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AMENDMENTS TO LB643

Introduced by Judiciary.

1. Strike the original sections and insert the following new sections:

Section 1. Sections 1 to 55 of this act shall be known and may be cited as the Medical Cannabis Act.

Sec. 2. For purposes of the Medical Cannabis Act, the definitions found in sections 3 to 15 of this act apply.

Sec. 3. Department means the Division of Public Health of the Department of Health and Human Services.

Sec. 4. Disqualifying felony offense means a violation of a state or federal controlled substance law that is a felony under Nebraska law or would be a felony if committed in Nebraska, regardless of the sentence imposed, unless the department determines that the person's conviction was for the medical use of cannabis or assisting with the medical use of cannabis.

Sec. 5. Health care practitioner means a person licensed to practice medicine and surgery under the Medicine and Surgery Practice Act who has the primary responsibility for the care and treatment of the qualifying medical condition of a person diagnosed with a qualifying medical condition.

Sec. 6. Manufacturer means an entity registered by the department to cultivate, acquire, manufacture, possess, prepare, transfer, transport, supply, or dispense medical cannabis or medical cannabis products.

Sec. 7. Medical cannabis means any species of the genus cannabis plant, or any mixture or preparation of any species of the genus cannabis plant, including whole plant extracts and resins, which is delivered in the form of:

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(1) Liquid, including, but not limited to, oil;

(2) Pill;

(3) Vaporized delivery method with use of liquid or oil but which does not require the use of dried leaves or plant form; or

(4) Any other method, excluding smoking, approved by the department.

Sec. 8. Medical cannabis product means any delivery device or related supplies and educational materials used in the administration of medical cannabis for a patient with a qualifying medical condition enrolled in the registry program.

Sec. 9. Medical records has the definition found in subdivision (1) of section 71-8402.

Sec. 10. Patient means a Nebraska resident who has been diagnosed with a qualifying medical condition by a health care practitioner and who has otherwise met any other requirements for patients under the Medical Cannabis Act to participate in the registry program under the act.

Sec. 11. Patient registry number means a unique identification number assigned by the department to a patient enrolled in the registry program.

Sec. 12. Qualifying medical condition means a diagnosis of any of the following conditions:

(1) Cancer if the underlying condition or treatment produces one or more of the following:

(a) Severe or chronic pain;

(b) Nausea or severe vomiting; or

(c) Cachexia or severe wasting;

(2) Glaucoma;

(3) Human immunodeficiency virus or acquired immune deficiency syndrome;

(4) Tourette's syndrome;

(5) Amyotrophic lateral sclerosis;

(6) Seizures, including those characteristic of epilepsy;

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(7) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis;

(8) Crohn's disease;

(9) Terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:

(i) Severe or chronic pain;

(ii) Nausea or severe vomiting; or

(iii) Cachexia or severe wasting; or

(10) Any other medical condition or its treatment approved by the department.

Sec. 13. Registered designated caregiver means a person who:

(1) Is at least twenty-one years of age;

(2) Does not have a conviction for a disqualifying felony offense;

(3) Has been approved by the department to assist a patient who has been identified by a health care practitioner as having a developmental disability or physical disability and unable to self-administer medication or acquire medical cannabis from a distribution facility due to the disability; and

(4) Is authorized by the department to assist the patient with the use of medical cannabis.

Sec. 14. Registry program means the patient registry established under the Medical Cannabis Act.

Sec. 15. Registry verification means the verification provided by the department that a patient is enrolled in the registry program and that includes the patient's name, registry number, and qualifying medical condition and, if applicable, the name of the patient's registered designated caregiver or parent or legal guardian.

Sec. 16. (1) Nothing in the Medical Cannabis Act permits any person to engage in and does not prevent the imposition of any civil, criminal, or other penalties for:

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(a) Undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice;

(b) Possessing or engaging in the use of medical cannabis:

(i) On a school bus or van;

(ii) On the grounds of any preschool or primary or secondary school;

(iii) In any adult or juvenile correctional facility; or

(iv) On the grounds of any child care facility or home daycare;

(c) Vaporizing medical cannabis:

(i) On any form of public transportation;

(ii) Where the vapor would be inhaled by a nonpatient minor child; or

(iii) In any public place, including any indoor or outdoor area used by or open to the general public or a place of employment as defined in section 71-5724; or

(d) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat, or working on transportation property, equipment, or facilities, while under the influence of medical cannabis.

(2) Nothing in the Medical Cannabis Act requires the medical assistance program established pursuant to the Medical Assistance Act to reimburse an enrollee or a provider under the medical assistance program for costs associated with the medical use of cannabis. The medical assistance program shall continue to provide coverage for all services related to treatment of an enrollee's qualifying medical condition if the service is covered under the medical assistance program.

Sec. 17. The department may prohibit enrollment of a patient in the registry program if the patient is simultaneously enrolled in a federally approved clinical trial for the treatment of a qualifying medical condition with medical cannabis. The department shall provide information to each patient enrolled in the registry program on the existence of federally approved clinical trials for the treatment of the patient's

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qualifying medical condition with medical cannabis as an alternative to enrollment in the registry program.

Sec. 18. (1) The department shall register two manufacturers in Nebraska for the production of all medical cannabis within the state by December 1, 2015, unless the Medical Cannabis Board extends the deadline under section 20 of this act. The department shall register new manufacturers or reregister the existing manufacturers by December 1 of each year, using the factors described in subsection (3) of this section. The department shall continue to accept applications after December 1, 2015, if two manufacturers that meet the qualifications set forth in this section do not apply before December 1, 2015.

(2) As a condition for registration, a manufacturer shall agree to:

(a) Begin supplying medical cannabis to patients by July 1, 2016, unless extended under section 20 of this act; and

(b) Comply with the Medical Cannabis Act.

(3) The department shall consider the following factors when determining which manufacturer to register:

(a) The technical expertise of the manufacturer in cultivating medical cannabis and converting the medical cannabis into an acceptable delivery method under the Medical Cannabis Act;

(b) The qualifications of the manufacturer's employees;

(c) The long-term financial stability of the manufacturer;

(d) The ability to provide appropriate security measures on the premises of the manufacturer;

(e) Whether the manufacturer has demonstrated an ability to meet the medical cannabis production needs required by the Medical Cannabis Act; and

(f) The manufacturer's projection and ongoing assessment of fees on patients with a qualifying medical condition.

(4) The department shall require each manufacturer to contract with an independent laboratory to test medical cannabis produced by the

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manufacturer. A laboratory chosen by a manufacturer is subject to approval by the department and is required to report testing results to the manufacturer in a manner determined by the department.

Sec. 19. The department shall review and publicly report the existing medical and scientific literature regarding the range of recommended dosages for each qualifying medical condition and the range of chemical compositions of any plant of the genus cannabis that will likely be medically beneficial for each of the qualifying medical conditions. The department shall make this information available to patients with qualifying medical conditions beginning December 1, 2015, and update the information annually. The department may consult with an independent laboratory under contract with a manufacturer or other experts in reporting the range of recommended dosages for each qualifying medical condition, the range of chemical compositions that will likely be medically beneficial, and any risks of noncannabis drug interactions. The department shall consult with each manufacturer on an annual basis on medical cannabis offered by the manufacturer. The department shall publish a list of medical cannabis offered by each manufacturer on the department's web site.

Sec. 20. (1) The department shall adopt and promulgate rules and regulations necessary for a manufacturer to begin distribution of medical cannabis to patients under the registry program by July 1, 2016, and publish notice of the proposed rules and regulations prior to January 1, 2016.

(2) The department shall, by November 1, 2015, advise the public and the Medical Cannabis Board if the department is unable to register two manufacturers by December 1, 2015. The department shall provide a written statement as to the reason or reasons the deadline will not be met. Upon request of the department, the board shall extend the deadline by six months but may not extend the deadline more than once.

(3) If notified by a manufacturer that distribution to patients may

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not begin by July 1, 2016, the department shall advise the public and the board. Upon notification by the department, the board shall extend the deadline by six months but may not extend the deadline more than once.

Sec. 21. The department shall establish a registry program to evaluate data on patient demographics, effective treatment options, clinical outcomes, and quality-of-life outcomes for the purpose of reporting on the benefits, risks, and outcomes regarding patients with a qualifying medical condition engaged in the therapeutic use of medical cannabis.

Sec. 22. (1) The department shall:

(a) Give notice of the registry program to health care practitioners in the state who are eligible to serve as health care practitioners and explain the purposes and requirements of the registry program. In order to be eligible, a health care practitioner shall not have a financial interest in a manufacturer;

(b) Allow each health care practitioner who meets or agrees to meet the requirements of the registry program, and who requests to participate, to be included in the registry program to collect data for the registry program;

(c) Provide explanatory information and assistance to each health care practitioner in understanding the nature of therapeutic use of medical cannabis within the requirements of the registry program;

(d) Create and provide a certification to be used by a health care practitioner for the practitioner to certify whether a patient has been diagnosed with a qualifying medical condition and include in the certification an option for the practitioner to certify whether the patient, in the health care practitioner's medical opinion, has a developmental disability or a physical disability and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility;

(e) Supervise the participation of the health care practitioner in

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conducting patient treatment and medical records reporting in a manner that ensures stringent security and record-keeping requirements and that prevents the unauthorized release of private data;

(f) Develop safety criteria for patients with a qualifying medical condition as a requirement of the patient's participation in the registry program in order to prevent the patient from undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice on the part of the patient; and

(g) Conduct research and studies based on data from medical records submitted to the registry program and submit reports electronically on intermediate or final research results to the Legislature. The department may contract with a third party to complete the requirements of this subdivision. Any reports submitted shall comply with section 29 of this act.

(2) The department may approve any additional delivery method for medical cannabis, subject to the restrictions in section 7 of this act, and may approve other qualifying medical conditions in addition to those listed in section 12 of this act by complying with this subsection. The department shall notify the chairperson of the Health and Human Services Committee of the Legislature and the chairperson of the Judiciary Committee of the Legislature of each addition and the reasons for the proposed addition, including any written comments received by the department from the public and any guidance received from the Medical Cannabis Board. The approval shall be effective on September 1 of the year in which the chairpersons have been notified by January 1.

Sec. 23. (1) The department shall develop a patient application for enrollment into the registry program. The application shall be available to the patient and given to health care practitioners in the state who are eligible to serve as health care practitioners. The application shall include:

(a) The name, mailing address, and date of birth of the patient;

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(b) The name, mailing address, and telephone number of the patient's health care practitioner;

(c) The name, mailing address, and date of birth of the patient's designated caregiver, if any, or the patient's parent or legal guardian if the parent or legal guardian will be acting as a caregiver;

(d) A copy of the certification from the patient's health care practitioner that is dated within ninety days prior to submitting the application which certifies that the patient has been diagnosed with a qualifying medical condition and, if applicable, that, in the health care practitioner's medical opinion, the patient has a developmental disability or physical disability and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility; and

(e) All other signed affidavits and enrollment forms required by the department under the Medical Cannabis Act, including, but not limited to, the disclosure form required under subsection (3) of this section.

(2) The department shall require a patient to resubmit a copy of the certification from the patient's health care practitioner on a yearly basis and shall require that the recertification be dated within ninety days prior to submission.

(3) The department shall develop a disclosure form and require, as a condition of enrollment, that the patient sign a copy of the disclosure. The disclosure shall include:

(a) A statement that the department, or any employee of any state agency, may not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the respective scope of office or employment under the Medical Cannabis Act; and

(b) The patient's acknowledgment that enrollment in the registry program is conditional on the patient's agreement to comply with the Medical Cannabis Act.

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Sec. 24. (1) The department shall register a designated caregiver for a patient if the patient's health care practitioner has certified that the patient, in the health care practitioner's medical opinion, has a developmental disability or a physical disability and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility and the caregiver has agreed, in writing, to be the patient's registered designated caregiver. As a condition of registration as a registered designated caregiver, the department shall require the person to:

(a) Be at least twenty-one years of age;

(b) Agree to only possess medical cannabis for purposes of assisting the patient; and

(c) Agree that if the application is approved, the person will not be a registered designated caregiver for more than one patient unless each of such patients reside in the same residence.

(2)(a) The department shall conduct a criminal background check on the designated caregiver prior to registration to ensure that the person does not have a conviction for a disqualifying felony offense. Any cost of the background check shall be paid by the person seeking registration as a registered designated caregiver.

(b) The person shall file a complete set of his or her legible fingerprints with the department. The department shall transmit such fingerprints to the Nebraska State Patrol which shall transmit a copy of the applicant's fingerprints to the Identification Division of the Federal Bureau of Investigation for a national criminal history record information check.

(c) The national criminal history record information check shall include information concerning the person from federal repositories of such information and repositories of such information in other states if authorized by federal law for use by the department.

(d) The Nebraska State Patrol shall undertake a search for Nebraska

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criminal history record information concerning the person. The Nebraska State Patrol shall issue a report to the department which contains the results of the criminal history record information check conducted by the Nebraska State Patrol.

(e) Criminal history record information subject to federal confidentiality requirements shall remain confidential and may be released only upon the written authorization of the subject of the information.

Sec. 25. A parent or legal guardian of a patient may act as the caregiver to the patient without having to register as a registered designated caregiver. The parent or legal guardian shall follow all of the requirements of parents and legal guardians in the Medical Cannabis Act. Nothing in the act limits any legal authority a parent or legal guardian may have for the patient under any other law.

Sec. 26. (1) After receipt of a patient's application and signed disclosure, the department shall enroll the patient in the registry program and issue the patient and patient's registered designated caregiver or parent or legal guardian, if applicable, a registry verification. A patient's enrollment in the registry program shall only be denied if the patient:

(a) Does not have certification from a health care practitioner that the patient has been diagnosed with a qualifying medical condition;

(b) Has not signed and returned the disclosure form required under subsection (3) of section 23 of this act, to the department;

(c) Does not provide the information required;

(d) Has previously been removed from the registry program for a violation of section 34, 39, 40, 41, or 42 of this act; or

(e) Provides false information.

(2) The department shall give written notice to a patient of the reason for denying enrollment in the registry program.

(3) Denial of enrollment into the registry program may be appealed.

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The appeal shall be in accordance with the Administrative Procedure Act.

(4) A patient's enrollment in the registry program may only be revoked if a patient violates a requirement under section 34, 39, 40, 41, or 42 of this act.

(5) The department shall develop a registry verification to provide to the patient, to the health care practitioner identified in the patient's application, and to the manufacturer. The registry verification shall include:

(a) The patient's name and date of birth;

(b) The patient registry number assigned to the patient;

(c) The patient's qualifying medical condition as provided by the patient's health care practitioner in the certification; and

(d) The name and date of birth of the patient's registered designated caregiver, if any, or the name of the patient's parent or legal guardian if the parent or legal guardian will be acting as a caregiver.

Sec. 27. A patient or registered designated caregiver shall notify the department of any address or name change within thirty days after the change occurred. A patient or registered designated caregiver is subject to a one-hundred-dollar fine for failure to notify the department of such a change.

Sec. 28. (1) Prior to a patient's enrollment in the registry program, a health care practitioner shall:

(a) Determine, in the health care practitioner's medical judgment, whether a patient suffers from a qualifying medical condition and, if so determined, provide the patient with a certification of that diagnosis;

(b) Determine whether a patient has a developmental disability or physical disability and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility and, if so determined, include that determination on the patient's certification of diagnosis;

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(c) Advise patients, registered designated caregivers, and parents or legal guardians who are acting as caregivers of the existence of any nonprofit patient support groups or organizations;

(d) Provide explanatory information from the department to patients with qualifying medical conditions, including disclosure to all patients about the experimental nature of therapeutic use of medical cannabis; the possible risks, benefits, and side effects of the proposed treatment; and the application and other materials from the department; and

(e) Agree to continue treatment of the patient's qualifying medical condition and report medical findings to the department.

(2) Upon notification from the department of the patient's enrollment in the registry program, the health care practitioner shall:

(a) Participate in the patient registry reporting system under the guidance and supervision of the department;

(b) Report medical records of the patient throughout the ongoing treatment of the patient to the department in a manner determined by the department and in accordance with section 29 of this act;

(c) Determine, on a yearly basis, if the patient continues to suffer from a qualifying medical condition and, if so, issue the patient a new certification of that diagnosis; and

(d) Otherwise comply with all requirements developed by the department.

(3) Nothing in this section requires a health care practitioner to participate in the registry program.

Sec. 29. Data collected on patients by a health care practitioner and reported to the registry program are medical records and subject to sections 81-663 to 81-675.

Sec. 30. (1) Each manufacturer shall operate four distribution facilities, which may include the manufacturer's single location for cultivation, harvesting, manufacturing, packaging, and processing medical cannabis but is not required to include that location. A manufacturer

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shall begin distribution of medical cannabis from at least one distribution facility by July 1, 2016. The manufacturer shall have all distribution facilities operational and distributing medical cannabis by July 1, 2017. The distribution facilities shall be located based on geographical need throughout the state to improve patient access. A manufacturer shall disclose the proposed locations for the distribution facilities to the department during the registration process. County, city, and village governing bodies may enact reasonable limits on the number of manufacturers that can operate in their jurisdictions and may enact zoning regulations that reasonably limit manufacturers to certain areas of their jurisdictions. A manufacturer shall operate only one location where all cultivation, harvesting, manufacturing, packaging, and processing shall be conducted. Any additional distribution facilities may dispense medical cannabis and medical cannabis products but shall not contain any medical cannabis in a form other than those forms allowed under the Medical Cannabis Act. The manufacturer shall not conduct any cultivation, harvesting, manufacturing, packaging, or processing of medical cannabis at any additional distribution facility site. Any distribution facility operated by the manufacturer is subject to all of the requirements applying to the manufacture under the act, including, but not limited to, security and distribution requirements.

(2) A manufacturer shall contract with a laboratory, subject to the department's approval of the laboratory and any additional requirements set by the department, for purposes of testing medical cannabis manufactured by the manufacturer as to content, contamination, and consistency to verify that the medical cannabis meets the requirements of the Medical Cannabis Act. The manufacturer shall pay the cost of laboratory testing.

(3) The operating documents of a manufacturer shall include:

(a) Procedures for the oversight of the manufacturer and procedures to ensure accurate record keeping; and

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(b) Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical cannabis.

(4) A manufacturer shall implement security requirements, including requirements for protection of each location by a fully operational security alarm system, facility access controls, perimeter intrusion detection systems, and a personnel identification system.

(5) A manufacturer shall not share office space with or refer patients to a health care practitioner.

(6) A manufacturer shall not permit any person to consume medical cannabis on the property of the manufacturer.

(7) A manufacturer is subject to reasonable inspection by the department or its designee.

(8)(a) A manufacturer may not employ any person who is under twenty-one years of age or who has been convicted of a disqualifying felony offense. An employee of a manufacturer shall submit to a completed criminal history record information check before an employee may begin working with the manufacturer.

(b) Each employee shall pay the costs of the criminal history record information check and shall file a complete set of his or her legible fingerprints with the department. The department shall transmit such fingerprints to the Nebraska State Patrol which shall transmit a copy of the applicant's fingerprints to the Identification Division of the Federal Bureau of Investigation for a national criminal history record information check.

(c) The national criminal history record information check shall include information concerning the employee from federal repositories of such information and repositories of such information in other states if authorized by federal law for use by the department.

(d) The Nebraska State Patrol shall undertake a search for Nebraska criminal history record information concerning the employee. The Nebraska

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State Patrol shall issue a report to the department which contains the results of the criminal history record information check conducted by the Nebraska State Patrol.

(e) Criminal history record information subject to federal confidentiality requirements shall remain confidential and may be released only upon the written authorization of the employee.

(9) A manufacturer may not operate in any location, whether for distribution or cultivation, harvesting, manufacturing, packaging, or processing, within one thousand feet of a public or private school existing before the date of the manufacturer's registration with the department.

(10) A manufacturer shall comply with reasonable restrictions set by the department relating to signage, marketing, display, and advertising of medical cannabis.

Sec. 31. (1) A manufacturer of medical cannabis shall provide a reliable and ongoing supply of medical cannabis needed for the registry program.

(2) The cultivation, harvesting, manufacturing, packaging, and processing of medical cannabis shall take place in an enclosed, locked facility at a physical address provided to the department during the registration process.

(3) A manufacturer shall process and prepare any medical cannabis plant material into a form allowable under the Medical Cannabis Act prior to distribution of any medical cannabis.

Sec. 32. (1) A manufacturer shall require that medical cannabis be distributed to a patient by a pharmacist licensed under the Pharmacy Practice Act.

(2) A pharmacist selected by a manufacturer may dispense medical cannabis products, whether or not the medical cannabis products have been manufactured by the manufacturer, but a manufacturer is not required to provide for medical cannabis products to be dispensed.

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(3) Prior to distribution of any medical cannabis, the manufacturer shall:

(a) Verify that the manufacturer has received the registry verification from the department for that individual patient;

(b) Verify that the person requesting the distribution of medical cannabis is the patient, the patient's registered designated caregiver, or the patient's parent or legal guardian listed in the registry verification;

(c) Assign a tracking number to any medical cannabis distributed from the manufacturer;

(d) Ensure that any employee of the manufacturer licensed to practice pharmacy under the Pharmacy Practice Act has consulted with the patient to determine the proper dosage for the individual patient after reviewing the ranges of chemical compositions of the medical cannabis and the ranges of proper dosages reported by the department;

(e) Properly package medical cannabis in compliance with the federal Poison Prevention Packaging Act of 1970 regarding child resistant packaging and exemptions for packaging for elderly patients, and label distributed medical cannabis with a list of all active ingredients and individually identifying information, including:

(i) The patient's name and date of birth;

(ii) The name and date of birth of the patient's registered designated caregiver or, if listed on the registry verification, the name of the patient's parent or legal guardian, if applicable;

(iii) The patient's registry identification number;

(iv) The chemical composition of the medical cannabis; and

(v) The dosage; and

(f) Ensure that the distributed medical cannabis contains a maximum of a thirty-day supply of the dosage determined for that patient.

(4) A manufacturer shall require any employee of the manufacturer who is transporting medical cannabis or medical cannabis products to a

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distribution facility to carry identification showing that the person is an employee of the manufacturer.

Sec. 33. Each manufacturer shall report to the department on a monthly basis the following information on each individual patient for the month prior to the report:

(1) The amount and dosages of medical cannabis distributed;

(2) The chemical composition of the medical cannabis; and

(3) The tracking number assigned to any medical cannabis distributed.

Sec. 34. (1) A patient shall apply to the department for enrollment in the registry program by submitting an application as required in section 23 of this act and an annual registration fee as determined under section 43 of this act.

(2) As a condition of continued enrollment, a patient shall agree to:

(a) Continue to receive regularly scheduled treatment for his or her qualifying medical condition from his or her health care practitioner; and

(b) Report changes in his or her qualifying medical condition to his or her health care practitioner.

(3) A patient shall only receive medical cannabis from a registered manufacturer but is not required to receive medical cannabis products from only a registered manufacturer.

Sec. 35. (1) There is a presumption that a patient enrolled in the registry program under the Medical Cannabis Act is engaged in the authorized use of medical cannabis.

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

Sec. 36. (1) Subject to section 16 of this act, the following are

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not violations under the Medical Cannabis Act:

(a) Use or possession of medical cannabis or medical cannabis products by a patient enrolled in the registry program or possession of medical cannabis or medical cannabis products by a registered designated caregiver or the parent or legal guardian of a patient if the parent or legal guardian is listed on the registry verification;

(b) Possession, dosage determination, or sale of medical cannabis or medical cannabis products by a manufacturer, employees of a manufacturer, a laboratory conducting testing on medical cannabis, or employees of the laboratory; and

(c) Possession of medical cannabis or medical cannabis products by any person while carrying out the duties required under the Medical Cannabis Act.

(2) Medical cannabis obtained and distributed pursuant to the Medical Cannabis Act and associated property is not subject to forfeiture under section 28-431.

(3) The department, the department's staff, the department's agents or contractors, and any health care practitioner are not subject to any civil or disciplinary penalties by any business, occupational, or professional licensing board or entity, solely for participation in the registry program under the Medical Cannabis Act. A pharmacist licensed under the Pharmacy Practice Act is not subject to any civil or disciplinary penalties when acting in accordance with the Medical Cannabis Act. Nothing in this section affects a professional licensing board from taking action in response to violations of any other provision of law.

(4) No state officer or employee of any state agency shall be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the respective scope of office or employment under the Medical Cannabis Act.

(5) Federal, state, and local law enforcement authorities are

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prohibited from accessing the registry program under the Medical Cannabis Act except when acting pursuant to a valid search warrant.

(6) Data or information about an individual contained in any report, document, or registry created under the Medical Cannabis Act or any information obtained about a patient participating in the program may be released as provided in sections 81-663 to 81-675.

(7) No information contained in a report, document, or registry or obtained from a patient under the Medical Cannabis Act may be admitted as evidence in a criminal proceeding unless independently obtained or in connection with a proceeding involving a violation of the act.

(8) Any person who violates subsection (5) or (6) of this section is guilty of a Class I misdemeanor.

(9) An attorney may not be subject to disciplinary action for providing legal assistance to prospective or registered manufacturers or others related to activity that is no longer subject to criminal penalties under state law pursuant to the Medical Cannabis Act.

(10) Possession of a registry verification or application for enrollment in the registry program by a person entitled to possess or apply for enrollment in the registry program does not constitute probable cause or reasonable suspicion, nor shall it be used to support a search of the person or property of the person possessing or applying for the registry verification or otherwise subject the person or property of the person to inspection by any governmental agency.

Sec. 37. (1) No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for the person's status as a patient enrolled in the registry program under the Medical Cannabis Act unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(2) For purposes of medical care, including organ transplants, the use of medical cannabis under the Medical Cannabis Act by a patient

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enrolled in the registry program is considered the equivalent of the authorized use of any other medication used at the discretion of a physician and does not constitute the use of an illicit substance or otherwise disqualify a patient from needed medical care.

(3) Unless a failure to do so would violate federal law or regulations or cause an employer to lose a monetary or licensing-related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize the person, if the discrimination is based upon either of the following:

(a) The person's status as a patient enrolled in the registry program under the Medical Cannabis Act;

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

(4) A person shall not be denied custody of a minor child or visitation rights or parenting time with a minor child solely based on the person's status as a patient enrolled in the registry program under the Medical Cannabis Act. There shall be no presumption of neglect or child endangerment for conduct allowed under the 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.

Sec. 38. In addition to any other applicable penalty, a manufacturer or an agent of a manufacturer who intentionally transfers medical cannabis to a person other than a patient, a registered designated caregiver, or, if listed on the registry verification, a parent or legal guardian of a patient, is guilty of a Class IV felony. A person convicted under this section shall not continue to be affiliated with the manufacturer and is disqualified from further participation under the Medical Cannabis Act.

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Sec. 39. In addition to any other applicable penalty in law, a patient, registered designated caregiver, or, if listed on the registry verification, a parent or legal guardian of a patient who intentionally sells or otherwise transfers medical cannabis to a person other than a patient, designated registered caregiver, or, if listed on the registry verification, a parent or legal guardian of a patient, is guilty of a Class IV felony.

Sec. 40. A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is guilty of a Class III misdemeanor. The penalty is in addition to any other penalties that may apply for making a false statement or for the possession, cultivation, or sale of cannabis not protected by the Medical Cannabis Act. If a person convicted of violating this section is a patient or a registered designated caregiver, the person is disqualified from further participation under the act.

Sec. 41. A person who knowingly submits false records or documentation required by the department to register as a manufacturer of medical cannabis under the Medical Cannabis Act is guilty of a Class IV felony.

Sec. 42. A manufacturer may be fined up to one thousand dollars for any violation of the Medical Cannabis Act or the rules and regulations adopted and promulgated pursuant to the act if no penalty has been specified. This penalty is in addition to any other applicable penalties in law.

Sec. 43. (1) The department shall collect an enrollment fee of two hundred dollars from patients enrolled under the Medical Cannabis Act, except that if the patient attests to receiving social security disability or supplemental security insurance payments or being enrolled in the medical assistance program, the fee shall be fifty dollars. The fees shall be payable annually and are due on the anniversary date of the

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patient's enrollment. The department shall remit the fees to the State Treasurer for credit to the Medical Cannabis Regulation Fund.

(2) The department shall collect an application fee of twenty thousand dollars from each entity submitting an application for registration as a manufacturer. The department shall remit the fees to the State Treasurer for credit to the Medical Cannabis Regulation Fund.

(3) The department shall establish and collect an annual fee from a manufacturer equal to the cost of regulating and inspecting the manufacturer in that year. The department shall remit the fees to the State Treasurer for credit to the Medical Cannabis Regulation Fund.

(4) A manufacturer may charge patients enrolled in the registry program a reasonable fee for costs associated with the operations of the manufacturer. The manufacturer may establish a sliding scale of patient fees based upon a patient's household income and may accept private donations to reduce patient fees.

Sec. 44. The Medical Cannabis Regulation Fund is created and shall consist of funds from contracts, grants, gifts, or fees under the Medical Cannabis Act. The fund shall be used for purposes of regulation of medical cannabis. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 45. A manufacturer shall maintain detailed financial records in a manner and format approved by the department and shall keep all records updated and accessible to the department when requested.

Sec. 46. A manufacturer shall submit the results of an annual certified financial audit to the department no later than May 1 of each year. The annual audit shall be conducted by an independent certified public accountant. The costs of the audit shall be the responsibility of the manufacturer. Results of the audit shall be provided to the manufacturer and the department. The department may also require another audit of the manufacturer by a certified public accountant chosen by the

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department with the costs of the audit paid by the manufacturer.

Sec. 47. (1) The department or its designee may examine the business affairs and conditions of any manufacturer, including, but not limited to, a review of the financing, budget, revenue, sales, and pricing.

(2) An examination may cover the manufacturer's business affairs, practices, and conditions, including, but not limited to, a review of the financing, budget, revenue, sales, and pricing. The department shall determine the nature and scope of each examination and in so doing shall take into account all available relevant factors concerning the financial and business affairs, practices, and conditions of the manufacturer. The costs incurred by the department in conducting an examination shall be paid for by the manufacturer.

(3) When making an examination under this section, the department may retain attorneys, appraisers, independent economists, independent certified public accountants, or other professionals and specialists as designees. A certified public accountant retained by the department shall not be the same certified public accountant providing the annual certified financial audit under section 46 of this act.

(4) The department shall make a report of an examination conducted under this section and provide a copy to the manufacturer. The department shall then post a copy of the report on its web site.

Sec. 48. (1) The department shall adopt and promulgate rules and regulations to establish requirements for reporting incidents when individuals who are not authorized to possess medical cannabis under the Medical Cannabis Act are found in possession of medical cannabis. The rules and regulations shall identify professionals required to report, the information they are required to report, and actions the reporter must take to secure the medical cannabis.

(2) The department shall adopt and promulgate rules and regulations to establish requirements for law enforcement officials and health care

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professionals to report incidents involving an overdose of medical cannabis to the department.

(3) Rules and regulations shall include the method by which the department will collect and tabulate reports of unauthorized possession and overdose.

Sec. 49. The Medical Cannabis Board is established. The board shall have five members appointed by the Governor and approved by a majority of the members of the Legislature. The board shall have at least one person from each congressional district, at least one person licensed to practice pharmacy under the Pharmacy Practice Act, and at least one person licensed to practice medicine and surgery under the Medicine and Surgery Practice Act.

Sec. 50. The Governor shall appoint the initial members of the Medical Cannabis Board for terms of one year, two years, three years, four years, and five years. Appointments made for the succeeding members shall be for terms of five years. The term of office of each member of the board shall expire on August 1 of the appropriate year. If a vacancy occurs prior to the expiration of a term, the Governor shall appoint a successor with similar qualifications for the remainder of the unexpired term. No member of the board shall serve more than two consecutive, full terms. If the Legislature is not in session when an appointment is made by the Governor, the member shall take office and act as a recess appointee until the Legislature convenes.

Sec. 51. The members of the Medical Cannabis Board shall receive the sum of twenty dollars per diem while actually engaged in the business of the board and shall be reimbursed for the necessary expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

Sec. 52. Within thirty days after the initial appointment and in the last calendar quarter of each subsequent year, the members of the Medical Cannabis Board shall meet and elect a chairperson of the board

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from the members and such other officers, including a vice-chairperson and a secretary, as the board deems necessary. In case of the death, resignation, or other permanent absence of the chairperson of the board, the vice-chairperson shall assume the office of chairperson and the members of the board at the next regular meeting of the board, or at a special meeting of the board pursuant to a call signed by five members of which the other members shall have at least three days' notice, shall elect a new chairperson of the board from the members and such other new officers as the board deems necessary.

Sec. 53. The Medical Cannabis Board shall meet at least once each quarter and at such other times as it deems necessary. Special meetings may be held upon the call of the chairperson or pursuant to a call signed by five other members of which the chairperson and the other members of the board shall have at least three days' notice. All regular meetings shall be held in suitable offices to be provided in the state office building described in section 81-1108.37 or elsewhere. A majority of the members of the board shall constitute a quorum for the transaction of business. Every act of a majority of the members of the board shall be deemed to be the act of the board. All meetings shall be open to the public. The minutes of the meetings shall show the action of the board on matters presented and shall be open to public inspection.

Sec. 54. The Medical Cannabis Board shall advise the department regarding:

(1) Rules and regulations for the regulation of medical cannabis;

(2) The policies of the department as they relate to medical cannabis; and

(3) Recommendations for legislative changes regarding regulation of medical cannabis.

Sec. 55. No member of the Medical Cannabis Board shall be liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or otherwise for any action taken or

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recommendation made within the scope of the functions of such board while acting as an agent of the state if such board member acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to him or her after a reasonable effort is made to obtain the facts on which such action is taken or recommendation is made.

Sec. 56. Section 28-416, Revised Statutes Cumulative Supplement, 2014, is amended to read:

28-416 (1) Except as authorized by the Medical Cannabis Act or the Uniform Controlled Substances Act, it shall be unlawful for any person knowingly or intentionally: (a) To manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or dispense a controlled substance; or (b) to create, distribute, or possess with intent to distribute a counterfeit controlled substance.

(2) Except as provided in subsections (4), (5), (7), (8), (9), and (10) of this section, any person who violates subsection (1) of this section with respect to: (a) A controlled substance classified in Schedule I, II, or III of section 28-405 which is an exceptionally hazardous drug shall be guilty of a Class II felony; (b) any other controlled substance classified in Schedule I, II, or III of section 28-405 shall be guilty of a Class III felony; or (c) a controlled substance classified in Schedule IV or V of section 28-405 shall be guilty of a Class IIIA felony.

(3) A person knowingly or intentionally possessing a controlled substance, except marijuana or any substance containing a quantifiable amount of the substances, chemicals, or compounds described, defined, or delineated in subdivision (c)(25) of Schedule I of section 28-405, unless such substance was obtained directly or pursuant to a medical order issued by a practitioner authorized to prescribe while acting in the course of his or her professional practice, or except as otherwise authorized by the act, shall be guilty of a Class IV felony.

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(4)(a) Except as authorized by the Uniform Controlled Substances Act, any person eighteen years of age or older who knowingly or intentionally manufactures, distributes, delivers, dispenses, or possesses with intent to manufacture, distribute, deliver, or dispense a controlled substance or a counterfeit controlled substance (i) to a person under the age of eighteen years, (ii) in, on, or within one thousand feet of the real property comprising a public or private elementary, vocational, or secondary school, a community college, a public or private college, junior college, or university, or a playground, or (iii) within one hundred feet of a public or private youth center, public swimming pool, or video arcade facility shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, depending upon the controlled substance involved, for the first violation and for a second or subsequent violation shall be punished by the next higher penalty classification than that prescribed for a first violation of this subsection, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(b) For purposes of this subsection:

(i) Playground shall mean any outdoor facility, including any parking lot appurtenant to the facility, intended for recreation, open to the public, and with any portion containing three or more apparatus intended for the recreation of children, including sliding boards, swingsets, and teeterboards;

(ii) Video arcade facility shall mean any facility legally accessible to persons under eighteen years of age, intended primarily for the use of pinball and video machines for amusement, and containing a minimum of ten pinball or video machines; and

(iii) Youth center shall mean any recreational facility or gymnasium, including any parking lot appurtenant to the facility or gymnasium, intended primarily for use by persons under eighteen years of

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age which regularly provides athletic, civic, or cultural activities.

(5)(a) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person eighteen years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of eighteen years to manufacture, transport, distribute, carry, deliver, dispense, prepare for delivery, offer for delivery, or possess with intent to do the same a controlled substance or a counterfeit controlled substance.

(b) Except as authorized by the Uniform Controlled Substances Act, it shall be unlawful for any person eighteen years of age or older to knowingly and intentionally employ, hire, use, cause, persuade, coax, induce, entice, seduce, or coerce any person under the age of eighteen years to aid and abet any person in the manufacture, transportation, distribution, carrying, delivery, dispensing, preparation for delivery, offering for delivery, or possession with intent to do the same of a controlled substance or a counterfeit controlled substance.

(c) Any person who violates subdivision (a) or (b) of this subsection shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, depending upon the controlled substance involved, for the first violation and for a second or subsequent violation shall be punished by the next higher penalty classification than that prescribed for a first violation of this subsection, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(6) It shall not be a defense to prosecution for violation of subsection (4) or (5) of this section that the defendant did not know the age of the person through whom the defendant violated such subsection.

(7) Any person who violates subsection (1) of this section with respect to cocaine or any mixture or substance containing a detectable amount of cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB

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felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(8) Any person who violates subsection (1) of this section with respect to base cocaine (crack) or any mixture or substance containing a detectable amount of base cocaine in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(9) Any person who violates subsection (1) of this section with respect to heroin or any mixture or substance containing a detectable amount of heroin in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(10) Any person who violates subsection (1) of this section with respect to amphetamine, its salts, optical isomers, and salts of its isomers, or with respect to methamphetamine, its salts, optical isomers, and salts of its isomers, in a quantity of:

(a) One hundred forty grams or more shall be guilty of a Class IB felony;

(b) At least twenty-eight grams but less than one hundred forty grams shall be guilty of a Class IC felony; or

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(c) At least ten grams but less than twenty-eight grams shall be guilty of a Class ID felony.

(11) Except as otherwise provided in the Medical Cannabis Act, any ~~Any~~ person knowingly or intentionally possessing marijuana weighing more than one ounce but not more than one pound shall be guilty of a Class III misdemeanor.

(12) Except as otherwise provided in the Medical Cannabis Act, any ~~Any~~ person knowingly or intentionally possessing marijuana weighing more than one pound shall be guilty of a Class IV felony.

(13) Except as otherwise provided in the Medical Cannabis Act, any ~~Any~~ person knowingly or intentionally possessing marijuana weighing one ounce or less or any substance containing a quantifiable amount of the substances, chemicals, or compounds described, defined, or delineated in subdivision (c)(25) of Schedule I of section 28-405 shall:

(a) For the first offense, be guilty of an infraction, receive a citation, be fined three hundred dollars, and be assigned to attend a course as prescribed in section 29-433 if the judge determines that attending such course is in the best interest of the individual defendant;

(b) For the second offense, be guilty of a Class IV misdemeanor, receive a citation, and be fined four hundred dollars and may be imprisoned not to exceed five days; and

(c) For the third and all subsequent offenses, be guilty of a Class IIIA misdemeanor, receive a citation, be fined five hundred dollars, and be imprisoned not to exceed seven days.

(14) Any person convicted of violating this section, if placed on probation, shall, as a condition of probation, satisfactorily attend and complete appropriate treatment and counseling on drug abuse provided by a program authorized under the Nebraska Behavioral Health Services Act or other licensed drug treatment facility.

(15) Any person convicted of violating this section, if sentenced to

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the Department of Correctional Services, shall attend appropriate treatment and counseling on drug abuse.

(16) Any person knowingly or intentionally possessing a firearm while in violation of subsection (1) of this section shall be punished by the next higher penalty classification than the penalty prescribed in subsection (2), (7), (8), (9), or (10) of this section, but in no event shall such person be punished by a penalty greater than a Class IB felony.

(17) A person knowingly or intentionally in possession of money used or intended to be used to facilitate a violation of subsection (1) of this section shall be guilty of a Class IV felony.

(18) In addition to the penalties provided in this section:

(a) If the person convicted or adjudicated of violating this section is eighteen years of age or younger and has one or more licenses or permits issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for thirty days and (B) require such person to attend a drug education class;

(ii) For a second offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for ninety days and (B) require such person to complete no fewer than twenty and no more than forty hours of community service and to attend a drug education class; and

(iii) For a third or subsequent offense, the court may, as a part of the judgment of conviction or adjudication, (A) impound any such licenses or permits for twelve months and (B) require such person to complete no fewer than sixty hours of community service, to attend a drug education class, and to submit to a drug assessment by a licensed alcohol and drug counselor; and

(b) If the person convicted or adjudicated of violating this section

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is eighteen years of age or younger and does not have a permit or license issued under the Motor Vehicle Operator's License Act:

(i) For the first offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until thirty days after the date of such order and (B) require such person to attend a drug education class;

(ii) For a second offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until ninety days after the date of such order and (B) require such person to complete no fewer than twenty hours and no more than forty hours of community service and to attend a drug education class; and

(iii) For a third or subsequent offense, the court may, as part of the judgment of conviction or adjudication, (A) prohibit such person from obtaining any permit or any license pursuant to the act for which such person would otherwise be eligible until twelve months after the date of such order and (B) require such person to complete no fewer than sixty hours of community service, to attend a drug education class, and to submit to a drug assessment by a licensed alcohol and drug counselor.

A copy of an abstract of the court's conviction or adjudication shall be transmitted to the Director of Motor Vehicles pursuant to sections 60-497.01 to 60-497.04 if a license or permit is impounded or a juvenile is prohibited from obtaining a license or permit under this subsection.

Sec. 57. Section 28-439, Reissue Revised Statutes of Nebraska, is amended to read:

28-439 As used in sections 28-101, 28-431, and 28-439 to 28-444, unless the context otherwise requires, drug paraphernalia shall mean all equipment, products, and materials of any kind which are used, intended

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for use, or designed for use, in manufacturing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of sections 28-101, 28-431, and 28-439 to 28-444, the Medical Cannabis Act, or the Uniform Controlled Substances Act. It shall include, but not be limited to, the following:

(1) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

(2) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(3) Hypodermic syringes, needles, and other objects used, intended for use, and designed for use in parenterally injecting controlled substances into the human body; and

(4) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, which shall include but not be limited to the following:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, which has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons, and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

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(j) Air-driven pipes;

(k) Chillums;

(l) Bongs; and

(m) Ice pipes or chillers.

Sec. 58. Original section 28-439, Reissue Revised Statutes of Nebraska, and section 28-416, Revised Statutes Cumulative Supplement, 2014, are repealed.