LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 643

Introduced by Garrett, 3; Craighead, 6; Ebke, 32; Pansing Brooks, 28.
Read first time January 21, 2015

Committee: Judiciary

A BILL FOR AN ACT relating to cannabis; to amend section 77-4303, Reissue
Revised Statutes of Nebraska; to adopt the Cannabis Compassion and
Care Act; to provide for taxation as prescribed; to provide
severability; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 11 of this act shall be known and may be cited as the Cannabis Compassion and Care Act.

Sec. 2. (1) Modern medical research has discovered beneficial uses for cannabis in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, as found by the National Academy of Sciences’ Institute of Medicine in March 1999.

(2) Subsequent studies since the 1999 National Academy of Sciences’ Institute of Medicine report continue to show the therapeutic value of cannabis in treating a wide array of debilitating medical conditions, including increasing the chances of patients finishing their treatments for HIV/AIDS and hepatitis C.

(3) Data from the Federal Bureau of Investigation’s uniform crime reports and the Compendium of Federal Justice Statistics show that approximately ninety-nine out of every one hundred cannabis arrests in the United States are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use cannabis.

(4) Although federal law currently prohibits any use of cannabis except under very limited circumstances, Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington have removed state-level criminal penalties from the medical use of cannabis. Under the Cannabis Compassion and Care Act, Nebraska joins in this effort for the health and welfare of its residents.

(5) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Compliance with the Cannabis Compassion and Care Act does not put the State of
Nebraska in violation of federal law.

(6) State law should make a distinction between the medical and nonmedical uses of cannabis. The purpose of the Cannabis Compassion and Care Act is to protect patients with debilitating medical conditions, as well as their practitioners and providers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of cannabis.

(7) The Legislature declares that the Cannabis Compassion and Care Act is enacted pursuant to the police power of the state to protect the health of its residents that is reserved to the State of Nebraska and its people under the tenth amendment to the Constitution of the United States.

Sec. 3. For purposes of the Cannabis Compassion and Care Act:

(1) Bona fide practitioner-patient relationship means that a patient has visited or consulted with the same practitioner at least three times within the past ninety days;

(2) Cardholder means a qualifying patient, a designated caregiver, or a principal officer, board member, employee, volunteer, or agent of a compassion center who has been issued and possesses a valid registry identification card;

(3) Compassion board means the board created under section 11 of this act;

(4) Cannabis means all parts of all varieties of the plant cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, cake, or the sterilized seed of the plant which is incapable of germination;
(5) Compassion center staffer means a principal officer, board member, employee, volunteer, or agent of a compassion center who has been issued and possesses a valid registry identification card;

(6) Debilitating medical condition means one or more of the following:

(a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions;

(b) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: Cachexia or wasting syndrome; severe pain; severe nausea; or seizures, including, but not limited to, those characteristic of epilepsy or severe and persistent muscle spasms, including, but not limited to, those characteristic of multiple sclerosis; or

(c) Any other medical condition or its treatment approved by the department as provided for in subsection (1) of section 6 of this act;

(7) Department means the Department of Health and Human Services;

(8) Designated caregiver means a person who is at least twenty-one years of age, who has agreed to assist with a patient's medical use of cannabis, and who has never been convicted of an excluded felony offense. A designated caregiver may assist no more than five qualifying patients with their medical use of cannabis;

(9) Enclosed, locked facility means a closet, room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by a cardholder;

(10)(a) Except as provided in subdivision (b) of this subdivision, excluded felony offense means:

(i) A crime involving violence against another person that was classified as a felony in the jurisdiction where the conviction occurred; or
(ii) A violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the conviction occurred; and

(b) Excluded felony offense does not include:

(i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten or more years earlier; or

(ii) An offense that consisted of conduct for which the Cannabis Compassion and Care Act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of the act or was prosecuted by an authority other than the State of Nebraska;

(11) Medical use means the acquisition, possession, cultivation, manufacture, use, delivery, sale, transfer, or transportation of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition;

(12) Practitioner means a person who is licensed to practice medicine and surgery under the Medicine and Surgery Practice Act;

(13) Qualifying patient means a person who has been diagnosed by a practitioner as having a debilitating medical condition;

(14) Registered compassion center means a not-for-profit entity registered pursuant to section 5 of this act that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses cannabis or related supplies and educational materials to cardholders. A registered compassion center may receive compensation for all expenses incurred in its operation;

(15) Registry identification card means a document issued by the department that identifies a person as a registered qualifying patient, a registered designated caregiver, or a registered principal officer, board member, employee, volunteer, or agent of a registered compassion center;
(16) Unusable cannabis means cannabis seeds, stalks, seedlings, and unusable roots, and seedling means a cannabis plant that has no flowers and is less than twelve inches in height and less than twelve inches in diameter. A seedling must meet all three criteria set forth in this subdivision;

(17) Usable cannabis means the dried leaves and flowers of the cannabis plant and any mixture or preparation thereof. Usable cannabis does not include the seeds, stalks, and roots of the plant and does not include the weight of any noncannabis ingredients combined with cannabis and prepared for consumption as food or drink;

(18) Verification system means a secure, password-protected, web-based system that is operational twenty-four hours each day, that law enforcement personnel and compassion center staffers use to verify registry identification cards, and that is established and maintained by the department pursuant to section 7 of this act;

(19) Visiting qualifying patient means a patient with a debilitating medical condition who is not a resident of Nebraska or who has been a resident of Nebraska less than thirty days; and

(20) Written certification means a document signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall be made only in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history. The written certification shall specify the qualifying patient's debilitating medical condition.

Sec. 4. (1) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege,
including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for the medical use of cannabis in accordance with the Cannabis Compassion and Care Act, if the qualifying patient possesses an amount of cannabis that does not exceed twelve cannabis plants and six ounces of usable cannabis. The plants shall be kept in an enclosed, locked facility unless they are being transported because the qualifying patient is moving or if they are being transported to the qualifying patient's or designated caregiver's property. This subsection shall not apply to matters and entities that are covered by subsection (6) or (7) of this section.

(2) A designated caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom such designated caregiver is connected through the department's registration process with the medical use of cannabis in accordance with the Cannabis Compassion and Care Act, if the designated caregiver possesses an amount of cannabis that does not exceed twelve cannabis plants and six ounces of usable cannabis for each qualifying patient to whom such designated caregiver is connected through the department's registration process. The plants shall be kept in an enclosed, locked facility unless they are being transported because the designated caregiver is moving or if they are being transported to a designated caregiver's or a qualifying patient's property. This subsection shall not apply to matters and entities that are covered by subsection (6) or (7) of this section.

(3) Registered designated caregivers and registered qualifying patients may possess a reasonable amount of unusable cannabis, including up to twelve seedlings, which shall not be counted toward the limits in this section.
(4)(a) There shall be a presumption that a qualifying patient or designated caregiver is engaged in the medical use of cannabis in accordance with the Cannabis Compassion and Care Act if the qualifying patient or designated caregiver:

(i) Is in possession of a registry identification card; and

(ii) Is in possession of an amount of cannabis that does not exceed the amount allowed under the act.

(b) The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with the act.

(5) A registered qualifying patient or designated primary caregiver shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for giving cannabis to a registered qualifying patient or a registered designated caregiver for the registered qualifying patient's medical use if nothing of value is transferred in return, or for offering to do the same, if the person giving the cannabis does not knowingly cause the recipient to possess more cannabis than is permitted by this section.

(6)(a) No school or landlord may refuse to enroll or lease to, or otherwise penalize, a person solely for such person's status as a registered qualifying patient or a registered designated caregiver unless failing to do so would put the school or landlord in violation of federal law or regulations.

(b) For purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of cannabis in accordance with the Cannabis Compassion and Care Act shall be considered the equivalent of the authorized use of any other medication used at the
direction of a physician and shall not constitute the use of an illicit
substance.

(c) Unless a failure to do so would put an employer in violation of
federal law or federal regulations, an employer may not discriminate
against a person in hiring, termination, or any term or condition of
employment, or otherwise penalize a person, if the discrimination is
based upon either of the following:

(i) The person's status as a registered qualifying patient or
registered designated caregiver; or

(ii) A registered qualifying patient's positive drug test for
cannabis components or metabolites unless the patient used, possessed, or
was impaired by cannabis on the premises of the place of employment or
during the hours of employment.

(7) A person shall not be denied custody of, visitation, or
parenting time with a minor and there shall be no presumption of neglect
or child endangerment for conduct allowed under the Cannabis Compassion
and Care Act unless the person's behavior is such that it creates an
unreasonable danger to the safety of the minor as established by clear
and convincing evidence.

(8) A registered designated caregiver may receive compensation for
costs associated with assisting a registered qualifying patient's medical
use of cannabis, if the registered designated caregiver is connected to
the registered qualifying patient through the department's registration
process. Any such compensation shall not constitute the sale of
controlled substances.

(9) A practitioner shall not be subject to arrest, prosecution, or
penalty in any manner, or denied any right or privilege, including, but
not limited to, civil penalty or disciplinary action by the State Board
of Health or by any other occupational or professional licensing board,
solely for providing written certifications or for otherwise stating
that, in the practitioner's professional opinion, a patient is likely to
receive therapeutic benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition.

Nothing in the Cannabis Compassion and Care Act shall prevent a professional licensing board from sanctioning a practitioner for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(10) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board, for providing a registered qualifying patient or a registered designated caregiver with cannabis paraphernalia for purposes of a qualifying patient's medical use of cannabis.

(11) Any cannabis, cannabis paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of cannabis as allowed under the Cannabis Compassion and Care Act, or activity incidental to such use, shall not be seized or forfeited. The Cannabis Compassion and Care Act shall not prevent the seizure or forfeiture of cannabis exceeding the amounts allowed under the act.

(12) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board, simply for being in the presence or vicinity of the medical use of cannabis as allowed under the Cannabis Compassion and Care Act, or for assisting a registered qualifying patient with using or administering cannabis.

(13) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in
the jurisdiction of issuance, a visiting qualifying patient to possess
cannabis for medical purposes, shall have the same force and effect as a
registry identification card issued by the department.

Sec. 5. (1) The following provisions govern the registration of
compassion centers:

(a) The department shall register a compassion center and issue a
registration certificate, with a random twenty-digit alphanumeric
identification number, within ninety days of receiving an application for
a compassion center, if the following conditions are met:

(i) The prospective compassion center provided the following, in
accordance with the department's rules and regulations:

(A) An application or renewal fee;
(B) The legal name of the compassion center;
(C) The physical address of the compassion center and the physical
address of one additional location, if any, where cannabis will be
cultivated, neither of which may be within five hundred feet of a
preexisting public or private school;
(D) The name, address, and date of birth of each principal officer
and board member of the compassion center;
(E) The name, address, and date of birth of any person who is an
agent of or employed by the compassion center;
(F) Operating regulations that include procedures for the oversight
of the compassion center and procedures to ensure accurate record-keeping
and security measures, that are in accordance with the rules and
regulations adopted and promulgated by the department under section 6 of
this act; and

(G) If the city, village, or county in which the compassion center
would be located has enacted reasonable zoning restrictions, a sworn and
truthful statement that the registered compassion center would be in
compliance with those restrictions;

(ii) Issuing the compassion center a registration would not be in
violation of a reasonable limitation on the number of registered
compassion centers that can operate in the jurisdiction in which it would
operate;

(iii) None of the principal officers or board members have been
convicted of an offense that was classified as a felony in the
jurisdiction where the person was convicted unless the offense consisted
of conduct for which the Cannabis Compassion and Care Act would likely
have prevented a conviction, but the conduct either occurred prior to the
enactment of the Cannabis Compassion and Care Act or was prosecuted by an
authority other than the State of Nebraska;

(iv) None of the prospective principal officers or board members
have served as a principal officer or board member for a registered
compassion center that has had its registration certificate revoked;

(v) None of the principal officers or board members are younger than
twenty-one years of age; and

(vi) The compassion center has been approved for registration by the
compassion board.

(b) Except as provided in subdivision (1)(c) of this section, the
department shall issue each compassion center staffer a registry
identification card and log-in information for the verification system
within ten days of receipt of the person's name, address, and date of
birth and a fee in an amount established by the department. Each card
shall specify that the cardholder is a principal officer, board member,
agent, volunteer, or employee of a registered compassion center and shall
contain the following:

(i) The name, address, and date of birth of the compassion center
staffer;

(ii) The legal name of the registered compassion center with which
the compassion center staffer is affiliated;

(iii) A random twenty-digit alphanumeric identification number that
is unique to the cardholder;
(iv) The date of issuance and expiration date of the registry identification card;

(v) A photograph if the department decides to require one; and

(vi) A statement signed by the prospective principal officer, board member, agent, volunteer, or employee pledging not to divert cannabis to any person who is not allowed to possess cannabis pursuant to the Cannabis Compassion and Care Act.

(c)(i) The department shall not issue a registry identification card to any compassion center staffer who has been convicted of an offense that was classified as a felony in the jurisdiction where the person was convicted unless the offense consisted of conduct for which the Cannabis Compassion and Care Act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of the Cannabis Compassion and Care Act or was prosecuted by an authority other than the State of Nebraska. The department may conduct a criminal background check of each compassion center staffer in order to carry out this subdivision. The department shall notify the registered compassion center in writing of the reason for denying the registry identification card.

(ii) The department shall not issue a registry identification card to any principal officer, board member, agent, volunteer, or employee of a registered compassion center who is younger than twenty-one years of age.

(iii) The department may refuse to issue a registry identification card to a compassion center staffer who has had a card revoked for violating the Cannabis Compassion and Care Act.

(2)(a) A registered compassion center's registration certificate and the registry identification card for each compassion center staffer shall expire one year after the date of issuance. The department shall issue a renewal compassion center registration certificate within ten days to any registered compassion center that submits a renewal fee if its registration is not suspended and has not been revoked. The department
shall issue a renewal registry identification card within ten days to any
compassion center staffer who submits a renewal fee except as provided by
subdivision (1)(c) of this section.

(b) A registry identification card of a compassion center staffer
shall expire and the person's login information to the verification
system shall be deactivated upon notification by a registered compassion
center that such person ceased to work at the registered compassion
center.

(3) Registered compassion centers are subject to reasonable
inspection by the department. The department shall give at least twenty-
four hours' notice of an inspection under this subsection.

(4)(a) A registered compassion center may not be located within five
hundred feet of the property line of a preexisting public or private
school.

(b) A registered compassion center shall be operated on a not-for-
profit basis for the mutual benefit of its members and patrons. The
bylaws of a registered compassion center or its contracts with patrons
shall contain such provisions relative to the disposition of revenue and
receipts as may be necessary and appropriate to establish and maintain
its nonprofit character. A registered compassion center need not be
recognized as tax exempt by the Internal Revenue Service and is not
required to be incorporated.

(c) A registered compassion center shall notify the department
within ten days of when a compassion center staffer ceases to work at the
registered compassion center.

(d) A registered compassion center shall notify the department in
writing of the name, address, and date of birth of any new compassion
center staffer and shall submit a fee in an amount established by the
department for a new registry identification card before a new compassion
center staffer begins working at the registered compassion center.

(e) A registered compassion center shall implement appropriate
security measures to deter and prevent unauthorized entrance into areas containing cannabis and prevent the theft of cannabis.

(f) The operating documents of a registered compassion center shall include procedures for the oversight of the registered compassion center and procedures to ensure accurate record keeping.

(g) A registered compassion center is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing cannabis for any purpose except to assist registered qualifying patients with the medical use of cannabis directly or through the qualifying patients' designated caregivers.

(h) All principal officers and board members of a registered compassion center must be residents of the State of Nebraska.

(i) All cultivation of cannabis must take place in an enclosed, locked facility which can only be accessed by principal officers, board members, agents, volunteers, or employees of the registered compassion center who are cardholders.

(j) County, city, and village governing bodies may enact reasonable limits on the number of registered compassion centers that can operate in their jurisdictions and may enact zoning regulations that reasonably limit registered compassion centers to certain areas of their jurisdictions.

(5)(a) Before cannabis may be dispensed to a designated caregiver or a registered qualifying patient, a compassion center staffer must look up the registered qualifying patient for whom the cannabis is intended, and the designated caregiver transporting the cannabis to the patient, if any, in the verification system and must verify each of the following:

(i) That the registry identification card presented to the registered compassion center is valid;

(ii) That the person presenting the card is the person identified on the registry identification card presented to the compassion center staff; and
(iii) That the amount to be dispensed would not cause the registered qualifying patient to exceed such person's limit of obtaining six ounces of cannabis during any thirty-day period.

(b) After verifying the information in subdivision (a) of this subsection, but before dispensing cannabis to a registered qualifying patient or a registered designated caregiver on a registered qualifying patient's behalf, a compassion center staffer must make an entry in the verification system, specifying how much cannabis is being dispensed to the registered qualifying patient and whether it was dispensed directly to the registered qualifying patient or to the registered qualifying patient's registered designated caregiver. The entry must include the date and time the cannabis was dispensed.

(6)(a) A registered compassion center shall not be subject to prosecution; search except by the department pursuant to subsection (3) of this section; seizure; or penalty in any manner or be denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or business licensing board or entity, solely for acting in accordance with the Cannabis Compassion and Care Act and rules and regulations adopted and promulgated by the department to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense cannabis or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients, or to other registered compassion centers.

(b) No compassion center staffers shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or entity, solely for working for a registered compassion center in accordance with the Cannabis Compassion and Care Act and rules and regulations adopted and promulgated by the department to acquire,
possess, cultivate, manufacture, deliver, transfer, transport, supply, or
dispense cannabis or related supplies and educational materials to
registered qualifying patients, to registered designated caregivers on
behalf of registered qualifying patients, or to other registered
compassion centers.

(7)(a) A registered qualifying patient shall not directly, or
through a designated caregiver, obtain more than six ounces of cannabis
from registered compassion centers in any thirty-day period.

(b) A registered compassion center may not dispense, deliver, or
otherwise transfer cannabis to a person other than another registered
compassion center, a registered qualifying patient, or a registered
qualifying patient's registered designated caregiver.

(c) A registered compassion center may not obtain cannabis from
outside the State of Nebraska.

(d) Except as provided in subdivision (1)(c) of this section, no
person who has been convicted of an offense that was classified as a
felony in the jurisdiction where the person was convicted may be a
compassion center staffer. A person who works as an agent, volunteer,
employee, principal officer, or board member of a registered compassion
center in violation of this section is subject to a civil violation
punishable by a penalty of not to exceed one thousand dollars levied by
the department. A subsequent violation of this section is a Class III
misdemeanor.

(e) A registered compassion center may not acquire usable cannabis
or mature cannabis plants from any person other than another registered
compassion center, a registered qualifying patient, or a registered
designated caregiver. A registered compassion center is only allowed to
acquire usable cannabis or cannabis plants from a registered qualifying
patient or a registered designated caregiver if the registered qualifying
patient or registered designated caregiver receives no compensation for
the cannabis.
(f) A person who violates subdivision (b) or (e) of this subsection may not be a compassion center staffer, and such person's registry identification card shall be immediately revoked. The department may suspend or revoke a compassion center staffer's registry identification card for violating the Cannabis Compassion and Care Act.

(g) A registered compassion center that violates subdivision (b) or (e) of this subsection shall immediately have its registration revoked, and its board members and principal officers may not serve as the board members or principal officers for any other registered compassion center.

Sec. 6. (1) Not later than ninety days after the effective date of this act, the department, in consultation with the compassion board, shall adopt and promulgate rules and regulations governing the manner in which the department considers petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 3 of this act. In considering such petitions, the department shall include public notice of, and an opportunity to comment in a public hearing upon, the petitions. The department, after hearing, shall approve or deny a petition within ninety days of its submission. The approval or denial of a petition is a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the district court.

(2) Not later than ninety days after the effective date of this act, the department, in consultation with the compassion board, shall adopt and promulgate rules and regulations governing the manner in which the department considers applications for and renewals of registry identification cards.

(3)(a) Not later than ninety days after the effective date of this act, the department, in consultation with the compassion board, shall adopt rules and regulations governing the manner in which the department considers applications for and renewals of registration certificates for registered compassion centers, including reasonable rules and regulations
(i) The form and content of registration and renewal applications;
(ii) Minimum oversight requirements for registered compassion centers;
(iii) Minimum record-keeping requirements for registered compassion centers;
(iv) Minimum security requirements for registered compassion centers, which shall include that each registered compassion center location must be protected by a fully operational security alarm system; and
(v) Procedures for suspending or terminating the registration of registered compassion centers that violate the Cannabis Compassion and Care Act or the rules and regulations adopted and promulgated pursuant to the act.

(b) The department, in consultation with the compassion board, shall adopt and promulgate rules and regulations with the goal of protecting against diversion and theft without imposing an undue burden on the registered compassion centers or compromising the confidentiality of registered qualifying patients and their registered designated caregivers. Any dispensing records that a registered compassion center is required to keep shall track transactions according to registered qualifying patients’, registered designated caregivers’, and registered compassion centers’ registry identification numbers, rather than their names, to protect their confidentiality.

(4) Not later than ninety days after the effective date of this act, the department, in consultation with the compassion board, shall adopt and promulgate rules and regulations establishing application and renewal fees for registry identification cards and registered compassion center registration certificates. The fees shall be in accordance with the following parameters:

(a) The total fees collected must generate revenue sufficient to
offset all expenses of implementing and administering the Cannabis
Compassion and Care Act;

(b) Compassion center application fees may not exceed five thousand
dollars;

(c) Compassion center renewal fees may not exceed one thousand
dollars;

(d) The total revenue from compassion center application and renewal
fees and registry identification card fees for compassion center staffers
must be sufficient to offset all expenses of implementing and
administering the compassion center aspects of the Cannabis Compassion
and Care Act, including the verification system;

(e) The department may establish a sliding scale of patient
application and renewal fees based upon a qualifying patient's family
income; and

(f) The department may accept donations from private sources in
order to reduce the application and renewal fees.

Sec. 7. (1) The department shall issue registry identification
cards to qualifying patients who submit the following, in accordance with
the rules and regulations adopted and promulgated by the department:

(a) Written certification;

(b) Application or renewal fee;

(c) Name, address, and date of birth of the qualifying patient,
except that if the applicant is homeless, no address is required;

(d) Name, address, and telephone number of the qualifying patient's
practitioner;

(e) Name, address, and date of birth of the designated caregiver
designated, if any, by the qualifying patient;

(f) A statement signed by the qualifying patient pledging not to
divert cannabis to anyone who is not allowed to possess cannabis pursuant
to the Cannabis Compassion and Care Act; and

(g) A signed statement from the designated caregiver, if any,
agreeing to be designated as the patient's designated caregiver and
pledging not to divert cannabis to anyone who is not allowed to possess

cannabis pursuant to the Cannabis Compassion and Care Act.

(2) The department shall not issue a registry identification card to
a qualifying patient who is younger than eighteen years of age unless:

(a) The qualifying patient's practitioner has explained the
potential risks and benefits of the medical use of cannabis to the
custodial parent or legal guardian with responsibility for health care
decisions for the qualifying patient; and

(b) The custodial parent or legal guardian with responsibility for
health care decisions for the qualifying patient consents in writing to:

(i) Allow the qualifying patient's medical use of cannabis;

(ii) Serve as the qualifying patient's designated caregiver; and

(iii) Control the acquisition of the cannabis and the dosage and the
frequency of the medical use of cannabis by the qualifying patient.

(3) The department shall verify the information contained in an
application or renewal submitted pursuant to this section and shall
approve or deny an application or renewal within fifteen days of
receiving it. The department may deny an application or renewal only if
the applicant did not provide the information required pursuant to this
section, the applicant previously had a registry identification card
revoked for violating the Cannabis Compassion and Care Act, or the
department determines that the information provided was falsified.
Rejection of an application or renewal is considered a final department
action subject to judicial review. Jurisdiction and venue for judicial
review are vested in the district court.

(4) The department shall issue a registry identification card to the
designated caregiver, if any, who is named in a qualifying patient's
approved application, up to a maximum of one designated caregiver per
qualifying patient, if the designated caregiver meets the requirements of
subdivision (8) of section 3 of this act. The department shall notify the
qualifying patient who has designated a person to serve as the patient's

designated caregiver if a registry identification card will not be issued
to the designated person. A designated caregiver shall be issued a
registry identification card each time the designated caregiver is
designated by a qualifying patient.

(5) The department shall issue registry identification cards to
qualifying patients and to designated caregivers within five days after
approving an application or renewal. Each registry identification card
shall expire one year after the date of issuance, unless the practitioner
states in the written certification that the practitioner believes the
qualifying patient would benefit from medical cannabis only until a
specified earlier or later date, then the registry identification card
shall expire on that date. Registry identification cards shall contain
all of the following:

(a) Name, address, and date of birth of the qualifying patient;
(b) Name, address, and date of birth of the designated caregiver, if
any, of the qualifying patient;
(c) The date of issuance and expiration date of the registry
identification card;
(d) A random twenty-digit alphanumeric identification number,
containing at least four numbers and at least four letters, that is
unique to the cardholder;
(e) If the cardholder is a designated caregiver, the random
identification number of the registered qualifying patient that the
designated caregiver is assisting; and
(f) A photograph if the department decides to require one.

(6) The following notifications and department responses are
required:
(a) A registered qualifying patient shall notify the department of
any change of name, address, or designated caregiver or if the registered
qualifying patient ceases to have a debilitating medical condition,
within ten days of such change;

(b) A registered qualifying patient who fails to notify the
department of any of these changes is subject to a civil penalty of no
more than one hundred fifty dollars levied by the department. If the
registered qualifying patient's certifying practitioner notifies the
department in writing that either the registered qualifying patient has
ceased to suffer from a debilitating medical condition or that the
practitioner no longer believes the patient would receive therapeutic or
palliative benefit from the medical use of cannabis, the card is null and
void upon notification by the department to the qualifying patient;

(c) Any registered designated caregiver or compassion center staffer
must notify the department of any change in name or address within ten
days of such change. A registered designated caregiver or compassion
center staffer who fails to notify the department of any of these changes
is subject to a civil penalty of no more than one hundred fifty dollars
levied by the department;

(d) When a cardholder notifies the department of any changes listed
in this subsection, the department shall issue the cardholder a new
registry identification card with new random twenty-digit alphanumeric
identification numbers within ten days of receiving the updated
information and a ten-dollar fee. If the person notifying the department
is a registered qualifying patient, the department shall also issue the
patient's registered designated caregiver, if any, a new registry
identification card within ten days of receiving the updated information;

(e) When a registered qualifying patient ceases to be a registered
qualifying patient or changes the registered designated caregiver, the
department shall notify the designated caregiver within ten days. The
registered designated caregiver's protections under the Cannabis
Compassion and Care Act as to that qualifying patient shall expire ten
days after notification by the department; and

(f) If a cardholder loses the registry identification card, the
cardholder shall notify the department and submit a ten-dollar fee within ten days of losing the card. Within five days after such notification, the department shall issue a new registry identification card with a new random identification number to the cardholder and, if the cardholder is a registered qualifying patient, to the registered qualifying patient's registered designated caregiver, if any.

(7) Mere possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card. The possession of or application for a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

(8) The following confidentiality rules shall apply:

(a) Applications and supporting information submitted by qualifying patients and designated caregivers, including information regarding their designated caregivers and practitioners, are confidential;

(b) Applications and supporting information submitted by compassion centers and compassion center personnel operating in compliance with the Cannabis Compassion and Care Act, including the physical addresses of compassion centers, are confidential;

(c) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list shall be confidential and exempt from disclosure under section 84-712.01 except to authorized employees of the department as necessary to perform official duties of the department and as provided in this subsection.

(d) Within ninety days after the effective date of this act, the department shall establish a secure, password-protected, web-based verification system that is operational twenty-four hours each day, which law enforcement personnel and compassion center staffers can use to
verify registry identification cards. The verification system shall allow law enforcement personnel and compassion center staffers to enter in a registry identification number to determine whether or not the number corresponds with a current, valid identification card. The system shall disclose the name and photograph of the cardholder but shall not disclose the cardholder's address. The system shall also display the amount and quantity of cannabis that each registered qualifying patient received from compassion centers during the past sixty days. The system shall allow compassion center staffers to add the amount of cannabis dispensed to registered qualifying patients, directly or through their designated caregivers, and the date and time the cannabis was dispensed. The verification system shall include the following data security features:

(i) Any time an authorized user enters five invalid registry identification numbers within five minutes, that user cannot log in to the system again for ten minutes; and

(ii) The server must reject any log-in request that is not over an encrypted connection;

(e) Any hard drives containing cardholder information must be destroyed once they are no longer in use, and the department shall retain a signed statement from a department employee confirming the destruction; and

(f)(i) It shall be a Class II misdemeanor for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to the Cannabis Compassion and Care Act; and

(ii) This section shall not prevent the following notifications:

(A) Department employees may notify law enforcement about falsified or fraudulent information submitted to the department, so long as the employee who suspects that falsified or fraudulent information has been submitted confers with such employee's supervisor and both agree that circumstances exist that warrant reporting;
(B) The department may notify state or local law enforcement about apparent criminal violations of the Cannabis Compassion and Care Act if the employee who suspects the offense confers with such employee's supervisor and both agree that circumstances exist that warrant reporting; and

(C) Compassion center staffers may notify the department of a suspected violation or attempted violation of the Cannabis Compassion and Care Act or the rules and regulations adopted and promulgated pursuant to the act.

(9) Any cardholder who sells cannabis to a person who is not allowed to possess cannabis for medical purposes under the Cannabis Compassion and Care Act shall have the cardholder's identification card revoked and shall be subject to other penalties for the unauthorized sale of cannabis. The department may revoke the registry identification card of any cardholder who violates the Cannabis Compassion and Care Act, and the cardholder shall be subject to any other penalties for the violation.

(10) The department shall submit electronically to the Legislature an annual report that does not disclose any identifying information about cardholders, compassion centers, or practitioners but does contain, at a minimum, all of the following information:

(a) The number of applications and renewals filed for registry identification cards;

(b) The number of qualifying patients and designated caregivers approved in each county;

(c) The nature of the debilitating medical conditions of the qualifying patients;

(d) The number of registry identification cards revoked;

(e) The number of practitioners providing written certifications for qualifying patients;

(f) The number of registered compassion centers; and

(g) The number of compassion center staffers.
(11) Where a state-funded or locally funded law enforcement agency encounters an individual who, during the course of the investigation, credibly asserts that such individual is a registered cardholder or an entity whose personnel credibly assert that it is a compassion center, the law enforcement agency shall not provide any information from any cannabis-related investigation of the person to any law enforcement authority that does not recognize the protection of the Cannabis Compassion and Care Act, and any prosecution of the individual, individuals, or entity for a violation of the Cannabis Compassion and Care Act shall be conducted pursuant to the laws of this state. The application for qualifying patients' registry identification cards shall include a question asking whether the patient would like the department to notify the patient of any clinical studies regarding cannabis' risk or efficacy that seek human subjects. The department shall inform those patients who answer in the affirmative of any such studies it is notified of that will be conducted in the United States.

Sec. 8. (1) Except as provided in section 9 of this act, a patient may assert the medical purpose for using cannabis as a defense to any prosecution of an offense involving cannabis intended for the patient's medical use, and this defense shall be presumed valid where the evidence shows that:

(a) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the patient's serious or debilitating medical condition;

(b) The patient and the patient's designated caregiver, if any, were collectively in possession of a quantity of cannabis that was not more
than was reasonably necessary to ensure the uninterrupted availability of
cannabis for the purpose of treating or alleviating the patient's serious
or debilitating medical condition or symptoms associated with the
patient's serious or debilitating medical condition; and

(c) The patient was engaged in the acquisition, possession,
cultivation, manufacture, use, or transportation of cannabis,
paraphernalia, or both, relating to the administration of cannabis solely
to treat or alleviate the patient's serious or debilitating medical
condition or symptoms associated with the patient's serious or
debilitating medical condition.

(2) A person may assert the medical purpose for using cannabis in a
motion to dismiss, and the charges shall be dismissed following an
evidentiary hearing where the person shows the elements listed in
subsection (1) of this section.

(3) If a patient demonstrates the patient's medical purpose for
using cannabis pursuant to this section, except as provided in section 9
of this act, the patient and the patient's designated caregiver shall not
be subject to the following for the patient's use of cannabis for medical
purposes: (a) Disciplinary action by an occupational or professional
licensing board; or (b) forfeiture of any interest in or right to
noncannabis, licit property.

Sec. 9. (1) The Cannabis Compassion and Care Act shall not permit
any person to do any of the following, nor shall it prevent the
imposition of any civil, criminal, or other penalties for any such
actions:

(a) Undertake any task under the influence of cannabis when doing so
would constitute negligence or professional malpractice;

(b) Possess cannabis or otherwise engage in the medical use of
cannabis (i) in a school bus, (ii) on the grounds of any preschool or
primary or secondary school, or (iii) in any correctional facility;

(c) Smoke cannabis on any form of public transportation or in any
public place;

(d) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of cannabis. A registered qualifying patient shall not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment; or

(e) Use cannabis if that person does not have a serious or debilitating medical condition.

(2) Nothing in the Cannabis Compassion and Care Act shall be construed to require:

(a) The medical assistance program or a private health insurer to reimburse a person for costs associated with the medical use of cannabis;

(b) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use cannabis on or in that property. The Cannabis Compassion and Care Act shall not limit a person or entity in lawful possession of property, or an agent of such person or entity, from expelling a person who uses cannabis without permission from the property and from seeking civil and criminal penalties for the unauthorized use of cannabis on the property; or

(c) An employer to accommodate the ingestion of cannabis in any workplace or any employee working while under the influence of cannabis. A qualifying patient shall not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

The Cannabis Compassion and Care Act shall in no way limit an employer's ability to discipline an employee for ingesting cannabis in the workplace or working while under the influence of cannabis.

(3) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution shall be punishable by a Class V misdemeanor, which
shall be in addition to any other penalties that may apply for making a false statement or for the use of cannabis other than use undertaken pursuant to the Cannabis Compassion and Care Act.

Sec. 10. (1) If the department fails to adopt and promulgate rules and regulations to implement the Cannabis Compassion and Care Act within ninety days after the effective date of this act, a qualifying patient or a prospective board member or prospective principal officer of a compassion center may commence an action in district court to compel the department to perform the actions mandated pursuant to the Cannabis Compassion and Care Act.

(2) If the department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to the Cannabis Compassion and Care Act within twenty days after its submission, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal shall be deemed a valid registry identification card.

(3) If at any time after one hundred ten days following the effective date of this act, the department is not accepting applications, including if it has not adopted and promulgated rules and regulations allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to subsection (1) of section 7 of this act together with a written certification shall be deemed a valid registry identification card.

Sec. 11. (1) There is established within the department a compassion board. The board shall consist of eleven members appointed by the chief executive officer of the department. The chief executive officer, insofar as possible, shall appoint persons from different geographical areas and persons who represent various economic interests.

If a vacancy occurs on the board, the chief executive officer shall appoint a person to fill the vacant position for the unexpired term, if
any. Members of the board shall be appointed for terms of three years and
until their successors are appointed and qualified, except that of the
members first appointed on or after the effective date of this act, three
shall be appointed for a term of one year, three shall be appointed for a
term of two years, and five shall be appointed for a term of three years,
as designated by the chief executive officer. The board shall advise the
chief executive officer about the administration of the Cannabis
Compassion and Care Act and shall perform such duties as are required by
the act.

(2) Members of the board shall be reimbursed for actual and
necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 12. Section 77-4303, Reissue Revised Statutes of Nebraska, is
amended to read:

77-4303 (1) A tax is hereby imposed on marijuana and controlled
substances at the following rates:

(a) On each ounce of marijuana or each portion of an ounce, one
hundred dollars;

(b) On each gram or portion of a gram of a controlled substance that
is customarily sold by weight or volume, one hundred fifty dollars; or

(c) On each fifty dosage units or portion thereof of a controlled
substance that is not customarily sold by weight, five hundred dollars.

(2) For purposes of calculating the tax under this section,
marijuana or any controlled substance that is customarily sold by weight
or volume shall be measured by the weight of the substance in the
dealer's possession. The weight shall be the actual weight, if known, or
the estimated weight as determined by the Nebraska State Patrol or other
law enforcement agency. Such determination shall be presumed to be the
weight of such marijuana or controlled substances for purposes of
sections 77-4301 to 77-4316.

(3) The tax shall not be imposed upon a person registered or
otherwise lawfully in possession of marijuana or a controlled substance
pursuant to Chapter 28, article 4, except that persons lawfully in possession of cannabis under the Cannabis Compassion and Care Act shall pay the tax required by sections 77-4301 to 77-4316.

Sec. 13. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 14. Original section 77-4303, Reissue Revised Statutes of Nebraska, is repealed.