

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 ~~17.16.~~ "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 ~~18.17.~~ "Marijuana" means all parts of the plant of the genus cannabis sativa L., whether
19 growing or not; and the seeds thereof; ~~the resin extracted from any part of the plant;~~
20 ~~and every compound, manufacture, salt, derivative, mixture, or preparation of the~~
21 ~~plant, its seeds, or resin.~~ The term does not include the:

22 a. The tetrahydrocannabinol extracted or isolated from the plant, or any compound,
23 manufacture, salt, derivative, mixture, or preparation from the resin of oil,
24 including natural or synthetic tetrahydrocannabinol;

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

30 ~~b.c.~~ Hemp as defined in chapter 4.1-18.1;

- 1 | ~~e.d.~~ 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 | or
4 | ~~d.e.~~ Adult-use cannabis products purchased, possessed, or consumed by an adult-
5 | use cannabis consumer in accordance with chapter 19-24.2.

6 | ~~19-18.~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by
7 | extraction from substances of vegetable origin, or independently by means of chemical
8 | synthesis, or by a combination of extraction and chemical synthesis:

- 9 | a. Opium and opiate and any salt, compound, derivative, or preparation of opium or
10 | opiate.
11 | b. Any salt, compound, isomer, derivative, or preparation thereof which is
12 | chemically equivalent or identical with any of the substances referred to in
13 | subdivision a, but not including the isoquinoline alkaloids of opium.
14 | c. Opium poppy and poppy straw.
15 | d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves,
16 | any salt, compound, isomer, derivative, or preparation thereof which is chemically
17 | equivalent or identical with any of these substances, but not including
18 | decocainized coca leaves or extractions of coca leaves which do not contain
19 | cocaine or ecgonine.

20 | ~~20-19.~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining
21 | liability similar to morphine or being capable of conversion into a drug having
22 | addiction-forming or addiction-sustaining liability. The term does not include, unless
23 | specifically designated as controlled under section 19-03.1-02, the dextrorotatory
24 | isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term
25 | includes its racemic and levorotatory forms.

26 | ~~21-20.~~ "Opium poppy" means the plant of the species papaver somniferum L., except its
27 | seeds.

28 | ~~22-21.~~ "Over-the-counter sale" means a retail sale of a drug or product other than a
29 | controlled, or imitation controlled, substance.

Sixty-seventh
Legislative Assembly

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

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

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

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

12 Other names: Delta-9-tetrahydrocannabinol.

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

14 Other names: Delta-8-tetrahydrocannabinol.

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

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

19 (2) Tetrahydrocannabinols ~~does~~do not include:

20 (a) ~~Tetrahydrocannabinols~~The allowable amount of total

21 tetrahydrocannabinol found in hemp as defined in chapter 4.1-18.1; or

22 (b) A prescription drug approved by the United States food and drug

23 administration under section 505 of the Federal Food, Drug, and

24 Cosmetic Act [21 U.S.C. 355].

25 (c) Adult-use cannabis products purchased, possessed, or consumed by

26 an adult-use cannabis consumer in accordance with chapter 19-24.2.

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

29 1. For purposes of this section:

30 a. "Chemical substance" means a substance intended to be used as a precursor in
31 the manufacture of a controlled substance or any other chemical intended to be

1 used in the manufacture of a controlled substance. Intent under this subsection
2 may be demonstrated by the substance's use, quantity, manner of storage, or
3 proximity to other precursors or to manufacturing equipment.

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

5 c. "Controlled substance" means the same as that term is defined in section
6 19-03.1-01, except the term does not include less than one-half one ounce [28.35
7 grams] of marijuana or an amount up to the applicable maximum possession
8 amount of tetrahydrocannabinol.

9 d. "Drug paraphernalia" means the same as that term is defined in section
10 19-03.4-01.

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

12 f. "Vulnerable adult" means a vulnerable adult as the term is defined in section
13 50-25.2-01.

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

16 **19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

17 1. Except as provided in subsection 2, a person who intentionally ingests, inhales,
18 injects, or otherwise takes into the body a controlled substance, unless the substance
19 was obtained directly from a practitioner or pursuant to a valid prescription or order of
20 a practitioner while acting in the course of the practitioner's professional practice, is
21 guilty of a class A misdemeanor. This subsection does not apply to ingesting, inhaling,
22 injecting, or otherwise taking into the body marijuana or tetrahydrocannabinol.

23 2. A person who is under twenty-one years of age and intentionally ingests, inhales,
24 injects, or otherwise takes into the body a controlled substance that is marijuana or
25 tetrahydrocannabinol, unless the substance was medical marijuana obtained in
26 accordance with chapter 19-24.1, is guilty of ~~a class B misdemeanor~~ an infraction.

27 3. The venue for a violation of this section exists in either the jurisdiction in which the
28 controlled substance was ingested, inhaled, injected, or otherwise taken into the body
29 or the jurisdiction in which the controlled substance was detected in the body of the
30 accused.

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

3 **19-03.1-23. Prohibited acts - Penalties.**

4 1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined
5 in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or
6 deliver, a controlled substance, or to deliver, distribute, or dispense a controlled
7 substance by means of the internet, but a person who violates section 12-46-24 or
8 12-47-21 may not be prosecuted under this subsection. A person who violates this
9 subsection with respect to:

- 10 a. A controlled substance classified in schedule I or II which is a narcotic drug, or
11 methamphetamine, is guilty of a class B felony.
12 b. Any other controlled substance classified in schedule I, II, or III, or a controlled
13 substance analog is guilty of a class B felony.
14 c. A substance classified in schedule IV, is guilty of a class C felony.
15 d. A substance classified in schedule V, is guilty of a class A misdemeanor.

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

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

- 25 a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B
26 felony.
27 b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
28 c. A counterfeit substance classified in schedule V, is guilty of a class A
29 misdemeanor.

30 4. A person at least eighteen years of age who solicits, induces, intimidates, employs,
31 hires, or uses a person under eighteen years of age to aid or assist in the

1 manufacture, delivery, or possession with intent to manufacture or deliver a controlled
2 substance for the purpose of receiving consideration or payment for the manufacture
3 or delivery of any controlled substance is guilty of a class B felony. It is not a defense
4 to a violation of this subsection that the defendant did not know the age of a person
5 protected under this subsection.

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

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

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

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

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

- 1 subsection and a class C felony for a second or subsequent offense under this
2 subsection.
- 3 c. If, at the time of the offense the person is in or on the real property comprising a
4 public or private elementary or secondary school or a public career and technical
5 education school, the person is guilty of a class B felony, unless the offense
6 involves marijuana.
- 7 d. A person who violates this subsection by possessing:
- 8 (1) ~~Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty~~
9 ~~of an infraction.~~
- 10 (2) ~~At least one-half ounce [14.175 grams] but not more than 500 grams of~~
11 ~~marijuana is guilty of a class B misdemeanor.~~
- 12 (3) ~~More than 500 grams of marijuana is guilty of a class A misdemeanor.~~
13 ~~under the age of twenty-one is in violation of this subsection by possessing:~~
- 14 (1) Marijuana:
- 15 (a) In an amount less than one ounce [28.35 grams] is guilty of an
16 infraction.
- 17 (b) At least one ounce [28.35 grams] but not more than ~~two~~eight and
18 eighty-two hundredths ounces [~~56.70~~250 grams] is guilty of a class B
19 misdemeanor.
- 20 (c) More than ~~two~~eight and eighty-two hundredths ounces [~~56.70~~250
21 grams] but less than ~~500~~seventeen and sixty-four hundredths ounces
22 [500 grams] is guilty of a class A misdemeanor.
- 23 (d) More than seventeen and sixty-four hundredths ounces [500 grams] is
24 guilty of a class C felony.
- 25 (2) Tetrahydrocannabinol:
- 26 (a) In an amount up to the applicable maximum ~~possession~~ amount
27 authorized by chapter 19-24.2 is guilty of an infraction.
- 28 (b) More than the applicable maximum ~~possession~~ amount authorized by
29 chapter 19-24.2 but less than ~~two~~four times the applicable maximum
30 ~~possession~~ amount of tetrahydrocannabinol authorized by chapter
31 19-24.2 is guilty of a class B misdemeanor.

- 1 (c) At least ~~two~~four times the applicable maximum possession amount
2 authorized by chapter 19-24.2 but less than eight times the applicable
3 maximum possession amount of tetrahydrocannabinol authorized by
4 chapter 19-24.2 is guilty of a class A misdemeanor.
- 5 (d) More than eight times the applicable maximum possession amount of
6 tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a
7 class C felony.
- 8 e. A person age twenty-one or older is in violation of this section by possessing:
- 9 (1) Marijuana:
- 10 (a) More than one ounce [28.35 grams] ~~of marijuana~~ but not more than
11 ~~two~~eight and eighty-two hundredths ounces [56.70250 grams] ~~of~~
12 ~~marijuana~~ is guilty of a class B misdemeanor.
- 13 (2)(b) More than ~~two~~eight and eighty-two hundredths ounces [56.70250
14 grams] but less than seventeen and sixty-four hundredths ounces
15 [500 grams] is guilty of a class A misdemeanor.
- 16 (c) More than seventeen and sixty-four hundredths ounces [500 grams] is
17 guilty of a class C felony.
- 18 (2) Tetrahydrocannabinol:
- 19 (3)(a) More than the applicable maximum possession amount of
20 tetrahydrocannabinol authorized by chapter 19-24.2 but less than
21 ~~two~~four times the applicable maximum possession amount of
22 tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a
23 class B misdemeanor.
- 24 (4)(b) At least ~~two~~four times the applicable maximum possession amount of
25 tetrahydrocannabinol authorized by chapter 19-24.2 but less than
26 eight times the applicable maximum possession amount of
27 tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a
28 class A misdemeanor.
- 29 (c) More than eight times the applicable maximum possession amount of
30 tetrahydrocannabinol authorized by chapter 19-24.2 is guilty of a
31 class C felony.

- 1 e-f. If an individual is sentenced to the legal and physical custody of the department
2 of corrections and rehabilitation under this subsection, the department may place
3 the individual in a drug and alcohol treatment program designated by the
4 department. Upon the successful completion of the drug and alcohol treatment
5 program, the department shall release the individual from imprisonment to begin
6 any court-ordered period of probation.
- 7 f-g. If the individual is not subject to any court-ordered probation, the court shall order
8 the individual to serve the remainder of the sentence of imprisonment on
9 supervised probation subject to the terms and conditions imposed by the court.
- 10 g-h. Probation under this subsection may include placement in another facility,
11 treatment program, or drug court. If an individual is placed in another facility or
12 treatment program upon release from imprisonment, the remainder of the
13 sentence must be considered as time spent in custody.
- 14 h-i. An individual incarcerated under this subsection as a result of a second probation
15 revocation is not eligible for release from imprisonment upon the successful
16 completion of treatment.
- 17 i-j. A person who violates this subsection regarding possession of five or fewer
18 capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or
19 controlled substance analog is guilty of a class A misdemeanor.
- 20 8. Except as provided by section 19-03.1-45, a court may order a person who violates
21 this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed
22 addiction counselor. The evaluation must indicate the prospects for rehabilitation and
23 whether addiction treatment is required. If ordered, the evaluation must be submitted
24 to the court before imposing punishment for a felony violation or a misdemeanor
25 violation.
- 26 9. If a person pleads guilty or is found guilty of a first offense regarding possession of
27 one ounce [28.35 grams] or less of marijuana or an amount up to the applicable
28 maximum possession amount of tetrahydrocannabinol authorized by chapter 19-24.2
29 and a judgment of guilt is entered, a court, upon motion, shall seal the court record of
30 that conviction if the person is not subsequently convicted within two years of a further

1 violation of this chapter. Once sealed, the court record may not be opened even by
2 order of the court.

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

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

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

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

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

21 b. The offense involved:

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

24 (2) Fifty grams or more of a mixture or substance containing a detectable
25 amount of:

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

29 (b) Cocaine, its salts, optical and geometric isomers, and salts of
30 isomers;

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

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

30 **SECTION 7. AMENDMENT.** Subsection 12 of section 19-03.4-01 of the North Dakota
31 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:

30 **19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.**

- 31 1. A person may not use or possess with intent to use drug paraphernalia to plant,
32 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,

1 process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled
2 substance in violation of chapter 19-03.1. A person violating this subsection is guilty of
3 a class C felony if the drug paraphernalia is used, or possessed with intent to be used,
4 to manufacture, compound, convert, produce, process, prepare, test, or analyze a
5 controlled substance, other than marijuana or tetrahydrocannabinol, classified in
6 schedule I, II, or III of chapter 19-03.1.

7 2. A person may not use or possess with the intent to use drug paraphernalia to inject,
8 ingest, inhale, or otherwise induce into the human body a controlled substance, other
9 than marijuana or tetrahydrocannabinol, classified in schedule I, II, or III of
10 chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor.
11 If a person previously has been convicted of an offense under this title, other than an
12 offense related to marijuana or tetrahydrocannabinol, or an equivalent offense from
13 another court in the United States, a violation of this subsection is a class C felony.

14 3. A person may not use or possess with intent to use drug paraphernalia to plant,
15 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
16 process, prepare, test, analyze, pack, or repack marijuana or tetrahydrocannabinol in
17 violation of chapter 19-03.1. A person violating this subsection is guilty of a class A
18 misdemeanor. An adult-use cannabis business or adult-use cannabis business agent
19 acting in accordance with chapters 19-24.1 and 19-24.2 is not subject to prosecution
20 under this subsection.

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

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

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

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

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

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

15 **19-03.4-04. Unlawful manufacture or delivery of drug paraphernalia - Penalty.**

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

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

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

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

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

3 **19-24.2-01. Definitions.**

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

- 5 1. "Adult-use cannabinoid capsule" means a small, soluble container, usually made of
6 gelatin, which encloses a dose of an adult-use cannabinoid product or an adult-use
7 cannabinoid concentrate intended for consumption. The maximum concentration or
8 amount of tetrahydrocannabinol permitted in a serving of an adult-use cannabinoid
9 capsule is ten milligrams.
- 10 2. "Adult-use cannabinoid concentrate" means an adult-use cannabinoid concentrate or
11 extract obtained by separating cannabinoids from cannabis by a mechanical,
12 chemical, or other process.
- 13 3. "Adult-use cannabinoid edible product" means a soft or hard lozenge in a geometric
14 square shape into which an adult-use cannabinoid concentrate or the dried leaves or
15 flowers of the plant of the genus cannabis is incorporated. The maximum
16 concentration or amount of tetrahydrocannabinol permitted in a serving of an adult-use
17 cannabinoid edible product is ten milligrams and in a package is one hundred
18 milligrams.
- 19 4. "Adult-use cannabinoid product" means a product intended for human consumption or
20 use which contains cannabinoids.
- 21 a. Adult-use cannabinoid products are limited to the following forms:
- 22 (1) Adult-use cannabinoid solution;
- 23 (2) Adult-use cannabinoid capsule;
- 24 (3) Adult-use cannabinoid transdermal patch;
- 25 (4) Adult-use cannabinoid topical; and
- 26 (5) Adult-use cannabinoid edible product.
- 27 b. The term does not include:
- 28 (1) An adult-use cannabinoid concentrate by itself; or
- 29 (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. "Tetrahydrocannabinol" means tetrahydrocannabinols naturally contained in a plant of
22 the genus Cannabis, and synthetic equivalents of the substances contained in the
23 cannabis plant, or in the resinous extractives of the plant, including synthetic
24 substances, derivatives, and their isomers with similar chemical structure and
25 pharmacological activity to those substances contained in the plant, including:
- 26 a. Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names:
27 Delta-9-tetrahydrocannabinol.
- 28 b. Delta-6 or trans tetrahydrocannabinol, and their optical isomers. Other names:
29 Delta-8 tetrahydrocannabinol.
- 30 c. Delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(Since nomenclature of these substances is not intentionally standardized, compounds of these structures, regardless of numerical designation or atomic positions covered.)

Tetrahydrocannabinol does not include:

(1) The allowable amount of total tetrahydrocannabinol found in hemp as defined in chapter 4.1-18.1; or

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

31. "Total tetrahydrocannabinol" means the sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by eight hundred seventy-seven thousandths plus the percentage of weight of tetrahydrocannabinol.

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

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

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

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

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

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

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

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

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

- 1 4. An adult-use cannabis business registered under this chapter shall provide registered
2 qualifying patients and registered designated caregivers access to usable marijuana in
3 accordance with chapter 19-24.1. An adult-use cannabis business shall comply with all
4 requirements in chapter 19-24.1.
- 5 5. The department shall establish an open application period for the submission of
6 adult-use cannabis business applications. At the completion of the open application
7 period, the department shall review each complete application using a competitive
8 process established in accordance with rules adopted under this chapter and shall
9 determine which applicants to register as adult-use cannabis businesses.
- 10 6. If the department revokes or does not renew an adult-use cannabis business
11 registration certificate, the department may establish an open application period for the
12 submission of adult-use cannabis business applications.
- 13 7. The department of commerce may not certify an adult-use cannabis business as a
14 primary sector business.

15 **19-24.2-04. Adult-use cannabis business - Authority - Ownership.**

- 16 1. The activities of a manufacturing facility are limited to producing, processing, and
17 related activities, including acquiring, possessing, storing, transferring, and
18 transporting cannabis and adult-use cannabis products, for the sole purpose of selling
19 adult-use cannabis products to a dispensary.
- 20 2. The activities of a dispensary are limited to purchasing adult-use cannabis products
21 from a manufacturing facility and related activities, including storing, delivering,
22 transferring, and transporting adult-use cannabis products, for the sole purpose of
23 dispensing adult-use cannabis products to adult-use cannabis consumers.
- 24 3. The activities of a dispensary includes providing education material and selling
25 supplies related to the consumption and storage of adult-use cannabis products. A
26 dispensary may sell only supplies related to the consumption and storage of adult-use
27 cannabis products to an adult-use cannabis consumer. All education material and
28 supplies related to the consumption and storage of adult-use cannabis products are
29 subject to prior department approval.
- 30 4. An individual or an organization may not hold an ownership interest in:
31 a. More than one manufacturing facility.

- 1 b. More than four dispensaries.
- 2 c. More than one dispensary within a twenty-mile [32.19 kilometers] radius of
- 3 another dispensary.
- 4 5. A manufacturing facility and dispensary may not enter an agreement under which a
- 5 dispensary agrees to limit purchases or sales of adult-use cannabis products to one
- 6 manufacturing facility.

7 **19-24.2-05. Adult-use cannabis business - Application.**

- 8 1. The department shall establish forms for an applicant to be registered as an adult-use
- 9 cannabis business. For an adult-use cannabis business registration application to be
- 10 complete and eligible for review, the applicant shall submit to the department:
- 11 a. A nonrefundable application fee, not to exceed five thousand dollars, made
- 12 payable to the "State Department of Health".
- 13 b. The legal name, articles of incorporation or articles of organization, and bylaws or
- 14 operating agreement of the proposed adult-use cannabis business applicant.
- 15 c. Evidence of the proposed adult-use cannabis business applicant's registration
- 16 with the secretary of state and certificate of good standing.
- 17 d. The physical address of the proposed location of the proposed adult-use
- 18 cannabis business and:
- 19 (1) Evidence of approval from local officials as to the proposed adult-use
- 20 cannabis business applicant's compliance with local zoning laws for the
- 21 physical address to be used by the proposed cannabis business; and
- 22 (2) Evidence the physical address of the proposed adult-use cannabis business
- 23 is not located within one thousand feet [304.80 meters] of a property line of
- 24 a pre-existing public or private school.
- 25 e. For a manufacturing facility applicant, a description of the enclosed and locked
- 26 facility that would be used in the production and processing of cannabis,
- 27 including steps that will be taken to ensure the production and processing is not
- 28 visible from the street or other public areas.
- 29 f. The name, address, and date of birth of each principal officer and board member,
- 30 or of each member-manager, manager, or governor, of the proposed adult-use
- 31 cannabis business applicant and verification each officer and board member, or

- 1 each member-manager, manager, or governor, has consented to a criminal
2 history record check conducted under section 12-60-24.
- 3 g. For each of the proposed adult-use cannabis business applicant's principal
4 officers and board members, or for each of the proposed adult-use cannabis
5 business applicant's member-managers, managers, or governors, a description
6 of that individual's relevant experience, including training or professional licensing
7 related to medicine, pharmaceuticals, natural treatments, botany, food science,
8 food safety, production, processing, and the individual's experience running a
9 business entity.
- 10 h. A description of proposed security and safety measures.
- 11 i. An example of the design and security features of adult-use cannabis product
12 containers.
- 13 j. A complete operations manual.
- 14 k. A description of the plans for making usable marijuana available on an affordable
15 basis to registered qualifying patients with limited financial resources in
16 accordance with chapter 19-24.1.
- 17 l. A list of all individuals and business entities having direct or indirect authority over
18 the management or policies of the proposed adult-use cannabis business
19 applicant.
- 20 m. A list of all individuals and business entities having an ownership interest in the
21 proposed adult-use cannabis business applicant, whether direct or indirect, and
22 whether the interest is in profits, land, or building, including owners of any
23 business entity that owns all or part of the land or building.
- 24 n. The identity of any creditor holding a security interest in the proposed adult-use
25 cannabis business premises.
- 26 2. The department is not required to review an application submitted under this section
27 unless the department determines the application is complete. The criteria considered
28 by the department in reviewing an application must include:
- 29 a. The suitability of the proposed adult-use cannabis business location, including
30 compliance with any local zoning laws, and the geographic convenience to

- 1 access adult-use cannabis businesses for adult-use consumers throughout the
2 state;
- 3 b. The character and relevant experience of the principal officers and board
4 members, or of the member-managers, managers, or governors, including
5 training or professional licensing and business experience;
- 6 c. The applicant's plan for operations and services, including staffing and training
7 plans, whether the applicant has sufficient capital to operate, and the applicant's
8 ability to provide an adequate supply of adult-use cannabis products and usable
9 marijuana as defined in chapter 19-24.1;
- 10 d. The sufficiency of the applicant's plans for recordkeeping;
- 11 e. The sufficiency of the applicant's plans for safety, security, and the prevention of
12 diversion, including the proposed location and security devices employed;
- 13 f. The applicant's plan for making usable marijuana, as defined in chapter 19-24.1,
14 available on an affordable basis to registered qualifying patients with limited
15 financial resources;
- 16 g. The applicant's plan for safe and accurate packaging and labeling of adult-use
17 cannabis products; and
- 18 h. The applicant's plans for testing adult-use cannabis products and cannabis.
- 19 3. Following completion of the review under subsection 2, the department shall select the
20 applicants eligible for registration.

21 **19-24.2-06. Adult-use cannabis business - Registration.**

- 22 1. Upon receiving notification by the department that an adult-use cannabis business
23 application is eligible for registration, the applicant shall submit all of the following
24 items to the department to qualify for registration:
- 25 a. A certification fee, made payable to the "State Department of Health", in an
26 amount not to exceed ninety thousand dollars for a dispensary and one hundred
27 ten thousand dollars for a manufacturing facility.
- 28 b. A financial assurance or security bond to ensure the protection of the public
29 health and safety and the environment in the event of abandonment, default, or
30 other inability or unwillingness to meet the requirements of this chapter.

- 1 c. The physical address of the proposed adult-use cannabis business; confirmation
2 the information in the application regarding the physical location of the proposed
3 adult-use cannabis business has not changed, and if the information has
4 changed the department shall determine whether the new information meets the
5 requirements of this chapter; and a current certificate of occupancy, or equivalent
6 document, to demonstrate compliance with the provisions of state and local fire
7 code for the physical address of the proposed adult-use cannabis business. It is
8 not necessary for an applicant to resubmit any information provided in the initial
9 application unless there has been a change in that information.
- 10 d. An update to previously submitted information, including information about
11 adult-use cannabis business agents.

- 12 2. If an applicant complies with subsection 1, the department shall issue the applicant a
13 registration certificate.

14 **19-24.2-07. Adult-use cannabis business - Renewal.**

- 15 1. An adult-use cannabis business registration certificate expires two years after
16 issuance. An adult-use cannabis business may submit a renewal application at any
17 time beginning ninety calendar days before the expiration of the registration certificate.
18 An adult-use cannabis business shall submit a renewal application a minimum of sixty
19 calendar days before the expiration of the registration certificate to avoid suspension
20 of the certificate.
- 21 2. The department shall approve an adult-use cannabis business's renewal application
22 within sixty calendar days of submission if:
- 23 a. The adult-use cannabis business submits a renewal fee, in the amount not to
24 exceed ninety thousand dollars for a dispensary and one hundred ten thousand
25 dollars for a manufacturing facility, which the department shall refund if the
26 department rejects the renewal application;
- 27 b. The adult-use cannabis business submits a complete renewal application;
- 28 c. The department has at no time suspended the adult-use cannabis business's
29 registration for violation of this chapter or chapter 19-24.1;
- 30 d. Inspections conducted under this chapter do not raise any serious concerns
31 about the continued operation of the adult-use cannabis business; and

1 e. The adult-use cannabis business continues to meet all the requirements for the
2 operation of an adult-use cannabis business as set forth in this chapter, chapter
3 19-24.1, and rules adopted under this chapter.

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

10 **19-24.2-08. Adult-use cannabis business - Registration certificates.**

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

- 12 1. The name and address of the adult-use cannabis business;
13 2. Whether the type of adult-use cannabis business is a manufacturing facility or
14 dispensary;
15 3. A unique license number issued by the department; and
16 4. Any other information deemed necessary by the department.

17 **19-24.2-09. Adult-use cannabis business - Notification of changes.**

- 18 1. Upon application of an adult-use cannabis business to the department, a registration
19 certificate of an adult-use cannabis business may be amended to authorize a change
20 in the authorized physical location of the adult-use cannabis business, or to amend the
21 ownership or organizational structure of the adult-use cannabis business with the
22 registration certificate. An adult-use cannabis business shall provide the department a
23 written notice of any change described under this section at least sixty calendar days
24 before the proposed effective date of the change.
25 2. A registration certificate authorizing the operation of an adult-use cannabis business is
26 void upon a change in ownership, substantial corporate change, change in location, or
27 discontinued operation, without prior approval of the department. The health council
28 may adopt rules allowing for certain types of changes in ownership without the need
29 for prior written approval from the department.
30 3. The department shall authorize the use of additional structures located within five
31 hundred feet [152.40 meters] of the location described in the original application.

1 unless the department makes an affirmative finding the use of additional structures
2 would jeopardize public health or safety or would result in the cannabis business being
3 within one thousand feet [304.80 meters] of a property line of a pre-existing public or
4 private school. The department may waive all or part of the required advance notice to
5 address emergent or emergency situations.

6 **19-24.2-10. Adult-use cannabis business - Agents - Registry identification cards.**

- 7 1. Upon issuance of an adult-use cannabis business registry certificate, the department
8 shall issue a registry identification card to each qualified adult-use cannabis business
9 agent associated with the adult-use cannabis business.
- 10 2. To qualify to be issued a registry identification card, each adult-use cannabis business
11 agent must be at least twenty-one years of age and shall submit all of the following
12 registry identification card application material to the department:
- 13 a. A photographic copy of the agent's department-approved identification. The agent
14 shall make the identification available for inspection and verification by the
15 department.
- 16 b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
- 17 c. A written and signed statement from an officer or executive staff member of the
18 adult-use cannabis business stating the applicant is associated with the adult-use
19 cannabis business and the capacity of the association.
- 20 d. The name, address, and telephone number of the agent.
- 21 e. The name, address, and telephone number of the adult-use cannabis business
22 with which the agent is associated.
- 23 f. The agent's signature and the date.
- 24 g. A nonrefundable application or renewal fee in the amount of two hundred dollars.
- 25 3. Each adult-use cannabis business agent shall consent to a criminal history record
26 check conducted under section 12-60-24 to demonstrate compliance with the eligibility
27 requirements.
- 28 a. All applicable fees associated with the required criminal history record checks
29 must be paid by the adult-use cannabis business or the agent.

- 1 b. A criminal history record check must be performed upon initial application and
2 biennially upon renewal. An adult-use cannabis business agent shall consent to a
3 criminal history record check at any time the department determines necessary.
- 4 c. An individual convicted of a drug-related misdemeanor offense within the
5 five-year period before the date of application or a felony offense is prohibited
6 from being an adult-use cannabis business agent.
- 7 4. The department shall notify the adult-use cannabis business in writing of the purpose
8 for denying an adult-use cannabis business agent application for a registry
9 identification card. The department shall deny an application if the agent fails to meet
10 the registration requirements or to provide the information required, or if the
11 department determines the information provided is false. The cardholder may appeal a
12 denial or revocation of a registry identification card to the district court of Burleigh
13 County. The court may authorize the cardholder to appear by reliable electronic
14 means.
- 15 5. The department shall issue an adult-use cannabis business agent a registry
16 identification card within thirty calendar days of approval of an application.
- 17 6. Within ten calendar days of a change in the cardholder's name or address or
18 knowledge of a change that would render the adult-use cannabis business agent no
19 longer eligible to be a cardholder, an adult-use cannabis business agent with a registry
20 identification card shall notify the department in a manner prescribed by the
21 department.
- 22 7. If an adult-use cannabis business agent loses the agent's registry identification card,
23 that agent shall notify the department in writing within twenty-four hours of becoming
24 aware the card has been lost.
- 25 8. If a cardholder notifies the department of items listed in this section but the nature of
26 the item reported results in the cardholder remaining eligible, the department may
27 issue the cardholder a new registry identification card with a new random ten-digit
28 alphanumeric identification number within twenty calendar days of approving the
29 updated information and the cardholder shall pay a fee, not to exceed twenty-five
30 dollars. If a cardholder notifies the department of an item that results in the cardholder
31 being ineligible, the registry identification card becomes void immediately.

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

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

12 **19-24.2-11. Registry identification card - Nontransferable.**

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

17 **19-24.2-12. Registry identification card.**

- 18 1. The registry identification card of an adult-use cannabis business agent must include:
19 a. The name of the cardholder;
20 b. The cardholder's affiliated adult-use cannabis business;
21 c. The date of issuance and expiration date;
22 d. A random ten-digit alphanumeric identification number containing at least four
23 numbers and at least four letters which is unique to the cardholder;
24 e. A photograph of the cardholder; and
25 f. The phone number or website address at which the card can be verified.
26 2. Except as otherwise provided in this section or rule adopted under this chapter, a
27 registry identification card expiration date is one year after the date of issuance.

1 **19-24.2-13. Adult-use cannabis business - Adult-use cannabis agents - Suspension -**

2 **Revocation.**

- 3 1. The department may suspend or revoke the registry identification card of an adult-use
4 cannabis business agent or a registration certificate of an adult-use cannabis business
5 for a material misstatement by an applicant in an application or renewal.
- 6 2. The department may suspend or revoke a registry identification card of an adult-use
7 cannabis business agent or registration certificate of an adult-use cannabis business
8 for a violation of this chapter or rules adopted under this chapter.
- 9 3. If an adult-use cannabis business agent or an adult-use cannabis business sells or
10 otherwise transfers cannabis or adult-use cannabis products to a person not
11 authorized to possess cannabis or adult-use cannabis products under this chapter, the
12 department may suspend or revoke the registry identification card of the adult-use
13 cannabis business agent or the registration certificate of the adult-use cannabis
14 business, or both.
- 15 4. If an adult-use cannabis business agent or an adult-use cannabis business sells or
16 otherwise transfers cannabis or adult-use cannabis products in a form not authorized
17 under this chapter or chapter 19-24.1, the department may suspend or revoke the
18 registry identification card of the adult-use cannabis business agent or the registration
19 certificate of the adult-use cannabis business, or both.
- 20 5. The department shall provide written notice of suspension or revocation of a registry
21 identification card or registration certificate.
- 22 a. A suspension may not be for a period longer than six months.
- 23 b. A manufacturing facility may continue to produce, process, and possess cannabis
24 and adult-use cannabis products during a suspension, but may not transfer or
25 sell adult-use cannabis products.
- 26 c. A dispensary may continue to possess adult-use cannabis products during a
27 suspension, but may not purchase or transfer adult-use cannabis products.
- 28 d. An adult-use cannabis business agent or adult-use cannabis business may
29 appeal a suspension or revocation of a registry identification card or registration
30 certificate to the district court of Burleigh County. The court may authorize the

1 adult-use cannabis business agent or adult-use cannabis business to appear by
2 reliable electronic means.

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

6 **19-24.2-14. Adult-use cannabis business - Adult-use cannabis business agents -**
7 **Violations - Penalties.**

- 8 1. An adult-use cannabis business agent or adult-use cannabis business that fails to
9 provide a notice as required under this chapter shall pay to the department a fee in an
10 amount established by the department, not to exceed one hundred fifty dollars.
- 11 2. In addition to any other penalty applicable in law, a manufacturing facility or an
12 adult-use cannabis business agent of a manufacturing facility is guilty of a class B
13 felony for intentionally selling or otherwise transferring cannabis or adult-use cannabis
14 products in any form, to a person other than a dispensary, or for intentionally selling or
15 otherwise transferring cannabis in any form other than adult-use cannabis products, to
16 a dispensary.
- 17 3. In addition to any other penalty applicable in law, a dispensary or an adult-use
18 cannabis business agent of a dispensary for intentionally selling or otherwise
19 transferring adult-use cannabis products, to an individual who is under twenty-one
20 years of age, in a form not allowed under this chapter, or in an amount that would
21 cause the adult-use cannabis consumer to purchase or possess more than the
22 amount of adult-use cannabis products authorized by this chapter is guilty of a class B
23 felony.
- 24 4. In addition to any other penalty applicable in law, a dispensary or an adult-use
25 cannabis business agent of a dispensary which intentionally sells or otherwise
26 transfers paraphernalia, to an individual who is under twenty-one years of age, or in a
27 form not allowed under this chapter is guilty of a class A misdemeanor. A dispensary or
28 an adult-use cannabis business agent is not subject to prosecution under this
29 subsection for selling paraphernalia to a registered qualifying patient who is nineteen
30 years of age or older under chapter 19-24.1.

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

21 **19-24.2-15. Adult-use cannabis business - Transfer - Sale.**

- 22 1. An adult-use cannabis business shall comply with the transfer and sale requirements
23 of this section.
- 24 2. Design and security features of adult-use cannabis products containers must be in
25 accordance with rules adopted under this chapter.
- 26 3. A manufacturing facility or an adult-use cannabis business agent of the manufacturing
27 facility may not transfer or sell cannabis or adult-use cannabis products. A
28 manufacturing facility or an adult-use cannabis business agent of a manufacturing
29 facility may sell adult-use cannabis products to a dispensary.
- 30 4. A dispensary or an adult-use cannabis business agent of the dispensary may not sell
31 or provide adult-use cannabis products to:

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

1 **19-24.2-16. Maximum purchase amount for adult-use cannabis consumers.**

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

- 3 1. The first day of a calendar month through the fifteenth day of the same calendar
4 month:
5 a. Twenty-one grams of adult-use cannabis;
6 b. One gram of adult-use cannabinoid concentrates; and
7 c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use
8 cannabinoid products.

9 2. The sixteenth day of the calendar month through the last day of the same calendar
10 month:

- 11 a. Twenty-one grams of adult-use cannabis;
12 b. One gram of adult-use cannabinoid concentrates; and
13 c. Three hundred milligrams of total tetrahydrocannabinol in the form of adult-use
14 cannabinoid products.

15 **19-24.2-17. Maximum possession amount for adult-use cannabis consumer.**

- 16 1. It is unlawful for an adult-use cannabis consumer to possess more than the following:
17 a. One ounce [28.35 grams] of adult-use cannabis;
18 b. One and one-half grams of an ~~adult use~~adult-use cannabinoid concentrate; and
19 c. Four hundred milligrams of total tetrahydrocannabinol in the form of an adult-use
20 cannabinoid product.

21 2. An adult-use cannabis consumer who possesses more than the maximum ~~possession~~
22 amount of adult-use cannabis products authorized by this chapter is subject to
23 prosecution under chapter 19-03.1.

24 **19-24.2-18. Adult-use cannabis business - Inspection.**

- 25 1. An adult-use cannabis business is subject to random inspection by the department.
26 During an inspection, the department may review the records of the adult-use
27 cannabis business, including the adult-use cannabis business's financial, inventory,
28 and sales records.
29 2. The department shall conduct inspections of adult-use cannabis businesses to ensure
30 compliance with this chapter and chapter 19-24.1. The department shall conduct
31 inspections of manufacturing facilities for the presence of contaminants. The

1 department shall select a certified laboratory to conduct random quality sampling
2 testing in accordance with rules adopted under this chapter. An adult-use cannabis
3 business shall pay the cost of all random quality sampling testing.

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

6 **19-24.2-19. Adult-use cannabis business - Pesticide testing.**

7 A manufacturing facility shall test cannabis at a manufacturing facility for the presence of
8 pesticides. If a cannabis test indicates the presence of a pesticide, the manufacturing facility
9 immediately shall report the test result to the department and to the agriculture commissioner.
10 Upon the order of the department or agriculture commissioner, the manufacturing facility
11 immediately shall destroy all affected or contaminated cannabis and adult-use cannabis
12 products inventory in accordance with rules adopted under this chapter and shall certify to the
13 department and to the agriculture commissioner that all affected or contaminated inventory has
14 been destroyed.

15 **19-24.2-20. Adult-use cannabis business - Cannabis plant.**

16 1. A manufacturing facility may have no more than ten thousand plants. For every five
17 hundred plants in excess of one thousand plants that a manufacturing facility
18 possesses, the manufacturing facility shall pay the department an additional
19 certification fee of ten thousand dollars. This fee is due at the time of increase and
20 again at renewal of the adult-use cannabis business registration certificate.

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

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

28 **19-24.2-21. Adult-use cannabis business - Security and safety.**

29 1. In compliance with rules adopted under this chapter, an adult-use cannabis business
30 shall implement appropriate security and safety measures to deter and prevent the

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

15 **19-24.2-22. Adult-use cannabis business - Inventory control.**

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

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

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

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

13 **19-24.2-23. Adult-use cannabis business - Operating manual - Training.**

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

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

21 **19-24.2-24. Adult-use cannabis business - Bylaws and operating agreements.**

22 As part of the initial application of a proposed adult-use cannabis business, the applicant
23 shall provide to the department a current copy of the applicant's bylaws or operating agreement.
24 Upon receipt of a registration certificate, an adult-use cannabis business shall maintain the
25 bylaws or operating agreement in accordance with this chapter. In addition to any other
26 requirements, the bylaws or operating agreement must include the ownership or management
27 structure of the adult-use cannabis business; the composition of the board of directors, board of
28 governors, member-managers, or managers; and provisions relative to the disposition of
29 revenues and earnings.

1 **19-24.2-25. Adult-use cannabis business - Retention of and access to records and**
2 **reports.**

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

10 2. At least once every two years, an adult-use cannabis business must undergo an audit
11 performed by a private certified public accountant or a private licensed public
12 accountant. In lieu of an audit, the department may authorize an adult-use cannabis
13 business to engage a private certified public accountant or a private licensed public
14 accountant to perform an agreed upon procedures engagement. The department must
15 approve the agreed upon procedures engagement.

16 **19-24.2-26. Adult-use cannabis business - Recordkeeping - Adult-use cannabis**
17 **business agents - Registry identification cards.**

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

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

2 **19-24.2-27. Verification system.**

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

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

9 a. Whether an identification card is valid;

10 b. The name of the cardholder; and

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

12 **19-24.2-28. Protections.**

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

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

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

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

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

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

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

5 **19-24.2-29. Limitations.**

6 1. An adult-use cannabis consumer only may use adult-use cannabis products in the
7 following locations:

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

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

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

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

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

20 ~~c. Use or consumption of an adult-use cannabis product on the grounds of any~~
21 ~~adult-use cannabis business.~~

22 ~~d. Undertaking an activity under the influence of cannabis if doing so would~~
23 ~~constitute negligence or professional malpractice.~~

24 ~~e. Possession or consumption of adult-use cannabis products in any of the following~~
25 ~~locations:~~

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

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

30 ~~(3) At any location while a public or private school sanctioned event is occurring~~
31 ~~at that location;~~

1 ~~(4) On state or federal property, including all facilities, whether owned, rented or~~
2 ~~leased, and all vehicles the state or federal government leases, rents,~~
3 ~~contracts for, or controls;~~

4 ~~(5) On the grounds of a correctional facility;~~

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

7 ~~f. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2,~~
8 ~~23-12-10.4, 23-12-10.5, or 23-12-11.~~

9 ~~g. Use of adult use cannabis products in a motor vehicle as defined by chapter~~
10 ~~39-01.~~

11 ~~h. Using a combustible delivery form of adult use cannabis products or vaporizing~~
12 ~~adult use cannabis products under this chapter if the smoke or vapor would be~~
13 ~~inhaled by an individual under twenty one years of age.~~

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

19 a. An adult-use cannabis consumer is prohibited from using or consuming adult-use
20 cannabis products:

21 (1) In any public place, including an indoor or outdoor area used by, or open to,
22 the general public, or on any form of public transportation.

23 (2) On the grounds of any adult-use cannabis business; or

24 (3) In a motor vehicle as defined by chapter 39-01.

25 b. Unless a greater penalty is otherwise provided by law, an adult-use cannabis
26 consumer who violates this subsection is guilty of an infraction.

27 3. An adult-use cannabis consumer may not undertake an activity under the influence of
28 cannabis if doing so would constitute negligence or professional malpractice. An
29 adult-use cannabis consumer who violates this subsection may be subject to civil
30 liability, criminal liability, or any other penalty as otherwise provided by law.

1 4. a. An adult-use cannabis consumer may not possess, use, or consume adult-use
2 cannabis products:

3 (1) On a schoolbus or school van used for school purposes.

4 (2) On the grounds of any public or private school, including all facilities,
5 whether owned, rented, or leased, and all vehicles owned, leased, rented,
6 contracted for, or controlled by a public or private school.

7 (3) At any location while a public or private school-sanctioned event is
8 occurring.

9 (4) On state or federal property, including all facilities whether owned, rented, or
10 leased, and all vehicles leased, rented, contracted for, or controlled by the
11 state or federal government.

12 (5) On the grounds of a correctional facility.

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

15 b. Unless a greater penalty is otherwise provided by law, an adult-use cannabis
16 consumer who violates this subsection is guilty of an infraction.

17 5. An adult-use cannabis consumer may not use or consume an adult-use cannabis
18 product if the smoke or vapor of an adult-use cannabis product would be inhaled by an
19 individual who is under twenty-one years of age. Unless a greater penalty is otherwise
20 provided by law, an adult-use cannabis consumer who violates this subsection is guilty
21 of an infraction.

22 6. An adult-use cannabis consumer is prohibited from operating, navigating, or being in
23 actual physical control of a motor vehicle, aircraft, train, snowmobile, or motorboat
24 while under the influence of cannabis. An adult-use cannabis consumer may not be
25 considered to be under the influence of cannabis solely because of the presence of
26 metabolites or components of cannabis that appear in insufficient concentration to
27 cause impairment. An adult-use cannabis consumer who violates this subsection may
28 be subject to civil liability, criminal liability, or any other penalty as otherwise provided
29 by law.

30 7. This chapter does not require:

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

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

6 ~~4.8.~~ This chapter does not prohibit an employer from:

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

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

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

17 ~~5.9.~~ An employer may consider an employee to be impaired or under the influence of
18 cannabis if the employer has a good-faith belief that an employee manifests specific,
19 articulable symptoms while working which decrease or lessen the employee's
20 performance of the duties or tasks of the employee's job position, including symptoms
21 of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational
22 or unusual behavior, or negligence or carelessness in operating equipment or
23 machinery; disregard for the safety of the employee or others, or involvement in any
24 accident that results in serious damage to equipment or property; disruption of a
25 production or manufacturing process; or carelessness that results in any injury to the
26 employee or others. If an employer elects to discipline an employee on the basis that
27 the employee is under the influence or impaired by cannabis, the employer shall afford
28 the employee a reasonable opportunity to contest the basis of the determination.

29 ~~6.10.~~ This chapter does not create or imply a cause of action for any person against an
30 employer for:

- 1 a. Actions, including subjecting an employee or applicant to reasonable drug and
2 alcohol testing under the employer's workplace drug policy, including an
3 employee's refusal to be tested or to cooperate in testing procedures or
4 disciplining termination of employment, based on the employer's good-faith belief
5 that an employee used or possessed cannabis in the employer's workplace or
6 while performing the employee's job duties or while on call in violation of the
7 employer's employment policies;
- 8 b. Actions, including discipline or termination of employment, based on the
9 employer's good-faith belief that an employee was impaired as a result of the use
10 of cannabis, or under the influence of cannabis, while at the employer's
11 workplace or while performing the employee's job duties or while on call in
12 violation of the employer's workplace drug policy; or
- 13 c. Injury, loss, or liability to a third party if the employer did not know or have a
14 reason to know the employee was impaired.

15 ~~7.11.~~ This chapter may not be construed to interfere with any federal, state, or local
16 restrictions on employment, including the United States department of transportation
17 regulation under title 49, Code of Federal Regulations, part 40, section 40.151(e) or
18 impact an employer's ability to comply with federal or state law or cause it to lose a
19 federal or state contract or funding.

20 **19-24.2-30. Health council - Rules.**

- 21 1. The health council shall adopt rules as necessary for the implementation and
22 administration of this chapter, including transportation and storage of cannabis and
23 adult-use cannabis products, advertising, packaging and labeling, standards for testing
24 facilities, inventory management, and accurate recordkeeping.
- 25 2. The health council may adopt rules regarding the operation and governance of
26 additional categories of registered adult-use cannabis businesses.

27 **19-24.2-31. Confidentiality.**

- 28 1. Except as provided under subsection 2, information kept or maintained by the
29 department is confidential, including information in a registration application or renewal
30 and supporting information submitted by an adult-use cannabis business, proposed
31 adult-use cannabis business, or adult-use cannabis business agent. Information kept

1 or maintained by the department which could be used to identify an adult-use
2 cannabis consumer is confidential.

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

4 a. The verification of registration certificates and registry identification cards under
5 this chapter;

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

7 c. Notification of state and local law enforcement about falsified or fraudulent

8 information submitted for purposes of obtaining or renewing a registry

9 identification card; or

10 d. DateData for statistical purposes in a manner such that an individual person or
11 adult-use cannabis business is not identified.

12 3. Information submitted to a local government to demonstrate compliance with any

13 security requirements required by local zoning ordinances or regulations is

14 confidential.

15 **19-24.2-32. Report to the legislative management.**

16 By July first of each year, the department shall submit a report to the legislative

17 management. The report must be written in a manner such that no individual, person, or adult-

18 use cannabis business can be identified and must include:

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

20 2. Revenue and expenses of the department related to the implementation of this
21 chapter;

22 3. Sales data by product type; and

23 4. Information for statistical purposes.

24 **19-24.2-33. Adult-use cannabis fees.**

25 The department shall deposit all fees collected under this chapter in the fund established

26 under section 19-24.1-40.

27 **SECTION 12. AMENDMENT.** Subsection 1 of section 39-20-01 of the North Dakota

28 Century Code is amended and reenacted as follows:

29 1. Any individual who operates a motor vehicle on a highway or on public or private

30 areas to which the public has a right of access for vehicular use in this state is deemed

31 to have given consent, and shall consent, subject to the provisions of this chapter, to a

1 chemical test, or tests, of the blood, breath, salivaoral fluid, or urine for the purpose of
2 determining the alcohol concentration or presence of other drugs, or combination
3 thereof, in the individual's blood, breath, salivaoral fluid, or urine. As used in this
4 chapter, the word "drug" means any drug or substance or combination of drugs or
5 substances which renders an individual incapable of safely driving, and the words
6 "chemical test" or "chemical analysis" mean any test to determine the alcohol
7 concentration or presence of other drugs, or combination thereof, in the individual's
8 blood, breath, or urine, approved by the director of the state crime laboratory or the
9 director's designee under this chapter.

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

12 **39-20-14. Screening tests.**

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

1 must be used only for determining whether or not a further test shall be given under
2 the provisions of section 39-20-01. The officer shall inform the individual that North
3 Dakota law requires the individual to take the screening test to determine whether the
4 individual is under the influence of alcohol or other drugs or substances and that
5 refusal of the individual to submit to a screening test may result in a revocation for at
6 least one hundred eighty days and up to three years of that individual's driving
7 privileges. If such individual refuses to submit to such screening test or tests, none
8 may be given, but such refusal is admissible in a court proceeding if the individual was
9 arrested in violation of section 39-08-01 and did not take any additional chemical tests
10 requested by the law enforcement officer. Such refusal is sufficient cause to revoke
11 such individual's license or permit to drive in the same manner as provided in section
12 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as
13 provided in section 39-20-06 must be available.

- 14 4. The director must not revoke an individual's driving privileges for refusing to submit to
15 a screening test requested under this section if the individual provides a sufficient
16 breath, blood, oral fluid, or urine sample for a chemical test requested under section
17 39-20-01 for the same incident.
- 18 5. No provisions of this section may supersede any provisions of chapter 39-20, nor may
19 any provision of chapter 39-20 be construed to supersede this section except as
20 provided herein.
- 21 6. For the purposes of this section, "chemical test operator" means an individual certified
22 by the director of the state crime laboratory or the director's designee as qualified to
23 perform analysis for alcohol or other drugs or substances in an individual's blood,
24 breath, oral fluid, or urine.

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

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

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