

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL DRS45367-MGF-91A (03/14)

Short Title: The Catherine A. Zanga Medical Marijuana Bill. (Public)

Sponsors: Senator Ford (Primary Sponsor).

Referred to:

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

3 Whereas, cancer is the second leading cause of death in the United States, exceeded  
4 only by heart disease, with one of every four deaths in the United States attributed to cancer;  
5 and

6 Whereas, cancer is only one of several chronic or debilitating diseases or medical  
7 conditions that could potentially benefit from the medicinal uses of marijuana; and

8 Whereas, Catherine Ann Zanga of Charlotte, North Carolina, was diagnosed with  
9 ovarian cancer in 2012 and discussed with her husband, Hyong Yi, the medical use of  
10 marijuana as a possibility for controlling her increasing pain as she battled ovarian cancer and  
11 the cancer grew progressively worse; and

12 Whereas, Ms. Zanga and her husband would have preferred the option of using  
13 marijuana to manage the pain she experienced as a result of ovarian cancer, given the medical  
14 evidence that marijuana causes fewer side effects than some of the very potent and addictive  
15 narcotic pain killers typically prescribed for the management of pain associated with ovarian  
16 cancer, but, as a former prosecutor and law enforcement attorney, Ms. Zanga recognized and  
17 respected the legal consequences of using an illegal substance; and

18 Whereas, Catherine Ann Zanga died in 2014 at the age of 41 from complications of  
19 ovarian cancer without ever having the opportunity to elect medical marijuana as an option for  
20 pain relief; and

21 Whereas, Ms. Zanga, Mr. Yi, and their family all hoped the General Assembly and  
22 the State of North Carolina would recognize the value in helping patients like Ms. Zanga with  
23 chronic or debilitating diseases or medical conditions find relief for their symptoms through the  
24 medical use of marijuana; and

25 Whereas, 28 states, the District of Columbia, Guam, and Puerto Rico have legalized  
26 the medical use of marijuana, and support for marijuana legalization is rapidly outpacing  
27 opposition; Now, therefore,

28 The General Assembly of North Carolina enacts:

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

31 "Article 43.

32 "North Carolina Medical Cannabis Act.

33 **"§ 90-730. Short title.**

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

36 **"§ 90-730.1. Legislative findings and purpose.**



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1       The General Assembly makes the following findings:

- 2           (1)   Modern medical research has discovered beneficial uses for cannabis in  
3           treating or alleviating pain, nausea, and other symptoms associated with  
4           certain debilitating medical conditions, as found by the National Academy of  
5           Sciences' Institute of Medicine in March 1999.
- 6           (2)   According to the United States Sentencing Commission and the Federal  
7           Bureau of Investigation, 99 out of every 100 cannabis arrests in the United  
8           States are made under state law, rather than under federal law. Consequently,  
9           changing State law will have the practical effect of protecting from arrest the  
10          vast majority of seriously ill people who have a medical need to use  
11          cannabis.
- 12          (3)   The United States Department of Health and Human Services, through the  
13          Compassionate Investigational New Drug (IND) program, provides cannabis  
14          by prescription to a number of individuals for their use as medicine. The  
15          cannabis is grown at the federal cannabis research garden at the University  
16          of Mississippi and is processed and distributed by the Research Triangle  
17          Institute in Research Triangle Park, North Carolina. The patients receive the  
18          cannabis monthly in canisters of approximately 300 pre-rolled cigarettes.  
19          The dosage for patients in the IND program ranges from seven to nine grams  
20          per day. Since the inception of the program in 1978, individual patients in  
21          the IND program have received and consumed approximately 6.5 pounds of  
22          cannabis per year, thereby establishing a safe and effective dosage for a  
23          chronic daily use patient to possess and consume. The IND program was  
24          closed to new applicants in 1991.
- 25          (4)   In 1992, the United States Drug Enforcement Administration (DEA)  
26          published research in a report entitled "Cannabis Yields" stating that canopy  
27          cover, rather than the number of plants, is the most accurate indicator of a  
28          garden's yield. According to the DEA report, 250 square feet of mature  
29          garden canopy will typically yield six pounds of processed cannabis per  
30          year, a common amount for patients who use cannabis daily, and less than  
31          the amount prescribed and delivered to the IND patients by the federal  
32          government.
- 33          (5)   Although federal law currently prohibits any use of cannabis outside of the  
34          IND program, the laws of Alaska, Arizona, Arkansas, California, Colorado,  
35          Connecticut, District of Columbia, Delaware, Florida, Hawaii, Illinois,  
36          Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada,  
37          New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio,  
38          Oregon, Pennsylvania, Rhode Island, Vermont, and Washington permit the  
39          medical use and cultivation of cannabis. North Carolina joins in this effort  
40          for the health and welfare of its citizens.
- 41          (6)   States are not required to enforce federal law or prosecute people for  
42          engaging in activities prohibited by federal law. Therefore, compliance with  
43          this Article does not put the State of North Carolina in violation of federal  
44          law.
- 45          (7)   Compassion dictates that State law should make a distinction between the  
46          medical and nonmedical use of cannabis. Hence, the purpose of this Article  
47          is to protect patients with debilitating medical conditions, and their  
48          physicians and caregivers, from arrest and prosecution, criminal and other  
49          penalties, and property forfeiture by allowing the beneficial use of medical  
50          cannabis in a regulated system for alleviating symptoms caused by  
51          debilitating medical conditions and their medical treatments.

- 1           (8)    This Article is intended to make only those changes to existing North  
2           Carolina laws that are necessary to protect patients and their doctors from  
3           criminal and civil penalties and is not intended to change current civil and  
4           criminal laws governing the use of cannabis for nonmedical purposes.
- 5           (9)    Based on data gathered from other states where medical cannabis has been  
6           regulated, this Article will result in approximately two hundred fifty million  
7           dollars (\$250,000,000) per year in revenues for the State within four years of  
8           implementation.
- 9           (10)   The General Assembly enacts this Article pursuant to its police power to  
10          enact legislation for the protection of the health of its citizens, as reserved to  
11          the State in the Tenth Amendment of the United States Constitution.

12    **§ 90-730.2. Definitions.**

13          The following definitions apply in this Article:

- 14          (1)    "Adequate supply" has the following meanings:
- 15               a.    An amount of usable cannabis derived solely from an intrastate  
16               source that is possessed by a qualified patient, or collectively  
17               possessed by a qualified patient and the qualified patient's designated  
18               caregiver, in an amount that does not exceed what is reasonably  
19               necessary to assure the uninterrupted availability of cannabis for a  
20               period of three months, in any form recommended by the qualified  
21               patient's physician for the purpose of alleviating the symptoms or  
22               effects of the qualified patient's debilitating medical condition.
- 23               b.    For a qualified patient for whom a delivery method of inhalation of  
24               cannabis vapor or smoking is recommended by the qualified patient's  
25               physician, "adequate supply" means not more than 24 ounces of  
26               cannabis in a form usable for that purpose. The term also includes a  
27               garden cultivated by the qualified patient or the qualified patient's  
28               designated caregiver of not more than 250 feet of total garden canopy  
29               of mature female cannabis plants, measured by the combined  
30               vegetative growth area, excluding any garden space devoted to  
31               cannabis plants that are not mature and female but which are  
32               cultivated for the purpose of maintaining the largest and most  
33               productive canopy of mature female cannabis plants allowed by this  
34               Article.
- 35               c.    For a qualified patient for whom a delivery method other than  
36               inhalation of cannabis vapor or smoking has been recommended by  
37               the patient's physician, "adequate supply" means a garden of  
38               cannabis cultivated by the qualified patient or the qualified patient's  
39               designated caregiver of a size reasonably necessary to assure the  
40               uninterrupted availability of cannabis for a period of three months, in  
41               a form recommended by the qualified patient's physician, for the  
42               purpose of alleviating the symptoms or effects of the qualified  
43               patient's debilitating medical condition.
- 44          (2)    "Bona fide physician-patient relationship" means a physician and a patient  
45               have a treatment or counseling relationship in which the physician has  
46               completed a full assessment of the patient's medical history and current  
47               medical condition, including an appropriate physical examination; and the  
48               physician is available or offers to provide follow-up care and treatment to  
49               the patient, including patient examinations, to determine the efficacy of the  
50               use of medical cannabis as a treatment for the patient's medical condition.
- 51          (3)    "Cannabis" means marijuana as defined in G.S. 90-87(16).

- 1           (4)   "Cannabis-infused product" means a product infused with cannabis that is  
2           intended for use or consumption other than by inhalation, smoking, or  
3           otherwise. The term includes edible products, ointments, and tinctures.  
4           (5)   "Canopy" means the foliage of growing plants.  
5           (6)   "Canopy cover" means the area shaded by the foliage of growing plants.  
6           (7)   "Debilitating medical condition" means any of the following:  
7           a.   Cancer, gliomas, glaucoma, positive status for human  
8           immunodeficiency virus (HIV), acquired immune deficiency  
9           syndrome (AIDS), hepatitis C, porphyria, amyotrophic lateral  
10           sclerosis (Lou Gehrig's disease or ALS), Alzheimer's disease,  
11           nail-patella syndrome, fibromyalgia, severe migraines, multiple  
12           sclerosis, celiac disease, Crohn's disease, diabetes mellitus, dystonia,  
13           gastrointestinal disorders, hypertension, incontinence, injury or  
14           disease to the spinal cord, spinal column, or vertebra,  
15           methicillin-resistant Staphylococcus aureus (MRSA), myelomalacia,  
16           osteoporosis, pruritus, rheumatoid arthritis, sleep apnea, Tourette's  
17           syndrome, or the treatment of such conditions.  
18           b.   A chronic or debilitating disease or medical condition or its treatment  
19           that produces one or more of the following: cachexia or wasting  
20           syndrome; severe pain; severe nausea; anorexia; seizures, including  
21           those characteristic of epilepsy; or severe and persistent muscle  
22           spasms, including those characteristic of multiple sclerosis (MS),  
23           amyotrophic lateral sclerosis (Lou Gehrig's disease or ALS), or  
24           Crohn's disease.  
25           c.   Any other serious medical or mental condition or its treatment  
26           approved by a physician or other practitioner authorized to prescribe  
27           or recommend a controlled substance classified in the schedules set  
28           forth in either the Controlled Substances Act (Article 5 of Chapter 90  
29           of the General Statutes) or the federal Comprehensive Drug Abuse  
30           Prevention and Control Act of 1970, P.L. 91-513, 84 Stat. 1236 (Oct.  
31           27, 1970).  
32           (8)   "Designated caregiver" means a person who is at least 21 years of age and  
33           who has agreed to assist with a qualified patient's medical use of cannabis.  
34           (9)   "Licensed medical cannabis center" means a person licensed pursuant to  
35           G.S. 90-730.6 to operate a business that sells cannabis and cannabis-infused  
36           products to registry identification cardholders and other licensed medical  
37           cannabis centers.  
38           (10)  "Licensed producer of cannabis-infused products" means a person licensed  
39           pursuant to G.S. 90-730.6 to operate a business producing cannabis-infused  
40           products.  
41           (11)  "Licensed producer of medical cannabis" means a person licensed pursuant  
42           to G.S. 90-730.6 to cultivate cannabis for sale to a licensed medical cannabis  
43           center.  
44           (12)  "Medical use of cannabis" means the acquisition, possession, cultivation,  
45           manufacture, use, internal possession, delivery, transfer, or transportation of  
46           cannabis or paraphernalia relating to the administration of cannabis to treat  
47           or alleviate a qualified patient's medical condition or symptoms associated  
48           with the medical condition or its treatment.  
49           (13)  "Physician" means a person licensed under Article 1 of Chapter 90 of the  
50           General Statutes who is in good standing to practice medicine in this State.

- 1           (14) "Producer" includes a producer of medical cannabis and a producer of  
2           cannabis-infused products.
- 3           (15) "Qualified patient" means a person who has been diagnosed by a physician  
4           as having a debilitating medical condition.
- 5           (16) "Registry identification card" means a document issued by the North  
6           Carolina Department of Health and Human Services pursuant to  
7           G.S. 90-730.5 that identifies a person as a qualified patient or designated  
8           caregiver.
- 9           (17) "Registry identification cardholder" means a qualified patient or a designated  
10           caregiver who holds a valid registry identification card issued by the North  
11           Carolina Department of Health and Human Services pursuant to  
12           G.S. 90-730.5.
- 13           (18) "Regulated medical cannabis supply system" or "system" means the system  
14           established by the North Carolina Department of Agriculture and Consumer  
15           Services pursuant to G.S. 90-730.6 to provide a safe method for producing  
16           and distributing cannabis to registry identification cardholders and persons  
17           licensed to produce and distribute cannabis and cannabis-infused products to  
18           registry identification cardholders.
- 19           (19) "Usable cannabis" means the dried buds and mature female flowers of the  
20           plant of the genus Cannabis, and any mixture or preparation thereof, that are  
21           appropriate for medical use as provided in this Article.
- 22           (20) "Written certification" means a statement in a patient's medical records or a  
23           statement signed by a physician with whom the patient has a bona fide  
24           physician-patient relationship indicating that, in the physician's professional  
25           opinion, the patient has a debilitating medical condition and the potential  
26           health benefits of the medical use of cannabis would likely outweigh the  
27           health risks for the patient.

28 **"§ 90-730.3. Protections for the medical use of cannabis.**

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

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

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

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

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

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

6           (e) A qualified patient or a designated caregiver shall be granted the full legal  
7           protections provided in this section as long as the qualified patient or designated caregiver is in  
8           possession of a registry identification card. If the qualified patient or designated caregiver is not  
9           in possession of a registry identification card, the individual shall be given an opportunity to  
10           produce the registry identification card before the initiation of any arrest, criminal charges, or  
11           other penalties.

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

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

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

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

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

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

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

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

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

1       (m) State and local law enforcement officers shall not harm, neglect, injure, or destroy  
2 an individual's interest in or right to property that is possessed, owned, or used in connection  
3 with the medical use of cannabis, or acts incidental to the medical use of cannabis, while the  
4 property is in the possession of State or local law enforcement officials as a result of a seizure  
5 of the property in connection with the claimed medical use of cannabis. A person does not  
6 forfeit any right or interest in property seized in connection with the medical use of cannabis  
7 under any provision of State law providing for the forfeiture of property, unless the forfeiture is  
8 part of a sentence imposed upon the person as a result of a conviction of a criminal violation of  
9 this Article or entry of a plea of guilty to such violation. Cannabis, paraphernalia, or other  
10 property seized from a qualified patient, designated caregiver, or licensed producer of medical  
11 cannabis in connection with the claimed medical use or production for medical use of cannabis  
12 shall be returned immediately upon the determination by a court, prosecutor, or law  
13 enforcement officer that the qualified patient, designated caregiver, or licensed producer of  
14 medical cannabis is entitled to the protections of this Article. In making this determination, the  
15 court, a prosecutor, or a law enforcement officer shall consider as evidence the failure of law  
16 enforcement officers to actively investigate the case, a decision not to prosecute, the dismissal  
17 of charges, or acquittal.

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

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

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

26       (q) Possession of or application for a registry identification card shall not alone  
27 constitute probable cause to search the person or the property of the person possessing or  
28 applying for a registry identification card or otherwise subject the person or the person's  
29 property to inspection by any government agency.

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

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

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

47 **"§ 90-730.4. Prohibitions, restrictions, and limitations on medical use of cannabis.**

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

49           (1) Operate, navigate, or be in actual physical control of any motor vehicle,  
50           aircraft, or motorboat while impaired by cannabis. However, a qualified

- 1 patient shall not be considered impaired solely due to the presence of  
2 cannabis metabolites in the individual's system.
- 3 (2) Undertake any task under the influence of cannabis, when doing so would  
4 constitute negligence or professional malpractice.
- 5 (3) Smoke cannabis in a school bus or other form of public transportation, on  
6 any school grounds, in any correctional facility, or in any public place in this  
7 State.
- 8 (b) A person who commits an act prohibited by subsection (a) of this section is subject  
9 to all penalties provided by law.
- 10 (c) Nothing in this Article shall be construed to require any of the following:
- 11 (1) A government-sponsored medical assistance program or private health  
12 insurer to reimburse a person for costs associated with the medical use of  
13 cannabis.
- 14 (2) An employer to accommodate the medical use of cannabis in any workplace.
- 15 (d) Fraudulent representation to a law enforcement official of any fact or circumstance  
16 relating to the medical use of cannabis to avoid arrest or prosecution is a Class 2 misdemeanor  
17 punishable by a fine of five hundred dollars (\$500.00) in addition to any other applicable  
18 penalties for making a false statement about the medical use of cannabis.
- 19 (e) A licensed producer of medical cannabis that sells, distributes, dispenses, or  
20 transfers cannabis to an individual other than a registry identification cardholder or to a person  
21 other than a person licensed pursuant to G.S. 90-730.6, or obtains or transports cannabis outside  
22 of North Carolina in violation of federal law, is subject to arrest, prosecution, and civil or  
23 criminal penalties pursuant to State law.
- 24 (f) Nothing in this Article shall be construed as a waiver of sovereign immunity by the  
25 State.
- 26 **§ 90-730.5. Registry identification cards for qualified patients and designated caregivers.**
- 27 (a) As used in this section, "Department" means the North Carolina Department of  
28 Health and Human Services.
- 29 (b) The Department shall issue a registry identification card to any qualified patient or  
30 designated caregiver who meets the requirements of this section.
- 31 (c) The Department shall not issue or renew a registry identification card to a qualified  
32 patient under 18 years of age unless each of the following criteria is met:
- 33 (1) The qualified patient's physician has explained the potential risks and  
34 benefits of the medical use of cannabis to the qualified patient and to a  
35 parent, guardian, or person having legal custody of the qualified patient.
- 36 (2) A parent, guardian, or person having legal custody of the qualified patient  
37 consents in writing to (i) allow the qualified patient's medical use of  
38 cannabis, (ii) serve as one of the qualified patient's designated caregivers,  
39 and (iii) control the acquisition of the cannabis, the dosage, and the  
40 frequency of the medical use of cannabis by the qualified patient.
- 41 (d) The Department shall verify the information contained in a registry identification  
42 card application or renewal application submitted pursuant to this section and shall approve or  
43 deny an application or renewal application within 45 days after receipt. The Department may  
44 deny a registry identification card application or renewal application only if the applicant fails  
45 to provide the information required pursuant to this section or if the Department determines that  
46 the application or renewal application contains false information. If the Department fails to  
47 approve or deny a registration application or renewal application submitted pursuant to this  
48 section within 45 days after receipt, the application or renewal application shall be deemed  
49 approved, and a copy of the application or renewal application together with proof of receipt by  
50 the Department at least 45 days prior to the date this information is presented in lieu of a  
51 registry identification card shall be deemed a valid registry identification card.



1       (e) The Department may issue a registry identification card to a maximum of two  
2 designated caregivers named in a qualified patient's approved application.

3       (f) The Department shall issue a registry identification card to an applicant within five  
4 days after approving an application or renewal. The application or renewal expires two years  
5 after the date of issuance.

6       (g) Each registry identification card shall contain at least all of the following  
7 information:

8           (1) The date of issuance.

9           (2) The date of expiration.

10          (3) A random registry identification number.

11          (4) A photograph of the registry identification cardholder.

12       (h) Persons issued registry identification cards shall be subject to the following:

13           (1) A qualified patient who has been issued a registry identification card shall  
14 notify the Department of any change in the qualified patient's name, address,  
15 or designated caregiver and submit a ten-dollar (\$10.00) fee to the  
16 Department within 15 days after the change occurs. A qualified patient who  
17 fails to notify the Department of any of these changes within the specified  
18 time frame commits an infraction and is subject to a fine not to exceed more  
19 than one hundred fifty dollars (\$150.00).

20           (2) A designated caregiver shall notify the Department of any change in name or  
21 address and submit a ten-dollar (\$10.00) fee to the Department within 15  
22 days after the change occurs. A designated caregiver who fails to notify the  
23 Department of any of these changes within the specified time frame commits  
24 an infraction and is subject to a fine not to exceed one hundred fifty dollars  
25 (\$150.00).

26           (3) When a qualified patient or designated caregiver notifies the Department of  
27 any change, as required by this subsection, the Department shall issue the  
28 qualified patient and each designated caregiver a new registry identification  
29 card within 10 days after receiving the updated information and the  
30 ten-dollar (\$10.00) fee.

31           (4) When a qualified patient who possesses a registry identification card notifies  
32 the Department of a change in designated caregiver, the Department shall  
33 notify the designated caregiver of record of the change within 15 days after  
34 receiving notification of the change. The protections afforded under this  
35 Article to the designated caregiver of record shall expire 30 days after the  
36 designated caregiver of record is notified by the Department of the change in  
37 designated caregiver.

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

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

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

50       (k) The Department shall maintain a confidential list of the persons to whom the  
51 Department has issued registry identification cards. Individual names and other identifying

1 information on the list shall be confidential, exempt from the provisions of Chapter 132 of the  
2 General Statutes, and not subject to disclosure, except to authorized employees of the  
3 Department as necessary to perform official duties of the Department.

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

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

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

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

17 **"§ 90-730.6. Regulated medical cannabis supply system.**

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

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

26 (c) Medical Cannabis Center License. –

27 (1) No person shall establish or operate a medical cannabis center without first  
28 applying for a license to the Department and submitting the required  
29 information on application forms provided by the Department. The  
30 application form shall require at least all of the following:

- 31 a. The applicant's name and any name the applicant will use in the  
32 operation of a medical cannabis center.
- 33 b. The address of any property the applicant will use to possess, deliver,  
34 transport, dispense, or distribute cannabis.
- 35 c. The name, address, and date of birth of each principal officer and  
36 board member of the medical cannabis center.
- 37 d. The name, address, and date of birth of each employee of the medical  
38 cannabis center.
- 39 e. For first-year licensees, a nonrefundable license fee in the amount of  
40 five thousand dollars (\$5,000).
- 41 f. For licensees seeking license renewal, a nonrefundable renewal fee in  
42 an amount not less than five thousand dollars (\$5,000), as specified  
43 in rules adopted pursuant to subsection (s) of this section.
- 44 g. Proof of North Carolina residency for each principal officer, board  
45 member, and employee of the medical cannabis center.
- 46 h. Any other information the Department considers necessary to ensure  
47 compliance with the terms of this Article.

48 (2) Unless suspended or revoked, a medical cannabis center license is valid for a  
49 period not to exceed 12 months from the date of issuance.

50 (3) A licensee shall apply for renewal, as necessary, at least 30 days prior to the  
51 expiration of a current license.

- 1           (4)   No later than 30 days after issuing or renewing a license under this  
2           subsection, the Department shall issue a medical cannabis center registry  
3           identification card to each director and employee listed on the application or  
4           renewal form upon receipt of a ten-dollar (\$10.00) fee per cardholder.
- 5           (5)   A licensee shall notify the Department of any change in the information  
6           submitted on the license application or renewal form within 30 days after the  
7           change.
- 8           (6)   A medical cannabis center licensee may do all of the following:  
9           a.     Sell cannabis, cannabis-infused products, cannabis plants, cannabis  
10           seeds, cultivation equipment, and related supplies and educational  
11           materials only to registry identification cardholders.  
12           b.     Contract with a producer to sell live plants on the premises of the  
13           medical cannabis center to registry identification cardholders.  
14           c.     Assist registry identification cardholders with other products and  
15           services, including equipment, supplies, and educational materials.
- 16           (7)   A medical cannabis center licensee shall not cultivate cannabis unless  
17           separately licensed as a producer of medical cannabis under subsection (c) of  
18           this section.
- 19           (8)   A medical cannabis center licensee and its directors, agents, and employees  
20           are exempt from the criminal laws of this State for possession, production,  
21           delivery, or transportation of cannabis, or aiding and abetting another in the  
22           possession, production, delivery, or transportation of cannabis, or any other  
23           criminal offense in which possession, production, delivery, or transportation  
24           of cannabis is an element if the medical cannabis center and the directors,  
25           agents, and employees of the medical cannabis center are in substantial  
26           compliance with this section and the applicable rules adopted by the  
27           Department for regulating medical cannabis centers.
- 28           (9)   The records of a licensed medical cannabis center are subject to the same  
29           restrictions imposed on pharmacy records pursuant to G.S. 90-85.36.  
30           G.S. 90-85.36 shall apply to each medical cannabis center as if it were a  
31           pharmacy regulated under Article 4A of Chapter 90 of the General Statutes.
- 32       (d)   Producer of Medical Cannabis License. –
- 33           (1)   No person shall cultivate cannabis for sale to a licensed medical cannabis  
34           center without first applying for a license to the Department and submitting  
35           the required information on application forms provided by the Department.  
36           The application form shall require at least all of the following:  
37           a.     The name of the person responsible for the medical cannabis  
38           production site and the name of each individual employed by that  
39           person.  
40           b.     The address of each property, location, or premises used or proposed  
41           for use by the producer to produce cannabis.  
42           c.     The name, address, and date of birth of each principal officer and  
43           board member of the producer.  
44           d.     The name, address, and date of birth of each employee of the  
45           producer.  
46           e.     For first-year licensees, a nonrefundable license fee in the amount of  
47           five thousand dollars (\$5,000).  
48           f.     For licensees seeking license renewal, a nonrefundable renewal fee in  
49           an amount not less than five thousand dollars (\$5,000), as specified  
50           in the rules adopted pursuant to subsection (s) of this section.

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

- 1           (5)   Not later than 30 days after issuing or renewing a license to produce  
2           cannabis-infused products, the Department shall issue a registry  
3           identification card to the licensed producer of cannabis-infused products and  
4           to each of the producer's employees upon payment of a fee of ten dollars  
5           (\$10.00) per cardholder.
- 6           (6)   The Department shall issue a medical cannabis production site card to each  
7           producer of cannabis-infused products for each property, location, or  
8           premises approved for production of cannabis-infused products under this  
9           section. The card shall be conspicuously posted at the location of the  
10          medical cannabis production site.
- 11          (f)   Permissible Sales Transactions. – All cannabis sold through the regulated medical  
12          cannabis supply system established under this section shall be subject to the following  
13          limitations and requirements:
- 14               (1)   Only persons licensed as a medical cannabis center under subsection (b) of  
15               this section are authorized to sell cannabis or cannabis-infused products to  
16               qualified patients or designated caregivers through the system.
- 17               (2)   Only persons licensed as a producer of medical cannabis under subsection  
18               (c) of this section or a producer of cannabis-infused products under  
19               subsection (d) of this section are authorized to produce cannabis for sale to  
20               licensed medical cannabis centers through the system.
- 21               (3)   A licensed medical cannabis center shall not sell cannabis, cannabis-infused  
22               products, cannabis plants, cannabis seeds, cultivation equipment, and related  
23               supplies and educational materials to any person other than a qualified  
24               patient or designated caregiver.
- 25               (4)   A licensed producer of medical cannabis shall not sell cannabis, cannabis  
26               plants, or cannabis seeds to any person other than a licensed medical  
27               cannabis center or a licensed producer of cannabis-infused products.  
28               However, a licensed producer of medical cannabis may transfer for no  
29               consideration cannabis, cannabis plants, or cannabis seeds to any qualified  
30               patient or designated caregiver.
- 31               (5)   A producer of cannabis-infused products shall not sell cannabis-infused  
32               products for resale to any person other than a licensed medical cannabis  
33               center.
- 34               (6)   A medical cannabis center, producer of medical cannabis, or producer of  
35               cannabis-infused products shall not sell to any registry identification  
36               cardholder cannabis or cannabis plants in an amount that exceeds an  
37               adequate supply.
- 38          (g)   Exemption From Criminal Laws. – A medical cannabis center, producer of medical  
39          cannabis, or producer of cannabis-infused products with a valid license for that function is  
40          exempt from the criminal laws of this State for possession, production, delivery, or  
41          transportation of cannabis, or aiding and abetting another in the possession, production,  
42          delivery, or transportation of cannabis, or any other criminal offense in which possession,  
43          production, delivery, or transportation of cannabis is an element if the medical cannabis center,  
44          producer of medical cannabis, or producer of cannabis-infused products is in substantial  
45          compliance with this section and any rules adopted under this section.
- 46          (h)   Loss of Exemption From Criminal Laws. – A person who is not a qualified patient  
47          or licensed caregiver but who is otherwise authorized to possess, produce, deliver, or transport  
48          cannabis for medical use pursuant to this Article ceases to be exempt as provided in subsection  
49          (g) of this section upon committing any of the following acts:

- 1           (1) Driving while impaired by cannabis, provided that the person shall not be  
2 considered to be impaired solely for having cannabis metabolites in his or  
3 her system.
- 4           (2) Delivering cannabis to any individual who the person knows is not a registry  
5 identification cardholder or qualified patient.
- 6           (3) Manufacturing or distributing cannabis at an address not registered with the  
7 Department.
- 8           (4) Failing to report transfer of cannabis authorized under this section to the  
9 Department.
- 10       (i) Monthly Fees and Reporting. –
- 11           (1) Each medical cannabis center, producer of medical cannabis, and producer  
12 of cannabis-infused products licensed under this section shall submit  
13 quarterly reports to the Department on all financial transactions, including,  
14 but not limited to, sales and purchases of cannabis and cannabis-infused  
15 products, and transfers of cannabis and cannabis-infused products for no  
16 consideration.
- 17           (2) Each medical cannabis center licensed and operating under this section shall  
18 pay to the Department monthly fees equal to ten percent (10%) of the  
19 medical cannabis center's gross revenue derived from the sale of cannabis  
20 and cannabis-infused products.
- 21           (3) Each producer of medical cannabis or cannabis-infused products producer  
22 licensed and operating under this section shall pay to the Department  
23 monthly fees equal to ten percent (10%) of the producer's gross revenue  
24 derived from the sale of cannabis and cannabis-infused products.
- 25           (4) Each person who (i) holds a medical cannabis center license and either a  
26 producer of medical cannabis license or cannabis-infused products producer  
27 license, or both, and (ii) operates both a retail medical cannabis center and  
28 one or more production sites shall pay to the Department monthly fees equal  
29 to fifteen percent (15%) of that person's gross revenue derived from retail  
30 sales of cannabis and cannabis-infused products produced by that person.
- 31           (5) Nothing in this subsection shall be construed to exempt persons licensed  
32 under this section from the reporting or remittance of sales tax for any  
33 transaction upon which a sales tax may be levied.
- 34       (j) The Department shall use system revenues from license fees and monthly gross  
35 revenue fees to fund, in the following order of priority:
- 36           (1) Costs associated with establishing and operating the regulated medical  
37 cannabis supply system established under this section.
- 38           (2) The registry system established under G.S. 90-730.5.
- 39           (3) The medical cannabis research program established under G.S. 90-730.9.
- 40           (4) Other Department programs.
- 41       (k) Disqualifications for Licensure. – The Department shall not issue a license  
42 authorized by this section to any of the following persons:
- 43           (1) A person who has not paid the appropriate license or license renewal fee.
- 44           (2) An individual who is less than 21 years of age.
- 45           (3) A person who has served a sentence for any of the following felonies in the  
46 five years immediately preceding the date of license application: any Class  
47 A through E felony; any felony that includes assault as an essential element  
48 of the offense; any felony under Article 14 (Burglary and Housebreakings)  
49 of Chapter 14 of the General Statutes; any felony under Article 16  
50 (Larceny), Article 16A (Organized Retail Theft), Article 17 (Robbery),  
51 Article 18 (Embezzlement), Article 19 (False Pretenses and Cheats), Article

1 19A (Obtaining Property or Services by False or Fraudulent Use of Credit  
2 Device or Other Means), Article 19B (Financial Transaction Card Crime  
3 Act), or Article 19C (Identity Theft) of Chapter 14 of the General Statutes.  
4 In order to ensure compliance with this subdivision, the Department shall  
5 conduct a criminal history record check of any person whose name is  
6 submitted on an application as the director or an employee of the medical  
7 cannabis center or as a producer or employee of a producer.

8 (4) A person who at any time has been convicted of a felony violation for  
9 manufacturing, selling, delivering, or possessing with intent to manufacture,  
10 sell, deliver, or possess a Schedule I or II controlled substance in violation of  
11 G.S. 90-95(b)(1). In order to ensure compliance with this subdivision, the  
12 Department shall conduct a criminal history record check of any person  
13 whose name is submitted on an application as the director or an employee of  
14 the medical cannabis center or as a producer or employee of a producer.

15 (5) Except as otherwise provided in this subdivision, a person who has not been  
16 a resident of North Carolina for at least two years prior to the date of the  
17 license application. A person who submits an application for licensure  
18 pursuant to this section within 180 days after the effective date of this  
19 Article is not subject to this residency requirement if the person was a  
20 resident of North Carolina for at least 180 days prior to the effective date of  
21 this Article.

22 (l) Inspection. – The Department may inspect the premises of any person seeking or  
23 holding licensure as a medical cannabis center or a licensed producer of medical cannabis  
24 solely to determine compliance with this Article.

25 (m) License Suspension or Revocation. – The Department may suspend or revoke a  
26 license issued pursuant to this section if the Department determines that the licensee is not in  
27 substantial compliance with this section or the rules adopted by the North Carolina Medical  
28 Care Commission under subsection (r) of this section. The Department shall notify a licensee at  
29 least 14 days in advance of a proposed suspension or revocation, including the reasons for the  
30 suspension or revocation and any possible remedial options available to the licensee. The  
31 Department shall not suspend or revoke a license without conducting an investigation and  
32 providing the licensee an opportunity for a public hearing, at which the licensee shall be  
33 afforded an opportunity to be heard. The Department has the power to administer oaths and  
34 issue subpoenas to require the presence of persons and the production of papers, books, and  
35 records necessary to conduct a suspension or revocation hearing.

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

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

45 (p) Any person, including an employee or official of the Department or another State  
46 agency or local government, who breaches the confidentiality of information obtained pursuant  
47 to subsection (c), (d), or (e) of this section is guilty of a Class 1 misdemeanor; however, any  
48 fine imposed for a violation under this subsection shall not exceed one thousand dollars  
49 (\$1,000).

50 (q) Nothing in this section shall be construed to prevent Department employees from  
51 notifying law enforcement officers about falsified or fraudulent information submitted to the

1 Department by any person in support of an application for a license authorized by subsection  
2 (c), (d), or (e) of this section.

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

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

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

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

15 b. An application or renewal fee.

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

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

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

22 (2) Establish qualifications and requirements for licensure of medical cannabis  
23 centers, producers of medical cannabis, and producers of cannabis-infused  
24 products.

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

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

28 **"§ 90-730.7. Affirmative defenses.**

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

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

35 a. Has been diagnosed with a chronic or debilitating medical condition  
36 and has been advised by the person's attending physician that the  
37 medical use of cannabis may mitigate the symptoms or effects of that  
38 chronic or debilitating medical condition.

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

40 c. Possesses, delivers, or produces cannabis only in the amount  
41 described in this Article as an adequate supply, or in an amount  
42 exceeding an adequate supply if the person proves by a  
43 preponderance of the evidence that the greater amount is medically  
44 necessary to mitigate the symptoms or effects of the person's chronic  
45 or debilitating medical condition, as determined by the person's  
46 attending physician.

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

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

50 b. Possesses, delivers, or produces cannabis only in the amount  
51 described herein as an adequate supply or in excess of that amount if



1 the person proves by a preponderance of the evidence that the greater  
2 amount is medically necessary as determined by the assisted person's  
3 attending physician to mitigate the symptoms or effects of the  
4 assisted person's chronic or debilitating medical condition.

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

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

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

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

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

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

26 (f) Any interest in or right to property that was possessed, owned, or used in connection  
27 with a person's use of cannabis for medical purposes shall not be forfeited, nor shall the person  
28 be subject to disciplinary action by a business or occupational or professional licensing board  
29 or bureau if the person or the person's designated caregiver demonstrates the person's medical  
30 purpose for using cannabis pursuant to this section.

31 **"§ 90-730.8. Immunity for physicians.**

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

35 **"§ 90-730.9. North Carolina Cannabis Research Program.**

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

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

48 (c) The research conducted under this section may involve the development of quality  
49 control, purity, and labeling standards for medical cannabis dispensed through the system;  
50 sound advice and recommendations on the best practices for the safe and efficient cultivation of

1 cannabis; and analysis of genetic and healing properties of the many varied strains of cannabis  
2 to determine which strains may be best suited for a particular condition or treatment.

3 **"§ 90-730.10. Severability.**

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

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

- 9 (1) The Department of Agriculture and Consumer Services shall issue a  
10 temporary certificate for participation in the regulated medical supply  
11 system established under G.S. 90-730.6 to any individual who would be  
12 eligible to participate in the system as a qualified patient but for the adoption  
13 of rules to fully implement the system, upon presentation of a written  
14 certification for the medical use of cannabis from the individual's treating  
15 physician. The certificate shall specify the amount of cannabis the certificate  
16 holder may possess for the medical use of cannabis. The Department of  
17 Agriculture and Consumer Services shall maintain a list of all temporary  
18 certificates issued pursuant to this section.
- 19 (2) An individual in possession of a temporary certificate issued pursuant to  
20 subdivision (1) of this section and that individual's designated caregiver are  
21 not subject to arrest, prosecution, civil or criminal penalty, or denial of any  
22 right or privilege for possessing cannabis if the amount of usable cannabis  
23 possessed collectively is not more than the amount specified on the  
24 temporary certificate issued by the Department of Agriculture and Consumer  
25 Services.
- 26 (3) A physician shall not be subject to arrest or prosecution, penalized in any  
27 manner, or denied any right or privilege for recommending the medical use  
28 of cannabis or providing written certification for the medical use of cannabis  
29 pursuant to this Article.

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

- 31 "(6) The term "drug" means
- 32 a. Articles recognized in the official United States Pharmacopoeia,  
33 official Homeopathic Pharmacopoeia of the United States, or official  
34 National Formulary, or any supplement to any of them; and
- 35 b. Articles intended for use in the diagnosis, cure, mitigation, treatment  
36 or prevention of disease in man or other ~~animals~~; animals, except for  
37 cannabis-infused products, as defined in G.S. 90-730.1, that are  
38 manufactured or sold by a licensed medical cannabis center or a  
39 licensed producer of cannabis-infused products; and
- 40 c. Articles (other than food) intended to affect the structure or any  
41 function of the body of man or other animals; and
- 42 d. Articles intended for use as a component of any article specified in  
43 paragraphs a, b or c; but does not include devices or their  
44 components, parts, or accessories."

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

- 46 "(8) The term "food" means
- 47 a. Articles used for food or drink for man or other animals, except for  
48 cannabis-infused products, as defined in G.S. 90-730.1, that are  
49 manufactured or sold by a licensed medical cannabis center or a  
50 licensed producer of cannabis-infused products,
- 51 b. Chewing gum, and

c. Articles used for components of any such article."

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

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

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