symptoms
15 of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational
16 or unusual behavior, or negligence or carelessness in operating equipment or
17 machinery; disregard for the safety of the employee or others, or involvement in any
18 accident that results in serious damage to equipment or property; disruption of a
19 production or manufacturing process; or carelessness that results in any injury to the
20 employee or others. If an employer elects to discipline an employee on the basis that
21 the employee is under the influence or impaired by cannabis, the employer shall afford
22 the employee a reasonable opportunity to contest the basis of the determination.

23 6. This chapter does not create or imply a cause of action for any person against an
24 employer for:

25 a. Actions, including subjecting an employee or applicant to reasonable drug and
26 alcohol testing under the employer's workplace drug policy, including an
27 employee's refusal to be tested or to cooperate in testing procedures or
28 disciplining termination of employment, based on the employer's good-faith belief
29 that an employee used or possessed cannabis in the employer's workplace or
30 while performing the employee's job duties or while on call in violation of the
31 employer's employment policies;

1 b. Actions, including discipline or termination of employment, based on the
2 employer's good-faith belief that an employee was impaired as a result of the use
3 of cannabis, or under the influence of cannabis, while at the employer's
4 workplace or while performing the employee's job duties or while on call in
5 violation of the employer's workplace drug policy; or

6 c. Injury, loss, or liability to a third party if the employer did not know or have a
7 reason to know the employee was impaired.

8 7. This chapter may not be construed to interfere with any federal, state, or local
9 restrictions on employment, including the United States department of transportation
10 regulation under title 49, Code of Federal Regulations, part 40, section 40.151(e) or
11 impact an employer's ability to comply with federal or state law or cause it to lose a
12 federal or state contract or funding.

13 **19-24.2-30. Health council - Rules.**

14 1. The health council shall adopt rules as necessary for the implementation and
15 administration of this chapter, including transportation and storage of cannabis and
16 adult-use cannabis products, advertising, packaging and labeling, standards for testing
17 facilities, inventory management, and accurate recordkeeping.

18 2. The health council may adopt rules regarding the operation and governance of
19 additional categories of registered adult-use cannabis businesses.

20 **19-24.2-31. Confidentiality.**

21 1. Except as provided under subsection 2, information kept or maintained by the
22 department is confidential, including information in a registration application or renewal
23 and supporting information submitted by an adult-use cannabis business, proposed
24 adult-use cannabis business, or adult-use cannabis business agent. Information kept
25 or maintained by the department which could be used to identify an adult-use
26 cannabis consumer is confidential.

27 2. Information kept or maintained by the department may be disclosed as necessary for:

28 a. The verification of registration certificates and registry identification cards under
29 this chapter;

30 b. Notification of state or local law enforcement of an apparent criminal violation;

1 c. Notification of state and local law enforcement about falsified or fraudulent
2 information submitted for purposes of obtaining or renewing a registry
3 identification card; or

4 d. Date for statistical purposes in a manner such that an individual person or adult-
5 use cannabis business is not identified.

6 3. Information submitted to a local government to demonstrate compliance with any
7 security requirements required by local zoning ordinances or regulations is
8 confidential.

9 **19-24.2-32. Report to the legislative management.**

10 By July first of each year, the department shall submit a report to the legislative
11 management. The report must be written in a manner such that no individual, person, or adult-
12 use cannabis business can be identified and must include:

13 1. The number and type of adult-use cannabis businesses;

14 2. Revenue and expenses of the department related to the implementation of this
15 chapter;

16 3. Sales data by product type; and

17 4. Information for statistical purposes.

18 **19-24.2-33. Adult-use cannabis fees.**

19 The department shall deposit all fees collected under this chapter in the fund established
20 under section 19-24.1-40.

21 **SECTION 12. AMENDMENT.** Subsection 1 of section 39-20-01 of the North Dakota
22 Century Code is amended and reenacted as follows:

23 1. Any individual who operates a motor vehicle on a highway or on public or private
24 areas to which the public has a right of access for vehicular use in this state is deemed
25 to have given consent, and shall consent, subject to the provisions of this chapter, to a
26 chemical test, or tests, of the blood, breath, ~~saliva~~oral fluid, or urine for the purpose of
27 determining the alcohol concentration or presence of other drugs, or combination
28 thereof, in the individual's blood, breath, ~~saliva~~oral fluid, or urine. As used in this
29 chapter, the word "drug" means any drug or substance or combination of drugs or
30 substances which renders an individual incapable of safely driving, and the words
31 "chemical test" or "chemical analysis" mean any test to determine the alcohol

1 concentration or presence of other drugs, or combination thereof, in the individual's
2 blood, breath, or urine, approved by the director of the state crime laboratory or the
3 director's designee under this chapter.

4 **SECTION 13. AMENDMENT.** Section 39-20-14 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-20-14. Screening tests.**

- 7 1. Any individual who operates a motor vehicle upon the public highways of this state is
8 deemed to have given consent to submit to an onsite screening test or tests of the
9 individual's breath or oral fluid for the purpose of estimating the alcohol concentration
10 or presence of drugs or substances in the individual's breath or oral fluid upon the
11 request of a law enforcement officer who has reason to believe that the individual
12 committed a moving traffic violation or a violation under section 39-08-01 or an
13 equivalent offense, or was involved in a traffic accident as a driver, and in conjunction
14 with the violation or the accident the officer has, through the officer's observations,
15 formulated an opinion that the individual's body contains alcohol or other drugs or
16 substances that render the individual incapable of safely operating a motor vehicle.
- 17 2. An individual may not be required to submit to a screening test or tests of breath or
18 oral fluid while at a hospital as a patient if the medical practitioner in immediate charge
19 of the individual's case is not first notified of the proposal to make the requirement, or
20 objects to the test or tests on the ground that such would be prejudicial to the proper
21 care or treatment of the patient.
- 22 3. The screening test or tests must be performed by an enforcement officer certified as a
23 chemical test operator by the director of the state crime laboratory or the director's
24 designee and according to methods and with devices approved by the director of the
25 state crime laboratory or the director's designee. The results of such screening test
26 must be used only for determining whether or not a further test shall be given under
27 the provisions of section 39-20-01. The officer shall inform the individual that North
28 Dakota law requires the individual to take the screening test to determine whether the
29 individual is under the influence of alcohol or other drugs or substances and that
30 refusal of the individual to submit to a screening test may result in a revocation for at
31 least one hundred eighty days and up to three years of that individual's driving

1 privileges. If such individual refuses to submit to such screening test or tests, none
2 may be given, but such refusal is admissible in a court proceeding if the individual was
3 arrested in violation of section 39-08-01 and did not take any additional chemical tests
4 requested by the law enforcement officer. Such refusal is sufficient cause to revoke
5 such individual's license or permit to drive in the same manner as provided in section
6 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as
7 provided in section 39-20-06 must be available.

8 4. The director must not revoke an individual's driving privileges for refusing to submit to
9 a screening test requested under this section if the individual provides a sufficient
10 breath, blood, oral fluid, or urine sample for a chemical test requested under section
11 39-20-01 for the same incident.

12 5. No provisions of this section may supersede any provisions of chapter 39-20, nor may
13 any provision of chapter 39-20 be construed to supersede this section except as
14 provided herein.

15 6. For the purposes of this section, "chemical test operator" means an individual certified
16 by the director of the state crime laboratory or the director's designee as qualified to
17 perform analysis for alcohol or other drugs or substances in an individual's blood,
18 breath, oral fluid, or urine.

19 **SECTION 14. AMENDMENT.** Subsection 12 of section 65-05-08 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 12. The organization may not pay wage loss benefits if the wage loss is related to the use
22 ~~or presence of medical marijuana~~ of usable marijuana or adult-use cannabis products,
23 or the presence of tetrahydrocannabinol.

24 **SECTION 15. EFFECTIVE DATE.** Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of this Act
25 become effective on July 1, 2022.