HOUSE BILL No. 2610

By Committee on Health and Human Services

AN ACT enacting the medical marijuana act; providing for the legal use
of marijuana for certain debilitating medical conditions; providing for
the registration and functions of compassion centers; authorizing the
issuance of identification cards; providing for administration of the act
by the department of health and environment.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Sections 1 through 11 of this act shall be known as the
medical marijuana act.

Sec. 2. (a) Modern medical research has discovered beneficial uses
for marijuana in treating or alleviating the pain, nausea, and other symp-
toms associated with a variety of debilitating medical conditions, as found
by the national academy of sciences’ institute of medicine in March, 1999.
(b) Subsequent studies since the 1999 national academy of sciences’
institute of medicine report continue to show the therapeutic value of
marijuana in treating a wide array of debilitating medical conditions, in-
cluding increasing the chances of patients finishing their treatments for
HIV/AIDS and hepatitis C.
(c) Data from the federal bureau of investigation’s uniform crime
reports and the compendium of federal justice statistics show that ap-
proximately 99 out of every 100 marijuana 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
marijuana.
(d) Although federal law currently prohibits any use of marijuana ex-
cept under very limited circumstances, Alaska, California, Colorado, Ha-
waii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Ver-
mont, Rhode Island and Washington have removed state-level criminal
penalties from the medical use and cultivation of marijuana. Under this
bill Kansas joins in this effort for the health and welfare of its citizens.
(e) States are not required to enforce federal law or prosecute people
for engaging in activities prohibited by federal law. Therefore, compliance
with this act does not put the state of Kansas in violation of federal law.
(f) State law should make a distinction between the medical and non-
medical uses of marijuana. Hence, the purpose of this 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
marijuana.

(g) The legislature of the state of Kansas declares that this act is en-
acted pursuant to the police power of the state to protect the health of
its citizens that is reserved to the state of Kansas and its people under
the 10th Amendment to the United States Constitution.

Sec. 3. The following terms, as used in this act, shall have the mean-
ings set forth in this section:

(a) “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.

(b) “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.

(c) “Debilitating medical condition” means one or more of the
following:

(1) 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;

(2) a chronic or debilitating disease or medical condition or its treat-
ment that produces one or more of the following: cachexia or wasting
syndrome; severe pain; severe nausea; 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

(3) any other medical condition or its treatment approved by the de-
partment, as provided for in subsection (a) of section 6, and amendments
thereto.

(d) “Department” means the department of health and environment.

(e) “Designated caregiver” means a person who is at least 21 years
of age, who has agreed to assist with a patient’s medical use of marijuana
and who has never been convicted of an excluded felony offense. A des-
ignated caregiver may assist no more than five qualifying patients with
their medical use of marijuana.

(f) “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.

(g) “Excluded felony offense” means:

(1) A crime involving violence to the person of another that was clas-
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(2) a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted.

An excluded felony offense does not include:

(A) an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or

(B) an offense that consisted of conduct for which this act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this act or was prosecuted by an authority other than the state of Kansas.

(h) “Marijuana” has the meaning given that term in K.S.A. 2009 Supp. 65-4101, and amendments thereto.

(i) “Medical use” means the acquisition, possession, cultivation, manufacture, use, delivery, sale, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the patient’s debilitating medical condition.

(j) “Practitioner” means a person who is licensed to practice medicine and surgery.

(k) “Qualifying patient” means a person who has been diagnosed by a practitioner as having a debilitating medical condition.

(l) “Registered compassion center” means a not-for-profit entity registered pursuant to section 5, and amendments thereto, that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana or related supplies and educational materials to cardholders. A registered compassion center may receive compensation for all expenses incurred in its operation.

(m) “Registry identification card” means a document issued by the department that identifies a person as a registered qualifying patient, registered designated caregiver or a registered principal officer, board member, employee, volunteer or agent of a registered compassion center.

(n) “Usable marijuana” means marijuana seeds, stalks, seedlings and unusable roots. “Seedling” means a marijuana plant that has no flowers and is less than 12 inches in height and less than 12 inches in diameter. A seedling must meet all three criteria set forth above.

(o) “Usable marijuana” means the dried leaves and flowers of the marijuana plant and any mixture or preparation thereof, but does not include the seeds, stalks and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.

(p) “Verification system” means a secure, password-protected, web-based system that is operational 24 hours each day that law enforcement
personnel and compassion center staffers shall use to verify registry identification cards and that shall be established and maintained by the department pursuant to subsection (h)(4) of section 7.

(q) “Visiting qualifying patient” means a patient with a debilitating medical condition who is not a resident of Kansas or who has been a resident of Kansas less than 30 days.

(r) “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 marijuana 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. (a) 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 marijuana in accordance with this act, provided that the qualifying patient possesses an amount of marijuana that does not exceed 12 marijuana plants and six ounces of usable marijuana. 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 subsections (f) or (g).

(b) 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 he or she is connected through the department’s registration process with the medical use of marijuana in accordance with this act, provided that the designated caregiver possesses an amount of marijuana that does not exceed 12 marijuana plants and six ounces of usable marijuana for each qualifying patient to whom he or she is connected through the department’s registration process. Said 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 subsections (f) or
(g).

(c) Registered designated caregivers and registered qualifying patients may possess a reasonable amount of unusable marijuana, including up to 12 seedlings, which shall not be counted toward the limits in this section.

(d) (1) There shall be a presumption that a qualifying patient or designated caregiver is engaged in the medical use of marijuana in accordance with this act if the qualifying patient or designated caregiver:

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

(B) is in possession of an amount of marijuana that does not exceed the amount allowed under this act.

(2) The presumption may be rebutted by evidence that conduct related to marijuana 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 this act.

(e) 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 marijuana to a registered qualifying patient or a registered designated caregiver for the registered qualifying patient's medical use where nothing of value is transferred in return, or for offering to do the same, provided that the person giving the marijuana does not knowingly cause the recipient to possess more marijuana than is permitted by section 4, and amendments thereto.

(f) (1) No school or landlord may refuse to enroll or lease to, or otherwise penalize, a person solely for his or her 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.

(2) For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana in accordance with this 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.

(3) 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:

(A) The person’s status as a registered qualifying patient or registered designated caregiver; or

(B) a registered qualifying patient’s positive drug test for marijuana
components or metabolites, unless the patient used, possessed or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

(g) A person shall not be denied custody of or visitation or parenting time with a minor and there shall be no presumption of neglect or child endangerment for conduct allowed under this 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.

(h) A registered designated caregiver may receive compensation for costs associated with assisting a registered qualifying patient's medical use of marijuana, provided that 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.

(i) 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 healing arts or by any other occupational or professional licensing board or bureau, 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 marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition. Nothing in this 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.

(j) 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 or bureau, for providing a registered qualifying patient or a registered designated caregiver with marijuana paraphernalia for purposes of a qualifying patient's medical use of marijuana.

(k) Any marijuana, marijuana paraphernalia, licit property or interest in licit property that is possessed, owned or used in connection with the medical use of marijuana as allowed under this act, or acts incidental to such use, shall not be seized or forfeited. This act shall not prevent the seizure or forfeiture of marijuana exceeding the amounts allowed under this act.

(l) 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 or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this act, or for
assisting a registered qualifying patient with using or administering
marijuana.

(m) A registry identification card, or its equivalent, that is issued un-
der 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 marijuana for medical purposes,
shall have the same force and effect as a registry identification card issued
by the department.

Sec. 5. (a) The following provisions govern the registration of com-
passion centers:

(1) The department shall register a compassion center and issue a
registration certificate, with a random 20-digit alphanumeric identifica-
tion number, within 90 days of receiving an application for a compassion
center if the following conditions are met:

(A) The prospective compassion center provided the following, in ac-
cordance with the department’s rules and regulations:

(i) An application or renewal fee;
(ii) the legal name of the compassion center;
(iii) the physical address of the compassion center and the physical
address of one additional location, if any, where marijuana will be culti-
vated, neither of which may be within 500 feet of a preexisting public or
private school;
(iv) the name, address and date of birth of each principal officer and
board member of the compassion center;
(v) the name, address and date of birth of any person who is an agent
of or employed by the compassion center;
(vi) operating regulations that include procedures for the oversight
of the compassion center and procedures to ensure accurate record-keep-
ing and security measures, that are in accordance with the rules and reg-
ulations issued by the department under subsection (c) of section 6, and
amendments thereto; and
(vii) if the city 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; and

(B) issuing the compassion center a registration would not be in vi-
olation of a reasonable limitation on the number of registered compassion
centers that can operate in the jurisdiction in which it would operate; and

(C) none of the principal officers or board members has been con-
victed 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 this act would likely have prevented a conviction, but the conduct
either occurred prior to the enactment of this act or was prosecuted by
an authority other than the state of Kansas; and
(D) none of the prospective principal officers or board members has
served as a principal officer or board member for a registered compassion
center that has had its registration certificate revoked; and
(E) none of the principal officers or board members is younger than
21 years of age.
(2) Except as provided in subsection (a)(3), the department shall issue
each compassion center staffer a registry identification card and log-in
information for the verification system within 10 days of receipt of the
person’s name, address, date of birth and a fee in an amount established
by the department. Each card shall specify that the cardholder is a prin-
cipal officer, board member, agent, volunteer or employee of a registered
compassion center and shall contain the following:
(A) the name, address and date of birth of the compassion center
staffer;
(B) the legal name of the registered compassion center with which
the compassion center staffer is affiliated;
(C) a random 20-digit alphanumeric identification number that is
unique to the cardholder;
(D) the date of issuance and expiration date of the registry identifi-
cation card;
(E) a photograph, if the department decides to require one; and
(F) a statement signed by the prospective principal officer, board
member, agent, volunteer or employee pledging not to divert marijuana
to anyone who is not allowed to possess marijuana pursuant to this act.
(3) (A) 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 this act would
likely have prevented a conviction, but the conduct either occurred prior
to the enactment of this act or was prosecuted by an authority other than
the state of Kansas. The department may conduct a background check of
each compassion center staffer in order to carry out this provision. The
department shall notify the registered compassion center in writing of the
reason for denying the registry identification card.
(B) 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 21 years of age.
(C) The department may refuse to issue a registry identification card
to a compassion center staffer who has had a card revoked for violating
this act.
(b) (1) 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 10 days to any
registered compassion center that submits a renewal fee, provided that
its registration is not suspended and has not been revoked. The depart-
ment shall issue a renewal registry identification card within 10 days to
any compassion center staffer who submits a renewal fee, except as pro-
vided by subsection (a)(3).
(2) 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 ceases to work at the registered compassion center.
(c) Registered compassion centers are subject to reasonable inspec-
tion by the department. The department shall give at least 24 hours notice
of an inspection under this subsection.
(d) (1) A registered compassion center may not be located within 500
feet of the property line of a preexisting public or private school.
(2) A registered compassion center shall be operated on a not-for-
profit basis for the mutual benefit of its members and patrons. The by-
laws of a registered compassion center or its contracts with patrons shall
contain such provisions relative to the disposition of revenues and receipts
as may be necessary and appropriate to establish and maintain its non-
profit character. A registered compassion center need not be recognized
as tax-exempt by the internal revenue service and is not required to be
incorporated.
(3) A registered compassion center shall notify the department within
10 days of when a compassion center staffer ceases to work at the regis-
tered compassion center.
(4) 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 compas-
sion center staffer begins working at the registered compassion center.
(5) A registered compassion center shall implement appropriate se-
curity measures to deter and prevent unauthorized entrance into areas
containing marijuana and the theft of marijuana.
(6) 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.
(7) A registered compassion center is prohibited from acquiring, pos-
sessing, cultivating, manufacturing, delivering, transferring, transporting,
supplying or dispensing marijuana for any purpose except to assist reg-
istered qualifying patients with the medical use of marijuana directly or
through the qualifying patients’ designated caregivers.
(8) All principal officers and board members of a registered compassion center must be residents of the state of Kansas.

(9) All cultivation of marijuana 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.

(10) County and city governments 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.

(c) (1) Before marijuana 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 marijuana is intended, and the designated caregiver transporting the marijuana to the patient, if any, in the verification system and must verify each of the following:

(A) That the registry identification card presented to the registered compassion center is valid;
(B) that the person presenting the card is the person identified on the registry identification card presented to the compassion center staffer; and
(C) that the amount to be dispensed would not cause the registered qualifying patient to exceed such person’s limit of obtaining six ounces of marijuana during any 30-day period.

(2) After verifying the information in subsection (c)(1), but before dispensing marijuana 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 marijuana 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 marijuana was dispensed.

(f) (1) A registered compassion center shall not be subject to prosecution; search, except by the department pursuant to subsection (c); 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 this act and department rules and regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply or dispense marijuana 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.

(2) No compassion center staffers shall be subject to arrest, prose-
section, 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 this
act and department rules and regulations to acquire, possess, cultivate,
manufacture, deliver, transfer, transport, supply or dispense marijuana or
related supplies and educational materials to registered qualifying pa-
tients, to registered designated caregivers on behalf of registered quali-
fying patients or to other registered compassion centers.

(g) (1) A registered qualifying patient shall not directly, or through a
designated caregiver, obtain more than six ounces of marijuana from reg-
istered compassion centers in any 30-day period.

(2) A registered compassion center may not dispense, deliver or oth-
erwise transfer marijuana to a person other than another registered com-
passion center, a registered qualifying patient or a registered qualifying
patient's registered designated caregiver.

(3) A registered compassion center may not obtain marijuana from
outside the state of Kansas.

(4) Except as provided in subsection (a)(3), 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 sec-
tion is subject to a civil violation punishable by a penalty of not to exceed
$1,000 levied by the department. A subsequent violation of this section
is a class C misdemeanor.

(5) A registered compassion center may not acquire usable marijuana
or mature marijuana plants from any person other than another registered
compassion center, a registered qualifying patient or a registered desig-
nated caregiver. A registered compassion center is only allowed to acquire
usable marijuana or marijuana 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
marijuana.

(6) A person who violates paragraph (2) or (5) of this subsection may
not be a compassion center staffer, and such person's registry identifi-
cation card shall be immediately revoked. The department may suspend
or revoke a compassion center staffer's registry identification card for
violating this act.

(7) A registered compassion center that violates paragraph (2) or (5)
of this subsection shall immediately have its registration revoked, and its
board members and principal officers may not serve as the board mem-
bers or principal officers for any other registered compassion centers.
Sec. 6. (a) Not later than 120 days after the effective date of this act, the department shall adopt rules and regulations governing the manner in which the department shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in subsection (c) of section 3, and amendments thereto. 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 180 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.

(b) Not later than 120 days after the effective date of this act, the department shall adopt rules and regulations governing the manner in which it shall consider applications for and renewals of registry identification cards.

(c) (1) Not later than 120 days after the effective date of this act, the department shall adopt rules and regulations governing the manner in which it shall consider applications for and renewals of registration certificates for registered compassion centers, including reasonable rules and regulations governing:

(A) The form and content of registration and renewal applications;

(B) minimum oversight requirements for registered compassion centers;

(C) minimum record keeping requirements for registered compassion centers;

(D) 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

(E) procedures for suspending or terminating the registration of registered compassion centers that violate the provisions of this act or the rules and regulations promulgated pursuant to this section.

(2) The department shall design 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.

(d) Not later than 120 days after the effective date of this act, the department shall adopt 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:

1. The total fees collected must generate revenues sufficient to offset all expenses of implementing and administering this act;
2. Compassion center application fees may not exceed $5,000;
3. Compassion center renewal fees may not exceed $1,000;
4. 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 this act, including the verification system;
5. The department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient’s family income; and
6. The department may accept donations from private sources in order to reduce the application and renewal fees.

Sec. 7. (a) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department’s rules and regulations:

1. Written certification;
2. Application or renewal fee;
3. Name, address and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;
4. Name, address and telephone number of the qualifying patient’s practitioner;
5. Name, address, and date of birth of the designated caregiver designated, if any, by the qualifying patient;
6. A statement signed by the qualifying patient, pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this act; and
7. A signed statement from the designated caregiver, if any, agreeing to be designated as the patient’s designated caregiver and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this act.

(b) The department shall not issue a registry identification card to a qualifying patient who is younger than 18 years of age unless:
1. The qualifying patient’s practitioner has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and
2. The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:
   A. Allow the qualifying patient’s medical use of marijuana; and
   B. Serve as the qualifying patient’s designated caregiver; and
(C) control the acquisition of the marijuana, the dosage and the frequency of the medical use of marijuana by the qualifying patient.

(e) 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 15 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 this act or if 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.

(d) 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, provided that the designated caregiver meets the requirements of subsection (e) of section 3, and amendments thereto. The department shall notify the qualifying patient who has designated someone 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.

(e) The department shall issue registry identification cards to qualifying patients and to designated caregivers within five days of 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 marijuana 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:

(1) Name, address and date of birth of the qualifying patient;
(2) name, address and date of birth of the designated caregiver, if any, of the qualifying patient;
(3) the date of issuance and expiration date of the registry identification card;
(4) a random 20-digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;
(5) if the cardholder is a designated caregiver, the random identification number of the registered qualifying patient the designated caregiver is assisting; and
(6) a photograph, if the department decides to require one.

(f) The following notifications and department responses are
required:

1. 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 10 days of such change.

2. 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 $150 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 marijuana, the card is null and void upon notification by the department to the qualifying patient.

3. Any registered designated caregiver or compassion center staffer must notify the department of any change in name or address within 10 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 $150 levied by the department.

4. 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 20-digit alphanumeric identification numbers within 10 days of receiving the updated information and a $10 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 10 days of receiving the updated information.

5. 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 10 days. The registered designated caregiver’s protections under this act as to that qualifying patient shall expire 10 days after notification by the department.

6. If a cardholder loses the registry identification card, the cardholder shall notify the department and submit a $10 fee within 10 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.

(g) 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.

(h) The following confidentiality rules shall apply:

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

(2) Applications and supporting information submitted by compassion centers and compassion center personnel operating in compliance with this act, including the physical addresses of compassion centers, are confidential.

(3) 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, exempt from the Kansas open records act, and not subject to disclosure, except to authorized employees of the department as necessary to perform official duties of the department and as provided in paragraph (4) of this subsection.

(4) Within 120 days of the effective date of this act, the department shall establish a secure, password-protected, web-based verification system that is operational 24 hours each day, which law enforcement personnel and compassion center staffers can use to verify registry identification cards. The verification system must 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 ID 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 marijuana that each registered qualifying patient received from compassion centers during the past 60 days. The system shall allow compassion center staffers to add the amount of marijuana dispensed to registered qualifying patients, directly or through their designated caregivers, and the date and time the marijuana was dispensed. The verification system must include the following data security features:

(A) Any time an authorized user enters five invalid registry identification numbers within five minutes, that user cannot log in to the system again for 10 minutes; and

(B) the server must reject any log-in request that is not over an encrypted connection.

(5) 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.

(6) (A) It shall be a class B 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 pur-
suant to this act.

(B) Notwithstanding this provision, this section shall not prevent the
following notifications:

(i) Department employees may notify law enforcement about falsi-

fied 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;

(ii) the department may notify state or local law enforcement about

apparent criminal violations of this act, if the employee who suspects the

offense confers with such employee’s supervisor and both agree that cir-

cumstances exist that warrant reporting; and

(iii) compassion center staffers may notify the department of a sus-

pected violation or attempted violation of this act or the rules and regu-

lations issued pursuant to it.

(i) Any cardholder who sells marijuana to a person who is not allowed

to possess marijuana for medical purposes under this act shall have the

cardholder’s identification card revoked and shall be subject to other pen-

alties for the unauthorized sale of marijuana. The department may revoke

the registry identification card of any cardholder who violates this act,

and the cardholder shall be subject to any other penalties for the violation.

(j) The department shall submit to the legislature an annual report

that does not disclose any identifying information about cardholders, com-

passion centers or practitioners but does contain, at a minimum, all of

the following information:

(1) The number of applications and renewals filed for registry iden-

tification cards;

(2) the number of qualifying patients and designated caregivers ap-

proved in each county;

(3) the nature of the debilitating medical conditions of the qualifying

patients;

(4) the number of registry identification cards revoked;

(5) the number of practitioners providing written certifications for

qualifying patients;

(6) the number of registered compassion centers; and

(7) the number of compassion center staffers.

(k) 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 mari-
juana-related investigation of the person to any law enforcement authority
that does not recognize the protection of this act, and any prosecution of
the individual, individuals or entity for a violation of this 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 marijuana’s 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. (a) Except as provided in section 9, and amendments
thereto, a patient may assert the medical purpose for using marijuana as
a defense to any prosecution of an offense involving marijuana intended
for the patient’s medical use, and this defense shall be presumed valid
where the evidence shows that:
(1) 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 therapeu-
tic or palliative benefit from the medical use of marijuana to treat or
alleviate the patient’s serious or debilitating medical condition or symp-
toms associated with the patient’s serious or debilitating medical condi-
tion; and
(2) the patient and the patient’s designated caregiver, if any, were
collectively in possession of a quantity of marijuana that was not more
than was reasonably necessary to ensure the uninterrupted availability of
marijuana for the purpose of treating or alleviating the patient’s serious
or debilitating medical condition or symptoms associated with the pa-
tient’s serious or debilitating medical condition; and
(3) the patient was engaged in the acquisition, possession, cultivation,
manufacture, use or transportation of marijuana, paraphernalia, or both,
relating to the administration of marijuana 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.
(b) A person may assert the medical purpose for using marijuana in
a motion to dismiss, and the charges shall be dismissed following an evi-
dentiary hearing where the person shows the elements listed in subsection (a).
(e) If a patient demonstrates the patient’s medical purpose for using
marijuana pursuant to this section, except as provided in section 9, and
amendments thereto, the patient and the patient’s designated caregiver
shall not be subject to the following for the patient’s use of marijuana for
medical purposes: (1) Disciplinary action by an occupational or profes-
sional licensing board or bureau; or (2) forfeiture of any interest in or
right to non-marijuana, licit property.

Sec. 9. (a) This 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:

(1) Undertake any task under the influence of marijuana, when doing
so would constitute negligence or professional malpractice.

(2) Possess marijuana, or otherwise engage in the medical use of ma-
rijuana: (A) In a school bus; or (B) on the grounds of any preschool or
primary or secondary school; or (C) in any correctional facility.

(3) Smoke marijuana: (A) On any form of public transportation; or
(B) in any public place.

(4) Operate, navigate or be in actual physical control of any motor
vehicle, aircraft or motorboat while under the influence of marijuana.
However, a registered qualifying patient shall not be considered to be
under the influence of marijuana solely because of the presence of me-
tabolites or components of marijuana that appear in insufficient concen-
tration to cause impairment.

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

(b) Nothing in this act shall be construed to require:

(1) A government medical assistance program or private health ins-
urer to reimburse a person for costs associated with the medical use of
marijuana;

(2) any person or establishment in lawful possession of property to
allow a guest, client, customer or other visitor to use marijuana on or in
that property. This act shall not limit a person or entity in lawful posses-
sion of property, or an agent of such person or entity, from expelling a
person who uses marijuana without permission from their property and
from seeking civil and criminal penalties for the unauthorized use of ma-
rijuana on their property; or

(3) an employer to accommodate the ingestion of marijuana in any
workplace or any employee working while under the influence of mari-
juana, provided that a qualifying patient shall not be considered to be
under influence of marijuana solely because of the presence of metabo-
lites or components of marijuana that appear in insufficient concentra-
tion to cause impairment. This act shall in no way limit an employer’s ability
to discipline an employee for ingesting marijuana in the workplace or
working while under the influence of marijuana.

(c) Fraudulent representation to a law enforcement official of any fact
or circumstance relating to the medical use of marijuana to avoid arrest
or prosecution shall be punishable by a fine of $500, which shall be in
addition to any other penalties that may apply for making a false statement
or for the use of marijuana other than use undertaken pursuant to this act.

Sec. 10. (a) If the department fails to adopt rules and regulations to implement this act within 120 days of 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 provisions of this act.

(b) If the department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to this act within 20 days of 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.

(c) If at any time after the 140 days following the effective date of this act, the department is not accepting applications, including if it has not created 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 (a) of section 7, and amendments thereto, together with a written certification shall be deemed a valid registry identification card.

Sec. 11. Any section of this act being held invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.