

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS45232-MGf-101 (03/16)

Short Title: Legalize Medical Marijuana. (Public)

Sponsors: Senators Van Duyn and Foushee (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING THE NORTH CAROLINA MEDICAL CANNABIS ACT.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new
5 Article to read:

6 "Article 43.

7 "North Carolina Medical Cannabis Act.

8 "**§ 90-730. Short title.**

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

11 "**§ 90-730.1. Legislative findings and purpose.**

12 The General Assembly makes the following findings:

- 13 (1) Modern medical research has discovered beneficial uses for cannabis in
14 treating or alleviating pain, nausea, and other symptoms associated with
15 certain debilitating medical conditions, as found by the National Academies
16 of Sciences, Engineering, and Medicine in January 2017.
- 17 (2) According to the United States Sentencing Commission and the Federal
18 Bureau of Investigation, 99 out of every 100 cannabis arrests in the United
19 States are made under state law, rather than under federal law. Consequently,
20 changing State law will have the practical effect of protecting from arrest the
21 vast majority of seriously ill people who have a medical need to use
22 cannabis.
- 23 (3) The United States Department of Health and Human Services, through the
24 Compassionate Investigational New Drug (IND) program, provides cannabis
25 by prescription to a number of individuals for their use as medicine. The
26 cannabis is grown at the federal cannabis research garden at the University
27 of Mississippi and is processed and distributed by the Research Triangle
28 Institute in Research Triangle Park, North Carolina. The patients receive the
29 cannabis monthly in canisters of approximately 300 pre-rolled cigarettes.
30 The dosage for patients in the IND program ranges from seven to nine grams
31 per day. Since the inception of the program in 1978, individual patients in
32 the IND program have received and consumed approximately 6.5 pounds of
33 cannabis per year, thereby establishing a safe and effective dosage for a
34 chronic daily use patient to possess and consume. The IND program was
35 closed to new applicants in 1991.



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- 1 (4) In 1992, the United States Drug Enforcement Administration (DEA)
2 published research in a report entitled "Cannabis Yields" stating that canopy
3 cover, rather than the number of plants, is the most accurate indicator of a
4 garden's yield. According to the DEA report, 250 square feet of mature
5 garden canopy will typically yield six pounds of processed cannabis per
6 year, a common amount for patients who use cannabis daily, and less than
7 the amount prescribed and delivered to the IND patients by the federal
8 government.
- 9 (5) Although federal law currently prohibits any use of cannabis outside of the
10 IND program, the laws of Alaska, Arizona, Arkansas, California, Colorado,
11 Connecticut, District of Columbia, Delaware, Florida, Hawaii, Illinois,
12 Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada,
13 New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio,
14 Oregon, Pennsylvania, Rhode Island, Vermont, and Washington permit the
15 medical use and cultivation of cannabis. North Carolina joins in this effort
16 for the health and welfare of its citizens.
- 17 (6) States are not required to enforce federal law or prosecute people for
18 engaging in activities prohibited by federal law. Therefore, compliance with
19 this Article does not put the State of North Carolina in violation of federal
20 law.
- 21 (7) Compassion dictates that State law should make a distinction between the
22 medical and nonmedical use of cannabis. Hence, the purpose of this Article
23 is to protect patients with debilitating medical conditions, and their
24 physicians and caregivers, from arrest and prosecution, criminal and other
25 penalties, and property forfeiture by allowing the beneficial use of medical
26 cannabis in a regulated system for alleviating symptoms caused by
27 debilitating medical conditions and their medical treatments.
- 28 (8) This Article is intended to make only those changes to existing North
29 Carolina laws that are necessary to protect patients and their doctors from
30 criminal and civil penalties and is not intended to change current civil and
31 criminal laws governing the use of cannabis for nonmedical purposes.
- 32 (9) Based on data gathered from other states where medical cannabis has been
33 regulated, this Article will result in approximately two hundred fifty million
34 dollars (\$250,000,000) per year in revenues for the State within four years of
35 implementation.
- 36 (10) The General Assembly enacts this Article pursuant to its police power to
37 enact legislation for the protection of the health of its citizens, as reserved to
38 the State in the Tenth Amendment of the United States Constitution.

39 **"§ 90-730.2. Definitions.**

40 The following definitions apply in this Article:

- 41 (1) "Adequate supply" has the following meanings:
- 42 a. An amount of usable cannabis derived solely from an intrastate
43 source that is possessed by a qualified patient, or collectively
44 possessed by a qualified patient and the qualified patient's designated
45 caregiver, in an amount that does not exceed what is reasonably
46 necessary to assure the uninterrupted availability of cannabis for a
47 period of three months, in any form recommended by the qualified
48 patient's physician for the purpose of alleviating the symptoms or
49 effects of the qualified patient's debilitating medical condition.
- 50 b. For a qualified patient for whom a delivery method of inhalation of
51 cannabis vapor or smoking is recommended by the qualified patient's

1 physician, "adequate supply" means not more than 24 ounces of
2 cannabis in a form usable for that purpose. The term also includes a
3 garden cultivated by the qualified patient or the qualified patient's
4 designated caregiver of not more than 250 feet of total garden canopy
5 of mature female cannabis plants, measured by the combined
6 vegetative growth area, excluding any garden space devoted to
7 cannabis plants that are not mature and female but which are
8 cultivated for the purpose of maintaining the largest and most
9 productive canopy of mature female cannabis plants allowed by this
10 Article.

11 c. For a qualified patient for whom a delivery method other than
12 inhalation of cannabis vapor or smoking has been recommended by
13 the patient's physician, "adequate supply" means a garden of
14 cannabis cultivated by the qualified patient or the qualified patient's
15 designated caregiver of a size reasonably necessary to assure the
16 uninterrupted availability of cannabis for a period of three months, in
17 a form recommended by the qualified patient's physician, for the
18 purpose of alleviating the symptoms or effects of the qualified
19 patient's debilitating medical condition.

20 (2) "Bona fide physician-patient relationship" means a physician and a patient
21 have a treatment or counseling relationship in which the physician has
22 completed a full assessment of the patient's medical history and current
23 medical condition, including an appropriate physical examination; and the
24 physician is available or offers to provide follow-up care and treatment to
25 the patient, including patient examinations, to determine the efficacy of the
26 use of medical cannabis as a treatment for the patient's medical condition.

27 (3) "Cannabis" means marijuana as defined in G.S. 90-87(16).

28 (4) "Cannabis-infused product" means a product infused with cannabis that is
29 intended for use or consumption other than by inhalation, smoking, or
30 otherwise. The term includes edible products, ointments, and tinctures.

31 (5) "Canopy" means the foliage of growing plants.

32 (6) "Canopy cover" means the area shaded by the foliage of growing plants.

33 (7) "Debilitating medical condition" means any of the following:

34 a. Cancer, gliomas, glaucoma, positive status for human
35 immunodeficiency virus (HIV), acquired immune deficiency
36 syndrome (AIDS), hepatitis C, porphyria, amyotrophic lateral
37 sclerosis (Lou Gehrig's disease or ALS), Alzheimer's disease,
38 nail-patella syndrome, fibromyalgia, severe migraines, multiple
39 sclerosis, celiac disease, Crohn's disease, diabetes mellitus, dystonia,
40 gastrointestinal disorders, hypertension, incontinence, injury or
41 disease to the spinal cord, spinal column, or vertebra,
42 methicillin-resistant Staphylococcus aureus (MRSA), myelomalacia,
43 osteoporosis, pruritus, rheumatoid arthritis, sleep apnea, Tourette's
44 syndrome, or the treatment of such conditions.

45 b. A chronic or debilitating disease or medical condition or its treatment
46 that produces one or more of the following: cachexia or wasting
47 syndrome; severe pain; severe nausea; anorexia; seizures, including
48 those characteristic of epilepsy; or severe and persistent muscle
49 spasms, including those characteristic of multiple sclerosis (MS),
50 amyotrophic lateral sclerosis (Lou Gehrig's disease or ALS), or
51 Crohn's disease.

1 c. Any other serious medical or mental condition or its treatment
2 approved by a physician or other practitioner authorized to prescribe
3 or recommend a controlled substance classified in the schedules set
4 forth in either the Controlled Substances Act (Article 5 of Chapter 90
5 of the General Statutes) or the federal Comprehensive Drug Abuse
6 Prevention and Control Act of 1970, P.L. 91-513, 84 Stat. 1236 (Oct.
7 27, 1970).

8 (8) "Designated caregiver" means a person who is at least 21 years of age and
9 who has agreed to assist with a qualified patient's medical use of cannabis.

10 (9) "Licensed medical cannabis center" means a person licensed pursuant to
11 G.S. 90-730.6 to operate a business that sells cannabis and cannabis-infused
12 products to registry identification cardholders and other licensed medical
13 cannabis centers.

14 (10) "Licensed producer of cannabis-infused products" means a person licensed
15 pursuant to G.S. 90-730.6 to operate a business producing cannabis-infused
16 products.

17 (11) "Licensed producer of medical cannabis" means a person licensed pursuant
18 to G.S. 90-730.6 to cultivate cannabis for sale to a licensed medical cannabis
19 center.

20 (12) "Medical use of cannabis" means the acquisition, possession, cultivation,
21 manufacture, use, internal possession, delivery, transfer, or transportation of
22 cannabis or paraphernalia relating to the administration of cannabis to treat
23 or alleviate a qualified patient's medical condition or symptoms associated
24 with the medical condition or its treatment.

25 (13) "Physician" means a person licensed under Article 1 of Chapter 90 of the
26 General Statutes who is in good standing to practice medicine in this State.

27 (14) "Producer" includes a producer of medical cannabis and a producer of
28 cannabis-infused products.

29 (15) "Qualified patient" means a person who has been diagnosed by a physician
30 as having a debilitating medical condition.

31 (16) "Registry identification card" means a document issued by the North
32 Carolina Department of Health and Human Services pursuant to
33 G.S. 90-730.5 that identifies a person as a qualified patient or designated
34 caregiver.

35 (17) "Registry identification cardholder" means a qualified patient or a designated
36 caregiver who holds a valid registry identification card issued by the North
37 Carolina Department of Health and Human Services pursuant to
38 G.S. 90-730.5.

39 (18) "Regulated medical cannabis supply system" or "system" means the system
40 established by the North Carolina Department of Agriculture and Consumer
41 Services pursuant to G.S. 90-730.6 to provide a safe method for producing
42 and distributing cannabis to registry identification cardholders and persons
43 licensed to produce and distribute cannabis and cannabis-infused products to
44 registry identification cardholders.

45 (19) "Usable cannabis" means the dried buds and mature female flowers of the
46 plant of the genus Cannabis, and any mixture or preparation thereof, that are
47 appropriate for medical use as provided in this Article.

48 (20) "Written certification" means a statement in a patient's medical records or a
49 statement signed by a physician with whom the patient has a bona fide
50 physician-patient relationship indicating that, in the physician's professional
51 opinion, the patient has a debilitating medical condition and the potential

1 health benefits of the medical use of cannabis would likely outweigh the
2 health risks for the patient.

3 **"§ 90-730.3. Protections for the medical use of cannabis.**

4 (a) A qualified patient shall not be subject to arrest, prosecution, or penalty in any
5 manner, or denied any right or privilege, including, but not limited to, civil penalty or
6 disciplinary action by a business or occupational or professional licensing board or bureau, for
7 the possession or purchase of cannabis for medical use by the qualified patient if the quantity of
8 usable cannabis possessed or purchased does not exceed an adequate supply, as determined by
9 the qualified patient's physician.

10 (b) A designated caregiver shall not be subject to arrest, prosecution, or penalty in any
11 manner, or denied any right or privilege, including imposition of a civil penalty or disciplinary
12 action by a business or occupational or professional licensing board or bureau, for the
13 possession or purchase of cannabis for medical use by the qualified patient if the quantity of
14 cannabis possessed or purchased does not exceed an adequate supply for the qualified patient,
15 as determined by the qualified patient's physician.

16 (c) If usable cannabis is infused or added as an ingredient to food, salve, tincture, or any
17 other preparation to be consumed or used by a qualified patient, the weight of the other
18 ingredients that are not usable cannabis shall not be included for the purpose of determining
19 whether a qualified patient is in possession of an amount of cannabis that exceeds the qualified
20 patient's adequate supply.

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

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

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

31 (e) A qualified patient or a designated caregiver shall be granted the full legal
32 protections provided in this section as long as the qualified patient or designated caregiver is in
33 possession of a registry identification card. If the qualified patient or designated caregiver is not
34 in possession of a registry identification card, the individual shall be given an opportunity to
35 produce the registry identification card before the initiation of any arrest, criminal charges, or
36 other penalties.

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

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

48 (h) A school, employer, or landlord shall not refuse to enroll, employ, lease, or
49 otherwise penalize a qualified patient or a designated caregiver solely because of (i) the
50 individual's status as a qualified patient or a designated caregiver or (ii) the presence of
51 cannabis metabolites in the individual's bodily fluids.

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

5 (j) A licensed producer of medical cannabis shall not be subject to arrest, prosecution,
6 or penalty in any manner, or denied any right or privilege, or subject to disciplinary action by a
7 business or occupational or professional licensing board or bureau for producing, possessing,
8 distributing, or dispensing cannabis in a manner consistent with this Article.

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

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

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

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

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

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

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

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

50 (q) Possession of or application for a registry identification card shall not alone
51 constitute probable cause to search the person or the property of the person possessing or

1 applying for a registry identification card or otherwise subject the person or the person's
2 property to inspection by any government agency.

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

11 (s) Cannabis produced and possessed under this Article is exempt from the
12 Unauthorized Substances Tax set forth in Article 2D of Chapter 105 of the General Statutes,
13 and no tax under that Article may be levied against any qualified patient, designated caregiver,
14 licensed medical cannabis center, licensed producer of medical cannabis, or licensed producer
15 of cannabis-infused products operating in accordance with this Article.

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

20 **"§ 90-730.4. Prohibitions, restrictions, and limitations on medical use of cannabis.**

21 (a) This Article does not permit any person to do any of the following:

- 22 (1) Operate, navigate, or be in actual physical control of any motor vehicle,
23 aircraft, or motorboat while impaired by cannabis. However, a qualified
24 patient shall not be considered impaired solely due to the presence of
25 cannabis metabolites in the individual's system.
- 26 (2) Undertake any task under the influence of cannabis, when doing so would
27 constitute negligence or professional malpractice.
- 28 (3) Smoke cannabis in a school bus or other form of public transportation, on
29 any school grounds, in any correctional facility, or in any public place in this
30 State.

31 (b) A person who commits an act prohibited by subsection (a) of this section is subject
32 to all penalties provided by law.

33 (c) Nothing in this Article shall be construed to require any of the following:

- 34 (1) A government-sponsored medical assistance program or private health
35 insurer to reimburse a person for costs associated with the medical use of
36 cannabis.
- 37 (2) An employer to accommodate the medical use of cannabis in any workplace.

38 (d) Fraudulent representation to a law enforcement official of any fact or circumstance
39 relating to the medical use of cannabis to avoid arrest or prosecution is a Class 2 misdemeanor
40 punishable by a fine of five hundred dollars (\$500.00) in addition to any other applicable
41 penalties for making a false statement about the medical use of cannabis.

42 (e) A licensed producer of medical cannabis that sells, distributes, dispenses, or
43 transfers cannabis to an individual other than a registry identification cardholder or to a person
44 other than a person licensed pursuant to G.S. 90-730.6, or obtains or transports cannabis outside
45 of North Carolina in violation of federal law, is subject to arrest, prosecution, and civil or
46 criminal penalties pursuant to State law.

47 (f) Nothing in this Article shall be construed as a waiver of sovereign immunity by the
48 State.

49 **"§ 90-730.5. Registry identification cards for qualified patients and designated caregivers.**

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

- 1 **(b)** The Department shall issue a registry identification card to any qualified patient or
2 designated caregiver who meets the requirements of this section.
- 3 **(c)** The Department shall not issue or renew a registry identification card to a qualified
4 patient under 18 years of age unless each of the following criteria is met:
- 5 **(1)** The qualified patient's physician has explained the potential risks and
6 benefits of the medical use of cannabis to the qualified patient and to a
7 parent, guardian, or person having legal custody of the qualified patient.
- 8 **(2)** A parent, guardian, or person having legal custody of the qualified patient
9 consents in writing to (i) allow the qualified patient's medical use of
10 cannabis, (ii) serve as one of the qualified patient's designated caregivers,
11 and (iii) control the acquisition of the cannabis, the dosage, and the
12 frequency of the medical use of cannabis by the qualified patient.
- 13 **(d)** The Department shall verify the information contained in a registry identification
14 card application or renewal application submitted pursuant to this section and shall approve or
15 deny an application or renewal application within 45 days after receipt. The Department may
16 deny a registry identification card application or renewal application only if the applicant fails
17 to provide the information required pursuant to this section or if the Department determines that
18 the application or renewal application contains false information. If the Department fails to
19 approve or deny a registration application or renewal application submitted pursuant to this
20 section within 45 days after receipt, the application or renewal application shall be deemed
21 approved, and a copy of the application or renewal application together with proof of receipt by
22 the Department at least 45 days prior to the date this information is presented in lieu of a
23 registry identification card shall be deemed a valid registry identification card.
- 24 **(e)** The Department may issue a registry identification card to a maximum of two
25 designated caregivers named in a qualified patient's approved application.
- 26 **(f)** The Department shall issue a registry identification card to an applicant within five
27 days after approving an application or renewal. The application or renewal expires two years
28 after the date of issuance.
- 29 **(g)** Each registry identification card shall contain at least all of the following
30 information:
- 31 **(1)** The date of issuance.
- 32 **(2)** The date of expiration.
- 33 **(3)** A random registry identification number.
- 34 **(4)** A photograph of the registry identification cardholder.
- 35 **(h)** Persons issued registry identification cards shall be subject to the following:
- 36 **(1)** A qualified patient who has been issued a registry identification card shall
37 notify the Department of any change in the qualified patient's name, address,
38 or designated caregiver and submit a ten-dollar (\$10.00) fee to the
39 Department within 15 days after the change occurs. A qualified patient who
40 fails to notify the Department of any of these changes within the specified
41 time frame commits an infraction and is subject to a fine not to exceed more
42 than one hundred fifty dollars (\$150.00).
- 43 **(2)** A designated caregiver shall notify the Department of any change in name or
44 address and submit a ten-dollar (\$10.00) fee to the Department within 15
45 days after the change occurs. A designated caregiver who fails to notify the
46 Department of any of these changes within the specified time frame commits
47 an infraction and is subject to a fine not to exceed one hundred fifty dollars
48 (\$150.00).
- 49 **(3)** When a qualified patient or designated caregiver notifies the Department of
50 any change, as required by this subsection, the Department shall issue the
51 qualified patient and each designated caregiver a new registry identification

1 card within 10 days after receiving the updated information and the
2 ten-dollar (\$10.00) fee.

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

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

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

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

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

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

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

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

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

40 **"§ 90-730.6. Regulated medical cannabis supply system.**

41 (a) As used in this section, "Department" means the North Carolina Department of
42 Agriculture and Consumer Services.

43 (b) Not later than 120 days after the effective date of this act, the Department shall
44 establish a medical cannabis supply system that (i) provides a safe, regulated supply of quality
45 medical cannabis for use by qualified patients who hold valid registry identification cards and
46 (ii) generates sufficient revenue for the Department to maintain and operate the system. The
47 Department shall not use any appropriations from the General Fund to establish or operate the
48 system. The system shall be funded by the fees authorized in this section.

49 (c) Medical Cannabis Center License. –

50 (1) No person shall establish or operate a medical cannabis center without first
51 applying for a license to the Department and submitting the required

- 1 information on application forms provided by the Department. The
2 application form shall require at least all of the following:
- 3 a. The applicant's name and any name the applicant will use in the
4 operation of a medical cannabis center.
 - 5 b. The address of any property the applicant will use to possess, deliver,
6 transport, dispense, or distribute cannabis.
 - 7 c. The name, address, and date of birth of each principal officer and
8 board member of the medical cannabis center.
 - 9 d. The name, address, and date of birth of each employee of the medical
10 cannabis center.
 - 11 e. For first-year licensees, a nonrefundable license fee in the amount of
12 five thousand dollars (\$5,000).
 - 13 f. For licensees seeking license renewal, a nonrefundable renewal fee in
14 an amount not less than five thousand dollars (\$5,000), as specified
15 in rules adopted pursuant to subsection (s) of this section.
 - 16 g. Proof of North Carolina residency for each principal officer, board
17 member, and employee of the medical cannabis center.
 - 18 h. Any other information the Department considers necessary to ensure
19 compliance with the terms of this Article.
- 20 (2) Unless suspended or revoked, a medical cannabis center license is valid for a
21 period not to exceed 12 months from the date of issuance.
- 22 (3) A licensee shall apply for renewal, as necessary, at least 30 days prior to the
23 expiration of a current license.
- 24 (4) No later than 30 days after issuing or renewing a license under this
25 subsection, the Department shall issue a medical cannabis center registry
26 identification card to each director and employee listed on the application or
27 renewal form upon receipt of a ten-dollar (\$10.00) fee per cardholder.
- 28 (5) A licensee shall notify the Department of any change in the information
29 submitted on the license application or renewal form within 30 days after the
30 change.
- 31 (6) A medical cannabis center licensee may do all of the following:
- 32 a. Sell cannabis, cannabis-infused products, cannabis plants, cannabis
33 seeds, cultivation equipment, and related supplies and educational
34 materials only to registry identification cardholders.
 - 35 b. Contract with a producer to sell live plants on the premises of the
36 medical cannabis center to registry identification cardholders.
 - 37 c. Assist registry identification cardholders with other products and
38 services, including equipment, supplies, and educational materials.
- 39 (7) A medical cannabis center licensee shall not cultivate cannabis unless
40 separately licensed as a producer of medical cannabis under subsection (c) of
41 this section.
- 42 (8) A medical cannabis center licensee and its directors, agents, and employees
43 are exempt from the criminal laws of this State for possession, production,
44 delivery, or transportation of cannabis, or aiding and abetting another in the
45 possession, production, delivery, or transportation of cannabis, or any other
46 criminal offense in which possession, production, delivery, or transportation
47 of cannabis is an element if the medical cannabis center and the directors,
48 agents, and employees of the medical cannabis center are in substantial
49 compliance with this section and the applicable rules adopted by the
50 Department for regulating medical cannabis centers.

- 1 (9) The records of a licensed medical cannabis center are subject to the same
2 restrictions imposed on pharmacy records pursuant to G.S. 90-85.36.
3 G.S. 90-85.36 shall apply to each medical cannabis center as if it were a
4 pharmacy regulated under Article 4A of Chapter 90 of the General Statutes.
- 5 (d) Producer of Medical Cannabis License. –
- 6 (1) No person shall cultivate cannabis for sale to a licensed medical cannabis
7 center without first applying for a license to the Department and submitting
8 the required information on application forms provided by the Department.
9 The application form shall require at least all of the following:
- 10 a. The name of the person responsible for the medical cannabis
11 production site and the name of each individual employed by that
12 person.
- 13 b. The address of each property, location, or premises used or proposed
14 for use by the producer to produce cannabis.
- 15 c. The name, address, and date of birth of each principal officer and
16 board member of the producer.
- 17 d. The name, address, and date of birth of each employee of the
18 producer.
- 19 e. For first-year licensees, a nonrefundable license fee in the amount of
20 five thousand dollars (\$5,000).
- 21 f. For licensees seeking license renewal, a nonrefundable renewal fee in
22 an amount not less than five thousand dollars (\$5,000), as specified
23 in the rules adopted pursuant to subsection (s) of this section.
- 24 g. Proof of North Carolina residency for each producer of medical
25 cannabis and each employee of the producer.
- 26 h. Proof that the producer of medical cannabis and each of the
27 producer's employees has attained the age of 21 years.
- 28 i. Any other information the Department considers necessary to ensure
29 compliance with this Article.
- 30 (2) Unless suspended or revoked, a producer of medical cannabis license is valid
31 for a period not to exceed 12 months from the date of issuance.
- 32 (3) A licensee shall notify the Department of any change in the information
33 submitted on the application form within 30 days after the change.
- 34 (4) A licensee shall apply for renewal, as necessary, at least 30 days prior to the
35 expiration of a current license.
- 36 (5) Not later than 30 days after issuing or renewing a producer of medical
37 cannabis license, the Department shall issue a producer of medical cannabis
38 registry identification card to the producer and to each of the producer's
39 employees upon payment of a fee of ten dollars (\$10.00) per cardholder.
- 40 (6) The Department shall issue a medical cannabis production site card to each
41 licensed producer of medical cannabis for each property, location, or
42 premises approved for cannabis production under this section. The card shall
43 be posted conspicuously at the medical cannabis production site.
- 44 (e) Producer of Cannabis-Infused Products License. –
- 45 (1) No person shall establish or operate a business to produce cannabis-infused
46 products without first applying for a license to the Department and
47 submitting the required information on application forms provided by the
48 Department. The application form shall require at least all of the following:
49 a. The name of the person or entity responsible for the cannabis
50 production site and any employee of that person or entity.

- 1 b. The address of each property, location, or premises used or proposed
2 for use by the producer of cannabis-infused products to produce
3 cannabis and cannabis-infused products.
4 c. The name, address, and date of birth of each principal officer and
5 board member of the producer of cannabis-infused products.
6 d. The name, address, and date of birth of each employee of the
7 producer of cannabis-infused products.
8 e. For first-year licensees, a nonrefundable license fee in the amount of
9 five thousand dollars (\$5,000).
10 f. For licensees seeking license renewal, a nonrefundable fee in an
11 amount not less than five thousand dollars (\$5,000), as specified in
12 rules adopted pursuant to subsection (s) of this section.
13 g. Proof of North Carolina residency for the producer of
14 cannabis-infused products and each of the producer's employees.
15 h. Proof that the producer of cannabis-infused products and each of the
16 producer's employees has attained the age of 21 years.
17 i. Any other information the Department considers necessary to ensure
18 compliance with the terms of this Article.
19 (2) Unless suspended or revoked, a license to produce cannabis-infused products
20 is valid for a period not to exceed 12 months from the date of issuance.
21 (3) A licensee shall notify the Department of any change in the information
22 submitted on the application form within 30 days after the change.
23 (4) A licensee shall apply for renewal, as necessary, at least 30 days prior to the
24 expiration of a current license.
25 (5) Not later than 30 days after issuing or renewing a license to produce
26 cannabis-infused products, the Department shall issue a registry
27 identification card to the licensed producer of cannabis-infused products and
28 to each of the producer's employees upon payment of a fee of ten dollars
29 (\$10.00) per cardholder.
30 (6) The Department shall issue a medical cannabis production site card to each
31 producer of cannabis-infused products for each property, location, or
32 premises approved for production of cannabis-infused products under this
33 section. The card shall be conspicuously posted at the location of the
34 medical cannabis production site.
35 (f) Permissible Sales Transactions. – All cannabis sold through the regulated medical
36 cannabis supply system established under this section shall be subject to the following
37 limitations and requirements:
38 (1) Only persons licensed as a medical cannabis center under subsection (b) of
39 this section are authorized to sell cannabis or cannabis-infused products to
40 qualified patients or designated caregivers through the system.
41 (2) Only persons licensed as a producer of medical cannabis under subsection
42 (c) of this section or a producer of cannabis-infused products under
43 subsection (d) of this section are authorized to produce cannabis for sale to
44 licensed medical cannabis centers through the system.
45 (3) A licensed medical cannabis center shall not sell cannabis, cannabis-infused
46 products, cannabis plants, cannabis seeds, cultivation equipment, and related
47 supplies and educational materials to any person other than a qualified
48 patient or designated caregiver.
49 (4) A licensed producer of medical cannabis shall not sell cannabis, cannabis
50 plants, or cannabis seeds to any person other than a licensed medical
51 cannabis center or a licensed producer of cannabis-infused products.

1 However, a licensed producer of medical cannabis may transfer for no
2 consideration cannabis, cannabis plants, or cannabis seeds to any qualified
3 patient or designated caregiver.

4 (5) A producer of cannabis-infused products shall not sell cannabis-infused
5 products for resale to any person other than a licensed medical cannabis
6 center.

7 (6) A medical cannabis center, producer of medical cannabis, or producer of
8 cannabis-infused products shall not sell to any registry identification
9 cardholder cannabis or cannabis plants in an amount that exceeds an
10 adequate supply.

11 (g) Exemption From Criminal Laws. – A medical cannabis center, producer of medical
12 cannabis, or producer of cannabis-infused products with a valid license for that function is
13 exempt from the criminal laws of this State for possession, production, delivery, or
14 transportation of cannabis, or aiding and abetting another in the possession, production,
15 delivery, or transportation of cannabis, or any other criminal offense in which possession,
16 production, delivery, or transportation of cannabis is an element if the medical cannabis center,
17 producer of medical cannabis, or producer of cannabis-infused products is in substantial
18 compliance with this section and any rules adopted under this section.

19 (h) Loss of Exemption From Criminal Laws. – A person who is not a qualified patient
20 or licensed caregiver but who is otherwise authorized to possess, produce, deliver, or transport
21 cannabis for medical use pursuant to this Article ceases to be exempt as provided in subsection
22 (g) of this section upon committing any of the following acts:

23 (1) Driving while impaired by cannabis, provided that the person shall not be
24 considered to be impaired solely for having cannabis metabolites in his or
25 her system.

26 (2) Delivering cannabis to any individual who the person knows is not a registry
27 identification cardholder or qualified patient.

28 (3) Manufacturing or distributing cannabis at an address not registered with the
29 Department.

30 (4) Failing to report transfer of cannabis authorized under this section to the
31 Department.

32 (i) Monthly Fees and Reporting. –

33 (1) Each medical cannabis center, producer of medical cannabis, and producer
34 of cannabis-infused products licensed under this section shall submit
35 quarterly reports to the Department on all financial transactions, including,
36 but not limited to, sales and purchases of cannabis and cannabis-infused
37 products, and transfers of cannabis and cannabis-infused products for no
38 consideration.

39 (2) Each medical cannabis center licensed and operating under this section shall
40 pay to the Department monthly fees equal to ten percent (10%) of the
41 medical cannabis center's gross revenue derived from the sale of cannabis
42 and cannabis-infused products.

43 (3) Each producer of medical cannabis or cannabis-infused products producer
44 licensed and operating under this section shall pay to the Department
45 monthly fees equal to ten percent (10%) of the producer's gross revenue
46 derived from the sale of cannabis and cannabis-infused products.

47 (4) Each person who (i) holds a medical cannabis center license and either a
48 producer of medical cannabis license or cannabis-infused products producer
49 license, or both, and (ii) operates both a retail medical cannabis center and
50 one or more production sites shall pay to the Department monthly fees equal

- 1 to fifteen percent (15%) of that person's gross revenue derived from retail
2 sales of cannabis and cannabis-infused products produced by that person.
- 3 (5) Nothing in this subsection shall be construed to exempt persons licensed
4 under this section from the reporting or remittance of sales tax for any
5 transaction upon which a sales tax may be levied.
- 6 (j) The Department shall use system revenues from license fees and monthly gross
7 revenue fees to fund, in the following order of priority:
- 8 (1) Costs associated with establishing and operating the regulated medical
9 cannabis supply system established under this section.
- 10 (2) The registry system established under G.S. 90-730.5.
- 11 (3) The medical cannabis research program established under G.S. 90-730.9.
- 12 (4) Other Department programs.
- 13 (k) Disqualifications for Licensure. – The Department shall not issue a license
14 authorized by this section to any of the following persons:
- 15 (1) A person who has not paid the appropriate license or license renewal fee.
- 16 (2) An individual who is less than 21 years of age.
- 17 (3) A person who has served a sentence for any of the following felonies in the
18 five years immediately preceding the date of license application: any Class
19 A through E felony; any felony that includes assault as an essential element
20 of the offense; any felony under Article 14 (Burglary and Housebreakings)
21 of Chapter 14 of the General Statutes; any felony under Article 16
22 (Larceny), Article 16A (Organized Retail Theft), Article 17 (Robbery),
23 Article 18 (Embezzlement), Article 19 (False Pretenses and Cheats), Article
24 19A (Obtaining Property or Services by False or Fraudulent Use of Credit
25 Device or Other Means), Article 19B (Financial Transaction Card Crime
26 Act), or Article 19C (Identity Theft) of Chapter 14 of the General Statutes.
27 In order to ensure compliance with this subdivision, the Department shall
28 conduct a criminal history record check of any person whose name is
29 submitted on an application as the director or an employee of the medical
30 cannabis center or as a producer or employee of a producer.
- 31 (4) A person who at any time has been convicted of a felony violation for
32 manufacturing, selling, delivering, or possessing with intent to manufacture,
33 sell, deliver, or possess a Schedule I or II controlled substance in violation of
34 G.S. 90-95(b)(1). In order to ensure compliance with this subdivision, the
35 Department shall conduct a criminal history record check of any person
36 whose name is submitted on an application as the director or an employee of
37 the medical cannabis center or as a producer or employee of a producer.
- 38 (5) Except as otherwise provided in this subdivision, a person who has not been
39 a resident of North Carolina for at least two years prior to the date of the
40 license application. A person who submits an application for licensure
41 pursuant to this section within 180 days after the effective date of this
42 Article is not subject to this residency requirement if the person was a
43 resident of North Carolina for at least 180 days prior to the effective date of
44 this Article.
- 45 (l) Inspection. – The Department may inspect the premises of any person seeking or
46 holding licensure as a medical cannabis center or a licensed producer of medical cannabis
47 solely to determine compliance with this Article.
- 48 (m) License Suspension or Revocation. – The Department may suspend or revoke a
49 license issued pursuant to this section if the Department determines that the licensee is not in
50 substantial compliance with this section or the rules adopted by the North Carolina Medical
51 Care Commission under subsection (r) of this section. The Department shall notify a licensee at

1 least 14 days in advance of a proposed suspension or revocation, including the reasons for the
2 suspension or revocation and any possible remedial options available to the licensee. The
3 Department shall not suspend or revoke a license without conducting an investigation and
4 providing the licensee an opportunity for a public hearing, at which the licensee shall be
5 afforded an opportunity to be heard. The Department has the power to administer oaths and
6 issue subpoenas to require the presence of persons and the production of papers, books, and
7 records necessary to conduct a suspension or revocation hearing.

8 (n) The Department shall maintain a confidential list of the persons to whom the
9 Department has issued a license pursuant to subsection (b), (c), or (d) of this section. Individual
10 names and other identifying information on the list shall be confidential, exempt from the
11 provisions of Chapter 132 of the General Statutes, and not subject to disclosure, except to
12 authorized employees of the Department as necessary to perform official duties of the
13 Department.

14 (o) The Department shall verify to law enforcement personnel whether a license is valid
15 solely by confirming the validity of the license number and the name of the person to whom the
16 Department has issued the license number.

17 (p) Any person, including an employee or official of the Department or another State
18 agency or local government, who breaches the confidentiality of information obtained pursuant
19 to subsection (c), (d), or (e) of this section is guilty of a Class 1 misdemeanor; however, any
20 fine imposed for a violation under this subsection shall not exceed one thousand dollars
21 (\$1,000).

22 (q) Nothing in this section shall be construed to prevent Department employees from
23 notifying law enforcement officers about falsified or fraudulent information submitted to the
24 Department by any person in support of an application for a license authorized by subsection
25 (c), (d), or (e) of this section.

26 (r) A person licensed under subsection (c), (d), or (e) of this section shall be granted the
27 full legal protections provided in this section as long as the person is in possession of a valid
28 license. If the person is not in possession of a valid license, the person shall be given a
29 reasonable period of time to produce the license before the initiation of any arrest, criminal
30 charges, or other penalties.

31 (s) Rules. – Not later than 120 days after the effective date of this act, the North
32 Carolina Medical Care Commission shall adopt rules to implement the provisions of this
33 section. The rules shall do all of the following:

34 (1) Establish requirements for the issuance of registry identification cards to
35 qualified patients and designated caregivers, which shall include at least all
36 of the following:

37 a. Written certification, as defined in G.S. 90-730.1.

38 b. An application or renewal fee.

39 c. The name, address, and date of birth of the qualified patient, except
40 that if a qualified patient is homeless, no address is required.

41 d. The name, address, and telephone number of the qualified patient's
42 physician.

43 e. The name, address, and date of birth of each of the qualified patient's
44 designated caregivers, if any.

45 (2) Establish qualifications and requirements for licensure of medical cannabis
46 centers, producers of medical cannabis, and producers of cannabis-infused
47 products.

48 (3) Establish civil penalties for minor violations of the provisions of this section.

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

51 **§ 90-730.7. Affirmative defenses.**

1 (a) Except as otherwise provided in this section and G.S. 90-730.4, either of the
2 affirmative defenses set out in subdivisions (1) and (2) of this subsection may be used by a
3 person charged with a criminal offense of possession, delivery, or production of cannabis, or
4 any other criminal offense in which possession, delivery, or production of cannabis is an
5 element. The affirmative defenses are as follows:

6 (1) The person satisfies all of the following criteria:

7 a. Has been diagnosed with a chronic or debilitating medical condition
8 and has been advised by the person's attending physician that the
9 medical use of cannabis may mitigate the symptoms or effects of that
10 chronic or debilitating medical condition.

11 b. Is engaged in the medical use of cannabis.

12 c. Possesses, delivers, or produces cannabis only in the amount
13 described in this Article as an adequate supply, or in an amount
14 exceeding an adequate supply if the person proves by a
15 preponderance of the evidence that the greater amount is medically
16 necessary to mitigate the symptoms or effects of the person's chronic
17 or debilitating medical condition, as determined by the person's
18 attending physician.

19 (2) The person satisfies all of the following criteria:

20 a. Is assisting a person described in sub-subdivision (1)a. of this
21 subsection in the medical use of cannabis.

22 b. Possesses, delivers, or produces cannabis only in the amount
23 described herein as an adequate supply or in excess of that amount if
24 the person proves by a preponderance of the evidence that the greater
25 amount is medically necessary as determined by the assisted person's
26 attending physician to mitigate the symptoms or effects of the
27 assisted person's chronic or debilitating medical condition.

28 (b) A person does not need to be a registry identification cardholder in order to assert an
29 affirmative defense described in this section.

30 (c) A qualified patient or designated caregiver who has not received a registry
31 identification card may present evidence supporting the need for the medical use of cannabis.
32 Such evidence may constitute a defense to a charge of cannabis possession or cultivation and is
33 admissible in the courts of the State of North Carolina if such evidence otherwise properly
34 qualifies as admissible under the rules of evidence.

35 (d) Except as otherwise provided in this section and in addition to the affirmative
36 defenses described in subsection (a) of this section, a person engaged or assisting in the medical
37 use of cannabis who is charged with a crime pertaining to the medical use of cannabis is not
38 precluded from doing either of the following:

39 (1) Asserting a full defense of medical necessity.

40 (2) Presenting evidence supporting the medical necessity of using cannabis for
41 treatment of a specific disease or medical condition if (i) the amount of
42 cannabis at issue is not greater than the amount described in this Article as
43 an adequate supply and (ii) the person has taken steps to substantially
44 comply with the provisions of this Article.

45 (e) A person may assert the need for the medical use of cannabis in a motion to dismiss,
46 and the court shall dismiss charges following an evidentiary hearing where the defendant shows
47 that the elements listed in subsection (a) of this section existed at any time prior or subsequent
48 to the charges being filed.

49 (f) Any interest in or right to property that was possessed, owned, or used in connection
50 with a person's use of cannabis for medical purposes shall not be forfeited, nor shall the person
51 be subject to disciplinary action by a business or occupational or professional licensing board

1 or bureau if the person or the person's designated caregiver demonstrates the person's medical
2 purpose for using cannabis pursuant to this section.

3 **"§ 90-730.8. Immunity for physicians.**

4 A physician shall not be subject to arrest or prosecution, penalized in any manner, or denied
5 any right or privilege for recommending the medical use of cannabis or providing written
6 certification for the medical use of cannabis pursuant to this Article.

7 **"§ 90-730.9. North Carolina Cannabis Research Program.**

8 (a) It is the intent of the General Assembly that The University of North Carolina
9 undertake objective scientific research regarding the efficacy and safety of administering
10 cannabis as part of medical treatment. If the Board of Governors of The University of North
11 Carolina, by appropriate resolution, accepts this responsibility, The University of North
12 Carolina shall create a program to be known as the North Carolina Cannabis Research
13 Program.

14 (b) The purpose of the program is to develop and conduct studies designed to ascertain
15 the general safety and efficacy of using cannabis for medical treatment. If the studies conclude
16 that cannabis is safe and effective for medical treatment, the program shall develop medical
17 guidelines for the appropriate administration and use of cannabis to assist physicians and
18 patients in evaluating the risks and benefits of using cannabis for medical treatment and to
19 provide a scientific basis for future policies.

20 (c) The research conducted under this section may involve the development of quality
21 control, purity, and labeling standards for medical cannabis dispensed through the system;
22 sound advice and recommendations on the best practices for the safe and efficient cultivation of
23 cannabis; and analysis of genetic and healing properties of the many varied strains of cannabis
24 to determine which strains may be best suited for a particular condition or treatment.

25 **"§ 90-730.10. Severability.**

26 The provisions of this Article are severable. If any provision of this Article is held invalid
27 by a court of competent jurisdiction, the invalidity shall not affect other provisions of this
28 Article which can be given effect without the invalid provision."

29 **SECTION 2.** During the period between the effective date of this act and 30 days
30 after the effective date of rules adopted under G.S. 90-730.6(s), the following provisions apply:

- 31 (1) The Department of Agriculture and Consumer Services shall issue a
32 temporary certificate for participation in the regulated medical supply
33 system established under G.S. 90-730.6 to any individual who would be
34 eligible to participate in the system as a qualified patient but for the adoption
35 of rules to fully implement the system, upon presentation of a written
36 certification for the medical use of cannabis from the individual's treating
37 physician. The certificate shall specify the amount of cannabis the certificate
38 holder may possess for the medical use of cannabis. The Department of
39 Agriculture and Consumer Services shall maintain a list of all temporary
40 certificates issued pursuant to this section.
- 41 (2) An individual in possession of a temporary certificate issued pursuant to
42 subdivision (1) of this section and that individual's designated caregiver are
43 not subject to arrest, prosecution, civil or criminal penalty, or denial of any
44 right or privilege for possessing cannabis if the amount of usable cannabis
45 possessed collectively is not more than the amount specified on the
46 temporary certificate issued by the Department of Agriculture and Consumer
47 Services.
- 48 (3) A physician shall not be subject to arrest or prosecution, penalized in any
49 manner, or denied any right or privilege for recommending the medical use
50 of cannabis or providing written certification for the medical use of cannabis
51 pursuant to this Article.

1 **SECTION 3.** G.S. 106-121(6) reads as rewritten:

2 "(6) The term "drug" means

- 3 a. Articles recognized in the official United States Pharmacopoeia,
4 official Homeopathic Pharmacopoeia of the United States, or official
5 National Formulary, or any supplement to any of them; and
6 b. Articles intended for use in the diagnosis, cure, mitigation, treatment
7 or prevention of disease in man or other ~~animals~~; animals, except for
8 cannabis-infused products, as defined in G.S. 90-730.1, that are
9 manufactured or sold by a licensed medical cannabis center or a
10 licensed producer of cannabis-infused products; and
11 c. Articles (other than food) intended to affect the structure or any
12 function of the body of man or other animals; and
13 d. Articles intended for use as a component of any article specified in
14 paragraphs a, b or c; but does not include devices or their
15 components, parts, or accessories."

16 **SECTION 4.** G.S. 106-121(8) reads as rewritten:

17 "(8) The term "food" means

- 18 a. Articles used for food or drink for man or other animals, except for
19 cannabis-infused products, as defined in G.S. 90-730.1, that are
20 manufactured or sold by a licensed medical cannabis center or a
21 licensed producer of cannabis-infused products,
22 b. Chewing gum, and
23 c. Articles used for components of any such article."

24 **SECTION 5.** G.S. 105-164.4(a) is amended by adding a new subdivision to read:

25 "(17) The rate of five percent (5%) applies to the sales price of cannabis,
26 cannabis-infused products as defined in G.S. 90-730.1, cannabis plants,
27 cannabis seeds, cannabis cultivation equipment, and related cannabis
28 supplies. A person who sells cannabis, cannabis-infused products as defined
29 in G.S. 90-730.1, cannabis plants, cannabis seeds, cannabis cultivation
30 equipment, and related cannabis supplies is considered a retailer under this
31 Article. For the purpose of this subdivision, cannabis has the same meaning
32 as marijuana under G.S. 90-87(16)."

33 **SECTION 6.** Section 5 of this act becomes effective December 1, 2018, and
34 applies to sales made on or after that date. The remainder of this act becomes effective
35 December 1, 2018, and applies to acts committed on or after that date.