A BILL TO BE ENTITLED
AN ACT TO ENACT THE MEDICAL MARIJUANA ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 72.
"Medical Marijuana Act.

§ 90-725. Short title.
This Article shall be known and may be cited as the "North Carolina Medical Marijuana Act."

§ 90-726. Legislative findings and purpose.
The General Assembly makes the following findings:

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

(2) According to the U.S. Sentencing Commission and the Federal Bureau of Investigation, 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 people who have a medical need to use marijuana.

(3) The United States Department of Health and Human Services, through the Compassionate Investigational New Drug (IND) program, provides marijuana by prescription to a number of individuals for their use as medicine. The marijuana is grown at the federal marijuana research garden at the University of Mississippi and is processed and distributed by the Research Triangle Institute in Research Triangle Park, North Carolina. The patients receive the marijuana monthly in canisters of approximately 300 prerolled cigarettes. The dosage for patients in the IND program ranges from seven to nine grams per day. Since the program's inception in 1978, patients in the IND program have received and consumed approximately 6.5 pounds of marijuana per year, thereby establishing a safe and effective dosage for chronic daily-use patients to possess and consume. The IND program was closed to new applicants in 1991.

(4) In 1992, the United States Drug Enforcement Administration (DEA) published research in a report entitled "Cannabis Yields" stating that canopy
cover, rather than the number of plants, is the most accurate indicator of a
garden's yield. According to the DEA report, 100 square feet of mature
garden canopy will typically yield three pounds of processed marijuana per
year, a common amount for patients who use marijuana daily, but less than
half the amount prescribed in the federal IND patients.

(5) Although federal law currently prohibits any use of marijuana outside of the
IND program, the laws of Alaska, California, Colorado, Hawaii, Maine,
Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont,
and Washington permit the medical use and cultivation of marijuana. North
Carolina joins in this effort for the health and welfare of its citizens.

(6) States are not required to enforce federal law or prosecute people for
engaging in activities prohibited by federal law. Therefore, compliance with
this Article does not put the State of North Carolina in violation of federal
law.

(7) Compassion dictates that State law should make a distinction between the
medical and nonmedical use of marijuana. Hence, the purpose of this Article
is to protect patients with debilitating medical conditions, and their
physicians and caregivers, from arrest and prosecution, criminal and other
penalties, and property forfeiture by allowing the beneficial use of medical
marijuana in a regulated system for alleviating symptoms caused by
debilitating medical conditions and their medical treatments.

(8) This act is intended to make only those changes to existing North Carolina
laws that are necessary to protect patients and their doctors from criminal
and civil penalties and is not intended to change current civil and criminal
laws governing the use of marijuana for nonmedical purposes.

(9) Based on data gathered from other states where medical marijuana has been
regulated, this act will result in revenues for the State approximately sixty
million dollars ($60,000,000) per year within four years of implementation.

(10) The General Assembly enacts this act pursuant to its police power to enact
legislation for the protection of the health of its citizens, as reserved to the
State in the Tenth Amendment of the United States Constitution.

§ 90-727. Definitions.
The following definitions apply in this Article:

(1) "Adequate supply" means an amount of marijuana possessed by a qualified
patient or collectively possessed by a qualified patient and the qualified
patient's designated caregiver that is not more than is reasonably necessary
to assure the uninterrupted availability of marijuana for the purpose of
alleviating the symptoms or effects of qualifying patient's debilitating
medical condition and that is derived solely from the intrastate source;
provided that an "adequate supply" shall not exceed a garden with up to 100
square feet of total garden canopy of mature female marijuana plants,
measured by the combined vegetative growth area, and 24 ounces of usable
marijuana. If usable marijuana is added as an ingredient to food, salve,
tincture, or any other preparation to be consumed or used by a registered
qualifying patient, the weight of the other ingredients that are not usable
marijuana shall not be included for purposes of determining whether a
registered qualified patient possesses more usable cannabis than permitted
under this section.

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

(3) "Canopy" means the foliage of growing plants. The area shaded by foliage is
called its "canopy cover."
"Debilitating medical condition" means:

a. Cancer; glaucoma; positive status for human immunodeficiency virus (HIV); acquired immune deficiency syndrome (AIDS); hepatitis C; porphyria; amyotrophic lateral sclerosis; Alzheimer's disease; nail patella syndrome; rheumatoid arthritis; fibromyalgia; severe migraines; multiple sclerosis; Crohn's disease; injury or disease to the spinal cord, spinal column, or vertebra; mylomalacia; celiac disease; or the treatment of such conditions;

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

c. Any other serious medical or mental condition or its treatment approved by a licensed physician.

"Department" means the North Carolina Department of Health and Human Services.

"Designated caregiver" means a resident of North Carolina who is at least 21 years old and who has agreed to assist with a patient's medical use of marijuana.

"Dispensary" means any entity, including the directors, employees, or agents of such an entity, licensed to possess, produce, deliver, transport, supply, and dispense usable marijuana, marijuana plants, and marijuana seeds to registry identification cardholders and to other dispensaries. Dispensaries may also assist patients with other products and services including equipment, supplies, and educational materials.

"Licensed medical marijuana producer" or "producer" means a person or an entity licensed to produce marijuana, marijuana plants, and marijuana seeds for dispensaries. A licensed medical marijuana producer may be an individual North Carolina resident and the employees of the individual or a licensed dispensary and the directors and employees of the dispensary.

"Medical use of marijuana" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's medical condition or symptoms associated with the medical condition or its treatment.

"Practitioner" means a person licensed in North Carolina to prescribe and administer drugs that are subject to the Controlled Substances Act (Article 5 of Chapter 90 of the General Statutes).

"Qualified patient" means a resident of North Carolina who has been diagnosed by a practitioner as having a debilitating medical condition.

"Registry identification card" means a document issued by the Department that identifies a person as a qualifying patient or designated caregiver.

"Regulated medical marijuana supply system" or "system" means the method authorized by rules adopted by the Department for producing and distributing marijuana to registry identification cardholders and the individuals and nonprofit entities licensed to produce and distribute marijuana to registry identification cardholders.
"Usable marijuana" means the dried buds and mature female flowers of the plant (genus) cannabis, and any mixture or preparation thereof, which are appropriate for medical use as provided in this act, but excludes the plant's seeds, stalks, stems, and roots.

"Written certification" means a statement in a patient's medical records or a statement signed by a practitioner that, in the practitioner's professional opinion, the patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of marijuana would likely outweigh the health risks for the patient.

§ 90-728. Protections for the medical use of marijuana.

(a) A qualified patient 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 business or occupational or professional licensing board or bureau, for the possession of or the medical use of marijuana if the quantity of marijuana does not exceed an adequate supply.

(b) A qualified patient's designated 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 business or occupational or professional licensing board or bureau, for the possession of marijuana for medical use by the qualified patient if the quantity of marijuana does not exceed an adequate supply for the qualified patient.

(c) Subsection (a) of this section shall not apply to a qualified patient under the age of 18 years, unless:

(1) The qualified patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualified patient and to a parent, guardian, or person having legal custody of the qualified patient; and

(2) A parent, guardian, or person having legal custody consents in writing to:

a. Allow the qualified patient's medical use of marijuana.

b. Serve as the qualified patient's designated caregiver.

c. Control the dosage and the frequency of the medical use of marijuana by the qualified patient.

(d) A qualified patient or a designated caregiver shall be granted the full legal protection provided in this section if the patient or caregiver is in possession of a registry identification card. If the qualified patient or designated caregiver is not in possession of a registry identification card, the patient or caregiver shall be given an opportunity to produce the registry identification card before any arrest or criminal charges or other penalties are initiated.

(e) There shall exist a presumption that a qualifying patient or designated caregiver is engaged in the medical use of marijuana if the qualifying patient or designated caregiver is in possession of a registry identification card, and is in possession of an amount of marijuana that does not exceed the amount permitted under this act. Such presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the medical condition.

(f) A designated caregiver may receive reimbursement for costs associated with assisting a registered qualifying patient's medical use of marijuana. Such compensation shall not constitute sale of controlled substances.

(g) No school, employer, or landlord may refuse to enroll, employ, or lease to or otherwise penalize a person solely for his or her status as a registered qualifying patient or a registered designated caregiver.

(h) 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.
(i) A licensed producer 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 business or occupational or professional licensing board or bureau, for the production, possession, distribution, or dispensing of marijuana pursuant to this act.

(j) 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 North Carolina Medical Board or by any other business or occupational or professional licensing board or bureau for:

1. Advising a patient about the risks and benefits of medical use of marijuana or that the patient may benefit from the medical use of marijuana where such use is in the individual physician's medical judgment, or

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

(k) A practitioner nurse or pharmacist 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 business or occupational or professional licensing board or bureau for discussing the benefits or health risks of medical marijuana or its interaction with other substances with a patient.

(l) Any interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana, or acts incidental to such use, shall not be harmed, neglected, injured, or destroyed while in the possession of State or local law enforcement officials where such property has been seized in connection with the claimed medical use of marijuana. Any such property interest shall not be forfeited under any provision of State law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal violation of this act or entry of a plea of guilty to such offense. Marijuana, paraphernalia or other property seized from a qualified patient, designated caregiver, or licensed producer in connection with the claimed medical use of marijuana shall be returned immediately upon the determination by a court or prosecutor that the qualified patient, designated caregiver, or licensed producer is entitled to the protections of the provisions of this act, as may be evidenced by a failure to actively investigate the case, a decision not to prosecute, the dismissal of charges, or acquittal.

(m) 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.

(n) No person shall be subject to arrest or prosecution for constructive possession, conspiracy, aiding and abetting, being an accessory, or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under this act or for assisting a registered qualifying patient with using or administering marijuana.

(o) Possession of, or application for, a registry identification card shall not alone constitute probable cause to search the person or the property of the person possessing or applying for the registry identification card, or otherwise subject the person or his property to inspection by any governmental agency.

(p) If an individual being investigated by a law enforcement officer employed by a State-funded or locally funded law enforcement agency credibly asserts during the course of the investigation that he or she is a registered qualifying patient or registered designated caregiver, neither the law enforcement officer nor the law enforcement agency shall provide any information, except as required by federal law of the United States Constitution, from any marijuana-related investigation of the person to any law enforcement authority that does not
recognize the protection of this act. Any prosecution of the individual for a violation of this act shall be conducted pursuant to the laws of this State.

(q) Marijuana produced and possessed under this act shall be deemed exempt as authorized possession per G.S. 105-113.107A(a) of the Unauthorized Substances Tax set forth at Article 2D of Chapter 105 of the General Statutes, and no tax under that Article may be levied against any patient, caregiver, producer, or dispensary operating under the terms of this act.

(r) Notwithstanding the foregoing provisions, no person, including a qualified patient, designated caregiver, or licensed producer, shall be entitled to the protection of this act for his or her acquisition, possession, manufacture, production, use, sale, distribution, dispensing, or transportation of marijuana for any use other than medical use.

"§ 90-729. Prohibitions, restrictions, and limitations on the medical use of marijuana.

(a) This act shall not permit:

(1) Any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while impaired by marijuana. However, a registered qualifying patient shall not be considered to be impaired solely for having marijuana metabolites in his or her system.

(2) Any person to undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.

(3) The smoking of marijuana in a school bus or other form of public transportation, on any school grounds, in any correctional facility, or in any public place in this State.

A person who commits an act as provided in this section shall be subject to such penalties as provided by law.

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

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

(2) An employer to accommodate the medical use of marijuana in any workplace.

(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 five hundred dollars ($500.00) which shall be in addition to any other penalties that may apply for making a false statement for the nonmedical use of marijuana.

(d) If a licensed producer sells, distributes, dispenses, or transfers cannabis to a person not approved by the Department pursuant to this act or obtains or transports cannabis outside North Carolina in violation of federal law, the licensed producer shall be subject to arrest, prosecution, and civil or criminal penalties pursuant to State law.

(e) The State shall not be held liable for any deleterious outcomes from the medical use of marijuana by any qualifying patient.

"§ 90-730. Registry identification cards; Department rules; duties.

(a) Not later than 90 days after the effective date of this act, the Department shall promulgate rules pursuant to the Administrative Procedure Act, Chapter 150B of the General Statutes, that govern the manner in which it shall consider applications for and renewals of registry identification cards for qualifying patients and designated caregivers.

(b) The Department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the Department's regulations:

(1) Written certification as defined in G.S. 90-727.

(2) Application or renewal fee;

(3) Name, address, and date of birth of the qualifying patient; provided, however, that if the patient is homeless, no address is required:
Name, address, and telephone number of the qualifying patient's practitioner; and

Name, address, and date of birth of each designated caregiver of the qualifying patient, if any.

The Department shall not issue a registry identification card to a qualifying patient under the age of 18 unless:

1. The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and

2. A parent, guardian, or person having legal custody consents in writing to:
   a. Allow the qualifying patient's medical use of marijuana;
   b. Serve as one of the qualifying patient's designated caregivers; and
   c. Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

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, or if the Department determines that the information provided was falsified. 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.

The Department shall issue a registry identification card to each designated caregiver, if any, who is named in a qualifying patient's approved application, up to a maximum of two designated caregivers per qualifying patient.

The Department shall issue registry identification cards within five days of approving an application or renewal, which shall expire two years after the date of issuance. Registry identification cards shall contain:

1. The date of issuance and expiration date of the registry identification card;
2. A random registry identification number;
3. A photograph; and
4. Any additional information as required by regulation or the Department.

Persons issued registry identification cards shall be subject to the following:

1. A qualifying patient who has been issued a registry identification card shall notify the Department of any change in the qualifying patient's name, address, or designated caregiver within 15 days of such change.
2. A registered qualifying patient who fails to notify the Department of any of these changes is responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars ($150.00).
3. A registered designated caregiver shall notify the Department of any change in his or her name or address within 15 days of such change. A designated caregiver who fails to notify the Department of any of these changes is responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars ($150.00).
4. When a qualifying patient or designated caregiver notifies the Department of any changes listed in this subsection, the Department shall issue the registered qualifying patient and each designated caregiver a new registry identification card within 10 days of receiving the updated information and a ten dollar ($10.00) fee.
When a qualifying patient who possesses a registry identification card changes his or her designated caregiver, the Department shall notify the designated caregiver with 15 days. The designated caregiver's protections as provided in this Article shall expire 30 days after notification by the Department.

If a registered qualifying patient or a designated caregiver loses his or her registry identification card, he or she shall notify the Department and submit a ten dollar ($10.00) fee within 15 days of losing the card. Within five days, the Department shall issue a new registry identification card with a new random identification number.

If a qualifying patient and/or designated caregiver willfully violates any provision of this Article as determined by the Department, his or her registry identification card may be revoked.

Applications and supporting information submitted by qualifying patients, including information regarding their designated caregivers and practitioners, are confidential and protected under the federal Health Insurance Portability and Accountability Act of 1996.

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 provisions of North Carolina Public Records Act, Chapter 132 of the General Statutes, and not subject to disclosure, except to authorized employees of the Department as necessary to perform official duties of the Department.

The Department shall verify to law enforcement personnel whether a registry identification card is valid solely by confirming the random registry identification number.

It shall be a crime, punishable by up to 180 days in jail and a one thousand dollar ($1,000) fine, for any person, including an employee or official of the Department or another State agency or local government, to breach the confidentiality of information obtained pursuant to this Article. Notwithstanding this provision, the Department employees may notify law enforcement about falsified or fraudulent information submitted to the Department.

§ 90-731. Regulated medical marijuana supply system.

The Department shall establish a regulated medical marijuana supply system. No general fund revenue shall be used to establish the system. The system shall be funded through program fees. The purpose of the system is to provide a safe, regulated supply of quality medical marijuana for registry identification cardholders and to provide revenue to help fund the systems established under this act and other Department programs.

Not later than 180 days after the effective date of this act, the Department shall promulgate rules pursuant to the Administrative Procedure Act, Chapter 150B of the General Statutes, that govern the manner in which it shall consider applications for and renewals of licenses for marijuana dispensaries and producers.

The Department shall issue a dispensary license to an entity that submits the following in accordance with the Department's rules:

a. The name of the entity and any name used in dispensing medical marijuana.

b. The address of any property used by the dispensary to possess, produce, deliver, transport, dispense, or distribute marijuana.

c. The names, addresses, and dates of birth of all principal officers and board members of the dispensary.

d. The names, addresses, and dates of birth of all dispensary employees.
e. A nonrefundable fee paid to the Department in the amount established by the Department by rule. The initial fee for a dispensary license is two thousand dollars ($2,000).

f. Proof of North Carolina residency of all principal officers, board members, and employees.

g. Any other information the Department considers necessary to ensure compliance with the terms of this act.

(4) A dispensary license is valid for one year and shall be renewed prior to the expiration of a current license.

(5) The Department shall issue a dispensary registry identification card to each listed director and employee of a qualifying dispensary within 30 days of issuing a license. The fee for each card shall initially be set at ten dollars ($10.00).

(6) The Department shall issue a producer license to an entity that submits the following in accordance with the Department's rules:

a. The name of the producer responsible for the medical marijuana production site and any employees of the producer.

b. The addresses of the property used by the producer to produce marijuana.

c. A nonrefundable fee paid to the Department in the amount established by the Department by rule. The initial fee for a producer license is one thousand dollars ($1,000).

d. Proof of North Carolina residency and age. Producers and employees of producers must be at least 21 years of age.

e. Any other information the Department considers necessary to ensure compliance with the terms of this act.

(7) A producer license is valid for one year and shall be renewed prior to the expiration of a current license.

(8) The Department shall issue a producer registry identification card to each listed producer and employee of the producer within 30 days of issuing a license who has met the requirements of this section. The fee for each card shall initially be set at ten dollars ($10.00).

(9) The Department shall issue a medical marijuana production site card to each producer that has met the requirements of this section. The medical marijuana production site card must be prominently posted at the location of the medical marijuana production site.

(10) All marijuana dispensed by the system shall be produced by licensed producers and dispensed by licensed dispensaries, according to the following:

a. A licensed dispensary may dispense marijuana, marijuana plants, marijuana seeds, cultivation equipment, and related supplies and educational materials to any qualified patient or designated caregiver. A dispensary may be reimbursed for the costs associated with the production and dispensing of marijuana.

b. A licensed producer may provide marijuana, marijuana plants, and marijuana seeds to licensed dispensaries and be reimbursed for the costs associated with the production of these items. A producer may transfer for no consideration marijuana, marijuana plants, and marijuana seeds to any qualified patient or his or her designated caregiver.
A medical marijuana dispensary with a valid license including its directors, agents, and employees of the dispensary are excepted from the criminal laws of this State for possession, production, delivery, or transportation of marijuana, or aiding and abetting another in the possession, production, delivery, or transportation of marijuana, or any other criminal offense in which possession, production, delivery, or transportation of marijuana is an element if the dispensary and the directors, agents, and employees of the dispensary are in substantial compliance with this section and the applicable rules adopted by the Department.

A producer with a valid license is excepted from the criminal laws of this State for possession, production, delivery, or transportation of marijuana, or aiding and abetting another in the possession, production, delivery, or transportation of marijuana, or any other criminal offense in which possession, production, delivery, or transportation of marijuana is an element if the producer is in substantial compliance with this section and the applicable rules adopted by the Department for regulating medical marijuana producers.

All dispensaries and producers shall submit quarterly reports to the Department on all of their financial transactions, including transfers for no consideration.

Dispensaries and producers shall pay to the Department quarterly fees equal to ten percent (10%) of their gross revenue derived from marijuana and products containing marijuana.

System revenues from license fees and quarterly gross revenue fees shall be used to fund, in the following order of priority:

a. Costs associated with the implementation and operation of the regulated medical marijuana supply system established under this section;

b. The registry system established under G.S. 90-730;

c. The Medical Cannabis Research Program established under G.S. 90-730; and

d. Other Department programs.

A dispensary or producer may not:

a. Dispense to any other registry identification cardholder marijuana or marijuana plants in excess of the amounts allowed under this act; or

b. Possess more usable marijuana or maintain a larger garden canopy of marijuana foliage than allowed by Department rule. These amounts shall initially be set at the amounts that 25 patients may possess and maintain under this act.

A person who has been convicted of a violent felony or a felony theft offense shall not be licensed as a producer or as an employee of a producer or be licensed as a director or employee of a dispensary for five years from the date of the conviction. Any person convicted of a felony manufacturing or delivery in violation of G.S. 90-95(b)(1) (a controlled substance classified in Schedule I or II) after the effective date of this act, may not be licensed as a producer or be licensed as a director or employee of a dispensary for five years from the date of the conviction. The Department shall conduct a criminal history record check of any person whose name is submitted as a dispensary director or employee of as a producer or employee of a producer in order to ensure compliance with this restriction.
A person who is less than 21 years of age may not be an employee or
director of a dispensary or be a producer or be an employee of a producer.

Any dispensary, or any location used by a licensed producer to produce
medical marijuana, is subject to reasonable inspection by the Department,
solely to determine compliance with this act upon a reasonable suspicion of
its violation.

The Department may suspend or revoke the license of a dispensary or
producer that is not in substantial compliance with this section. The
Department, by rule, may also establish fines and penalties for minor
violations of the provisions of this section.

A person authorized to possess, produce, deliver, or transport marijuana for
medical use pursuant to this act is not excepted from the criminal laws of
this State if the person:

a. Drives while impaired by marijuana, provided that the person shall
not be considered to be impaired solely for having marijuana
metabolites in his or her system.

b. Delivers marijuana to any individual who the person knows is not a
registry identification cardholder or qualifying patient.

c. Manufactures or distributes marijuana at an address not registered
with the Department.

d. Fails to report transfer of marijuana authorized under this section to
the Department.

List of persons and entities licensed as dispensaries and producers shall be
protected by the same provisions protecting registry identification
cardholders and designated caregivers under the disclosure rules set forth in
G.S. 90-730(i).

Effect of possession of producer card or dispensary card on search and
seizure rights shall have the same effect of possession of registry
identification card or designated caregiver card set forth in G.S. 90-728.

A law enforcement officer who determines that a dispensary or producer
cardholder is in possession of amounts of usable marijuana or is maintaining
a garden of marijuana plants in excess of the amount or size authorized by
this act may confiscate only any usable marijuana or plants that are in excess
of the amount authorized.


(a) Except as otherwise provided in this section and G.S. 90-729, it is an affirmative
defense to a criminal charge of possession, delivery, or production of marijuana, or any other
criminal offense in which possession, delivery, or production of marijuana is an element, that
the person charged with the offense:

(1) Is a person who:

a. Has been diagnosed with a chronic or debilitating medical condition
and has been advised by the person's attending physician that the
medical use of marijuana may mitigate the systems or effects of that
chronic or debilitating medical condition;

b. Is engaged in the medical use of marijuana; and

c. Possesses, delivers, or produces marijuana only in the amount
described herein as an adequate supply or in excess of that amount if
the person proves by a preponderance of the evidence that the greater
amount is medically necessary as determined by the person's
attending physician to mitigate the systems or effects of the person's
chronic or debilitating medical condition; or
Is a person who:

a. Is assisting a person described in subdivision (1) of this subsection in the medical use of marijuana; and

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

(b) A person need not hold a registry identification card issued to him by the Department to assert an affirmative defense described in this section.

c. A patient or caregiver who has not received a registry identification card may present evidence supporting his or her need for medical marijuana for treatment of a serious medical condition. Such evidence may constitute a defense to a charge of marijuana possession or cultivation and shall be admissible in the courts of the State of North Carolina if such evidence otherwise properly qualifies as admissible under the rules of evidence.

d. Except as otherwise provided in this section and in addition to the affirmative defense described in subsection (a) of this section, a person engaged or assisting in the medical use of marijuana who is charged with a crime pertaining to the medical use of marijuana is not precluded from:

(1) Asserting a full defense of medical necessity; or

(2) Presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, if the amount of marijuana at issue is not greater than the amount described herein as an adequate supply and the person has taken steps to comply substantially with the provisions of this act.

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

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

§ 90-733. Medical Cannabis Research Program.

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

(b) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of cannabis and, if found valuable, shall develop medical guidelines for the appropriate administration and use of cannabis to assist physicians and patients in evaluating the risks and benefits of using cannabis for medical purposes and to provide a scientific basis for future policies.

(c) Research may include developing quality control, purity, and labeling standards for medical cannabis dispensed through the system, sound advice and recommendations on the best practices for the safe and efficient cultivation of cannabis, and analysis of genetic and healing properties of the many varied strains of cannabis to determine which strains may be best suited for a particular condition or treatment.

§ 90-734. Temporary provision.
(a) During the period between the effective date of this act and 30 days after the effective date of rules promulgated by the Department pursuant to G.S. 90-730(a), a person who would be eligible to participate in the medical use of marijuana program as a qualified patient, but for the lack of effective rules concerning registry identification cards, licensed producers, production facilities, distribution system, and adequate supply, may obtain a written certification from a practitioner and upon presentation of that certification to the Department, the Department shall issue a temporary certification for participation in the program. The Department shall maintain a list of all temporary certifications issued pursuant to this section.

(b) A person possessing a temporary certificate and the person's designated caregiver are not subject to arrest, prosecution, civil or criminal penalty, or denial of any right or privilege for possessing marijuana if the amount of marijuana possessed collectively is not more than the amount that is specified on the temporary certificate issued by the Department.

(c) A practitioner shall not be subject to arrest or prosecution, penalized in any manner, or denied any right or privilege for recommending the medical use of marijuana or providing written certification for the medical use of marijuana pursuant to this act on or after the effective date of this act.

§ 90-735. Severability.

If any part or application of this act is held invalid, the remainder of its application to other situations or persons shall not be affected. Failure to promulgate rules or implement any provision of this act shall not interfere with the remaining protections provided by this act.

SECTION 2. This act becomes effective December 1, 2009.