

Introduced by

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

Senator Meyer

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

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

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

12 **19-03.1-01. Definitions.**

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

- 15 1. "Administer" means to apply a controlled substance, whether by injection, inhalation,
 16 ingestion, or any other means, directly to the body of a patient or research subject by:
 - 17 a. A practitioner or, in the practitioner's presence, by the practitioner's authorized
 18 agent; or
 - 19 b. The patient or research subject at the direction and in the presence of the
 20 practitioner.
- 21 2. "Agent" means an authorized person who acts on behalf of or at the direction of a
 22 manufacturer, distributor, or dispenser. It does not include a common or contract
 23 carrier, public warehouseman, or employee of the carrier or warehouseman.

- 1 3. "Anabolic steroids" means any drug or hormonal substance, chemically and
2 pharmacologically related to testosterone, other than estrogens, progestins, and
3 corticosteroids.
- 4 4. "Board" means the state board of pharmacy.
- 5 5. "Bureau" means the drug enforcement administration in the United States department
6 of justice or its successor agency.
- 7 6. "Controlled substance" means a drug, substance, or immediate precursor in schedules
8 I through V as set out in this chapter.
- 9 7. "Controlled substance analog":
- 10 a. Means a substance the chemical structure of which is substantially similar to the
11 chemical structure of a controlled substance in a schedule I or II and:
- 12 (1) Which has a stimulant, depressant, or hallucinogenic effect on the central
13 nervous system which is substantially similar to or greater than the
14 stimulant, depressant, or hallucinogenic effect on the central nervous
15 system of a controlled substance in schedule I or II; or
- 16 (2) With respect to a particular individual, which the individual represents or
17 intends to have a stimulant, depressant, or hallucinogenic effect on the
18 central nervous system substantially similar to or greater than the stimulant,
19 depressant, or hallucinogenic effect on the central nervous system of a
20 controlled substance in schedule I or II.
- 21 b. Does not include:
- 22 (1) A controlled substance;
- 23 (2) Any substance for which there is an approved new drug application; or
- 24 (3) With respect to a particular individual, any substance, if an exemption is in
25 effect for investigational use, for that individual, under section 505 of the
26 Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] to the extent conduct
27 with respect to the substance is pursuant to the exemption.
- 28 8. "Counterfeit substance" means a controlled substance which, or the container or
29 labeling of which, without authorization, bears the trademark, trade name, or other
30 identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer,

1 distributor, or dispenser other than the person who in fact manufactured, distributed, or
2 dispensed the substance.

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

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

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

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

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

14 14. "Drug" means:

15 a. Substances recognized as drugs in the official United States pharmacopeia
16 national formulary, or the official homeopathic pharmacopeia of the United States,
17 or any supplement to any of them;

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

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

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

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

28 16. "Immediate precursor" means a substance:

29 a. That the board has found to be and by rule designates as being the principal
30 compound commonly used or produced primarily for use in the manufacture of a
31 controlled substance;

1 b. That is an immediate chemical intermediary used or likely to be used in the
2 manufacture of the controlled substance; and

3 c. The control of which is necessary to prevent, curtail, or limit the manufacture of
4 the controlled substance.

5 ~~47.16.~~ "Manufacture" means the production, preparation, propagation, compounding,
6 conversion, or processing of a controlled substance, either directly or indirectly by
7 extraction from substances of natural origin, or independently by means of chemical
8 synthesis, or by a combination of extraction and chemical synthesis and includes any
9 packaging or repackaging of the substance or labeling or relabeling of its container.

10 The term does not include the preparation or compounding of a controlled substance
11 by an individual for the individual's own use or the preparation, compounding,
12 packaging, or labeling of a controlled substance:

13 a. By a practitioner as an incident to the practitioner's administering or dispensing of
14 a controlled substance in the course of the practitioner's professional practice; or

15 b. By a practitioner, or by the practitioner's authorized agent under the practitioner's
16 supervision, for the purpose of, or as an incident to, research, teaching, or
17 chemical analysis and not for sale.

18 ~~48.17.~~ "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not;
19 the seeds thereof; the resin extracted from any part of the plant; and every compound,
20 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

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

22 a. The mature stalks of the plant, fiber produced from the stalks, oil or cake made
23 from the seeds of the plant, any other compound, manufacture, salt, derivative,
24 mixture, or preparation of mature stalks, except the resin extracted therefrom,
25 fiber, oil, or cake, or the sterilized seed of the plant which is incapable of
26 germination. The term marijuana does not include hemp as defined in title 4.1.

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

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

30 or

- 1 d. Adult-use cannabis products purchased, possessed, or consumed by an adult-
2 use cannabis consumer in accordance with chapter 19-24.2.
- 3 ~~19-18.~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by
4 extraction from substances of vegetable origin, or independently by means of chemical
5 synthesis, or by a combination of extraction and chemical synthesis:
- 6 a. Opium and opiate and any salt, compound, derivative, or preparation of opium or
7 opiate.
- 8 b. Any salt, compound, isomer, derivative, or preparation thereof which is
9 chemically equivalent or identical with any of the substances referred to in
10 subdivision a, but not including the isoquinoline alkaloids of opium.
- 11 c. Opium poppy and poppy straw.
- 12 d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves,
13 any salt, compound, isomer, derivative, or preparation thereof which is chemically
14 equivalent or identical with any of these substances, but not including
15 decocainized coca leaves or extractions of coca leaves which do not contain
16 cocaine or ecgonine.
- 17 ~~20-19.~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining
18 liability similar to morphine or being capable of conversion into a drug having
19 addiction-forming or addiction-sustaining liability. The term does not include, unless
20 specifically designated as controlled under section 19-03.1-02, the dextrorotatory
21 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term
22 includes its racemic and levorotatory forms.
- 23 ~~21-20.~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except its
24 seeds.
- 25 ~~22-21.~~ "Over-the-counter sale" means a retail sale of a drug or product other than a
26 controlled, or imitation controlled, substance.
- 27 ~~23-22.~~ "Person" means individual, corporation, limited liability company, government or
28 governmental subdivision or agency, business trust, estate, trust, partnership or
29 association, or any other legal entity.
- 30 ~~24-23.~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- 31 ~~25-24.~~ "Practitioner" means:

- 1 a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other
2 person licensed, registered, or otherwise permitted by the jurisdiction in which the
3 individual is practicing to distribute, dispense, conduct research with respect to,
4 or to administer a controlled substance in the course of professional practice or
5 research.
- 6 b. A pharmacy, hospital, or other institution licensed, registered, or otherwise
7 permitted to distribute, dispense, conduct research with respect to, or to
8 administer a controlled substance in the course of professional practice or
9 research in this state.

10 ~~26-25.~~ "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of
11 a controlled substance.

12 ~~27-26.~~ "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction
13 made by a person, whether as principal, proprietor, agent, servant, or employee.

14 ~~28-27.~~ "Scheduled listed chemical product" means a product that contains ephedrine,
15 pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and
16 salts of optical isomers of each chemical, and that may be marketed or distributed in
17 the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301
18 et seq.] as a nonprescription drug unless prescribed by a licensed physician.

19 ~~29-28.~~ "State" when applied to a part of the United States includes any state, district,
20 commonwealth, territory, insular possession thereof, and any area subject to the legal
21 authority of the United States.

22 ~~30-29.~~ "Ultimate user" means an individual who lawfully possesses a controlled substance for
23 the individual's own use or for the use of a member of the individual's household or for
24 administering to an animal owned by the individual or by a member of the individual's
25 household.

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

28 n. (1) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained
29 in a plant of the genus Cannabis (cannabis plant), as well as synthetic
30 equivalents of the substances contained in the cannabis plant, or in the
31 resinous extractives of such plant, including synthetic substances,

1 derivatives, and their isomers with similar chemical structure and
2 pharmacological activity to those substances contained in the plant;
3 ~~excluding tetrahydrocannabinols found in hemp as defined in title 4.1;~~ such
4 as the following:

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

6 Other names: Delta-9-tetrahydrocannabinol.

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

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

9 (Since nomenclature of these substances is not internationally standardized,
10 compounds of these structures, regardless of numerical designation of atomic
11 positions covered.)

12 (2) Tetrahydrocannabinols does not include:

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

14 or

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

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

19 1. For purposes of this section:

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

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

26 c. "Controlled substance" means the same as that term is defined in section
27 19-03.1-01, ~~except the term does not include less than one-half ounce of~~
28 ~~marijuana.~~

29 d. "Drug paraphernalia" means the same as that term is defined in section
30 19-03.4-01.

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

- 1 b. Any other controlled substance classified in schedule I, II, or III, or a controlled
2 substance analog is guilty of a class B felony.
- 3 c. A substance classified in schedule IV, is guilty of a class C felony.
- 4 d. A substance classified in schedule V, is guilty of a class A misdemeanor.
- 5 2. A prior misdemeanor conviction under subsection 7 or a prior conviction under
6 subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under
7 subsection 1.
- 8 3. Except as authorized by this chapter, it is unlawful for any person to willfully, as
9 defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit
10 substance by means of the internet or any other means, or possess with intent to
11 deliver, a counterfeit substance by means of the internet or any other means, but any
12 person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this
13 subsection. Any person who violates this subsection with respect to:
- 14 a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B
15 felony.
- 16 b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
- 17 c. A counterfeit substance classified in schedule V, is guilty of a class A
18 misdemeanor.
- 19 4. A person at least eighteen years of age who solicits, induces, intimidates, employs,
20 hires, or uses a person under eighteen years of age to aid or assist in the
21 manufacture, delivery, or possession with intent to manufacture or deliver a controlled
22 substance for the purpose of receiving consideration or payment for the manufacture
23 or delivery of any controlled substance is guilty of a class B felony. It is not a defense
24 to a violation of this subsection that the defendant did not know the age of a person
25 protected under this subsection.
- 26 5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 7 or
27 a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title
28 or a law of another state or the federal government which is equivalent to an offense
29 with respect to the manufacture, delivery, or intent to deliver a controlled substance
30 under this title committed while the offender was an adult and which resulted in a plea
31 or finding of guilt must be considered a prior offense under subsection 1. The prior

1 offense must be alleged in the complaint, information, or indictment. The plea or
2 finding of guilt for the prior offense must have occurred before the date of the
3 commission of the offense or offenses charged in the complaint, information, or
4 indictment.

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

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

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

- 13 7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess
14 a controlled substance or a controlled substance analog unless the substance
15 was obtained directly from, or pursuant to, a valid prescription or order of a
16 practitioner while acting in the course of the practitioner's professional practice, or
17 except as otherwise authorized by this chapter, but any person who violates
18 section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.
19 b. Except as otherwise provided in this subsection, any person who violates this
20 subsection is guilty of a class A misdemeanor for the first offense under this
21 subsection and a class C felony for a second or subsequent offense under this
22 subsection.
23 c. If, at the time of the offense the person is in or on the real property comprising a
24 public or private elementary or secondary school or a public career and technical
25 education school, the person is guilty of a class B felony, unless the offense
26 involves marijuana.
27 d. A person who violates this subsection by possessing:
28 (1) ~~Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty~~
29 ~~of an infraction.~~
30 (2) ~~At least one-half ounce [14.175 grams] but not more than 500 grams of~~
31 ~~marijuana is guilty of a class B misdemeanor.~~

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

3 (1) Marijuana:

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

6 (b) At least one ounce [28.35 grams] but not more than two ounces
7 [56.70 grams] is guilty of a class B misdemeanor.

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

10 (2) Tetrahydrocannabinol:

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

13 (b) More than the applicable maximum amount authorized by chapter
14 19-24.2 but less than two times the applicable maximum amount
15 authorized by chapter 19-24.2 is guilty of a class B misdemeanor.

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

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

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

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

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

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

29 e.f. If an individual is sentenced to the legal and physical custody of the department
30 of corrections and rehabilitation under this subsection, the department may place
31 the individual in a drug and alcohol treatment program designated by the

1 department. Upon the successful completion of the drug and alcohol treatment
2 program, the department shall release the individual from imprisonment to begin
3 any court-ordered period of probation.

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

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

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

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

17 8. Except as provided by section 19-03.1-45, a court may order a person who violates
18 this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed
19 addiction counselor. The evaluation must indicate the prospects for rehabilitation and
20 whether addiction treatment is required. If ordered, the evaluation must be submitted
21 to the court before imposing punishment for a felony violation or a misdemeanor
22 violation.

23 9. If a person pleads guilty or is found guilty of a first offense regarding possession of
24 one ounce [28.35 grams] or less of marijuana or an amount up to the applicable
25 maximum amount of tetrahydrocannabinol authorized by chapter 19-24.2 and a
26 judgment of guilt is entered, a court, upon motion, shall seal the court record of that
27 conviction if the person is not subsequently convicted within two years of a further
28 violation of this chapter. Once sealed, the court record may not be opened even by
29 order of the court.

1 10. Upon successful completion of a drug court program, a person who has been
2 convicted of a felony under this section and sentenced to drug court is deemed to
3 have been convicted of a misdemeanor.

4 11. If a person convicted of a misdemeanor under this section is sentenced to drug court
5 and successfully completes a drug court program, the court shall dismiss the case and
6 seal the file in accordance with section 12.1-32-07.2.

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

9 1. A person who violates section 19-03.1-23 is subject to the penalties provided in
10 subsection 2 if:

11 a. The offense was committed during a school sponsored activity or was committed
12 during the hours of six a.m. to ten p.m. if school is in session, the offense
13 involved the manufacture, delivery, or possession, with intent to manufacture or
14 deliver a controlled substance in, on, or within three hundred feet [91.4 meters] of
15 the real property comprising a preschool facility, a public or private elementary or
16 secondary school, or a public career and technical education school, the
17 defendant was at least twenty-one years of age at the time of the offense, and
18 the offense involved the delivery of a controlled substance to a minor;

19 b. The offense involved:

20 (1) Fifty grams or more of a mixture or substance containing a detectable
21 amount of heroin;

22 (2) Fifty grams or more of a mixture or substance containing a detectable
23 amount of:

24 (a) Coca leaves, except coca leaves and extracts of coca leaves from
25 which cocaine, ecgonine, and derivatives of ecgonine or their salts
26 have been removed;

27 (b) Cocaine, its salts, optical and geometric isomers, and salts of
28 isomers;

29 (c) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

30 (d) Any compound, mixture, or preparation that contains any quantity of
31 any of the substance referred to in subparagraphs a through c;

- 1 (3) Twenty-eight grams or more of a mixture or substance described in
2 paragraph 2 which contains cocaine base;
- 3 (4) Ten grams or more of phencyclidine or one hundred grams or more of a
4 mixture or substance containing a detectable amount of phencyclidine;
- 5 (5) One gram, one hundred dosage units, or one-half liquid ounce or more of a
6 mixture or substance containing a detectable amount of lysergic acid
7 diethylamide;
- 8 (6) Forty grams or more of a mixture or substance containing a detectable
9 amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide or ten
10 grams or more of a mixture or substance containing a detectable amount of
11 any analog of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide;
- 12 (7) Fifty grams or more of a mixture or substance containing a detectable
13 amount of methamphetamine;
- 14 (8) Ten grams, one hundred dosage units, or one-half liquid ounce or more of a
15 mixture or substance containing a detectable amount of
16 3,4-methylenedioxy-N-methylamphetamine, C₁₁H₁₅NO₂;
- 17 (9) One hundred dosage units or one-half liquid ounce of a mixture or
18 substance containing a detectable amount of gamma-hydroxybutyrate or
19 gamma-butyrolactone or 1,4 butanediol or any substance that is an analog
20 of gamma-hydroxybutyrate;
- 21 (10) One hundred dosage units or one-half liquid ounce of a mixture or
22 substance containing a detectable amount of flunitrazepam; ~~or~~
- 23 (11) Five hundred grams or more of marijuana; or
- 24 (12) Tetrahydrocannabinol in an amount more than four times the applicable
25 maximum amount authorized by chapter 19-24.2; or
- 26 c. The defendant had a firearm in the defendant's actual possession at the time of
27 the offense.

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

- 1 12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise
2 introducing marijuana, or cocaine, ~~hashish,~~ ~~or hashish oil~~ into the human body,
3 including:
- 4 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without
 - 5 screens, permanent screens, ~~hashish heads,~~ or punctured metal bowls.
 - 6 b. Water pipes.
 - 7 c. Carburetion tubes and devices.
 - 8 d. Smoking and carburetion masks.
 - 9 e. Objects, sometimes commonly referred to as roach clips, used to hold burning
 - 10 material, for example, a marijuana cigarette, that has become too small or too
 - 11 short to be held in the hand.
 - 12 f. Miniature cocaine spoons and cocaine vials.
 - 13 g. Chamber pipes.
 - 14 h. Carburetor pipes.
 - 15 i. Electric pipes.
 - 16 j. Air-driven pipes.
 - 17 k. Chillums.
 - 18 l. Bongs.
 - 19 m. Ice pipes or chillers.

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

22 Whether the object is used by a registered qualifying patient, registered designated
23 caregiver, compassion center, or compassion center agent in accordance with chapter
24 19-24.1.

25
26 Whether the object is used by an adult-use cannabis consumer, adult-use cannabis
27 business, or adult-use cannabis business agent in accordance with chapter 19-24.2.

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

1 **19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.**

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

1 **b. An adult-use cannabis consumer, adult-use cannabis business, or adult-use**
2 **cannabis business agent acting in accordance with chapter 19-24.2.**

3 5. A person sentenced to the legal and physical custody of the department of corrections
4 and rehabilitation under this section may be placed in a drug and alcohol treatment
5 program as designated by the department. Upon the successful completion of the drug
6 and alcohol treatment program, the department shall release the person from
7 imprisonment to begin any court-ordered period of probation. If the person is not
8 subject to court-ordered probation, the court may order the person to serve the
9 remainder of the sentence of imprisonment on supervised probation subject to the
10 terms and conditions imposed by the court.

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

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

17 **19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia - Penalty.**

18 1. A person may not deliver, possess with intent to deliver, or manufacture with intent to
19 deliver, drug paraphernalia, if that person knows or should reasonably know that the
20 drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest,
21 manufacture, compound, convert, produce, process, prepare, test, analyze, pack,
22 repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the
23 human body a controlled substance in violation of chapter 19-03.1. Any person
24 violating this section is guilty of a class C felony if the drug paraphernalia will be used
25 to manufacture, compound, convert, produce, process, prepare, test, inject, ingest,
26 inhale, or analyze a controlled substance, other than marijuana or
27 tetrahydrocannabinol, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a
28 violation of this section is a class A misdemeanor.

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

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

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

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

5 **19-24.2-01. Definitions.**

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

- 7 1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of
8 gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use
9 cannabinoid concentrate intended for consumption. The maximum concentration or
10 amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid
11 capsule is ten milligrams.
- 12 2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or
13 extract obtained by separating cannabinoids from cannabis by a mechanical,
14 chemical, or other process.
- 15 3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric
16 square shape into which an adult-use cannabinoid concentrate or the dried leaves or
17 flowers of the plant of the genus cannabis is incorporated. The maximum
18 concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use
19 cannabinoid edible product is ten milligrams and in a package is one hundred
20 milligrams.
- 21 4. "Adult-use cannabinoid product" means a product intended for human consumption or
22 use which contains cannabinoids.
- 23 a. Adult-use cannabinoid products are limited to the following forms:
- 24 (1) Adult-use cannabinoid solution;
- 25 (2) Adult-use cannabinoid capsule;
- 26 (3) Adult-use cannabinoid transdermal patch;
- 27 (4) Adult-use cannabinoid topical; and
- 28 (5) Adult-use cannabinoid edible product.
- 29 b. The term does not include:
- 30 (1) An adult-use cannabinoid concentrate by itself; or
- 31 (2) The dried leaves or flowers of the plant of the genus cannabis by itself.

- 1 5. "Adult-use cannabinoid solution" means a solution consisting of a mixture created from
2 an adult-use cannabinoid concentrate and other ingredients. A container holding an
3 adult-use cannabinoid solution for dispensing may not exceed thirty milliliters.
- 4 6. "Adult-use cannabinoid topical" means an adult-use cannabinoid product intended to
5 be applied to the skin or hair. The maximum concentration or amount of
6 tetrahydrocannabinol permitted in an adult-use cannabinoid topical is six percent.
- 7 7. "Adult-use cannabinoid transdermal patch" means an adhesive substance applied to
8 the skin which contains an adult-use cannabinoid product or an adult-use cannabinoid
9 concentrate for absorption into the bloodstream. The maximum concentration or
10 amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid
11 transdermal patch is ten milligrams.
- 12 8. "Adult-use cannabis" means the dried leaves or flowers of the plant of the genus
13 cannabis.
- 14 9. "Adult-use cannabis business" means a manufacturing facility or dispensary.
- 15 10. "Adult-use cannabis business agent" means a principal officer, board member,
16 member, manager, governor, employee, volunteer, or agent of an adult-use cannabis
17 business. The term does not include a lawyer representing an adult-use cannabis
18 business in civil or criminal litigation or in an adversarial administrative proceeding.
- 19 11. "Adult-use cannabis consumer" means an individual, twenty-one years of age or older,
20 who purchases approved adult-use cannabis products for personal use, but not for
21 resale to others.
- 22 12. "Adult-use cannabis product" means adult-use cannabis, an adult-use cannabinoid
23 concentrate, or adult-use cannabinoid product.
- 24 13. "Cannabinoid" means a chemical compound that is one of the active constituents of
25 cannabis.
- 26 14. "Cannabis" is a genus of flowering plants within the Cannabaceae family and means
27 all parts of the plant, whether growing or not; the seeds of the plant; the resin
28 extracted from any part of the plant; and every compound, manufacturer, salt,
29 derivative, mixture, or preparation of the plant, its seeds or resin. The term does not
30 include:
- 31 a. Hemp regulated under chapter 4.1-18.1; or

- 1 b. A prescription drug approved by the United States food and drug administration
2 under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
- 3 15. "Cannabis waste" means unused, surplus, returned, or out-of-date adult-use cannabis
4 products; recalled adult-use cannabis products; unused cannabis; or plant debris of
5 the plant of the genus cannabis, including dead plants and all unused plant parts and
6 roots.
- 7 16. "Cardholder" means an adult-use cannabis business agent who has been issued and
8 possesses a valid registry identification card.
- 9 17. "Department" means the state department of health.
- 10 18. "Dispensary" means an entity registered by the department as an adult-use cannabis
11 business authorized to sell adult-use cannabis products.
- 12 19. "Enclosed and locked facility" means a closet, room, greenhouse, building, or other
13 enclosed area equipped with locks or other security devices that permit access limited
14 to individuals authorized under this chapter or rules adopted under this chapter.
- 15 20. "Manufacturing facility" means an entity registered by the department as an adult-use
16 cannabis business authorized to produce and process cannabis and to sell adult-use
17 cannabis products to a dispensary.
- 18 21. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount
19 of tetrahydrocannabinol and tetrahydrocannabinolic acid in an adult-use cannabinoid
20 concentrate or an adult-use cannabinoid product.
- 21 22. "Owner" means an individual or an organization with an ownership interest in an
22 adult-use cannabis business.
- 23 23. "Ownership interest" means an aggregate ownership interest of five percent or more in
24 an adult-use cannabis business, unless such interest is solely a security, lien, or
25 encumbrance, or an individual that will be participating in the direction, control, or
26 management of the adult-use cannabis business.
- 27 24. "Processing" or "process" means the compounding or conversion of cannabis into an
28 adult-use cannabinoid concentrate or adult-use cannabinoid product.
- 29 25. "Producing", "produce", or "production" mean the planting, cultivating, growing,
30 trimming, or harvesting of cannabis or the drying of the leaves or flowers of cannabis.

- 1 26. "Registration certificate" means written authorization provided by the department
2 under this chapter permitting an adult-use cannabis business to engage in a specified
3 activity authorized pursuant to this chapter.
- 4 27. "Registry identification card" means a document issued by the department which
5 identifies an individual as a registered adult-use cannabis business agent.
- 6 28. "School" means an institution of learning and education especially for children, the
7 collective body of students under instruction in an institution of learning, and a group of
8 individuals adhering to the same philosophy or system of beliefs.
- 9 29. "Substantial corporate change" means:
- 10 a. For a corporation, a change of ten percent or more of the officers or directors, or
11 a transfer of ten percent or more of the stock of such corporation, or an existing
12 stockholder obtaining ten percent or more of the stock of the corporation;
- 13 b. For a limited liability company, a change of ten percent or more of the managing
14 members of the company, or a transfer of ten percent or more of the ownership
15 interest in the company, or an existing member obtaining a cumulative of ten
16 percent or more of the ownership interest in the company; or
- 17 c. For a partnership, a change of ten percent or more of the managing partners of
18 the partnership, or a transfer of ten percent or more of the ownership interest in
19 the partnership, or an existing member obtaining a cumulative of ten percent or
20 more of the ownership interest in the partnership.
- 21 30. "Verification system" means the system maintained by the department for verification
22 of registry identification cards.

23 **19-24.2-02. Adult-use cannabis program.**

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

1 **19-24.2-03. Adult-use cannabis business.**

- 2 1. A person may not process, produce, or transfer adult-use cannabis products or
3 otherwise act as an adult-use cannabis business in this state unless the person is
4 registered as an adult-use cannabis business.
- 5 2. As of July 1, 2023, the department may not register more than:
- 6 a. Seven adult-use cannabis businesses with the sole purpose of operating as a
7 manufacturing facility; and
- 8 b. Eighteen adult-use cannabis businesses with the sole purpose of operating as a
9 dispensary.
- 10 3. An adult-use cannabis business registered under this chapter may not sell adult-use
11 cannabis products to adult-use cannabis consumers until July 1, 2022.
- 12 4. An adult-use cannabis business registered under this chapter shall provide registered
13 qualifying patients and registered designated caregivers access to usable marijuana in
14 accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all
15 requirements in chapter 19-24.1.
- 16 5. The department shall establish an open application period for the submission of
17 adult-use cannabis business applications. At the completion of the open application
18 period, the department shall review each complete application using a competitive
19 process established in accordance with rules adopted under this chapter and shall
20 determine which applicants to register as adult-use cannabis businesses.
- 21 6. If the department revokes or does not renew an adult-use cannabis business
22 registration certificate, the department may establish an open application period for the
23 submission of adult-use cannabis business applications.
- 24 7. The department of commerce may not certify an adult-use cannabis business as a
25 primary sector business.

26 **19-24.2-04. Adult-use cannabis business - Authority - Ownership.**

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

- 1 2. The activities of a dispensary are limited to purchasing adult-use cannabis products
- 2 from a manufacturing facility and related activities, including storing, delivering,
- 3 transferring, and transporting adult-use cannabis products, for the sole purpose of
- 4 dispensing adult-use cannabis products to adult-use cannabis consumers.
- 5 3. The activities of a dispensary includes providing education material and selling
- 6 supplies related to the consumption and storage of adult-use cannabis products. A
- 7 dispensary may sell only supplies related to the consumption and storage of adult-use
- 8 cannabis products to an adult-use cannabis consumer. All education material and
- 9 supplies related to the consumption and storage of adult-use cannabis products are
- 10 subject to prior department approval.
- 11 4. An individual or an organization may not hold an ownership interest in:
- 12 a. More than one manufacturing facility.
- 13 b. More than four dispensaries.
- 14 c. More than one dispensary within a twenty-mile [32.19 kilometers] radius of
- 15 another dispensary.
- 16 5. A manufacturing facility and dispensary may not enter an agreement under which a
- 17 dispensary agrees to limit purchases or sales of adult-use cannabis products to one
- 18 manufacturing facility.

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

- 20 1. The department shall establish forms for an applicant to be registered as an adult-use
- 21 cannabis business. For an adult-use cannabis business registration application to be
- 22 complete and eligible for review, the applicant shall submit to the department:
- 23 a. A nonrefundable application fee, not to exceed five thousand dollars, made
- 24 payable to the "State Department of Health".
- 25 b. The legal name, articles of incorporation or articles of organization, and bylaws or
- 26 operating agreement of the proposed adult-use cannabis business applicant.
- 27 c. Evidence of the proposed adult-use cannabis business applicant's registration
- 28 with the secretary of state and certificate of good standing.
- 29 d. The physical address of the proposed location of the proposed adult-use
- 30 cannabis business and:

- 1 (1) Evidence of approval from local officials as to the proposed adult-use
2 cannabis business applicant's compliance with local zoning laws for the
3 physical address to be used by the proposed cannabis business; and
4 (2) Evidence the physical address of the proposed adult-use cannabis business
5 is not located within one thousand feet [304.80 meters] of a property line of
6 a pre-existing public or private school.
- 7 e. For a manufacturing facility applicant, a description of the enclosed and locked
8 facility that would be used in the production and processing of cannabis,
9 including steps that will be taken to ensure the production and processing is not
10 visible from the street or other public areas.
- 11 f. The name, address, and date of birth of each principal officer and board member,
12 or of each member-manager, manager, or governor, of the proposed adult-use
13 cannabis business applicant and verification each officer and board member, or
14 each member-manager, manager, or governor, has consented to a criminal
15 history record check conducted under section 12-60-24.
- 16 g. For each of the proposed adult-use cannabis business applicant's principal
17 officers and board members, or for each of the proposed adult-use cannabis
18 business applicant's member-managers, managers, or governors, a description
19 of that individual's relevant experience, including training or professional licensing
20 related to medicine, pharmaceuticals, natural treatments, botany, food science,
21 food safety, production, processing, and the individual's experience running a
22 business entity.
- 23 h. A description of proposed security and safety measures.
- 24 i. An example of the design and security features of adult-use cannabis product
25 containers.
- 26 j. A complete operations manual.
- 27 k. A description of the plans for making usable marijuana available on an affordable
28 basis to registered qualifying patients with limited financial resources in
29 accordance with chapter 19-24.1.

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

- 1 h. The applicant's plans for testing adult-use cannabis products and cannabis.
2 3. Following completion of the review under subsection 2, the department shall select the
3 applicants eligible for registration.

4 **19-24.2-06. Adult-use cannabis business - Registration.**

- 5 1. Upon receiving notification by the department that an adult-use cannabis business
6 application is eligible for registration, the applicant shall submit all of the following
7 items to the department to qualify for registration:
8 a. A certification fee, made payable to the "State Department of Health", in an
9 amount not to exceed ninety thousand dollars for a dispensary and one hundred
10 ten thousand dollars for a manufacturing facility.
11 b. A financial assurance or security bond to ensure the protection of the public
12 health and safety and the environment in the event of abandonment, default, or
13 other inability or unwillingness to meet the requirements of this chapter.
14 c. The physical address of the proposed adult-use cannabis business; confirmation
15 the information in the application regarding the physical location of the proposed
16 adult-use cannabis business has not changed, and if the information has
17 changed the department shall determine whether the new information meets the
18 requirements of this chapter; and a current certificate of occupancy, or equivalent
19 document, to demonstrate compliance with the provisions of state and local fire
20 code for the physical address of the proposed adult-use cannabis business. It is
21 not necessary for an applicant to resubmit any information provided in the initial
22 application unless there has been a change in that information.
23 d. An update to previously submitted information, including information about
24 adult-use cannabis business agents.
25 2. If an applicant complies with subsection 1, the department shall issue the applicant a
26 registration certificate.

27 **19-24.2-07. Adult-use cannabis business - Renewal.**

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

- 1 calendar days before the expiration of the registration certificate to avoid suspension
2 of the certificate.
- 3 2. The department shall approve an adult-use cannabis business's renewal application
4 within sixty calendar days of submission if:
- 5 a. The adult-use cannabis business submits a renewal fee, in the amount not to
6 exceed ninety thousand dollars for a dispensary and one hundred ten thousand
7 dollars for a manufacturing facility, which the department shall refund if the
8 department rejects the renewal application;
- 9 b. The adult-use cannabis business submits a complete renewal application;
- 10 c. The department has at no time suspended the adult-use cannabis business's
11 registration for violation of this chapter or chapter 19-24.1;
- 12 d. Inspections conducted under this chapter do not raise any serious concerns
13 about the continued operation of the adult-use cannabis business; and
- 14 e. The adult-use cannabis business continues to meet all the requirements for the
15 operation of an adult-use cannabis business as set forth in this chapter, chapter
16 19-24.1, and rules adopted under this chapter.
- 17 3. If an adult-use cannabis business does not meet the requirements for renewal, the
18 department may not issue a registration certificate and the department shall provide
19 the adult-use cannabis business with written notice of the determination. If an
20 adult-use cannabis business's certificate is not renewed, the adult-use cannabis
21 business shall dispose of all cannabis and adult-use cannabis products in accordance
22 with rules adopted under this chapter.

23 **19-24.2-08. Adult-use cannabis business - Registration certificates.**

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

- 25 1. The name and address of the adult-use cannabis business;
- 26 2. Whether the type of adult-use cannabis business is a manufacturing facility or
27 dispensary;
- 28 3. A unique license number issued by the department; and
- 29 4. Any other information deemed necessary by the department.

1 **19-24.2-09. Adult-use cannabis business - Notification of changes.**

- 2 1. Upon application of an adult-use cannabis business to the department, a registration
3 certificate of an adult-use cannabis business may be amended to authorize a change
4 in the authorized physical location of the adult-use cannabis business, or to amend the
5 ownership or organizational structure of the adult-use cannabis business with the
6 registration certificate. An adult-use cannabis business shall provide the department a
7 written notice of any change described under this section at least sixty calendar days
8 before the proposed effective date of the change.
- 9 2. A registration certificate authorizing the operation of an adult-use cannabis business is
10 void upon a change in ownership, substantial corporate change, change in location, or
11 discontinued operation, without prior approval of the department. The health council
12 may adopt rules allowing for certain types of changes in ownership without the need
13 for prior written approval from the department.
- 14 3. The department shall authorize the use of additional structures located within five
15 hundred feet [152.40 meters] of the location described in the original application,
16 unless the department makes an affirmative finding the use of additional structures
17 would jeopardize public health or safety or would result in the cannabis business being
18 within one thousand feet [304.80 meters] of a property line of a pre-existing public or
19 private school. The department may waive all or part of the required advance notice to
20 address emergent or emergency situations.

21 **19-24.2-10. Adult-use cannabis business - Agents - Registry identification cards.**

- 22 1. Upon issuance of an adult-use cannabis business registry certificate, the department
23 shall issue a registry identification card to each qualified adult-use cannabis business
24 agent associated with the adult-use cannabis business.
- 25 2. To qualify to be issued a registry identification card, each adult-use cannabis business
26 agent must be at least twenty-one years of age and shall submit all of the following
27 registry identification card application material to the department:
- 28 a. A photographic copy of the agent's department-approved identification. The agent
29 shall make the identification available for inspection and verification by the
30 department.
- 31 b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.

- 1 c. A written and signed statement from an officer or executive staff member of the
2 adult-use cannabis business stating the applicant is associated with the adult-use
3 cannabis business and the capacity of the association.
- 4 d. The name, address, and telephone number of the agent.
- 5 e. The name, address, and telephone number of the adult-use cannabis business
6 with which the agent is associated.
- 7 f. The agent's signature and the date.
- 8 g. A nonrefundable application or renewal fee in the amount of two hundred dollars.
- 9 3. Each adult-use cannabis business agent shall consent to a criminal history record
10 check conducted under section 12-60-24 to demonstrate compliance with the eligibility
11 requirements.
- 12 a. All applicable fees associated with the required criminal history record checks
13 must be paid by the adult-use cannabis business or the agent.
- 14 b. A criminal history record check must be performed upon initial application and
15 biennially upon renewal. An adult-use cannabis business agent shall consent to a
16 criminal history record check at any time the department determines necessary.
- 17 c. An individual convicted of a drug-related misdemeanor offense within the
18 five-year period before the date of application or a felony offense is prohibited
19 from being an adult-use cannabis business agent.
- 20 4. The department shall notify the adult-use cannabis business in writing of the purpose
21 for denying an adult-use cannabis business agent application for a registry
22 identification card. The department shall deny an application if the agent fails to meet
23 the registration requirements or to provide the information required, or if the
24 department determines the information provided is false. The cardholder may appeal a
25 denial or revocation of a registry identification card to the district court of Burleigh
26 County. The court may authorize the cardholder to appear by reliable electronic
27 means.
- 28 5. The department shall issue an adult-use cannabis business agent a registry
29 identification card within thirty calendar days of approval of an application.
- 30 6. Within ten calendar days of a change in the cardholder's name or address or
31 knowledge of a change that would render the adult-use cannabis business agent no

1 longer eligible to be a cardholder, an adult-use cannabis business agent with a registry
2 identification card shall notify the department in a manner prescribed by the
3 department.

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

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

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

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

25 **19-24.2-11. Registry identification card - Nontransferable.**

26 A registry identification card of an adult-use cannabis business agent is not transferable, by
27 assignment or otherwise, to another person. If a person attempts to transfer a card in violation
28 of this section, the registry identification card is void and the person is prohibited from all
29 privileges provided under this chapter.

30 **19-24.2-12. Registry identification card.**

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

- 1 a. The name of the cardholder;
- 2 b. The cardholder's affiliated adult-use cannabis business;
- 3 c. The date of issuance and expiration date;
- 4 d. A random ten-digit alphanumeric identification number containing at least four
- 5 numbers and at least four letters which is unique to the cardholder;
- 6 e. A photograph of the cardholder; and
- 7 f. The phone number or website address at which the card can be verified.

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

10 **19-24.2-13. Adult-use cannabis business - Adult-use cannabis agents - Suspension -**
11 **Revocation.**

- 12 1. The department may suspend or revoke the registry identification card of an adult-use
- 13 cannabis business agent or a registration certificate of an adult-use cannabis business
- 14 for a material misstatement by an applicant in an application or renewal.
- 15 2. The department may suspend or revoke a registry identification card of an adult-use
- 16 cannabis business agent or registration certificate of an adult-use cannabis business
- 17 for a violation of this chapter or rules adopted under this chapter.
- 18 3. If an adult-use cannabis business agent or an adult-use cannabis business sells or
- 19 otherwise transfers cannabis or adult-use cannabis products to a person not
- 20 authorized to possess cannabis or adult-use cannabis products under this chapter, the
- 21 department may suspend or revoke the registry identification card of the adult-use
- 22 cannabis business agent or the registration certificate of the adult-use cannabis
- 23 business, or both.
- 24 4. If an adult-use cannabis business agent or an adult-use cannabis business sells or
- 25 otherwise transfers cannabis or adult-use cannabis products in a form not authorized
- 26 under this chapter or chapter 19-24.1, the department may suspend or revoke the
- 27 registry identification card of the adult-use cannabis business agent or the registration
- 28 certificate of the adult-use cannabis business, or both.
- 29 5. The department shall provide written notice of suspension or revocation of a registry
- 30 identification card or registration certificate.
- 31 a. A suspension may not be for a period longer than six months.

1 **b.** A manufacturing facility may continue to produce, process, and possess cannabis
2 and adult-use cannabis products during a suspension, but may not transfer or
3 sell adult-use cannabis products.

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

6 **d.** An adult-use cannabis business agent or adult-use cannabis business may
7 appeal a suspension or revocation of a registry identification card or registration
8 certificate to the district court of Burleigh County. The court may authorize the
9 adult-use cannabis business agent or adult-use cannabis business to appear by
10 reliable electronic means.

11 **6.** If the department revokes a registry identification card of an adult-use cannabis
12 business agent under this chapter, the adult-use cannabis business agent is
13 disqualified from further participation under this chapter.

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

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

19 **2.** In addition to any other penalty applicable in law, a manufacturing facility or an
20 adult-use cannabis business agent of a manufacturing facility is guilty of a class B
21 felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis
22 products in any form, to a person other than a dispensary, or for intentionally selling or
23 otherwise transferring cannabis in any form other than adult-use cannabis products, to
24 a dispensary.

25 **3.** In addition to any other penalty applicable in law, a dispensary or an adult-use
26 cannabis business agent of a dispensary for intentionally selling or otherwise
27 transferring adult-use cannabis products, to an individual who is under twenty-one
28 years of age, in a form not allowed under this chapter, or in an amount that would
29 cause the adult-use cannabis consumer to purchase or possess more than the
30 amount of adult-use cannabis products authorized by this chapter is guilty of a class B
31 felony.

- 1 4. In addition to any other penalty applicable in law, a dispensary or an adult-use
2 cannabis business agent of a dispensary which intentionally sells or otherwise
3 transfers paraphernalia, to an individual who is under twenty-one years of age, or in a
4 form not allowed under this chapter is guilty of a class A misdemeanor. A dispensary or
5 an adult-use cannabis business agent is not subject to prosecution under this
6 subsection for selling paraphernalia to a registered qualifying patient who is nineteen
7 years of age or older under chapter 19-24.1.
- 8 5. In addition to any other penalty applicable in law, an adult-use cannabis business or
9 an adult-use cannabis business agent that intentionally sells or otherwise transfers
10 adult-use cannabis products in a form not allowed under this chapter is guilty of a
11 class B felony.
- 12 6. An adult-use cannabis business or an adult-use cannabis business agent that
13 knowingly submits false records or documentation required by the department to
14 certify an adult-use cannabis business under this chapter is guilty of a class C felony.
- 15 7. In addition to any other penalty applicable in law, if an adult-use cannabis business
16 violates this chapter the department may fine the adult-use cannabis business up to
17 one thousand dollars per violation, per day, and upon subsequent violations a fine not
18 to exceed five thousand dollars per violation, per day.
- 19 8. In addition to any other penalty applicable in law, an adult-use cannabis consumer
20 who intentionally sells or otherwise transfers adult-use cannabis products, to an
21 individual who is under twenty-one years of age, is guilty of a class B felony. An
22 individual convicted under this subsection is disqualified from further participation
23 under this chapter.
- 24 9. An individual who knowingly submits false records or documentation required by the
25 department to receive an adult-use cannabis business agent registry identification
26 card is guilty of a class A misdemeanor. An individual convicted under this subsection
27 may not continue to be affiliated with an adult-use cannabis business.

28 **19-24.2-15. Adult-use cannabis business - Transfer - Sale.**

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

- 1 2. Design and security features of adult-use cannabis products containers must be in
2 accordance with rules adopted under this chapter.
- 3 3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing
4 facility may not transfer or sell cannabis or adult-use cannabis products. A
5 manufacturing facility or an adult-use cannabis business agent of a manufacturing
6 facility may sell adult-use cannabis products to a dispensary.
- 7 4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell
8 or provide adult-use cannabis products to:
- 9 a. An individual under twenty-one years of age, unless the individual is a registered
10 qualifying patient and the sale or dispensing is in accordance with chapter
11 19-24.1; or
- 12 b. An adult-use cannabis consumer in an amount that would cause the adult-use
13 cannabis consumer to purchase or possess more adult-use cannabis products
14 than permitted by this chapter.
- 15 5. Before selling or providing an adult-use cannabis product to an individual, a
16 dispensary or an adult-use cannabis business agent of the dispensary shall verify:
- 17 a. The age of the individual by requiring the individual to produce one of the
18 following pieces of identification:
- 19 (1) The individual's passport, issued by the United States or a foreign
20 government;
- 21 (2) The individual's driver's license, issued by the state or another state of the
22 United States;
- 23 (3) An identification card issued by the state;
- 24 (4) A United States military identification card;
- 25 (5) An identification card issued by a federally recognized Indian tribe; or
26 (6) Any other identification card issued by a state or territory of the United
27 States which bears a picture of the individual, the name of the individual, the
28 individual's date of birth, and a physical description of the individual.
- 29 b. The purchase history of the adult-use cannabis consumer using the department-
30 approved information technology system to ensure the adult-use cannabis

1 consumer does not purchase more than the amount of adult-use cannabis
2 products authorized by this chapter.

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

9 **19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.**

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

11 1. The first day of a calendar month through the fifteenth day of the same calendar
12 month:

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

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

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

17 2. The sixteenth day of the calendar month through the last day of the same calendar
18 month:

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

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

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

23 **19-24.2-17. Maximum possession amount for adult-use cannabis consumer.**

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

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

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

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

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

1 **19-24.2-18. Adult-use cannabis business - Inspection.**

- 2 1. An adult-use cannabis business is subject to random inspection by the department.
3 During an inspection, the department may review the records of the adult-use
4 cannabis business, including the adult-use cannabis business's financial, inventory,
5 and sales records.
- 6 2. The department shall conduct inspections of adult-use cannabis businesses to ensure
7 compliance with this chapter and chapter 19-24.1. The department shall conduct
8 inspections of manufacturing facilities for the presence of contaminants. The
9 department shall select a certified laboratory to conduct random quality sampling
10 testing in accordance with rules adopted under this chapter. An adult-use cannabis
11 business shall pay the cost of all random quality sampling testing.
- 12 3. The provisions of chapter 54-44.4 do not apply to the selection of a certified laboratory
13 required by this chapter.

14 **19-24.2-19. Adult-use cannabis business - Pesticide testing.**

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

23 **19-24.2-20. Adult-use cannabis business - Cannabis plant.**

- 24 1. A manufacturing facility may have no more than ten thousand plants. For every five
25 hundred plants in excess of one thousand plants that a manufacturing facility
26 possesses, the manufacturing facility shall pay the department an additional
27 certification fee of ten thousand dollars. This fee is due at the time of increase and
28 again at renewal of the adult-use cannabis business registration certificate.
- 29 2. A dispensary may not possess more than three thousand five hundred ounces [99.22
30 kilograms] of adult-use cannabis products at any time, regardless of formulation.

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

6 **19-24.2-21. Adult-use cannabis business - Security and safety.**

- 7 1. In compliance with rules adopted under this chapter, an adult-use cannabis business
8 shall implement appropriate security and safety measures to deter and prevent the
9 unauthorized entrance to areas containing cannabis and adult-use cannabis products
10 and to prevent the theft of cannabis and adult-use cannabis products.
- 11 2. An adult-use cannabis business shall limit entry to an area in which production or
12 processing takes place or in which cannabis or adult-use cannabis products are held
13 and access is limited to authorized personnel.
- 14 3. An adult-use cannabis business must have a fully operational security alarm system at
15 the authorized physical address which includes an electrical support backup system
16 for the alarm system to provide suitable protection against theft and diversion.
- 17 4. An adult-use cannabis business shall maintain documentation in an auditable form for:
- 18 a. All maintenance inspections and tests conducted under this section, and any
19 servicing, modification, or upgrade performed on the security alarm system;
- 20 b. An alarm activation or other event that requires response by public safety
21 personnel; and
- 22 c. Any breach of security.

23 **19-24.2-22. Adult-use cannabis business - Inventory control.**

- 24 1. An adult-use cannabis business shall comply with the inventory control requirements
25 provided under this section and rules adopted under this chapter.
- 26 a. A manufacturing facility shall:
- 27 (1) Employ a bar coding inventory control system to track batch, strain, and
28 amounts of cannabis and adult-use cannabis products in inventory and to
29 track amounts of adult-use cannabis products sold to dispensaries; and
- 30 (2) Host a secure computer interface to transfer inventory amounts and
31 dispensary purchase information to the department.

1 b. A dispensary shall:

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

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

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

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

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

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

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

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

27 **19-24.2-24. Adult-use cannabis business - Bylaws and operating agreements.**

28 As part of the initial application of a proposed adult-use cannabis business, the applicant
29 shall provide to the department a current copy of the applicant's bylaws or operating agreement.

30 Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the
31 bylaws or operating agreement in accordance with this chapter. In addition to any other

1 requirements, the bylaws or operating agreement must include the ownership or management
2 structure of the adult-use cannabis business; the composition of the board of directors, board of
3 governors, member-managers, or managers; and provisions relative to the disposition of
4 revenues and earnings.

5 **19-24.2-25. Adult-use cannabis business - Retention of and access to records and**
6 **reports.**

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

14 **19-24.2-26. Adult-use cannabis business - Recordkeeping - Adult-use cannabis**
15 **business agents - Registry identification cards.**

- 16 1. Each adult-use cannabis business shall maintain:
- 17 a. In compliance with rules adopted under this chapter, a personnel record for each
18 adult-use cannabis business agent for a period of at least three years following
19 termination of the individual's affiliation with the adult-use cannabis business. The
20 personnel record must comply with minimum requirements set by rule adopted
21 under this chapter.
- 22 b. A record of the source of funds that will be used to open or maintain the adult-use
23 cannabis business, including the name, address, and date of birth of any
24 investor.
- 25 c. A record of each instance in which a current or prospective board member,
26 member-manager, manager, or governor, who managed or served on the board
27 of a business or not-for-profit entity and in the course of that service was
28 convicted, fined, or censured or had a registration or license suspended or
29 revoked in any administrative or judicial proceeding.
- 30 2. Each adult-use cannabis business agent shall hold a valid registry identification card.

1 **19-24.2-27. Verification system.**

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

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

8 a. Whether an identification card is valid;

9 b. The name of the cardholder; and

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

11 **19-24.2-28. Protections.**

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

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

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

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

27 a. Produce, process, or conduct related activities for the sole purpose of selling
28 adult-use cannabis products to a dispensary; or

29 b. Transfer, transport, or deliver cannabis or adult-use cannabis products to and
30 from a department designee or manufacturing facility in accordance with this
31 chapter.

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

1 **19-24.2-29. Limitations.**

2 1. An adult-use cannabis consumer may use adult-use cannabis products in the following
3 locations:

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (6) On the grounds of a child care facility or licensed home day care, unless
2 authorized under rules adopted by the department of human services.
- 3 f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2,
4 23-12-10.4, 23-12-10.5, or 23-12-11.
- 5 g. Use of adult-use cannabis products in a motor vehicle as defined by chapter
6 39-01.
- 7 h. Using a combustible delivery form of adult-use cannabis products or vaporizing
8 adult-use cannabis products under this chapter if the smoke or vapor would be
9 inhaled by an individual under twenty-one years of age.
- 10 i. Operating, navigating, or being in actual physical control of a motor vehicle,
11 aircraft, train, snowmobile, or motorboat, while under the influence of cannabis. A
12 registered qualifying patient may not be considered to be under the influence of
13 cannabis solely because of the presence of metabolites or components of
14 cannabis that appear in insufficient concentration to cause impairment.
- 15 3. This chapter does not require:
- 16 a. A person in lawful possession of property to allow a guest, client, customer, or
17 other visitor to possess or consume adult-use cannabis products on or in the
18 property; or
- 19 b. A landlord to allow production and processing of cannabis or possession and
20 consumption of adult-use cannabis products on rental property.
- 21 4. This chapter does not prohibit an employer from:
- 22 a. Disciplining or terminating the employment of an employee for possessing or
23 consuming adult-use cannabis products in the workplace or for working while
24 under the influence of cannabis. "Working" as used in this subdivision includes
25 when an employee is on call.
- 26 b. Adopting reasonable zero tolerance or drug-free workplace policies, or
27 employment policies concerning drug testing, smoking, consumption, storage, or
28 use of cannabis in the workplace or while on call provided that the policy is
29 applied in a nondiscriminatory manner.
- 30 c. Disciplining or terminating the employment of an employee for violating an
31 employer's employment policies or workplace drug policy.

- 1 5. An employer may consider an employee to be impaired or under the influence of
2 cannabis if the employer has a good-faith belief that an employee manifests specific,
3 articulable symptoms while working which decrease or lessen the employee's
4 performance of the duties or tasks of the employee's job position, including symptoms
5 of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational
6 or unusual behavior, or negligence or carelessness in operating equipment or
7 machinery; disregard for the safety of the employee or others, or involvement in any
8 accident that results in serious damage to equipment or property; disruption of a
9 production or manufacturing process; or carelessness that results in any injury to the
10 employee or others. If an employer elects to discipline an employee on the basis that
11 the employee is under the influence or impaired by cannabis, the employer shall afford
12 the employee a reasonable opportunity to contest the basis of the determination.
- 13 6. This chapter does not create or imply a cause of action for any person against an
14 employer for:
- 15 a. Actions, including subjecting an employee or applicant to reasonable drug and
16 alcohol testing under the employer's workplace drug policy, including an
17 employee's refusal to be tested or to cooperate in testing procedures or
18 disciplining termination of employment, based on the employer's good-faith belief
19 that an employee used or possessed cannabis in the employer's workplace or
20 while performing the employee's job duties or while on call in violation of the
21 employer's employment policies;
- 22 b. Actions, including discipline or termination of employment, based on the
23 employer's good-faith belief that an employee was impaired as a result of the use
24 of cannabis, or under the influence of cannabis, while at the employer's
25 workplace or while performing the employee's job duties or while on call in
26 violation of the employer's workplace drug policy; or
- 27 c. Injury, loss, or liability to a third party if the employer did not know or have a
28 reason to know the employee was impaired.
- 29 7. This chapter may not be construed to interfere with any federal, state, or local
30 restrictions on employment, including the United States department of transportation
31 regulation under title 49, Code of Federal Regulations, part 40, section 40.151(e) or

1 impact an employer's ability to comply with federal or state law or cause it to lose a
2 federal or state contract or funding.

3 **19-24.2-30. Health council - Rules.**

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

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

10 **19-24.2-31. Confidentiality.**

11 1. Except as provided under subsection 2, information kept or maintained by the
12 department is confidential, including information in a registration application or renewal
13 and supporting information submitted by an adult-use cannabis business, proposed
14 adult-use cannabis business, or adult-use cannabis business agent. Information kept
15 or maintained by the department which could be used to identify an adult-use
16 cannabis consumer is confidential.

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

18 a. The verification of registration certificates and registry identification cards under
19 this chapter;

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

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

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

26 3. Information submitted to a local government to demonstrate compliance with any
27 security requirements required by local zoning ordinances or regulations is
28 confidential.

1 **19-24.2-32. Report to the legislative management.**

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

- 5 1. The number and type of adult-use cannabis businesses;
- 6 2. Revenue and expenses of the department related to the implementation of this
7 chapter;
- 8 3. Sales data by product type; and
- 9 4. Information for statistical purposes.

10 **19-24.2-33. Adult-use cannabis fees.**

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

13 **SECTION 12. AMENDMENT.** Subsection 1 of section 39-20-01 of the North Dakota
14 Century 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 13. 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 14. 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~~of usable marijuana or adult-use cannabis products,
16 or the presence of tetrahydrocannabinol.

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