

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS45498-MLxf-140

Short Title: Marijuana Legalization & Regulation. (Public)

Sponsors: Senator Fitch (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO LEGALIZE AND REGULATE THE SALE, POSSESSION, AND USE OF
3 MARIJUANA IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. CREATION OF CANNABIS EQUITY REINVESTMENT BOARD**

7 **SECTION 1.1.** Article 10 of Chapter 143B of the General Statutes is amended by
8 adding a new Part to read:

9 "Part 23. Cannabis Equity Reinvestment Board.

10 "**§ 143B-472.129. Cannabis Equity Reinvestment Board; purpose; membership; quorum;**
11 **meetings.**

12 (a) There is established the Cannabis Equity Reinvestment Board (Board). The Board
13 shall be administratively located within the Department of Commerce. The purpose of the Board
14 is to directly address the impact of economic disinvestment, violence, and historical overuse of
15 criminal justice responses to community and individual needs by providing resources to support
16 local design and control of community-based responses to such impacts.

17 (b) The Board shall have a total membership of 20 members that shall consist of 13
18 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen members
19 shall be appointed as follows: three to be appointed by the President Pro Tempore of the Senate,
20 one of whom shall be a person who has been previously incarcerated or convicted of a
21 marijuana-related offense, one of whom shall be an expert in the field of public health with
22 experience in trauma-informed care, if possible, and one of whom shall be an expert in education
23 with a focus on access to opportunities for youth in underserved communities; three to be
24 appointed by the Speaker of the House of Representatives, one of whom shall be an expert on
25 the State's foster care system, one of whom shall be an expert in workforce development, and
26 one of whom shall be a representative from one of the State's historically black colleges and
27 universities; and seven to be appointed by the Governor, subject to confirmation by the General
28 Assembly, one of whom shall be a veteran, one of whom shall be an entrepreneur with expertise
29 in emerging industries or access to capital for small businesses, one of whom shall be a
30 representative from the Office of Indigent Defense Services, and four of whom shall be
31 community-based providers or community development organization representatives who
32 provide services to address the social determinants of health and promote community investment
33 in communities adversely and disproportionately impacted by marijuana prohibitions, including
34 services such as workforce development, youth mentoring and educational services, job training
35 and placement services, and reentry services. Nonlegislative citizen members shall be citizens of
36 the State and reflect the racial, ethnic, gender, and geographic diversity of the State.



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1 (c) The Secretaries of Commerce, Education, Health and Human Services, and Public
2 Safety, the Chair of the NCWorks Commission, and the Attorney General, or their designees,
3 shall serve ex officio with voting privileges. The Chairman of the North Carolina Cannabis
4 Control Commission, or the Chairman's designee shall serve ex officio without voting privileges.

5 (d) Ex officio members of the Board shall serve terms coincident with their terms of
6 office. The initial terms of nonlegislative citizen members shall be staggered. After the initial
7 staggering of terms, all nonlegislative citizen members shall be appointed for a term of four years.
8 Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
9 terms. Vacancies shall be filled in the same manner as the original appointments. All members
10 may be reappointed.

11 (e) The Board shall be chaired by the Secretary of Commerce, or the Secretary's designee.
12 The Board shall select a vice-chairman from among its membership.

13 (f) A majority of the members shall constitute a quorum.

14 (g) The Board shall meet at least two times each year and shall meet at the call of the
15 Chairman or whenever the majority of the members so request.

16 (h) Members of the Board shall receive per diem and necessary travel and subsistence
17 expenses in accordance with the provisions of G.S. 138-5.

18 **"§ 143B-472.130. Powers and duties of the Board.**

19 The Cannabis Equity Reinvestment Board (Board) shall have all of the following powers and
20 duties:

21 (1) Support persons, families, and communities historically and
22 disproportionately targeted and affected by drug enforcement.

23 (2) Develop and implement scholarship programs and educational and vocational
24 resources for historically marginalized persons, including persons in foster
25 care, who have been adversely impacted by substance use individually, in their
26 families, or in their communities.

27 (3) Develop and implement a program to award grants to support workforce
28 development programs, mentoring programs, job training and placement
29 services, apprenticeships, and reentry services that serve persons and
30 communities historically and disproportionately targeted by drug
31 enforcement.

32 (4) Administer the Cannabis Equity Reinvestment Fund established pursuant to
33 G.S. 143B-472.131.

34 (5) Collaborate with the Chairman of the North Carolina Cannabis Control
35 Commission and the Secretary of Commerce, as necessary, to implement
36 programs and provide recommendations in line with the purpose of this
37 article.

38 (6) Submit an annual report to the Governor and the General Assembly. The
39 Chairman shall submit to the Governor and the General Assembly an annual
40 report detailing the interim activity and work of the Board no later than the
41 first day of each session of the regular session of the General Assembly.

42 (7) Perform such other activities and functions as the Governor and General
43 Assembly may direct.

44 **"§ 143B-472.131. Cannabis Equity Reinvestment Fund.**

45 (a) The Cannabis Equity Reinvestment Fund (Fund) is established as a special fund in
46 the Office of the State Treasurer. The Fund consists of appropriations by the General Assembly
47 or contributions and grants from public or private sources. The interest earned by the Fund shall
48 be credited to the Fund by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.
49 Revenue in the Fund, including any interest earned, does not revert at the end of a fiscal year.

50 (b) Moneys in the Fund may only be used for any or all of the following purposes:

- (1) Supporting persons, families, and communities historically and disproportionately targeted and affected by drug enforcement.
- (2) Providing scholarship opportunities and educational and vocational resources for historically marginalized persons, including persons in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities.
- (3) Awarding grants to support workforce development, mentoring programs, job training and placement services, apprenticeships, and reentry services that serve persons and communities historically and disproportionately targeted by drug enforcement.
- (4) Contributing to the Office of Indigent Defense Services established pursuant to G.S. 7A-498.2.
- (5) Contributing to the Cannabis Equity Business Loan Fund established pursuant to G.S. 18D-1101.

(c) The State Treasurer shall disburse moneys in the Fund only upon the written direction of the Chair of the Cannabis Equity Reinvestment Board."

SECTION 1.2. The initial terms of office of those persons appointed to serve as nonlegislative citizen members on the Cannabis Equity Reinvestment Board shall be staggered as follows: five persons shall be appointed for a term to expire June 30, 2026; four persons shall be appointed for a term to expire June 30, 2027; and four persons shall be appointed for a term to expire June 30, 2028. Thereafter, nonlegislative citizen members of the Cannabis Equity Reinvestment Board shall serve for terms of four years.

SECTION 1.3. This Part becomes effective July 1, 2022.

PART II. CREATION OF THE NORTH CAROLINA CANNABIS CONTROL COMMISSION & LEGALIZATION OF POSSESSION AND SALE OF MARIJUANA

SECTION 2.1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 18D.

"Regulation of Marijuana.

"Article 1.

"General Provisions.

"§ 18D-100. Purpose of Chapter.

(a) This Chapter is intended to establish a uniform system of control over the sale, purchase, transportation, manufacture, consumption, and possession of marijuana in North Carolina, and to provide procedures to insure the proper administration of the marijuana laws under a uniform system throughout the State. This Chapter shall be liberally construed to the end that the sale, purchase, transportation, manufacture, consumption, and possession of marijuana shall be prohibited except as authorized in this Chapter. If any provision of this Chapter, or its application to any person or circumstance, is determined by a court or other authority of competent jurisdiction to be invalid or unconstitutional, such provision shall be stricken and the remaining provisions shall be construed in accordance with the intent of the General Assembly to further limit rather than expand commerce in marijuana.

(b) Except as provided in this Chapter, local ordinances establishing different rules on the manufacture, sale, purchase, transportation, possession, consumption, or other use of marijuana, or requiring additional permits or fees, are prohibited.

"§ 18D-101. Definitions.

Unless the context requires otherwise, the following definitions apply in this Chapter:

- (1) Advertisement or advertising. – Any written or verbal statement, illustration, or depiction that is calculated to induce sales of retail marijuana, retail marijuana products, marijuana plants, or marijuana seeds, including any

- 1 written, printed, graphic, digital, electronic, or other material, billboard, sign,
2 or other outdoor display, publication, or radio or television broadcast.
- 3 (2) Board. – The Board of Directors of the North Carolina Cannabis Control
4 Commission.
- 5 (3) Cannabis. – Has the same meaning as marijuana.
- 6 (4) Commission. – The North Carolina Cannabis Control Commission
7 established under this Chapter.
- 8 (5) Child-resistant. – Packaging or a container (i) specially designed or
9 constructed to be significantly difficult for a typical child under five years of
10 age to open and not to be significantly difficult for a typical adult to open and
11 reseal and (ii) for any product intended for more than a single use or that
12 contains multiple servings, resealable.
- 13 (6) Cultivation or cultivate. – The planting, propagation, growing, harvesting,
14 drying, curing, grading, trimming, or other similar processing of marijuana for
15 use or sale. This term does not include manufacturing or testing.
- 16 (7) Edible marijuana product. – A marijuana product intended to be consumed
17 orally, including marijuana intended to be consumed orally or marijuana
18 concentrate intended to be consumed orally.
- 19 (8) Immature plant. – A nonflowering marijuana plant that is no taller than eight
20 inches and no wider than eight inches, is produced from a cutting, clipping, or
21 seedling, and is growing in a container.
- 22 (9) Licensed. – The holding of a valid license granted by the Commission.
- 23 (10) Licensee. – Any person to whom a license has been granted by the
24 Commission.
- 25 (11) Manufacturing or manufactured. – The production of marijuana products or
26 the blending, infusing, compounding, or other preparation of marijuana and
27 marijuana products, including marijuana extraction or preparation by means
28 of chemical synthesis. This term does not include cultivation or testing.
- 29 (12) Marijuana. – Any part of a plant of the genus Cannabis, whether growing or
30 not, its seeds or resin; and every compound, manufacture, salt, derivative,
31 mixture, or preparation of such plant, its seeds, its resin, or any extract
32 containing one or more cannabinoids. This term does not include the mature
33 stalks of such plant, fiber produced from such stalk, or oil or cake made from
34 the seed of such plant, unless such stalks, fiber, oil, or cake is combined with
35 other parts of plants of the genus Cannabis. This term also does not include (i)
36 industrial hemp, as defined in Article 50F of Chapter 106 of the General
37 Statutes, that is possessed by a person registered pursuant to Article 50F of
38 Chapter 106 of the General Statutes or the person's agent or (ii) a hemp
39 product, as defined in Article 50F of Chapter 106 of the General Statutes,
40 containing a tetrahydrocannabinol concentration of no greater than
41 three-tenths of a percent (0.3%) that is derived from industrial hemp that is
42 grown, dealt, or processed in compliance with State or federal law.
- 43 (13) Marijuana concentrate. – Marijuana that has undergone a process to
44 concentrate one or more active cannabinoids, thereby increasing the product's
45 potency. Resin from granular trichomes from a marijuana plant is a
46 concentrate for purposes of this Chapter.
- 47 (14) Marijuana cultivation facility. – A facility licensed under this subtitle to
48 cultivate, label, and package retail marijuana; to purchase or take possession
49 of marijuana plants and seeds from other marijuana cultivation facilities; to
50 transfer possession of and sell retail marijuana, immature marijuana plants,
51 and marijuana seeds to marijuana wholesalers; to transfer possession of and

- 1 sell retail marijuana, marijuana plants, and marijuana seeds to other marijuana
2 cultivation facilities; and to sell immature marijuana plants and marijuana
3 seeds to consumers for the purpose of cultivating marijuana at home for
4 personal use.
- 5 (15) Marijuana establishment. – A marijuana cultivation facility, a marijuana
6 testing facility, a marijuana manufacturing facility, a marijuana wholesaler, or
7 a retail marijuana store.
- 8 (16) Marijuana manufacturing facility. – A facility licensed under this subtitle to
9 purchase or take possession of retail marijuana from a marijuana cultivation
10 facility or another marijuana manufacturing facility; to manufacture, label,
11 and package retail marijuana and retail marijuana products; and to transfer
12 possession of and sell retail marijuana and retail marijuana products to
13 marijuana wholesalers or other marijuana manufacturing facilities.
- 14 (17) Marijuana paraphernalia. – All equipment, products, and materials of any kind
15 that are either designed for use or are intended for use in planting, propagating,
16 cultivating, growing, harvesting, manufacturing, compounding, converting,
17 producing, processing, preparing, strength testing, analyzing, packaging,
18 repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise
19 introducing into the human body marijuana.
- 20 (18) Marijuana products. – Products that are composed of marijuana and other
21 ingredients and are intended for use or consumption, ointments, and tinctures.
- 22 (19) Marijuana testing facility. – A facility licensed under this Chapter to develop,
23 research, or test marijuana, marijuana products, and other substances.
- 24 (20) Marijuana wholesaler. – A facility licensed under this subtitle to purchase or
25 take possession of retail marijuana, retail marijuana products, immature
26 marijuana plants, and marijuana seeds from a marijuana cultivation facility, a
27 marijuana manufacturing facility, or another marijuana wholesaler and to
28 transfer possession and sell or resell retail marijuana, retail marijuana
29 products, immature marijuana plants, and marijuana seeds to a marijuana
30 manufacturing facility, retail marijuana store, or another marijuana
31 wholesaler.
- 32 (21) Non-retail marijuana. – Marijuana that is not cultivated, manufactured, or sold
33 by a licensed marijuana establishment.
- 34 (22) Non-retail marijuana products. – Marijuana products that are not
35 manufactured and sold by a licensed marijuana establishment.
- 36 (23) Place or premises. – The real estate, together with any buildings or other
37 improvements thereon, designated in the application for a license as the place
38 at which the cultivation, manufacture, sale, or testing of retail marijuana or
39 retail marijuana products shall be performed, except that portion of any such
40 building or other improvement actually and exclusively used as a private
41 residence.
- 42 (24) Public place. – Any place, building, or conveyance to which the public has, or
43 is permitted to have, access, including restaurants, soda fountains, hotel dining
44 areas, lobbies and corridors of hotels, and any park place of public resort or
45 amusement, highway, street, lane, or sidewalk adjoining any highway, street,
46 or lane.
- 47 (25) Residence. – Any building or part of a building or structure where a person
48 resides, but does not include any part of a building that is not actually and
49 exclusively used as a private residence, nor any part of a hotel or club other
50 than a private guest room thereof.

1 for the transaction of the Commission's business, and no vacancy in the membership shall impair
2 the right of a quorum to exercise the rights and perform all duties of the Commission.

3 (d) The Board shall meet at least every 60 days for the transaction of its business. Special
4 meetings may be held at any time upon the call of the chairman of the Board or the Chief
5 Executive Officer or upon the written request of a majority of the Board members.

6 (e) Members of the Board shall receive annually such salary, compensation, and
7 reimbursement of expenses for the performance of their official duties as set by the General
8 Assembly in the Current Operations Appropriations Act.

9 (f) The provisions of G.S. 14-234, G.S. 133-32, and Article 4 of Chapter 138A of the
10 General Statutes shall apply to the Board.

11 **"§ 18D-202. Powers and duties of the Board.**

12 The Board shall have all of the following powers and duties:

- 13 (1) Promulgate rules in accordance with Chapter 150B of the General Statutes.
- 14 (2) Control the possession, sale, transportation, and delivery of marijuana and
15 marijuana products.
- 16 (3) Grant, suspend, and revoke licenses for the cultivation, manufacture,
17 distribution, sale, and testing of marijuana and marijuana products as provided
18 by law.
- 19 (4) Determine the nature, form, and capacity of all containers used for holding
20 marijuana products to be kept or sold and prescribe the form and content of
21 all labels and seals to be placed thereon.
- 22 (5) Maintain actions to enjoin common nuisances as defined in this Chapter.
- 23 (6) Establish standards and implement an online course for employees of retail
24 marijuana stores that trains employees on how to educate consumers on the
25 potential risks of marijuana use.
- 26 (7) Establish a plan to develop and disseminate to retail marijuana store licensees
27 a pamphlet or similar document regarding the potential risks of marijuana use
28 to be prominently displayed and made available to consumers.
- 29 (8) Establish a position for a Cannabis Social Equity Liaison who shall lead the
30 Cannabis Business Equity and Diversity Support Team and liaise with the
31 Secretary of Commerce on matters related to diversity, equity, and inclusion
32 standards in the marijuana industry.
- 33 (9) Establish a Cannabis Business Equity and Diversity Support Team, that shall
34 (i) develop requirements for the creation and submission of diversity, equity,
35 and inclusion plans by persons who wish to possess more than one license,
36 and an approval process and requirements for implementation of such plans;
37 (ii) be responsible for conducting an analysis of potential barriers to entry for
38 small, women-owned, and minority- owned businesses and veteran-owned
39 businesses interested in participating in the marijuana industry and
40 recommending strategies to effectively mitigate such potential barriers; (iii)
41 provide assistance with business planning for potential marijuana
42 establishment licensees; (iv) spread awareness of business opportunities
43 related to the marijuana marketplace in areas disproportionately impacted by
44 marijuana prohibition and enforcement; (v) provide technical assistance in
45 navigating the administrative process to potential marijuana establishment
46 licensees; and (vi) conduct other outreach initiatives in areas
47 disproportionately impacted by marijuana prohibition and enforcement as
48 necessary.
- 49 (10) Establish a position for an individual with professional experience in a health
50 related field who shall staff the Cannabis Public Health Advisory Council,
51 established pursuant to G.S. 18D-228, liaise with the Office of the Secretary

- 1 of Health and Human Services and relevant health and human services
2 agencies and organizations, and perform other duties as needed.
- 3 (11) Establish and implement a plan, in coordination with the Cannabis Social
4 Equity Liaison and the Secretary of Commerce to promote and encourage
5 participation in the marijuana industry by people from communities that have
6 been disproportionately impacted by marijuana prohibition and enforcement
7 and to positively impact those communities.
- 8 (12) Sue and be sued, implead and be impleaded, and complain and defend in all
9 courts.
- 10 (13) Adopt, use, and alter at will a common seal.
- 11 (14) Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use
12 of property of, the sale of products of, or services rendered by the Commission
13 at rates to be determined by the Commission for the purpose of providing for
14 the payment of the expenses of the Commission.
- 15 (15) Make and enter into all contracts and agreements necessary or incidental to
16 the performance of its duties, the furtherance of its purposes, and the execution
17 of its powers under this subtitle, including agreements with any person or
18 federal agency.
- 19 (16) Employ, at its discretion, consultants, researchers, architects, engineers,
20 accountants, financial experts investment bankers, superintendents, managers,
21 and such other employees and special agents as may be necessary and fix their
22 compensation to be payable from funds made available to the Commission.
23 Legal services for the Commission shall be provided by the Attorney General
24 in accordance with applicable law.
- 25 (17) Receive and accept from any federal or private agency, foundation,
26 corporation, association, or person grants or other aid to be expended in
27 accomplishing the objectives of the Commission, and receive and accept from
28 the Commission or any state and any municipality, county, or other political
29 subdivision thereof or from any other source aid or contributions of either
30 money, property, or other things of value, to be held, used, and applied only
31 for the purposes for which such grants and contributions may be made. All
32 federal moneys accepted under this section shall be accepted and expended by
33 the Commission upon such terms and conditions as are prescribed by the
34 federal government and as are consistent with State law, and all State funds
35 accepted under this section shall be expended by the Commission upon such
36 terms and conditions as are prescribed by the State.
- 37 (18) Adopt, alter, and repeal bylaws, rules, and regulations governing the manner
38 in which its business shall be transacted and the manner in which the powers
39 of the Commission shall be exercised and its duties performed. The Board
40 may delegate or assign any duty or task to be performed by the Commission
41 to any officer or employee of the Commission. The Board shall remain
42 responsible for the performance of any such duties or tasks. Any delegation
43 pursuant to this subdivision shall, where appropriate, be accompanied by
44 written guidelines for the exercise of the duties or tasks delegated. Where
45 appropriate, the guidelines shall require that the Board receive summaries of
46 actions taken. Such delegation or assignment shall not relieve the Board of the
47 responsibility to ensure faithful performance of the duties and tasks.
- 48 (19) Conduct or engage in any lawful business, activity, effort, or project consistent
49 with the Commission's purposes or necessary or convenient to exercise its
50 powers.

- 1 (20) Develop policies and procedures generally applicable to the procurement of
2 goods, services, and construction, based upon competitive principles.
- 3 (21) Develop policies and procedures consistent with applicable procurement and
4 contracting laws.
- 5 (22) Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real,
6 personal or mixed, tangible or intangible, or any interest therein necessary or
7 desirable for carrying out the purposes of the Commission; lease as lessee any
8 property, real, personal or mixed, tangible or intangible, or any interest
9 therein, at such annual rental and on such terms and conditions as may be
10 determined by the Board; lease as lessor to any person any property, real,
11 personal or mixed, tangible or intangible, or any interest therein, at any time
12 acquired by the Commission, whether wholly or partially completed, at such
13 annual rental and on such terms and conditions as may be determined by the
14 Board; sell, transfer, or convey any property, real, personal or mixed, tangible
15 or intangible, or any interest therein, at any time acquired or held by the
16 Commission on such terms and conditions as may be determined by the
17 Board; and occupy and improve any land or building required for the purposes
18 of this Chapter.
- 19 (23) Purchase, lease, or acquire the use of, by any manner, any plant or equipment
20 that may be considered necessary or useful in carrying into effect the purposes
21 of this Chapter, including rectifying, blending, and processing plants.
- 22 (24) Appoint every agent and employee required for its operations, require any or
23 all of them to give bonds payable to the State in such penalty as shall be fixed
24 by the Board, and engage the services of experts and professionals.
- 25 (25) Hold and conduct hearings, issue subpoenas requiring the attendance of
26 witnesses and the production of records, memoranda, papers, and other
27 documents before the Board or any agent of the Board, and administer oaths
28 and take testimony thereunder. The Board may authorize any Board member
29 or agent of the Board to hold and conduct hearings, issue subpoenas,
30 administer oaths and take testimony thereunder, and decide cases, subject to
31 final decision by the Board, on application of any party aggrieved. The Board
32 may enter into consent agreements and may request and accept from any
33 applicant or licensee a consent agreement in lieu of proceedings on (i)
34 objections to the issuance of a license or (ii) disciplinary action. Any such
35 consent agreement shall include findings of fact and may include an admission
36 or a finding of a violation. A consent agreement shall not be considered a case
37 decision of the Board and shall not be subject to judicial review under the
38 provisions of Chapter 150B of the General Statutes, but may be considered by
39 the Board in future disciplinary proceedings.
- 40 (26) Make a reasonable charge for preparing and furnishing statistical information
41 and compilations to persons other than (i) officials, including court and police
42 officials, of the State and of its subdivisions if the information requested is for
43 official use and (ii) persons who have a personal or legal interest in obtaining
44 the information requested if such information is not to be used for commercial
45 or trade purposes.
- 46 (27) Assess and collect civil penalties and civil charges for violations of this
47 Chapter and Board rules.
- 48 (28) Review and approve any proposed legislative or rule changes suggested by
49 the Chief Executive Officer as the Board deems appropriate.
- 50 (29) Report quarterly to the Secretary of Public Safety on the law enforcement
51 activities undertaken to enforce the provisions of this Chapter.

- 1 (30) Establish and collect fees for all licenses and permits set forth in this Chapter,
2 including fees associated with applications for such licenses and permits.
- 3 (31) Develop and make available on its website guidance documents regarding
4 compliance and safe practices for persons who cultivate marijuana at home
5 for personal use, which shall include information regarding cultivation
6 practices that promote personal and public safety, including child protection,
7 and discourage practices that create a nuisance.
- 8 (32) Develop and make available on its website a resource that provides
9 information regarding (i) responsible marijuana consumption; (ii) health risks
10 and other dangers associated with marijuana consumption, including inability
11 to operate a motor vehicle and other types of transportation and equipment
12 and (iii) ancillary effects of marijuana consumption, including ineligibility for
13 certain employment opportunities. The Board shall require that the web
14 address for such resource be included on the label of all retail marijuana and
15 retail marijuana product as provided in this Chapter.
- 16 (33) Any other act deemed necessary by the Board to carry out the purposes of this
17 Chapter.

18 **§ 18D-203. Additional powers; mediation; alternative dispute resolution; confidentiality.**

19 (a) The following definitions apply in this section:

- 20 (1) Appropriate case. – Any alleged license violation or objection to the
21 application for a license in which it is apparent that there are significant issues
22 of disagreement among interested persons and for which the Board finds that
23 the use of a mediation or dispute resolution proceeding is in the public interest.
- 24 (2) Dispute resolution proceeding. – Any structured process in which a neutral
25 assists disputants in reaching a voluntary settlement by means of dispute
26 resolution techniques such as mediation, conciliation, early neutral evaluation,
27 nonjudicial settlement conferences or any other proceeding leading to a
28 voluntary settlement conducted consistent with the requirements of this
29 chapter. The term includes the orientation session.
- 30 (3) Mediation. – A process in which a neutral facilitates communication between
31 the parties and, without deciding the issues or imposing a solution on the
32 parties, enables them to understand and to reach a mutually agreeable
33 resolution to their dispute.
- 34 (4) Neutral. – An individual who is trained or experienced in conducting dispute
35 resolution proceedings and in providing dispute resolution services.
- 36 (5) Orientation session. – A preliminary meeting during which the dispute
37 resolution proceeding is explained to the parties and the parties and the neutral
38 assess the case and decide whether to continue with a dispute resolution
39 proceeding or adjudication.

40 (b) The Board may use mediation or a dispute resolution proceeding in appropriate cases
41 to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation
42 and other dispute resolution proceedings as authorized by this section shall be voluntary
43 procedures that supplement, rather than limit, other dispute resolution techniques available to the
44 Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance
45 of a license only with the consent of, and participation by, the applicant for licensure and shall
46 be terminated at the request of such applicant.

47 (c) Any resolution of a contested issue accepted by the Board under this section shall be
48 considered a consent agreement as provided in this Chapter. The decision to use mediation or a
49 dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial
50 review.

1 (d) The Board may adopt rules in accordance with Chapter 150B of the General Statutes
2 for the implementation of this section. Such rules may include (i) standards and procedures for
3 the conduct of mediation and dispute resolution proceedings, including an opportunity for
4 interested persons identified by the Board to participate in the proceeding; (ii) the appointment
5 and function of a neutral to encourage and assist parties to voluntarily compromise or settle
6 contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or
7 other materials.

8 (e) Except as otherwise provided in subsection (d) of this section, a consent agreement
9 signed by the parties shall not be confidential.

10 **"§ 18D-204. Rules of the Board.**

11 (a) The Board may promulgate reasonable rules, not inconsistent with this Chapter or the
12 general laws of the State, that it deems necessary to carry out the provisions of this Chapter and
13 to prevent the illegal cultivation, manufacture, sale, and testing of marijuana and marijuana
14 products. The Board may amend or repeal such rules. Such rules shall be promulgated, amended,
15 or repealed in accordance with Chapter 150B of the General Statutes.

16 (b) The Board shall promulgate rules that do all of the following:

17 (1) Govern the outdoor cultivation of marijuana by a marijuana cultivation facility
18 licensee, including security requirements to include lighting, physical
19 security, and alarm requirements, provided that such requirements do not
20 prohibit the cultivation of marijuana outdoors or in a greenhouse.

21 (2) Establish requirements for securely transporting marijuana between marijuana
22 establishments.

23 (3) Establish sanitary standards for retail marijuana product preparation.

24 (4) Establish a testing program for retail marijuana and retail marijuana products
25 pursuant to this Chapter.

26 (5) Establish an application process for licensure as a marijuana establishment
27 pursuant to this Chapter in a way that, when possible, prevents disparate
28 impacts on historically disadvantaged communities.

29 (6) Establish requirements for health and safety warning labels to be placed on
30 retail marijuana and retail marijuana products to be sold or offered for sale by
31 a licensee to a consumer in accordance with the provisions of this Chapter.

32 (7) Establish a maximum tetrahydrocannabinol level for retail marijuana
33 products, which shall not exceed (i) five milligrams per serving for edible
34 marijuana products and where practicable an equivalent amount for other
35 marijuana products or (ii) 50 milligrams per package for edible marijuana
36 products and where practicable an equivalent amount for other marijuana
37 products. Such rules may include other product and dispensing limitations on
38 tetrahydrocannabinol.

39 (8) Establish requirements for the form, content, and retention of all records and
40 accounts by all licensees.

41 (9) Provide alternative methods for licensees to maintain and store business
42 records that are subject to Board inspection, including methods for
43 Board-approved electronic and offsite storage.

44 (10) Establish (i) criteria by which to evaluate new licensees based on the density
45 of retail marijuana stores in the community and (ii) metrics that have similarly
46 shown an association with negative community-level health outcomes or
47 health disparities. In promulgating such regulations, the Board shall
48 coordinate with the Cannabis Public Health Advisory Council established
49 pursuant to G.S. 18D-228.

50 (11) Require retail licensees to file an appeal from any hearing decision rendered
51 by a hearing officer within 30 days of the date the notice of the decision is

- 1 sent. The notice shall be sent to the licensee at the address on record with the
2 Board by certified mail, return receipt requested, and by regular mail.
- 3 (12) Prescribe the schedule of proration for refunded license fees to licensees who
4 qualify.
- 5 (13) Establish criteria by which to evaluate social equity license applicants, which
6 shall be an applicant who has lived or been domiciled for at least 12 months
7 in the State and is either (i) an applicant with at least fifty-one percent (51%)
8 ownership by a person or persons who have been convicted of or adjudicated
9 delinquent for any marijuana offenses that are eligible for expungement; (ii)
10 an applicant with at least fifty-one percent (51%) ownership by a person or
11 persons who is the parent, child, sibling, or spouse of a person who has been
12 convicted of or adjudicated delinquent for any marijuana offenses that are
13 eligible for expungement; (iii) an applicant with at least fifty-one percent
14 (51%) percent ownership by a person or persons who have resided for at least
15 three of the past five years in a jurisdiction that is determined by the Board
16 after utilizing census tract data made available by the United States Census
17 Bureau to have been disproportionately policed for marijuana crimes; (iv) an
18 applicant with at least fifty-one percent (51%) ownership by a person or
19 persons who have resided for at least three of the last five years in a
20 jurisdiction determined by the Board after utilizing census tract data made
21 available by the United States Census Bureau to be economically distressed;
22 or (v) an applicant with at least fifty-one percent (51%) percent ownership by
23 a person or persons who attended a historically black college or university
24 located in the State.
- 25 (14) For the purposes of establishing criteria by which to evaluate social equity
26 license applicants, establish standards by which to determine (i) which
27 jurisdictions have been disproportionately policed for marijuana crimes and
28 (ii) which jurisdictions are economically distressed.
- 29 (15) Establish standards and requirements for (i) any preference in the licensing
30 process for qualified social equity applicants, (ii) what percentage of
31 application or license fees are waived for a qualified social equity applicant,
32 and (iii) a low-interest business loan program for qualified social equity
33 applicants.
- 34 (16) Establish guidelines, in addition to requirements set forth in this subtitle, for
35 the personal cultivation of marijuana that promote personal and public safety,
36 including child protection, and discourage personal cultivation practices that
37 create a nuisance, including a nuisance caused by odor.
- 38 (17) Establish reasonable time, place, and manner restrictions on outdoor
39 advertising of retail marijuana or retail marijuana products, not inconsistent
40 with the provisions of this Chapter, so that such advertising does not
41 encourage or otherwise promote the consumption of retail marijuana or retail
42 marijuana products by persons to whom retail marijuana or retail marijuana
43 products may not be lawfully sold.
- 44 (c) The Board may promulgate rules that do any or all of the following:
- 45 (1) Limit the number of licenses issued by type or class to operate a marijuana
46 establishment; however, the number of licenses issued shall not exceed the
47 following limits:
- 48 a. 400 for retail marijuana stores.
- 49 b. 25 for marijuana wholesalers.
- 50 c. 60 for marijuana manufacturing facilities.
- 51 d. 450 for marijuana cultivation facilities.

1 (2) Prescribe any requirements deemed appropriate for the administration of taxes
2 under this Chapter, including method of filing a return, information required
3 on a return, and form of payment.

4 (3) Limit the allowable square footage of a retail marijuana store, which shall not
5 exceed 1,500 square feet.

6 (d) Rules promulgated under this section shall be uniform in their application, except
7 those relating to hours of sale for licensees.

8 (e) Courts shall take judicial notice of Board rules.

9 (f) The Board shall consult with the Cannabis Public Health Advisory Council in
10 promulgating any rules relating to public health, and shall not promulgate any such rule that has
11 not been approved by a majority of the members of the Cannabis Public Health Advisory Council.

12 (g) The Board's power to regulate shall be broadly construed.

13 **"§ 18D-205. Appointment, salary, and powers of the Chief Executive Officer; appointment**
14 **of confidential assistant to the Chief Executive Officer.**

15 (a) The Chief Executive Officer of the Commission shall be appointed by the Governor
16 and confirmed by the affirmative vote of a majority of those voting in each house of the General
17 Assembly. The Chief Executive Officer shall not be a member of the Board, shall hold, at a
18 minimum, a baccalaureate degree in business or a related field of study, and shall possess a
19 minimum of seven years of demonstrated experience or expertise in the direct management,
20 supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive
21 such compensation as determined by the Board and approved by the Governor, including any
22 performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer
23 shall be subject to a background check in accordance with this Chapter. The Chief Executive
24 Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed
25 upon him by law and (ii) meet performance measures or targets set by the Board and approved
26 by the Governor. The Chief Executive Officer may be removed from office by the Governor for
27 cause, including the improper use of the Commission's police powers, malfeasance, misfeasance,
28 incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet
29 performance measures or targets as set by the Board and approved by the Governor, failure to
30 carry out the policies of the State as established in the Constitution or by the General Assembly,
31 or refusal to carry out a lawful directive of the Governor.

32 (b) The Chief Executive Officer shall devote his full time to the performance of his
33 official duties and shall not be engaged in any other profession or occupation.

34 (c) The Chief Executive Officer shall supervise and administer the operations of the
35 Commission in accordance with this Chapter.

36 (d) The Chief Executive Officer shall do all of the following:

37 (1) Serve as the secretary to the Board and keep a true and full record of all
38 proceedings of the Commission and preserve at the Commission's general
39 office all books, documents, and papers of the Commission.

40 (2) Exercise and perform such powers and duties as may be delegated to him by
41 the Board or as may be conferred or imposed upon him by law.

42 (3) Employ or retain such special agents or employees subordinate to the Chief
43 Executive Officer as may be necessary to fulfill the duties of the Commission
44 conferred upon the Chief Executive Officer, subject to the Board's approval.

45 (4) Make recommendations to the Board for legislative and rule changes.

46 (e) Neither the Chief Executive Officer nor the spouse or any member of the immediate
47 family of the Chief Executive Officer shall make any contribution to a candidate for office or
48 officeholder at the local or State level or cause such a contribution to be made on his or her behalf.

49 (f) To assist the Chief Executive Officer in the performance of his duties, the Governor
50 shall also appoint one confidential assistant for administration who shall be deemed to serve on
51 an employment-at-will basis.

"§ 18D-206. Background investigations of Board members and the Chief Executive Officer.

All members of the Board and the Chief Executive Officer shall be fingerprinted before, and as a condition of, appointment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a national criminal history records search and to the State Bureau of Investigation for a State criminal history records search. The State Bureau of Investigation shall be reimbursed by the Commission for the cost of investigations conducted pursuant to this section. No person shall be appointed to the Board or appointed by the Board who (i) has defrauded or attempted to defraud any federal, state, or local government or governmental agency or authority by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of a material fact; (ii) has willfully deceived or attempted to deceive any federal, state, or local government or governmental agency or governmental authority by making or maintaining business records required by statute or regulation that are false and fraudulent; or (iii) has been convicted of a felony or a crime involving moral turpitude or a violation of any law applicable to the manufacture, transportation, possession, use, or sale of marijuana within the five years immediately preceding appointment.

"§ 18D-207. Financial interests of Board, employees, and family members prohibited.

No Board member or employee of the Commission shall (i) be a principal stockholder or (ii) otherwise have any financial interest, direct or indirect, in any licensee subject to the provisions of this Chapter. No Board member and no spouse or immediate family member of a Board member shall make any contribution to a candidate for office or officeholder at the local or State level or cause such a contribution to be made on his or her behalf.

"§ 18D-208. Seed-to-sale tracking system.

To ensure that no retail marijuana or retail marijuana products grown or processed by a marijuana establishment are sold or otherwise transferred except as authorized by law, the Board shall develop and maintain a seed-to-sale tracking system that tracks retail marijuana from either the seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a customer at a retail marijuana store.

"§ 18D-209. Funds of the Commission.

All funds of the Commission, from whatever source derived, shall be paid in accordance with G.S. 18D-211.

"§ 18D-210. Forms of accounts and records; audit; annual report.

(a) The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the State Auditor. The State Auditor or the Auditor's legally authorized representatives shall annually examine the accounts and books of the Commission. The Commission shall submit an annual report to the Governor and General Assembly on or before December 15 of each year. Such report shall contain the audited annual financial statements of the Commission for the year ending the previous June 30. The Commission shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions of services and tangible or intangible property, any material changes to the policies and procedures issued by the Commission related to procurement or personnel, and any proposed marketing activities.

(b) Notwithstanding any other provision of law, in exercising any power conferred under this Chapter, the Commission may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the Office of State Budget and Management. Upon agreement with the Office of State Budget and Management, the Commission may report summary level detail on both payroll and nonpayroll transactions to the Office of State Budget and Management through the applicable financial management system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the Office of State Budget and Management. A nonpayroll disbursement system shall include all disbursements and expenditures, other than

1 payroll. Such disbursements and expenditures shall include travel reimbursements, revenue
2 refunds, disbursements for vendor payments, petty cash, and interagency payments.

3 **"§ 18D-211. Disposition of moneys collected by the Board.**

4 (a) Except as otherwise provided in this subsection, all funds collected by the Board shall
5 be paid directly and promptly into the General Fund. All funds so paid into the State treasury,
6 less the net profits determined pursuant to subsection (c) of this section, shall be set aside as and
7 constitute an Enterprise Fund, subject to appropriation, for the payment of (i) the salaries and
8 remuneration of the members, agents, and employees of the Board and (ii) all costs and expenses
9 incurred in the administration of this Chapter.

10 (b) The net profits derived under the provisions of this Chapter shall be transferred by the
11 to the General Fund quarterly, within 50 days after the close of each quarter or as otherwise
12 provided in the Current Operations Appropriations Act. As allowed by the Governor, the Board
13 may deduct from the net profits quarterly a sum for the creation of a reserve fund not exceeding
14 the sum of two million five hundred thousand dollars (\$2,500,000) in connection with the
15 administration of this Chapter and to provide for the depreciation on the buildings, plants, and
16 equipment owned, held, or operated by the Board. After accounting for the Commission's
17 expenses as provided in subsection (a) of this section, net profits shall be appropriated in the
18 Current Operations Appropriations Act as follows:

19 (1) Forty percent (40%) to pre-kindergarten programs for at-risk three-year-olds
20 and four-year-olds.

21 (2) Thirty percent (30%) to the Cannabis Equity Reinvestment Fund established
22 pursuant to G.S. 143B-472.131.

23 (3) Twenty-five percent (25%) to substance use disorder prevention and treatment
24 programs.

25 (4) Five percent (5%) to public health programs.

26 (c) The Collection of Local Marijuana Taxes Fund is established as a special fund in the
27 office of the State Treasurer. All local tax revenues collected under this Chapter shall be
28 deposited into the Fund. The revenues shall be credited to the account of the locality in which
29 they were collected. If revenues were collected from a marijuana establishment located in more
30 than one locality by reason of the boundary line or lines passing through the marijuana
31 establishment, tax revenues shall be distributed pro rata among the localities. The Commission
32 shall provide any records and assistance necessary to determine the locality to which tax revenues
33 are attributable. On a quarterly basis, moneys in the Fund shall be paid to each locality entitled
34 to the return of its tax revenues, and such payments shall be charged to the account of each such
35 locality under the special fund created by this subsection. If errors are made in any such payment,
36 or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some
37 other fact, the errors shall be corrected and adjustments made in the payments for the next quarter.
38 The funds described in this subsection are hereby appropriated to be used in accordance with this
39 subsection.

40 (d) As used in this section, "net profits" means the total of all moneys collected by the
41 Board, less local marijuana tax revenues collected under this Chapter and distributed pursuant to
42 this Chapter, and all costs, expenses, and charges authorized by this section.

43 **"§ 18D-212. Leases and purchases of property by the Board.**

44 The making of leases and the purchasing of real estate by the Board under the provisions of
45 this Chapter are exempt from the otherwise applicable State procurement laws. The Commission
46 shall be exempt from any otherwise applicable State procurement or disposition laws in relation
47 to leases of real property into which it enters.

48 **"§ 18D-213. Exemptions from taxes or assessments.**

49 The exercise of the powers granted by this Chapter shall be in all respects for the benefit of
50 the people of the State, for the increase of their commerce and prosperity, and for the
51 improvement of their living conditions, and as the undertaking of activities in the furtherance of

1 the purposes of the Commission constitutes the performance of essential governmental functions,
2 the Commission shall not be required to pay any State or local taxes or assessments upon any
3 property acquired or used by the Commission under the provisions of this Chapter or upon the
4 income therefrom, including sales and use taxes on the tangible personal property used in the
5 operations of the Commission. The exemption granted in this section shall not be construed to
6 extend to persons conducting on the premises of any property of the Commission businesses for
7 which State or local taxes would otherwise be required.

8 **"§ 18D-214. Exemption of Commission from personnel and procurement procedures;**
9 **information systems; etc.**

10 (a) The Commission is exempt from the provisions of the State personnel laws.

11 (b) The Commission is exempt from otherwise applicable State laws governing the
12 procurement of goods, services, insurance, and construction, and the disposition of surplus
13 materials.

14 (c) The Commission (i) may purchase from and participate in all statewide contracts for
15 goods and services, including information technology goods and services; (ii) shall use directly
16 or by integration or interface the State's electronic procurement system subject to the terms and
17 conditions agreed upon between the Commission and the Department of Administration; and (iii)
18 shall post on the Department of Administration's central electronic procurement website all
19 Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award
20 notices to ensure visibility and access to the Commission's procurement opportunities on one
21 website.

22 **"§ 18D-215. Reversion to the State.**

23 In the event of the dissolution of the Commission, all assets of the Commission, after
24 satisfaction of creditors, shall revert to the State.

25 **"§ 18D-216. Certified mail; subsequent mail or notices may be sent by regular mail;**
26 **electronic communications as alternative to regular mail; limitation.**

27 (a) Whenever in this Chapter the Board is required to send any mail or notice by certified
28 mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent,
29 identical mail or notice that is sent by the Board may be sent by regular mail.

30 (b) Except as provided in subsection (c) of this section, whenever in this Chapter the
31 Board is required or permitted to send any mail, notice, or other official communication by
32 regular mail to persons licensed under this Chapter, upon the request of a licensee, the Board
33 may instead send such mail, notice, or official communication by email, text message, or other
34 electronic means to the email address, telephone number, or other contact information provided
35 to the Board by the licensee, provided that the Board retains sufficient proof of the electronic
36 delivery, which may be an electronic receipt of delivery or a certificate of service prepared by
37 the Board confirming the electronic delivery.

38 (c) No notice required by this Chapter to a licensee of a hearing that may result in the
39 suspension or revocation of his or her license or the imposition of a civil penalty shall be sent by
40 the Board by email, text message, or other electronic means, nor shall any decision by the Board
41 to suspend or revoke a license or impose a civil penalty be sent by the Board by email, text
42 message, or other electronic means.

43 **"§ 18D-217. Reports and accounting systems of Board; auditing books and records.**

44 (a) The Board shall make reports to the Governor as he or she may require covering the
45 administration and enforcement of this Chapter. Additionally, the Board shall submit an annual
46 report to the Governor, the General Assembly, and the Chief Executive Officer on or before
47 December 15 each year, which shall contain all of the following:

48 (1) The number of State licenses of each category issued pursuant to this Chapter.

49 (2) Demographic information concerning the licensees.

50 (3) A description of enforcement and disciplinary actions taken against licensees.

- 1 (4) A statement of revenues and expenses related to the implementation,
2 administration, and enforcement of this Chapter.
3 (5) A statement showing the taxes collected under this Chapter during the year.
4 (6) General information and remarks about the working of the cannabis control
5 laws within the State.
6 (7) A description of the efforts undertaken by the Board to promote diverse
7 business ownership within the cannabis industry.
8 (8) Any other information requested by the Governor.

9 (b) The Board shall maintain an accounting system in compliance with generally
10 accepted accounting principles.

11 (c) A regular postaudit shall be conducted of all accounts and transactions of the Board.
12 An annual audit of a fiscal and compliance nature of the accounts and transactions of the Board
13 shall be conducted by the State Auditor on or before October 1. The cost of the annual audit and
14 postaudit examinations shall be borne by the Board. The Board may order such other audits as it
15 deems necessary.

16 **"§ 18D-218. Certain information not to be made public.**

17 (a) Except as otherwise provided in subsection (b) of this section, neither the Board nor
18 its employees shall divulge any information regarding (i) financial reports or records required
19 pursuant to this Chapter; (ii) the purchase orders and invoices for retail marijuana or retail
20 marijuana products filed with the Board by marijuana wholesaler licensees; (iii) taxes collected
21 from, refunded to, or adjusted for any person; or (iv) information contained in the seed-to-sale
22 tracking system maintained by the Board pursuant to this Chapter. Applicable privacy laws shall
23 apply to taxes collected pursuant to this Chapter and to purchase orders and invoices for retail
24 marijuana or retail marijuana products filed with the Board by marijuana wholesaler licensees.

25 (b) Nothing contained in this section shall prohibit the use or release of such information
26 or documents by the Board to any governmental or law-enforcement agency, or when considering
27 the granting, denial, revocation, or suspension of a license or permit, or the assessment of any
28 penalty against a licensee or permittee, nor shall this section prohibit the Board or its employees
29 from compiling and disseminating to any member of the public aggregate statistical information
30 pertaining to (i) tax collection, as long as such information does not reveal or disclose tax
31 collection from any identified licensee; (ii) the total amount of retail marijuana or retail marijuana
32 products sales in the State by marijuana wholesaler licensees collectively; or (iii) the total amount
33 of purchases or sales submitted by licensees, provided that such information does not identify the
34 licensee.

35 **"§ 18D-219. Criminal history records check required on certain employees; reimbursement**
36 **of costs.**

37 All persons hired by the Commission whose job duties involve access to or handling of the
38 Commission's funds or merchandise shall be subject to a criminal history records check before,
39 and as a condition of, employment. The Board shall develop policies regarding the employment
40 of persons who have been convicted of a felony or a crime involving moral turpitude. The State
41 Bureau of Investigation shall be reimbursed by the Commission for the cost of investigations
42 conducted pursuant to this section.

43 **"§ 18D-220. Employees of the Commission.**

44 Employees of the Commission shall be considered employees of the State. Employees of the
45 Commission shall be eligible for membership in the Teachers' and State Employees' Retirement
46 System of North Carolina, and participation in all health and related insurance and other benefits
47 available to State employees as provided by law. Employees of the Commission shall be
48 employed on such terms and conditions as established by the Board. The Board shall develop
49 and adopt policies and procedures that afford its employees grievance rights, ensure that
50 employment decisions shall be based upon the merit and fitness of applicants, and prohibit
51 discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or

1 related medical conditions, age, marital status, sexual orientation, gender identity, or disability.
2 Notwithstanding any other provision of law, the Board shall develop, implement, and administer
3 a paid leave program, which may include annual, personal, and sick leave or any combination
4 thereof.

5 **"§ 18D-221. Police power of members, agents, and employees of Board.**

6 Members of the Board are vested, and such agents and employees of the Board designated
7 by it shall be vested, with like power to enforce the provisions of this Chapter.

8 **"§ 18D-222. Liability of Board members; suits by and against the Board.**

9 (a) No Board member may be sued civilly for doing or omitting to do any act in the
10 performance of his or her duties as prescribed by this Chapter, except by the State. Such
11 proceedings by the State shall be instituted and conducted by the Attorney General.

12 (b) The Board may, in the name of the State, be sued to enforce any contract made by it
13 or to recover damages for any breach thereof. The Board may defend the proceedings and may
14 institute proceedings in any court. No such proceedings shall be taken against, or in the names
15 of, the members of the Board.

16 **"§ 18D-223. Counsel for members, agents, and employees of the Board.**

17 If any member, agent, or employee of the Board shall be arrested, indicted, or otherwise
18 prosecuted on any charge arising out of any act committed in the discharge of his or her official
19 duties, the Board chairman may employ special counsel approved by the Attorney General to
20 defend such member, agent, or employee. The compensation for special counsel employed
21 pursuant to this section, shall, subject to the approval of the Attorney General, be paid in the
22 same manner as other expenses incident to the administration of this Chapter are paid.

23 **"§ 18D-224. Hearings; representation by counsel.**

24 Any licensee or applicant for any license granted by the Board shall have the right to be
25 represented by counsel at any Board hearing for which he or she has received notice. The licensee
26 or applicant shall not be required to be represented by counsel during such hearing. Any officer
27 or director of a corporation may examine, cross-examine, and question witnesses, present
28 evidence on behalf of the corporation, and draw conclusions and make arguments before the
29 Board or hearing officers without being in violation of any state law or rule prohibiting the
30 unauthorized practice of law.

31 **"§ 18D-225. Hearings; allowances to witnesses.**

32 Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same
33 allowance for expenses as witnesses for the State in criminal cases in accordance with
34 G.S. 7A-314. Such allowances shall be paid out of the fund from which other costs incurred by
35 the Board are paid.

36 **"§ 18D-226. Local ordinances or resolutions regulating retail marijuana or retail**
37 **marijuana products.**

38 (a) Except as otherwise specifically provided in this Chapter, no municipality shall adopt
39 any ordinance or resolution that regulates or prohibits the cultivation, manufacture, possession,
40 sale, wholesale distribution, handling, transportation, consumption, use, advertising, or
41 dispensing of retail marijuana or retail marijuana products in the State.

42 (b) Notwithstanding any provision of law to the contrary, the governing body of a
43 municipality may adopt an ordinance (i) that prohibits the acts described in G.S. 18D-707 or the
44 acts described in G.S. 18D-708, and may provide a penalty for violation thereof and (ii) that
45 regulates or prohibits the possession of opened retail marijuana or retail marijuana products
46 containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any
47 public street.

48 (c) Nothing in this Chapter shall be construed to supersede or limit the authority of a
49 municipality to adopt and enforce local ordinances to regulate businesses licensed pursuant to
50 this Chapter, including local zoning and land use requirements and business license requirements.

1 (d) Except as provided in this section, all local acts, including charter provisions and
2 ordinances of counties, cities, and towns, inconsistent with any of the provisions of this Chapter,
3 are repealed to the extent of such inconsistency.

4 **"§ 18D-227. Local ordinance regulating time of sale of retail marijuana and retail**
5 **marijuana products.**

6 The governing body of each county may adopt ordinances effective in that portion of such
7 county not embraced within the corporate limits of any incorporated town, and the governing
8 body of each city and town may adopt ordinances effective in such city or town, fixing hours
9 during which retail marijuana and retail marijuana products may be sold. Such governing bodies
10 shall provide for fines and other penalties for violations of any such ordinances, which shall be
11 enforced as if the violations were Class A1 misdemeanors. A copy of any ordinance adopted
12 pursuant to this section shall be certified by the governing body adopting it and transmitted to
13 the Board. On and after the effective date of any ordinance adopted pursuant to this section, no
14 retail marijuana store shall sell retail marijuana and retail marijuana products during the hours
15 limited by the ordinance.

16 **"§ 18D-228. Cannabis Public Health Advisory Council; purpose; membership; quorum;**
17 **meetings; compensation and expenses; duties.**

18 (a) The Cannabis Public Health Advisory Council (the Advisory Council) is established
19 as an advisory council to the Board. The purpose of the Advisory Council is to assess and monitor
20 public health issues, trends, and impacts related to marijuana and marijuana legalization and
21 make recommendations regarding health warnings, retail marijuana and retail marijuana products
22 safety and product composition, and public health awareness, programming, and related resource
23 needs.

24 (b) The Advisory Council shall have a total membership of 21 members that shall consist
25 of 17 nonlegislative citizen members and seven ex officio members. Nonlegislative citizen
26 members of the Council shall be citizens of the State and shall reflect the racial, ethnic, gender,
27 and geographic diversity of the State. Nonlegislative citizen members shall be appointed as
28 follows: five to be appointed by appointed by the President Pro Tempore of the Senate; five to
29 be appointed by the Speaker of the House of Representatives; and seven to be appointed by the
30 Governor, subject to confirmation by the General Assembly.

31 (c) The Secretary of Health and Human Services, the Commissioner of Agriculture, the
32 Secretary of Public Safety, and the Chairman of the Alcoholic Beverage Control Commission,
33 or their designees, shall serve ex officio with voting privileges. Ex officio members of the
34 Advisory Council shall serve terms coincident with their terms of office.

35 (d) After the initial staggering of terms, nonlegislative citizen members shall be
36 appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a
37 term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original
38 appointments. All members may be reappointed.

39 (e) The Advisory Council shall be chaired by the Secretary of Health and Human
40 Services or his or her designee. The Advisory Council shall select a vice-chairman from among
41 its membership. A majority of the members shall constitute a quorum. The Advisory Council
42 shall meet at least two times each year and shall meet at the call of the chairman or whenever the
43 majority of the members so request.

44 (f) The Advisory Council shall have the authority to create subgroups with additional
45 stakeholders, experts, and State agency representatives.

46 (g) Members of the Board shall receive per diem and necessary travel and subsistence
47 expenses in accordance with the provisions of G.S. 138-5.

48 (h) The Advisory Council shall have the following duties, in addition to duties that may
49 be necessary to fulfill its purpose as described in subsection (a) of this section:

1 two-year or three-year licenses, not to exceed five percent (5%) of the applicable license fee,
2 which extends for one fiscal year and shall not be altered or rescinded during such period.

3 (e) The Board may permit a licensee who fails to pay:

4 (1) The required license fee covering the continuation or reissuance of his or her
5 license by midnight of the fifteenth day of the twelfth month or of the
6 designated month of expiration, whichever is applicable, to pay the fee in lieu
7 of posting and publishing notice and reapplying, provided payment of the fee
8 is made within 30 days following that date and is accompanied by a civil
9 penalty of twenty-five dollars (\$25.00) or ten percent (10%) of such fee,
10 whichever is greater.

11 (2) The fee and civil penalty pursuant to subdivision (1) of this subsection to pay
12 the fee in lieu of posting and publishing notice and reapplying, provided
13 payment of the fee is made within 45 days following the 30 days specified in
14 subdivision (1) of this subsection and is accompanied by a civil penalty of one
15 hundred dollars (\$100.00) or twenty-five percent (25%) of such fee,
16 whichever is greater.

17 (f) The clear proceeds of civil penalties provided for in this section shall be remitted to
18 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

19 **"§ 18D-303. Records of licensees; inspection of records and places of business.**

20 (a) Every licensed marijuana manufacturing facility or marijuana wholesaler shall keep
21 complete, accurate, and separate records in accordance with Board rules of all marijuana and
22 marijuana products it purchased, manufactured, sold, or shipped.

23 (b) Every licensed retail marijuana store shall keep complete, accurate, and separate
24 records in accordance with Board rules of all purchases of retail marijuana products, the prices
25 charged such licensee therefor, and the names and addresses of the persons from whom
26 purchased. Every licensed retail marijuana store shall also preserve all invoices showing its
27 purchases for a period as specified by Board rules. The licensee shall also keep an accurate
28 account of daily sales, showing quantities of retail marijuana products sold and the total price
29 charged by it therefor. Except as otherwise provided in this section, such account need not give
30 the names or addresses of the purchasers thereof, except as may be required by Board rule.
31 Notwithstanding the provisions of subsection (f) of this section, electronic records of licensed
32 retail marijuana stores may be stored off site, provided that such records are readily retrievable
33 and available for electronic inspection by the Board or its special agents at the licensed premises.
34 However, in the case that such electronic records are not readily available for electronic
35 inspection on the licensed premises, the licensee may obtain Board approval, for good cause
36 shown, to permit the licensee to provide the records to a special agent of the Board within three
37 business days or less, as determined by the Board, after a request is made to inspect the records.

38 (c) Every licensed marijuana cultivation facility shall keep complete, accurate, and
39 separate records in accordance with Board rules of all marijuana and marijuana products it
40 purchased, manufactured, sold, or shipped.

41 (d) Every licensed marijuana testing facility shall keep complete, accurate, and separate
42 records in accordance with Board rules of all marijuana and marijuana products it developed,
43 researched, or tested and the names and addresses of the licensees or persons who submitted the
44 marijuana or marijuana product to the marijuana testing facility.

45 (e) The Board and its special agents shall be allowed free access during reasonable hours
46 to every place in the State and to the premises of every licensee or for the purpose of examining
47 and inspecting such place and all records, invoices, and accounts therein. For the purposes of a
48 Board inspection of the records of any retail marijuana store licensees, "reasonable hours" means
49 the hours between 9 a.m. and 5 p.m.; however, if the licensee generally is not open to the public
50 substantially during the same hours, "reasonable hours" means the business hours when the
51 licensee is open to the public. At any other time of day, if the retail marijuana store licensee's

1 records are not available for inspection, the licensee shall provide the records to a special agent
2 of the Board within 24 hours after a request is made to inspect the records.

3 "Article 4.

4 "Administration of Licenses. – Licenses Granted by the Board.

5 **"§ 18D-400. Marijuana cultivation facility license.**

6 (a) The Board may issue any of the following marijuana cultivation facility licenses,
7 which shall authorize the licensee to cultivate, label, and package retail marijuana; to purchase
8 or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to
9 transfer possession of and sell retail marijuana, immature marijuana plants, and marijuana seeds
10 to marijuana wholesalers; to transfer possession of and sell retail marijuana, marijuana plants,
11 and marijuana seeds to other marijuana cultivation facilities; and to sell immature marijuana
12 plants and seeds to consumers for the purpose of cultivating marijuana at home for personal use:

13 (1) Class A cultivation facility license, which shall authorize the licensee to
14 cultivate not more than a certain number of marijuana plants or marijuana
15 plants in an area not larger than a certain number of square feet, as determined
16 by the Board.

17 (2) Class B cultivation facility license, which shall authorize the licensee to
18 cultivate marijuana plants with a tetrahydrocannabinol concentration of no
19 more than one percent (1%), as determined post-decarboxylation.

20 (b) In accordance with the requirements of G.S. 18D-208, a marijuana cultivation facility
21 licensee shall track the retail marijuana it cultivates from seed or immature marijuana plant to the
22 point at which the marijuana plant or the marijuana produced by the marijuana plant is delivered
23 or transferred to a marijuana testing facility, a marijuana wholesaler, another marijuana
24 cultivation facility, or a consumer or is disposed of or destroyed.

25 **"§ 18D-401. Marijuana manufacturing facility license.**

26 (a) The Board may issue marijuana manufacturing facility licenses, which shall authorize
27 the licensee to purchase or take possession of retail marijuana from a marijuana cultivation
28 facility or another marijuana manufacturing facility; to manufacture, label, and package retail
29 marijuana and retail marijuana products; and to transfer possession of and sell retail marijuana
30 and retail marijuana products to marijuana wholesalers or other marijuana manufacturing
31 facilities.

32 (b) Except as otherwise provided in this Chapter, retail marijuana products shall be
33 prepared on a licensed premises that is used exclusively for the manufacture and preparation of
34 retail marijuana or retail marijuana products and using equipment that is used exclusively for the
35 manufacture and preparation of retail marijuana or retail marijuana products.

36 (c) All areas within the licensed premises of a marijuana manufacturing facility in which
37 retail marijuana and retail marijuana products are manufactured shall meet all sanitary standards
38 specified in rules adopted by the Board. A marijuana manufacturing facility that manufactures
39 an edible marijuana product shall comply with the applicable State laws and rules governing
40 sanitation at eating and drinking establishments.

41 (d) In accordance with the requirements of G.S. 18D-208, a marijuana manufacturing
42 facility licensee shall track the retail marijuana it uses in its manufacturing processes from the
43 point the retail marijuana is delivered or transferred to the marijuana manufacturing facility by a
44 marijuana wholesaler licensee to the point the retail marijuana or retail marijuana products
45 produced using the retail marijuana are delivered or transferred to another marijuana
46 manufacturing facility, a marijuana testing facility, or a marijuana wholesaler or are disposed of
47 or destroyed.

48 **"§ 18D-402. Marijuana testing facility license.**

49 (a) The Board may issue marijuana testing facility licenses, which shall authorize the
50 licensee to develop, research, or test retail marijuana, retail marijuana products, and other
51 substances.

1 **(b)** A marijuana testing facility may develop, research, or test retail marijuana and retail
2 marijuana products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use
3 the retail marijuana or retail marijuana product for personal use as authorized by this Chapter.

4 **(c)** Neither this Chapter nor the rules adopted pursuant to this Chapter shall prevent a
5 marijuana testing facility from developing, researching, or testing substances that are not
6 marijuana or marijuana products for that facility or for another person.

7 **(d)** To obtain licensure from the Board, a marijuana testing facility shall be required to
8 obtain and maintain accreditation pursuant to standard ISO/IEC 17025 of the International
9 Organization for Standardization by a third-party accrediting body.

10 **(e)** In accordance with the requirements of G.S. 18D-208, a marijuana testing facility
11 licensee shall track all marijuana and marijuana products it receives from a licensee for testing
12 purposes from the point at which the marijuana or marijuana products are delivered or transferred
13 to the marijuana testing facility to the point at which the marijuana or marijuana products are
14 disposed of or destroyed.

15 **(f)** A person that has an interest in a marijuana testing facility license shall not have any
16 interest in a licensed marijuana cultivation facility, a licensed marijuana manufacturing facility,
17 a licensed marijuana wholesaler, or a licensed retail marijuana store.

18 **"§ 18D-403. Marijuana wholesaler license.**

19 **(a)** The Board may issue marijuana wholesaler licenses, which shall authorize the
20 licensee to purchase or take possession of retail marijuana, retail marijuana products, immature
21 marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana
22 manufacturing facility, or another marijuana wholesaler and to transfer possession and sell or
23 resell retail marijuana, retail marijuana products, immature marijuana plants, and marijuana seeds
24 to a marijuana manufacturing facility, retail marijuana store, or another marijuana wholesaler.

25 **(b)** All areas within the licensed premises of a marijuana wholesaler in which retail
26 marijuana and retail marijuana products are stored shall meet all sanitary standards specified in
27 rules adopted by the Board.

28 **(c)** In accordance with the requirements of G.S. 18D-208, a marijuana wholesaler
29 licensee shall track the retail marijuana, retail marijuana products, immature marijuana plants, or
30 marijuana seeds from the point at which the retail marijuana, retail marijuana products, plants,
31 or seeds are delivered or transferred to the marijuana wholesaler to the point at which the retail
32 marijuana, retail marijuana products, plants, or seeds are transferred or sold to a marijuana
33 manufacturer, marijuana wholesaler, retail marijuana store, or marijuana testing facility or are
34 disposed of or destroyed.

35 **"§ 18D-404. Retail marijuana store license.**

36 **(a)** The Board may issue retail marijuana store licenses, which shall authorize the licensee
37 to purchase or take possession of retail marijuana, retail marijuana products, immature marijuana
38 plants, or marijuana seeds from a marijuana wholesaler and to sell retail marijuana, retail
39 marijuana products, immature marijuana plants, or marijuana seeds to consumers on premises
40 approved by the Board.

41 **(b)** Retail marijuana stores shall be operated in accordance with all of the following
42 provisions:

43 **(1)** A person shall be 21 years of age or older to make a purchase in a retail
44 marijuana store.

45 **(2)** A retail marijuana store shall be permitted to sell retail marijuana, retail
46 marijuana products, immature marijuana plants, or marijuana seeds to
47 consumers only in a direct, face-to-face exchange. Such store shall not be
48 permitted to sell retail marijuana, retail marijuana products, immature
49 marijuana plants, or marijuana seeds using any of the following:

50 **a.** An automated dispensing or vending machine.

51 **b.** A drive-through sales window.

1 c. An Internet-based sales platform.

2 d. A delivery service.

3 (3) A retail marijuana store shall not be permitted to sell more than two ounces of
4 marijuana or an equivalent amount of marijuana products as determined by
5 rules adopted by the Board during a single transaction to one person.

6 (4) A retail marijuana store shall not do any of the following:

7 a. Give away any retail marijuana or retail marijuana products, except as
8 otherwise permitted by this Chapter.

9 b. Sell retail marijuana, retail marijuana products, immature marijuana
10 plants, or marijuana seeds to any person when at the time of such sale
11 he or she knows or has reason to believe that the person attempting to
12 purchase the retail marijuana, retail marijuana product, immature
13 marijuana plant, or marijuana seeds is intoxicated or is attempting to
14 purchase retail marijuana for someone younger than 21 years of age.

15 c. Employ or allow to volunteer any person younger than 21 years of age.

16 (5) In accordance with the requirements of G.S. 18D-208, a retail marijuana store
17 licensee shall track all retail marijuana, retail marijuana products, immature
18 marijuana plants, or marijuana seeds from the point at which the retail
19 marijuana, retail marijuana products, immature marijuana plants, or marijuana
20 seeds are delivered or transferred to the retail marijuana store by a marijuana
21 wholesaler to the point at which the retail marijuana, retail marijuana products,
22 immature marijuana plants, or marijuana seeds are sold to a consumer,
23 delivered or transferred to a marijuana testing facility, or disposed of or
24 destroyed.

25 (c) Each retail marijuana store licensee shall post in each retail marijuana store notice of
26 the existence of a human trafficking hotline to alert possible witnesses or victims of human
27 trafficking to the availability of a means to report crimes or gain assistance. The notice required
28 by this section shall be posted in a place readily visible and accessible to the public.

29 (d) Each retail marijuana store licensee shall prominently display and make available for
30 dissemination to consumers Board-approved information regarding the potential risks of
31 marijuana use.

32 (e) Each retail marijuana store licensee shall provide training, established by the Board,
33 to all employees educating them on how to discuss the potential risks of marijuana use with
34 consumers.

35 **"§ 18D-405. Multiple licenses awarded to one person prohibited.**

36 (a) As used in this section, "interest" means an equity ownership interest or a partial
37 equity ownership interest or any other type of financial interest, including but not limited to being
38 an investor or serving in a management position.

39 (b) No person shall be granted or have interest in a license in more than one of the
40 following license categories: marijuana cultivation facility license, marijuana manufacturing
41 facility license, marijuana wholesaler license, retail marijuana store license, or marijuana testing
42 facility license. No person shall be granted or have interest in more than five licenses.

43 **"§ 18D-406. Temporary permits required in certain instances.**

44 (a) The Board may grant a permit that shall authorize any person who purchases at a
45 foreclosure, secured creditor's, or judicial auction sale the premises or property of a person
46 licensed by the Board and who has become lawfully entitled to the possession of the licensed
47 premises to continue to operate the marijuana establishment to the same extent as a person
48 holding such licenses for a period not to exceed 60 days or for such longer period as determined
49 by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held
50 by the previous owner to the extent determined by the Board. Such temporary permit may be
51 issued in advance, conditioned on the requirements in this subsection.

1 (b) A temporary permit granted pursuant to subsection (a) of this section may be revoked
2 summarily by the Board for any cause set forth in G.S. 18D-501 without complying with
3 G.S. 18D-504. Revocation of a temporary permit shall be effective upon service of the order of
4 revocation upon the permittee or upon the expiration of three business days after the order of the
5 revocation has been mailed to the permittee at either his residence or the address given for the
6 business in the permit application. No further notice shall be required.

7 **"§ 18D-407. Licensee shall maintain possession of premises.**

8 As a condition of licensure, a licensee shall at all times maintain possession of the licensed
9 premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant
10 to a lease, rental agreement, or other arrangement for possession of the premises or by virtue of
11 ownership of the premises. If the licensee fails to maintain possession of the licensed premises,
12 the license shall be revoked by the Board.

13 **"§ 18D-408. Use or consumption of marijuana or marijuana products on premises of**
14 **licensee by licensee, agent, or employee.**

15 No marijuana or marijuana products may be used or consumed on the premises of a licensee
16 by the licensee or any agent or employee of the licensee, except for certain sampling for quality
17 control purposes that may be permitted by Board rule.

18 **"§ 18D-409. Conditions under which the Board may refuse to grant licenses.**

19 The Board may refuse to grant any license if it has reasonable cause to believe that any of the
20 following conditions is met:

- 21 (1) The applicant, or if the applicant is a partnership, any general partner thereof,
22 or if the applicant is an association, any member thereof, or a limited partner
23 of ten percent (10%) or more with voting rights, or if the applicant is a
24 corporation, any officer, director, or shareholder owning ten percent (10%) or
25 more of its capital stock, or if the applicant is a limited liability company, any
26 member-manager or any member owning ten percent (10%) or more of the
27 membership interest of the limited liability company, satisfies any of the
28 following conditions:
- 29 a. Is not 21 years of age or older.
 - 30 b. Is not a resident of the State.
 - 31 c. Has been convicted in any court of any crime or offense involving
32 moral turpitude under the laws of any state or of the United States
33 within seven years of the date of the application or has not completed
34 all terms of sentencing and probation resulting from any such felony
35 conviction.
 - 36 d. Knowingly employs someone younger than 21 years of age.
 - 37 e. Is not the legitimate owner of the business proposed to be licensed, or
38 other persons have ownership interests in the business that have not
39 been disclosed.
 - 40 f. Has not demonstrated financial responsibility sufficient to meet the
41 requirements of the business proposed to be licensed.
 - 42 g. Has misrepresented a material fact in applying to the Board for a
43 license.
 - 44 h. Has defrauded or attempted to defraud the Board, or any federal, state,
45 or local government or governmental agency or authority, by making
46 or filing any report, document, or tax return required by statute or
47 rule that is fraudulent or contains a false representation of a material
48 fact; or has willfully deceived or attempted to deceive the Board, or
49 any federal, state, or local government or governmental agency or
50 authority, by making or maintaining business records required by
51 statute or rule that are false or fraudulent.

- 1 i. Is violating or allowing the violation of any provision of this Chapter
- 2 in his or her establishment at the time his or her application for a
- 3 license is pending.
- 4 j. Is a police officer with police authority in the political subdivision
- 5 within which the establishment designated in the application is
- 6 located.
- 7 k. Is a manufacturer, distributor, or retailer of alcoholic beverages
- 8 permitted under Chapter 18B of the General Statutes or a retailer of
- 9 tobacco or tobacco products.
- 10 l. Is physically unable to carry on the business for which the application
- 11 for a license is filed or has been adjudicated incapacitated.
- 12 (2) The place to be occupied by the applicant satisfies any of the following
- 13 conditions:
- 14 a. Does not conform to the requirements of the governing body of the
- 15 county, city, or town in which such place is located with respect to
- 16 sanitation, health, construction, or equipment, or to any similar
- 17 requirements established by the laws of the State or by Board rule.
- 18 b. Is so located that granting a license and operation thereunder by the
- 19 applicant would result in violations of this Chapter or Board rule or
- 20 violation of the laws of the State or local ordinances relating to peace
- 21 and good order.
- 22 c. Is so located with respect to any place of religious worship; hospital;
- 23 public, private, or parochial school or institution of higher education;
- 24 public or private playground or other similar recreational facility;
- 25 substance use disorder treatment facility; or federal, state, or local
- 26 government-operated facility that the operation of such place under
- 27 such license will adversely affect or interfere with the normal, orderly
- 28 conduct of the affairs of such facilities or institutions.
- 29 d. Is so located with respect to any residence or residential area that the
- 30 operation of such place under such license will adversely affect real
- 31 property values or substantially interfere with the usual quietude and
- 32 tranquility of such residence or residential area.
- 33 e. When the applicant is applying for a retail marijuana store license, is
- 34 located within 1,000 feet of an existing retail marijuana store.
- 35 f. Under a retail marijuana store license, is so constructed, arranged, or
- 36 illuminated that law enforcement officers and special agents of the
- 37 Board are prevented from ready access to and reasonable observation
- 38 of any room or area within which retail marijuana or retail marijuana
- 39 products are to be sold.
- 40 Nothing in this subdivision shall be construed to require an applicant to have
- 41 secured a place or premises until the final stage of the license approval
- 42 process.
- 43 (3) The number of licenses existing in the locality is such that the granting of a
- 44 license is detrimental to the interest, morals, safety, or welfare of the public.
- 45 In reaching such conclusion, the Board shall consider the (i) criteria
- 46 established by the Board to evaluate new licensees based on the density of
- 47 retail marijuana stores in the community; (ii) character of, population of,
- 48 number of similar licenses, and number of all licenses existent in the particular
- 49 county, city, or town and the immediate neighborhood concerned; (iii) effect
- 50 that a new license may have on such county, city, town, or neighborhood in

1 conforming with the purposes of this Chapter; and (iv) objections, if any, that
2 may have been filed by a local governing body or local residents.

3 (4) There exists any law, ordinance, or regulation of the United States, the State,
4 or any political subdivision thereof that warrants refusal by the Board to grant
5 any license.

6 (5) The Board is not authorized under this Chapter to grant such license.

7 **"§ 18D-410. Conditions under which the Board shall refuse to grant licenses.**

8 The Board shall refuse to grant any license to any member or employee of the Board or to
9 any corporation or other business entity in which such member or employee is a stockholder or
10 has any other economic interest. Whenever any other elected or appointed official of the State or
11 any political subdivision thereof applies for such a license or continuance thereof, he or she shall
12 state on the application the official position he or she holds, and whenever a corporation or other
13 business entity in which any such official is a stockholder or has any other economic interest
14 applies for such a license, it shall state on the application the full economic interests of each such
15 official in such corporation or other business entity.

16 **"§ 18D-411. Notice and hearings for refusal to grant licenses; Administrative Procedure**
17 **Act; exceptions.**

18 (a) The action of the Board in granting or in refusing to grant any license shall be subject
19 to judicial review in accordance with Chapter 150B of the General Statutes, except as provided
20 in subsections (b) or (c) of this section. Such review shall extend to the entire evidential record
21 of the proceedings provided by the Board. An appeal shall lie to the Court of Appeals from any
22 order of the court. Neither mandamus nor injunction shall lie in any such case.

23 (b) The Board may refuse a hearing on any application for the granting of any retail
24 marijuana store license, provided that any of the following conditions has been met:

25 (1) The license for the applicant has been refused or revoked within a period of
26 12 months.

27 (2) The license for any premises has been refused or revoked at that location
28 within a period of 12 months.

29 (3) The applicant, within a period of 12 months immediately preceding, has
30 permitted a license granted by the Board to expire for nonpayment of license
31 fee, and at the time of expiration of such license, there was a pending and
32 unadjudicated charge, either before the Board or in any court, against the
33 licensee alleging a violation of this Chapter.

34 (c) If an applicant has permitted a license to expire for nonpayment of license fee, and at
35 the time of expiration there remained unexecuted any period of suspension imposed upon the
36 licensee by the Board, the Board may refuse a hearing on an application for a new license until
37 after the date on which the suspension period would have been executed had the license not have
38 been permitted to expire.

39 "Article 5.

40 "Administration of Licenses. – Suspension and Revocation.

41 **"§ 18D-501. Grounds for which Board may suspend or revoke licenses.**

42 The Board may suspend or revoke any license if it has reasonable cause to believe that any
43 of the following conditions has been met:

44 (1) The licensee, or if the licensee is a partnership, any general partner thereof, or
45 if the licensee is an association, any member thereof, or a limited partner of
46 ten percent (10%) or more with voting rights, or if the licensee is a corporation,
47 any officer, director, or shareholder owning ten percent (10%) or more of its
48 capital stock, or if the licensee is a limited liability company, any
49 member-manager or any member owning ten percent (10%) or more of the
50 membership interest of the limited liability company, and any of the following
51 conditions has been met:

- 1 a. Has misrepresented a material fact in applying to the Board for such
2 license.
- 3 b. Within the five years immediately preceding the date of the hearing
4 held in accordance with this Chapter, committed a violation of Article
5 7, 8, or 9 of this Chapter; (ii) committed a violation of this Chapter in
6 bad faith; (iii) violated or failed or refused to comply with any
7 regulation, rule, or order of the Board; or (iv) failed or refused to
8 comply with any of the conditions or restrictions of the license granted
9 by the Board.
- 10 c. Has been convicted in any court of a felony or of any crime or offense
11 involving moral turpitude under the laws of any state, or of the United
12 States.
- 13 d. Is not the legitimate owner of the business conducted under the license
14 granted by the Board, or other persons have ownership interests in the
15 business that have not been disclosed.
- 16 e. Cannot demonstrate financial responsibility sufficient to meet the
17 requirements of the business conducted under the license granted by
18 the Board.
- 19 f. Has been intoxicated or under the influence of some self-administered
20 drug while upon the licensed premises.
- 21 g. Has maintained the licensed premises in an unsanitary condition, or
22 allowed such premises to become a meeting place or rendezvous for
23 members of a criminal gang, as defined in G.S. 14-50.16A, or persons
24 of ill repute, or has allowed any form of illegal gambling to take place
25 upon such premises.
- 26 h. Has allowed any person whom he or she knew or had reason to believe
27 was intoxicated to loiter upon such licensed premises.
- 28 i. Has allowed any person to consume upon the licensed premises any
29 marijuana or marijuana product except as provided under this Chapter.
- 30 j. Is physically unable to carry on the business conducted under such
31 license or has been adjudicated incapacitated.
- 32 k. Has possessed any illegal gambling apparatus, machine, or device
33 upon the licensed premises.
- 34 l. Has upon the licensed premises (i) illegally possessed, distributed,
35 sold, or used, or has knowingly allowed any employee or agent, or any
36 other person, to illegally possess, distribute, sell, or use, controlled
37 substances, imitation controlled substances, drug paraphernalia, or
38 controlled paraphernalia; (ii) laundered money; or (iii) conspired to
39 commit any drug-related offense in violation of Chapter 90 of the
40 General Statutes. The provisions of this subdivision also apply to any
41 conduct related to the operation of the licensed business that facilitates
42 the commission of any of the offenses set forth herein.
- 43 m. Has failed to take reasonable measures to prevent (i) the licensed
44 premises, (ii) any premises immediately adjacent to the licensed
45 premises that is owned or leased by the licensee, or (iii) any portion of
46 public property immediately adjacent to the licensed premises from
47 becoming a place where patrons of the establishment commit criminal
48 offenses, such violations lead to arrests that are so frequent and serious
49 as to reasonably be deemed a continuing threat to the public safety.
- 50 n. Has failed to take reasonable measures to prevent an act of violence
51 resulting in death or serious bodily injury, or a recurrence of such acts,

1 from occurring on (i) the licensed premises, (ii) any premises
2 immediately adjacent to the licensed premises that is owned or leased
3 by the licensee, or (iii) any portion of public property immediately
4 adjacent to the licensed premises.

5 o. Has been sanctioned by the North Carolina Board of Pharmacy.

6 p. Has refused to (i) pay employees prevailing wages as determined by
7 the U.S. Department of Labor or (ii) classify no more than ten percent
8 (10%) of its workers as independent contractors.

9 (2) The place occupied by the licensee meets any of the following conditions:

10 a. Does not conform to the requirements of the governing body of the
11 county, city, or town in which such establishment is located, with
12 respect to sanitation, health, construction, or equipment, or to any
13 similar requirements established by the laws of the State or by Board
14 rules.

15 b. Has been adjudicated a nuisance.

16 c. Has become a meeting place or rendezvous for illegal gambling, illegal
17 users of narcotics, drunks, prostitutes, pimps, panderers, or habitual
18 law violators or has become a place where illegal drugs are regularly
19 used or distributed. The Board may consider the general reputation in
20 the community of such establishment in addition to any other
21 competent evidence in making such determination.

22 (3) The licensee or any employee of the licensee discriminated against any
23 member of the Armed Forces of the United States by prices charged or
24 otherwise.

25 (4) Any cause exists for which the Board would have been entitled to refuse to
26 grant such license had the facts been known.

27 (5) The licensee is delinquent for a period of 90 days or more in the payment of
28 any taxes, or any penalties or interest related thereto, lawfully imposed by the
29 locality where the licensed business is located, as certified by the treasurer,
30 commissioner of the revenue, or finance director of such locality, unless (i)
31 the outstanding amount is de minimis; (ii) the licensee has pending a bona fide
32 application for correction or appeal with respect to such taxes, penalties, or
33 interest; or (iii) the licensee has entered into a payment plan approved by the
34 same 7213 locality to settle the outstanding liability.

35 (6) The licensee has been convicted for a violation of 8 U.S.C. § 1324a(f), as
36 amended, for actions of its agents or employees constituting a pattern or
37 practice of employing unauthorized aliens on the licensed premises in the
38 State.

39 (7) Any other cause authorized by this Chapter.

40 **§ 18D-502. Summary suspension in emergency circumstances; grounds; notice and**
41 **hearing.**

42 (a) Notwithstanding any provision of law to the contrary, the Board may summarily
43 suspend any license or permit if it has reasonable cause to believe that an act of violence resulting
44 in death or serious bodily injury, or a recurrence of such acts, has occurred on (i) the licensed
45 premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased
46 by the licensee, or (iii) any portion of public property immediately adjacent to the licensed
47 premises, and the Board finds that there exists a continuing threat to public safety and that
48 summary suspension of the license or permit is justified to protect the health, safety, or welfare
49 of the public.

50 (b) Prior to issuing an order of suspension pursuant to this section, special agents of the
51 Board shall conduct an initial investigation and submit all findings to the Secretary of the Board

1 within 48 hours of any such act of violence. If the Board determines suspension is warranted, it
2 shall immediately notify the licensee of its intention to temporarily suspend his or her license
3 pending the outcome of a formal investigation. Such temporary suspension shall remain effective
4 for a minimum of 48 hours. After the 48-hour period, the licensee may petition the Board for a
5 restricted license pending the results of the formal investigation and proceedings for disciplinary
6 review. If the Board determines that a restricted license is warranted, the Board shall have
7 discretion to impose appropriate restrictions based on the facts presented.

8 (c) Upon a determination to temporarily suspend a license, the Board shall immediately
9 commence a formal investigation. The formal investigation shall be completed within 10 days of
10 its commencement and the findings reported immediately to the Secretary of the Board. If,
11 following the formal investigation, the Secretary of the Board determines that suspension of the
12 license is warranted, a hearing shall be held within five days of the completion of the formal
13 investigation. A decision shall be rendered within 10 days of the conclusion of the hearing. If a
14 decision is not rendered within 10 days of the conclusion of the hearing, the order of suspension
15 shall be vacated and the license reinstated. Any appeal by the licensee shall be filed within 10
16 days of the decision and heard by the Board within 20 days of the decision. The Board shall
17 render a decision on the appeal within 10 days of the conclusion of the appeal hearing.

18 (d) Service of any order of suspension issued pursuant to this section shall be made by a
19 special agent of the Board in person and by certified mail to the licensee. The order of suspension
20 shall take effect immediately upon service.

21 (e) This section shall not apply to temporary permits granted under this Chapter.

22 **"§ 18D-503. Grounds for which Board shall suspend or revoke licenses.**

23 The Board shall suspend or revoke any license if it finds that either of the following
24 conditions is met:

25 (1) A licensee has violated or permitted a violation of relating to the illegal
26 possession of a gambling device upon the premises for which the Board has
27 granted a retail marijuana store license.

28 (2) A licensee has defrauded or attempted to defraud the Board, or any federal,
29 state, or local government or governmental agency or authority, by making or
30 filing any report, document, or tax return required by statute or regulation that
31 is fraudulent or contains a willful or knowing false representation of a material
32 fact or has willfully deceived or attempted to deceive the Board, or any
33 federal, state, or local government or governmental agency or authority, by
34 making or maintaining business records required by statute or regulation that
35 are false or fraudulent.

36 **"§ 18D-504. Suspension or revocation of licenses; notice and hearings; imposition of civil**
37 **penalties.**

38 (a) Before the Board may suspend or revoke any license, reasonable notice of such
39 proposed or contemplated action shall be given to the licensee in accordance with the provisions
40 of Chapter 150B of the General Statutes. Notwithstanding any provision of law to the contrary,
41 the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or
42 photograph all (i) written or recorded statements made by the licensee or copies thereof or the
43 substance of any oral statements made by the licensee or a previous or present employee of the
44 licensee to any law enforcement officer, the existence of which is known by the Board and upon
45 which the Board intends to rely as evidence in any adversarial proceeding under this Chapter
46 against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or
47 places, or copies or portions thereof, that are within the possession, custody, or control of the
48 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under
49 this Chapter against the licensee. In addition, any subpoena for the production of documents
50 issued to any person at the request of the licensee or the Board shall provide for the production
51 of the documents sought within 10 working days, notwithstanding any provision of law to the

1 contrary. If the Board fails to provide for inspection or copying under this section for the licensee
2 after a written request, the Board shall be prohibited from introducing into evidence any items
3 the licensee would have lawfully been entitled to inspect or copy under this section. The action
4 of the Board in suspending or revoking any license or in imposing a civil penalty shall be subject
5 to judicial review in accordance with Chapter 150B of the General Statutes. Such review shall
6 extend to the entire evidential record of the proceedings provided by the Board in accordance
7 with Chapter 150B of the General Statutes. An appeal shall lie to the Court of Appeals from any
8 order of the court. Notwithstanding any provision of law to the contrary, the final judgment or
9 order of the lower court shall not be suspended, stayed, or modified pending appeal to the Court
10 of Appeals. Neither mandamus nor injunction shall lie in any such case.

11 (b) In suspending any license the Board may impose, as a condition precedent to the
12 removal of such suspension or any portion thereof, a requirement that the licensee pay the cost
13 incurred by the Board in investigating the licensee and in holding the proceeding resulting in
14 such suspension, or it may impose and collect such civil penalties as it deems appropriate. In no
15 event shall the Board impose a civil penalty exceeding two thousand dollars (\$2,000) for the first
16 violation occurring within five years immediately preceding the date of the violation or five
17 thousand dollars (\$5,000) for the second or subsequent violation occurring within five years
18 immediately preceding the date of the second or subsequent violation. However, if the violation
19 involved selling retail marijuana or retail marijuana products to a person prohibited from
20 purchasing retail marijuana or retail marijuana products or allowing consumption of retail
21 marijuana or retail marijuana products, the Board may impose a civil penalty not to exceed three
22 thousand dollars (\$3,000) for the first violation occurring within five years immediately
23 preceding the date of the violation and six thousand dollars (\$6,000) for a second or subsequent
24 violation occurring within five years immediately preceding the date of the second or subsequent
25 violation in lieu of such suspension or any portion thereof, or both. The Board may also impose
26 a requirement that the licensee pay for the cost incurred by the Board not exceeding twenty-five
27 thousand dollars (\$25,000) in investigating the licensee and in holding the proceeding resulting
28 in the violation in addition to any suspension or civil penalty incurred.

29 (c) Following notice to (i) the licensee of a hearing that may result in the suspension or
30 revocation of his or her license or (ii) the applicant of a hearing to resolve a contested application,
31 the Board may accept a consent agreement. The notice shall advise the licensee or applicant of
32 the option to admit the alleged violation or the validity of the objection; waive any right to a
33 hearing or an appeal; and accept the proposed restrictions for operating under the license, accept
34 the period of suspension of the licensed privileges within the Board's parameters, pay a civil
35 penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or
36 proceed to a hearing.

37 (d) The Board shall do all of the following by rule or written order:

- 38 (1) Designate those (i) objections to an application or (ii) alleged violations that
39 will proceed to an initial hearing.
- 40 (2) Designate the violations for which a waiver of a hearing and payment of a
41 civil charge in lieu of suspension may be accepted for a first offense occurring
42 within three years immediately preceding the date of the violation.
- 43 (3) Provide for a reduction in the length of any suspension and a reduction in the
44 amount of any civil penalty for any retail marijuana store licensee where the
45 licensee can demonstrate that it provided to its employees marijuana seller
46 training certified in advance by the Board.
- 47 (4) Establish a schedule of penalties for such offenses, prescribing the appropriate
48 suspension of a license and the civil charge acceptable in lieu of such
49 suspension.
- 50 (5) Establish a schedule of offenses for which any penalty may be waived upon a
51 showing that the licensee has had no prior violations within five years

1 immediately preceding the date of the violation. No waiver shall be granted
2 by the Board, however, for a licensee's willful and knowing violation of this
3 Chapter or Board rules.

4 **"§ 18D-505. Suspension or revocation; disposition of retail marijuana or retail marijuana**
5 **products on hand; termination.**

6 (a) Retail marijuana or retail marijuana products owned by or in the possession of or for
7 sale by any licensee at the time the license of such person is suspended or revoked may be
8 disposed of through either of the following:

9 (1) Sold to persons in the State licensed to sell such retail marijuana or retail
10 marijuana products upon permits granted by the Board and conditions
11 specified by the Board.

12 (2) Provided to the local law enforcement agency to be destroyed.

13 (b) All retail marijuana or retail marijuana products owned by or in the possession of any
14 person whose license is suspended or revoked shall be disposed of by such person in accordance
15 with the provisions of this section within 60 days from the date of such suspension or revocation.

16 (c) Retail marijuana or retail marijuana products owned by or in the possession of or for
17 sale by persons whose licenses have been terminated other than by suspension or revocation may
18 be disposed of in accordance with subsection (a) of this section within such time as the Board
19 deems proper. Such period shall not be less than 60 days.

20 (d) All retail marijuana or retail marijuana products owned by or remaining in the
21 possession of any person described in subsection (a) or (c) of this section after the expiration of
22 such period shall be deemed contraband and forfeited to the State.

23 "Article 6.

24 "Administration of Licenses. – Applications; Fees; Taxes.

25 **"§ 18D-600. Applications for licenses; publication; notice to localities; fees; permits.**

26 (a) Every person intending to apply for any license authorized by this Chapter shall file
27 with the Board an application on forms provided by the Board and a statement in writing by the
28 applicant swearing and affirming that all of the information contained therein is true. Applicants
29 for licenses for establishments that are otherwise required to obtain an inspection shall provide
30 proof of inspection or proof of a pending request for such inspection. If the applicant provides
31 proof of inspection or proof of a pending request for an inspection, a license may be issued to the
32 applicant. If a license is issued on the basis of a pending application or inspection, such license
33 shall authorize the licensee to purchase retail marijuana, retail marijuana products, immature
34 marijuana plants, or marijuana seeds in accordance with the provisions of this Chapter; however,
35 the licensee shall not sell retail marijuana, retail marijuana products, immature marijuana plants,
36 or marijuana seeds until an inspection is completed.

37 (b) In addition, each applicant for a license under the provisions of this Chapter shall post
38 a notice of his or her application with the Board on the front door of the building, place, or room
39 where he proposes to engage in such business for no more than 30 days and not less than 10 days.
40 Such notice shall be of a size and contain such information as required by the Board, including a
41 statement that any objections shall be submitted to the Board not more than 30 days following
42 initial posting of the notice required pursuant to this subsection. The applicant shall also cause
43 notice to be published at least once a week for two consecutive weeks in a newspaper published
44 in or having a general circulation in the county, city, or town wherein such applicant proposes to
45 engage in such business. Such notice shall contain such information as required by the Board,
46 including a statement that any objections to the issuance of the license be submitted to the Board
47 not later than 30 days from the date of the initial newspaper publication. The Board shall conduct
48 a background investigation, to include a criminal history records search, which may include a
49 fingerprint-based national criminal history records search, on each applicant for a license.
50 However, the Board may waive, for good cause shown, the requirement for a criminal history
51 records search and completed personal data form for officers, directors, nonmanaging members,

1 or limited partners of any applicant corporation, limited liability company, or limited partnership.
2 In considering criminal history record information, the Board shall not disqualify an applicant
3 because of a past conviction for a marijuana-related offense. The Board shall notify the local
4 governing body of each license application through the town manager, city manager, county
5 administrator, or other designee of the locality. Local governing bodies shall submit objections
6 to the granting of a license within 30 days of the filing of the application.

7 (c) Each applicant shall pay the required application fee at the time the application is
8 filed, except that such fee shall be waived or discounted for qualified social equity applicants
9 pursuant to rules promulgated by the Board. The license application fee shall be determined by
10 the Board and shall be in addition to the actual cost charged for processing any fingerprints for
11 each criminal history records search required by the Board. Application fees shall be in addition
12 to the State license fee required pursuant to this Chapter and shall not be refunded.

13 (d) Subsection (a) of this section shall not apply to the continuance of licenses granted
14 under this Chapter; however, all licensees shall file and maintain with the Board a current,
15 accurate record of the information required by the Board pursuant to subsection (a) of this section
16 and notify the Board of any changes to such information in accordance with Board rules.

17 (e) Every application for a permit granted pursuant to G.S. 18D-406 shall be on a form
18 provided by the Board. Such permits shall confer upon their holders no authority to make
19 solicitations in the State as otherwise provided by law. The fee for a temporary permit shall be
20 one-twelfth of the combined fees required by this section for applicable licenses to sell retail
21 marijuana or retail marijuana products computed to the nearest cent and multiplied by the number
22 of months for which the permit is granted.

23 (f) The Board shall have the authority to increase State license fees. The Board shall set
24 the amount of such increases on the basis of the consumer price index and shall not increase fees
25 more than once every three years. Prior to implementing any State license fee increase, the Board
26 shall provide notice to all licensees and the general public of (i) the Board's intent to impose a
27 fee increase and (ii) the new fee that would be required for any license affected by the Board's
28 proposed fee increases. Such notice shall be provided on or before November 1 in any year in
29 which the Board has decided to increase state license fees, and such increases shall become
30 effective July 1 of the following year.

31 **"§ 18D-601. Fees for State licenses.**

32 (a) The annual fees on State licenses shall be determined by the Board.

33 (b) The fee on each license granted or reissued for a period other than 12, 24, or 36 months
34 shall be equal to one-twelfth of the fees required by subsection (a) of this section, computed to
35 the nearest cent, multiplied by the number of months in the license period, and then increased by
36 five percent (5%). Such fee shall not be refundable, except as provided in G.S. 18D-602.

37 (c) Nothing in this Chapter shall exempt any licensee from any other applicable fees or
38 taxes required under State law.

39 (d) In addition to the fees set forth in this section, a fee of five dollars (\$5.00) may be
40 imposed on any license purchased in person from the Board if such license is available for
41 purchase online.

42 **"§ 18D-602. Refund of State license fee.**

43 (a) The Board may correct erroneous assessments made by it against any person and
44 make refunds of any amounts collected pursuant to erroneous assessments, or collected as fees
45 on licenses, that are subsequently refused or application therefor withdrawn, and to allow credit
46 for any license fees paid by any licensee for any license that is subsequently merged or changed
47 into another license during the same license period. No refund shall be made of any such amount,
48 however, unless made within three years from the date of collection of the same.

49 (b) In any case where a licensee has changed its name or form of organization during a
50 license period without any change being made in its ownership, and because of such change is

1 required to pay an additional license fee for such period, the Board shall refund to such licensee
2 the amount of such fee so paid in excess of the required license fee for such period.

3 (c) The Board shall make refunds, prorated according to a schedule of its prescription, to
4 licensees of State license fees paid pursuant to subsection (a) of G.S. 18D-601 if the place of
5 business designated in the license is destroyed by an act of God, including, but not limited to,
6 fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

7 (d) Any amount required to be refunded under this section shall be paid out of moneys
8 appropriated to the Board.

9 **"§ 18D-603. Marijuana tax; exceptions.**

10 (a) A tax of twenty-one percent (21%) is levied on the sale in the State of any retail
11 marijuana, retail marijuana products, marijuana paraphernalia sold by a retail marijuana store,
12 non-retail marijuana, and non-retail marijuana products. The tax shall be in addition to any tax
13 imposed under any other provision of federal, State, or local law.

14 (b) The tax shall not apply to any of the following sales:

15 (1) From a marijuana establishment to another marijuana establishment.

16 (2) Of cannabis oil for treatment allowed by law.

17 (3) Of industrial hemp by a grower, processor, or dealer under the provisions of
18 Article 50F of Chapter 106 of the General Statutes.

19 (4) Of industrial hemp extract or food containing an industrial hemp extract under
20 the provisions of Article 50F of Chapter 106 of the General Statutes.

21 (c) All revenues remitted to the Commission under this section shall be disposed of as
22 provided in G.S. 18D-211.

23 **"§ 18D-604. Optional local marijuana tax.**

24 (a) Any locality may by ordinance levy a three percent (3%) tax on any sale taxable under
25 G.S. 18D-603. The tax shall be in addition to any local sales tax imposed by law. Other than the
26 taxes authorized and identified in this subsection, a locality shall not impose any other tax on a
27 sale taxable under G.S. 18D-603.

28 (b) If a city or town imposes a tax under this section, any tax imposed by its surrounding
29 county under this section shall not apply within the limits of the city or town.

30 (c) Nothing in this section shall be construed to prohibit a locality from imposing any tax
31 authorized by law on a person or property regulated under this Chapter. Nothing in this section
32 shall be construed to limit the authority of any locality to impose a license or privilege tax or fee
33 on a business engaged in whole or in part in sales taxable under G.S. 18D-603 if such tax or fee
34 is (i) based on an annual or per-event flat fee authorized by law or (ii) is an annual license or
35 privilege tax authorized by law, and such tax includes sales or receipts taxable under
36 G.S. 18D-603 in its taxable measure.

37 (d) Any locality that enacts an ordinance pursuant to subsection (a) of this section shall,
38 within 30 days, notify the Commission and any retail marijuana store in such locality of the
39 ordinance's enactment. The ordinance shall take effect on the first day of the second month
40 following its enactment.

41 (e) Any tax levied under this section shall be administered and collected by the
42 Commission in the same manner as provided for the tax imposed under G.S. 18D-603.

43 (f) All revenues remitted to the Commission under this section shall be disposed of as
44 provided in G.S. 18D-211.

45 **"§ 18D-605. Tax returns and payments; commissions; interest.**

46 (a) For any sale taxable under G.S. 18D-603 and G.S. 18D-604, the seller shall be liable
47 for collecting any taxes due. All taxes collected by a seller shall be deemed to be held in trust for
48 the State. The buyer shall not be liable for collecting or remitting the taxes or filing a return.

49 (b) On or before the tenth day of each month, any person liable for a tax due under
50 G.S. 18D-603 and G.S. 18D-604 shall file a return under oath with the Commission and pay any
51 taxes due. Upon written application by a person filing a return, the Commission may, if it

1 determines good cause exists, grant an extension to the end of the calendar month in which the
2 tax is due, or for a period not exceeding 30 days. Any extension shall toll the accrual of any
3 interest or penalties under G.S. 18D-608.

4 (c) The Commission may accept payment by any commercially acceptable means,
5 including cash, checks, credit cards, debit cards, and electronic funds transfers, for any taxes,
6 interest, or penalties due under this Chapter. The Board may assess a service charge for the use
7 of a credit or debit card.

8 (d) Upon request, the Commission may collect and maintain a record of a person's credit
9 card, debit card, or automated clearinghouse transfer information and use such information for
10 future payments of taxes, interest, or penalties due under this Chapter. The Commission may
11 assess a service charge for any payments made under this subsection. The Commission may
12 procure the services of a third-party vendor for the secure storage of information collected
13 pursuant to this subsection.

14 (e) If any person liable for tax under G.S. 18D-603 and G.S. 18D-604 sells out his or her
15 business or stock of goods or quits the business, such person shall make a final return and
16 payment within 15 days after the date of selling or quitting the business. Such person's successors
17 or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such
18 taxes, interest, and penalties due and unpaid until such former owner produces a receipt from the
19 Commission showing payment or a certificate stating that no taxes, penalties, or interest are due.
20 If the buyer of a business or stock of goods fails to withhold the purchase money as provided in
21 this subsection, such buyer shall be liable for the payment of the taxes, interest, and penalties due
22 and unpaid on account of the operation of the business by any former owner.

23 (f) When any person fails to timely pay the full amount of tax due under G.S. 18D-603
24 or G.S. 18D-604, interest at a rate determined in accordance with applicable law by the Board
25 shall accrue on the tax until it is paid. Any taxes due under G.S. 18D-603 or G.S. 18D-604 shall,
26 if applicable, be subject to penalties as provided in G.S. 18D-806 and G.S. 18D-807.

27 **"§ 18D-606. Bonds.**

28 The Commission may, when deemed necessary and advisable to do so in order to secure the
29 collection of the taxes levied under G.S. 18D-603 and G.S. 18D-604, require any person subject
30 to such tax to file a bond, with such surety as it determines is necessary to secure the payment of
31 any tax, penalty, or interest due or that may become due from such person. In lieu of such bond,
32 securities approved by the Commission may be deposited with the State Treasurer, which
33 securities shall be kept in the custody of the State Treasurer, and shall be sold by the State
34 Treasurer at the request of the Commission at public or private sale if it becomes necessary to do
35 so in order to recover any tax, interest, or penalty due the State. Upon any such sale, the surplus,
36 if any, above the amounts due shall be returned to the person who deposited the securities.

37 **"§ 18D-607. Refunds.**

38 (a) Whenever it is proved to the satisfaction of the Commission that any taxes levied
39 pursuant to G.S. 18D-603 or G.S. 18D-604 have been paid and that the taxable items were or are
40 (i) damaged, destroyed, or otherwise deemed to be unsalable by reason of fire or any other
41 providential cause before sale to the consumer; (ii) destroyed voluntarily because the taxable
42 items were defective and after notice to and approval by the Commission of such destruction; or
43 (iii) destroyed in any manner while in the possession of a common, private, or contract carrier,
44 the Commission shall certify such facts for approval of a refund payment to such extent as may
45 be proper.

46 (b) Whenever it is proved to the satisfaction of the Commission that any person has
47 purchased taxable items that have been sold by such person in such manner as to be exempt from
48 the tax, the Commission shall certify such facts for approval of a refund payment to such extent
49 as may be proper.

50 (c) In the event purchases are returned to the seller by the buyer after a tax imposed under
51 G.S. 18D-603 or G.S. 18D-604 has been collected or charged to the account of the buyer, the

1 seller shall be entitled to a refund of the amount of tax so collected or charged in the manner
2 prescribed by the Commission. The amount of tax so refunded to the seller shall not, however,
3 include the tax paid upon any amount retained by the seller after such return of merchandise. In
4 case the tax has not been remitted by the seller, the seller may deduct the same in submitting his
5 or her return.

6 **"§ 18D-608. Statute of limitations; civil remedies for collecting past-due taxes, interest, and**
7 **penalties.**

8 (a) The taxes imposed under G.S. 18D-603 and G.S. 18D-604 shall be assessed within
9 three years from the date on which such taxes became due and payable. In the case of a false or
10 fraudulent return with intent to defraud the State, or a failure to file a return, the taxes may be
11 assessed, or a proceeding in court for the collection of such taxes may be begun without
12 assessment, at any time within six years from such date. The Commission shall not examine any
13 person's records beyond the three-year period of limitations unless it has reasonable evidence of
14 fraud or reasonable cause to believe that such person was required by law to file a return and
15 failed to do so.

16 (b) If any person fails to file a return as required by this section, or files a return that is
17 false or fraudulent, the Commission may make an estimate for the taxable period of the taxable
18 sales of such person and assess the tax, plus any applicable interest and penalties. The
19 Commission shall give such person 10 days' notice requiring such person to provide any records
20 as it may require relating to the business of such person for the taxable period. The Commission
21 may require such person or the agents and employees of such person to give testimony or to
22 answer interrogatories under oath administered by the Commission respecting taxable sales, the
23 filing of the return, and any other relevant information. If any person fails to file a required return,
24 refuses to provide required records, or refuses to answer interrogatories from the Commission,
25 the Commission may make an estimated assessment based upon the information available to it
26 and issue a memorandum of lien under subsection (c) of this section for the collection of any
27 taxes, interest, or penalties. The estimated assessment shall be deemed prima facie correct.

28 (c) All of the following apply for failing to comply with the requirements of this section:

29 (1) If the Commission assesses taxes, interest, or penalties on a person and such
30 person does not pay within 30 days after the due date, taking into account any
31 extensions granted by the Commission, the Commission may file a
32 memorandum of lien in the superior court clerk's office of the county or city
33 in which the person's place of business is located or in which the person
34 resides. If the person has no place of business or residence within the State,
35 the memorandum may be filed in the Wake County Superior Court. A copy of
36 the memorandum may also be filed in the clerk's office of all counties and
37 cities in which the person owns real estate. Such memorandum shall be
38 recorded in the judgment docket book and shall have the effect of a judgment
39 in favor of the State, to be enforced as provided by applicable law. The lien
40 on real estate shall become effective at the time the memorandum is filed in
41 the jurisdiction in which the real estate is located. No memorandum of lien
42 shall be filed unless the person is first given 10 or more days' prior notice of
43 intent to file a lien; however, in those instances where the Commission
44 determines that the collection of any tax, penalties, or interest required to be
45 paid pursuant to law will be jeopardized by the provision of such notice,
46 notification may be provided to the person concurrent with the filing of the
47 memorandum of lien. Such notice shall be given to the person at his last
48 known address.

49 (2) Recordation of a memorandum of lien under this subsection shall not affect a
50 person's right to appeal under G.S. 18D-609.

1 (3) If after filing a memorandum of lien the Commission determines that it is in
2 the best interest of the State, it may place padlocks on the doors of any
3 business enterprise that is delinquent in filing or paying any tax owed to the
4 State. The Commission shall also post notices of distraint on each of the doors
5 so padlocked. If after three business days, the tax deficiency has not been
6 satisfied or satisfactory arrangements for payment made, the Commission may
7 cause a writ of fieri facias to be issued. It shall be a Class A1 misdemeanor
8 for anyone to enter the padlocked premises without prior approval of the
9 Commission. In the event that the person against whom the distraint has been
10 applied subsequently appeals under G.S. 18D-609, the person shall have the
11 right to post bond equaling the amount of liability in lieu of payment until the
12 appeal is resolved.

13 (4) A person may petition the Commission after a memorandum of lien has been
14 filed under this subsection if the person alleges an error in the filing of the
15 lien. The Commission shall make a determination on such petition within 14
16 days. If the Commission determines that the filing was erroneous, it shall issue
17 a certificate of release of the lien within seven days after such determination
18 is made.

19 **"§ 18D-609. Appeals.**

20 Any tax imposed under G.S. 18D-603 or G.S. 18D-604, any interest imposed under
21 G.S. 18D-608, any action of the State under G.S. 18D-804, and any penalty imposed under
22 G.S. 18D-806 or G.S. 18D-807 shall be subject to review under Chapter 150B of the General
23 Statutes. Such review shall extend to the entire evidential record of the proceedings provided by
24 the Commission in accordance with the Chapter 150B of the General Statutes. An appeal shall
25 lie to the Court of Appeals from any order of a superior court. Notwithstanding any provision of
26 law to the contrary, the final judgment or order of a superior court shall not be suspended, stayed,
27 or modified by such superior court pending appeal to the Court of Appeals. Neither mandamus
28 nor injunction shall lie in any such case.

29 "Article 7.

30 "Possession of Retail Marijuana and Retail Marijuana Products. – Prohibited Practices
31 Generally.

32 **"§ 18D-700. Possession, etc., of marijuana and marijuana products by persons 21 years of**
33 **age or older lawful; penalties.**

34 (a) Except as otherwise provided in this Chapter and notwithstanding any other provision
35 of law, a person 21 years of age or older may lawfully possess on his or her person or in any
36 public place not more than two ounces of marijuana or an equivalent amount of marijuana
37 product as determined by rule promulgated by the Board.

38 (b) Any person who possesses on his or her person or in any public place marijuana or
39 marijuana products in excess of the amounts set forth in subsection (a) of this section is subject
40 to a civil penalty of no more than twenty-five dollars (\$25.00).

41 (c) With the exception of a licensee in the course of his or her duties related to such
42 licensee's marijuana establishment, any person who possesses on his or her person or in any
43 public place more than one pound of marijuana or an equivalent amount of marijuana product as
44 determined by rule promulgated by the Board is guilty of a Class F felony, including a fine of
45 not more than two hundred fifty thousand dollars (\$250,000).

46 (d) The provisions of this section shall not apply to members of federal, State, county,
47 city, or town law enforcement agencies, jail officers, or correctional officers certified as handlers
48 of dogs trained in the detection of controlled substances when possession of marijuana is
49 necessary for the performance of their duties.

50 **"§ 18D-701. Home cultivation of marijuana for personal use; penalties.**

1 (a) A person 21 years of age or older may cultivate up to two mature marijuana plants
2 and two immature marijuana plants for personal use at their place of residence; however, at no
3 point shall a household contain more than two mature marijuana plants and two immature
4 marijuana plants. For purposes of this section, a "household" means those individuals, whether
5 related or not, who live in the same house or other place of residence. A person may only cultivate
6 marijuana plants pursuant to this section at such person's main place of residence.

7 (b) A person who cultivates marijuana for personal use pursuant to this section shall do
8 all of the following:

9 (1) Ensure that the marijuana is cultivated indoors and is not visible from a public
10 way without the use of aircraft, binoculars, or other optical aids.

11 (2) Take precautions to prevent unauthorized access by persons younger than 21
12 years of age.

13 (3) Attach to each mature marijuana plant and immature marijuana plant a legible
14 tag that includes the person's name, driver's license or identification number,
15 and a notation that the marijuana plant is being grown for personal use as
16 authorized under this section.

17 (c) A person shall not manufacture marijuana concentrate from home-cultivated
18 marijuana. The owner of a property or parcel or tract of land may not intentionally or knowingly
19 allow another person to manufacture marijuana concentrate from home-cultivated marijuana
20 within or on that property or land.

21 (d) The following penalties or punishments shall be imposed on any person convicted of
22 a violation of this section:

23 (1) For possession of more than two mature marijuana plants and two immature
24 marijuana plants but no more than 10 total marijuana plants, (i) a civil penalty
25 of two hundred fifty dollars (\$250.00) for a first offense, (ii) a Class 2
26 misdemeanor for a second offense, and (iii) a Class 1 misdemeanor for a third
27 and any subsequent offense.

28 (2) For possession of more than 10 but no more than 49 marijuana plants, a Class
29 A1 misdemeanor.

30 (3) For possession of more than 49 but no more than 100 marijuana plants, a Class
31 I felony.

32 (4) For possession of more than 100 marijuana plants, a Class F felony, including
33 a fine of not more than two hundred fifty thousand dollars (\$250,000).

34 **"§ 18D-702. Illegal cultivation or manufacture of marijuana or marijuana products;**
35 **conspiracy; penalties.**

36 (a) Except as otherwise provided in this Chapter, no person shall cultivate or manufacture
37 marijuana or marijuana products in the State without being licensed under this Chapter to
38 cultivate or manufacture such marijuana or marijuana products.

39 (b) Any person convicted of a violation of this section is guilty of a Class I felony.

40 (c) If two or more persons conspire together to do any act that is in violation of subsection
41 (a) of this section, and one or more of such persons does any act to effect the object of the
42 conspiracy, each of the parties to such conspiracy is guilty of a Class I felony.

43 **"§ 18D-703. Illegal sale of marijuana or marijuana products in general; penalties.**

44 (a) For the purposes of this section, "adult sharing" means transferring marijuana between
45 persons who are 21 years of age or older without remuneration. "Adult sharing" does not include
46 instances in which (i) marijuana is given away contemporaneously with another reciprocal
47 transaction between the same parties; (ii) a gift of marijuana is offered or advertised in
48 conjunction with an offer for the sale of goods or services; or (iii) a gift of marijuana is contingent
49 upon a separate reciprocal transaction for goods or services.

50 (b) If any person who is not licensed sells, gives, or distributes any marijuana or
51 marijuana products except as permitted by this Chapter or provided in subsection (c) of this

1 section, the person is guilty of a Class 1 misdemeanor. A second or subsequent conviction under
2 this section shall constitute a Class A1 misdemeanor.

3 (c) No civil or criminal penalty may be imposed for adult sharing of an amount of
4 marijuana that does not exceed two ounces or of an equivalent amount of marijuana products or
5 concentrate.

6 **"§ 18D-704. Persons to whom marijuana or marijuana products may not be sold; proof of**
7 **legal age; penalties.**

8 (a) No person shall, except as otherwise provided in this Chapter, sell, give, or distribute
9 any marijuana or marijuana products to any individual when at the time of such sale he or she
10 knows or has reason to believe that the individual to whom the sale is made is (i) younger than
11 21 years of age or (ii) intoxicated. Any person convicted of a violation of this subsection is guilty
12 of a Class A1 misdemeanor.

13 (b) It is unlawful for any person 21 years of age or older to sell or distribute, or possess
14 with the intent to sell or distribute, marijuana paraphernalia to any person younger than 21 years
15 of age. Any person who violates this subsection is guilty of a Class A1 misdemeanor.

16 (c) It is unlawful for any person 21 years of age or older to place in any newspaper,
17 magazine, handbill, or other publication any advertisement, knowing or under circumstances
18 where one reasonably should know, that the purpose of the advertisement, in whole or in part, is
19 to promote the sale of marijuana paraphernalia to persons younger than 21 years of age. Any
20 person who violates this subsection is guilty of a Class A1 misdemeanor.

21 (d) Any person who sells, except as otherwise provided in this Chapter, any marijuana or
22 marijuana products to an individual who is younger than 21 years of age and at the time of the
23 sale does not require the individual to present bona fide evidence of legal age indicating that the
24 individual is 21 years of age or older is guilty of a violation of this subsection. Bona fide evidence
25 of legal age is limited to any evidence that is or reasonably appears to be an unexpired driver's
26 license issued by any state of the United States or the District of Columbia, military identification
27 card, United States passport or foreign government visa, unexpired special identification card
28 issued by the Division of Motor Vehicles, or any other valid government-issued identification
29 card bearing the individual's photograph, signature, height, weight, and date of birth, or which
30 bears a photograph that reasonably appears to match the appearance of the purchaser. A student
31 identification card shall not constitute bona fide evidence of legal age for purposes of this
32 subsection. Any person convicted of a violation of this subsection is guilty of a Class 2
33 misdemeanor. Notwithstanding any provision of law to the contrary, the Board shall not take
34 administrative action against a licensee for the conduct of his employee who violates this
35 subsection.

36 (e) No person shall be convicted of both subsections (a) and (d) of this section for the
37 same sale.

38 **"§ 18D-705. Purchasing of marijuana or marijuana products unlawful in certain cases;**
39 **venue; exceptions; penalties; forfeiture; deferred proceedings; treatment and**
40 **education programs and services.**

41 (a) No person to whom retail marijuana or retail marijuana products may not lawfully be
42 sold under this Chapter shall consume, purchase, or possess, or attempt to consume, purchase, or
43 possess, any marijuana or marijuana products, except (i) pursuant to G.S. 18D-300 or (ii) by any
44 federal, State, or local law enforcement officer or his or her agent when possession of marijuana
45 or marijuana products is necessary in the performance of his or her duties. Such person may be
46 prosecuted either in the county or city in which the marijuana or marijuana products were
47 possessed or consumed or in the county or city in which the person exhibits evidence of physical
48 indicia of consumption of marijuana or marijuana products.

49 (b) Any person 18 years of age or older who violates subsection (a) of this section is
50 subject to a civil penalty of no more than twenty-five dollars (\$25.00) and shall be ordered to

1 enter a substance abuse treatment or education program or both, if available, that in the opinion
2 of the court best suits the needs of the accused.

3 (c) Any juvenile who violates subsection (a) of this section is subject to a civil penalty of
4 no more than twenty-five dollars (\$25.00) and the court shall require the accused to enter a
5 substance abuse treatment or education program or both, if available, that in the opinion of the
6 court best suits the needs of the accused.

7 (d) The clear proceeds of civil penalties provided for in this section shall be remitted to
8 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. No person younger
9 than 21 years of age shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated
10 license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document,
11 including but not limited to a birth certificate or student identification card; or (iii) motor vehicle
12 driver's license or other document issued under Chapter 20 of the General Statutes or the
13 comparable law of another jurisdiction, birth certificate, or student identification card of another
14 person in order to establish a false identification or false age for himself or herself to consume,
15 purchase, or attempt to consume or purchase retail marijuana or retail marijuana products. Any
16 person convicted of a violation of this subsection is guilty of a Class A1 misdemeanor.

17 (f) Any marijuana or marijuana product purchased or possessed in violation of this
18 section shall be deemed contraband and forfeited to the State.

19 (g) Any retail marijuana store licensee who in good faith promptly notifies the Board or
20 any State or local law enforcement agency of a violation or suspected violation of this section
21 shall be accorded immunity from an administrative penalty for a violation of G.S. 18D-704.

22 **"§ 18D-706. Purchasing retail marijuana or retail marijuana products for one to whom**
23 **they may not be sold; penalties; forfeiture.**

24 (a) Any person who purchases retail marijuana or retail marijuana products for another
25 person and at the time of such purchase knows or has reason to believe that the person for whom
26 the retail marijuana or retail marijuana products were purchased was intoxicated is guilty of a
27 Class A1 misdemeanor.

28 (b) Any person who purchases for, or otherwise gives, provides, or assists in the provision
29 of retail marijuana or retail marijuana products to, another person when he or she knows or has
30 reason to know that such person is younger than 21 years of age, except by any federal, State, or
31 local law enforcement officer when possession of marijuana or marijuana products is necessary
32 in the performance of his or her duties, is guilty of a Class A1 misdemeanor.

33 (c) Any marijuana or marijuana products purchased in violation of this section shall be
34 deemed contraband and forfeited to the State.

35 **"§ 18D-707. Using or consuming marijuana or marijuana products while in a motor vehicle**
36 **being driven upon a public highway; penalty.**

37 (a) For the purposes of this section:

38 (1) Open container. – Any vessel containing marijuana or marijuana products,
39 except the originally sealed manufacturer's container.

40 (2) Passenger area. – The area designed to seat the driver of any motor vehicle,
41 any area within the reach of the driver, including an unlocked glove
42 compartment, and the area designed to seat passengers. "Passenger area" does
43 not include the trunk of any passenger vehicle; the area behind the last upright
44 seat of a passenger van, station wagon, hatchback, sport utility vehicle or any
45 similar vehicle; the living quarters of a motor home; or the passenger area of
46 a motor vehicle designed, maintained, or used primarily for the transportation
47 of persons for compensation, including a bus, taxi, or limousine, while
48 engaged in the transportation of such persons.

49 (b) It is unlawful for any person to use or consume marijuana or marijuana products while
50 driving a motor vehicle upon a public highway of the State or while being a passenger in a motor
51 vehicle being driven upon a public highway of the State.

1 (c) A judge or jury may make a permissive inference that a person has consumed
2 marijuana or marijuana products in violation of this section if (i) an open container is located
3 within the passenger area of the motor vehicle, (ii) the marijuana or marijuana products in the
4 open container have been at least partially removed, and (iii) the appearance, conduct, speech, or
5 other physical characteristic of such person, excluding odor, is consistent with the consumption
6 of marijuana or marijuana products. Such person may be prosecuted either in the county or city
7 in which the marijuana was used or consumed, or in the county or city in which the person
8 exhibits evidence of physical indicia of use or consumption of marijuana.

9 (d) Any person who violates this section is guilty of a Class 2 misdemeanor.

10 **"§ 18D-708. Consuming marijuana or marijuana products, or offering to another, in public**
11 **place; penalty.**

12 (a) No person shall consume marijuana or a marijuana product or offer marijuana or a
13 marijuana product to another, whether accepted or not, at or in any public place.

14 (b) Any person who violates this section is subject to a civil penalty of no more than
15 twenty-five dollars (\$25.00) for a first offense. A person who is convicted under this section of
16 a second offense is subject to a twenty-five dollar (\$25.00) civil penalty and shall be ordered to
17 enter a substance abuse treatment or education program or both, if available, that in the opinion
18 of the court best suits the needs of the accused. A person convicted under this section of a third
19 or subsequent offense is guilty of a Class 2 misdemeanor.

20 **"§ 18D-709. Consuming or possessing marijuana or marijuana products in or on public**
21 **school grounds; penalty.**

22 (a) No person shall possess or consume any marijuana or marijuana product in or upon
23 the grounds of any public elementary or secondary school during school hours or school or
24 student activities.

25 (b) In addition, no person shall consume and no organization shall serve any marijuana
26 or marijuana products in or upon the grounds of any public elementary or secondary school after
27 school hours or school or student activities.

28 (c) Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

29 **"§ 18D-710. Possessing or consuming marijuana or marijuana products while operating a**
30 **school bus; penalty.**

31 Any person who possesses or consumes marijuana or marijuana products while operating a
32 school bus and transporting children is guilty of a Class A1 misdemeanor. For the purposes of
33 this section, "school bus" is as defined in G.S. 20-4.01.

34 **"§ 18D-711. Illegal importation, shipment, and transportation of marijuana or marijuana**
35 **products; penalty; exception.**

36 (a) No marijuana or marijuana products shall be imported, shipped, transported, or
37 brought into the State.

38 (b) Any person convicted of a violation of this section is guilty of a Class A1
39 misdemeanor.

40 **"§ 18D-712. Limitation on carrying retail marijuana or retail marijuana products in motor**
41 **vehicle transporting passengers for hire; penalty.**

42 The transportation of retail marijuana or retail marijuana products in any motor vehicle that
43 is being used, or is licensed, for the transportation of passengers for hire is prohibited, except
44 when carried in the possession of a passenger who is being transported for compensation at the
45 regular rate and fare charged other passengers. Any person convicted of a violation of this section
46 is guilty of a Class A1 misdemeanor.

47 **"§ 18D-713. Maintaining common nuisances; penalties.**

48 (a) All houses, boathouses, buildings, club or fraternity or lodge rooms, boats, cars, and
49 places of every description where marijuana or marijuana products are manufactured, stored,
50 sold, dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall
51 be deemed common nuisances. No person shall maintain, aid, abet, or knowingly associate with

1 others in maintaining a common nuisance. Any person convicted of a violation of this subsection
2 is guilty of a Class A1 misdemeanor.

3 (b) In addition, after due notice and opportunity to be heard on the part of any owner or
4 lessor not involved in the original offense, by a proceeding and upon proof of guilty knowledge,
5 judgment may be given that such house, boathouse, building, boat, car, or other place, or any
6 room or part thereof, be closed. The court may, upon the owner or lessor giving bond in the
7 penalty of not less than five hundred dollars (\$500.00) and with security to be approved by the
8 court, conditioned that the premises shall not be used for unlawful purposes, or in violation of
9 the provisions of this Chapter for a period of five years, turn the same over to its owner or lessor,
10 or proceeding may be had in equity as provided in G.S. 18D-905.

11 (c) In a proceeding under this section, judgment shall not be entered against the owner,
12 lessor, or lienholder of the property unless it is proved that he or she (i) knew of the unlawful use
13 of the property and (ii) had the right, because of such unlawful use, to enter and repossess the
14 property.

15 **"§ 18D-714. Maintaining a fortified drug house; penalty.**

16 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse,
17 warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially
18 altered from its original status by means of reinforcement with the intent to impede, deter, or
19 delay lawful entry by a law enforcement officer into such structure; (ii) being used for the purpose
20 of illegally manufacturing or distributing marijuana; and (iii) the object of a valid search warrant
21 shall be considered a fortified drug house. Any person who maintains or operates a fortified drug
22 house is guilty of a Class H felony.

23 **"§ 18D-715. Disobeying subpoena; hindering conduct of hearing; penalty.**

24 No person shall (i) fail or refuse to obey any subpoena issued by the Board, any Board
25 member, or any agent authorized by the Board to issue such subpoena or (ii) hinder the orderly
26 conduct and decorum of any hearing held and conducted by the Board, any Board member, or
27 any agent authorized by the Board to hold and conduct such hearing. Any person convicted of a
28 violation of this section is guilty of a Class A1 misdemeanor.

29 **"§ 18D-716. Illegal advertising; penalty; exception.**

30 (a) Except in accordance with this Chapter and Board rules, no person shall advertise in
31 or send any advertising matter into the State about or concerning marijuana other than such that
32 may legally be manufactured or sold without a license.

33 (b) Marijuana cultivation facility licensees, marijuana manufacturing facility licensees,
34 marijuana wholesaler licensees, and retail marijuana store licensees may engage in the display of
35 outdoor retail marijuana or retail marijuana products advertising on lawfully erected signs,
36 provided that such display is done in accordance with G.S. 18D-1005 and Board rules.

37 (c) Except as provided in subsection (d) of this section, any person convicted of a
38 violation of this section is guilty of a Class A1 misdemeanor.

39 (d) For violations of G.S. 18D-1005 relating to distance and zoning restrictions on
40 outdoor advertising, the Board shall give the advertiser written notice to take corrective action to
41 either bring the advertisement into compliance with this Chapter and Board rules or to remove
42 such advertisement. If corrective action is not taken within 30 days, the advertiser is guilty of a
43 Class 2 misdemeanor.

44 **"§ 18D-717. Delivery of marijuana or marijuana products to prisoners; penalty.**

45 No person shall deliver, or cause to be delivered, to any prisoner in any State or local
46 detention facility any marijuana or marijuana products. Any person convicted of a violation of
47 this section is guilty of a Class A1 misdemeanor.

48 **"§ 18D-718. Separation of plant resin by butane extraction; penalty.**

49 (a) No person shall separate plant resin by butane extraction or another method that
50 utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor
51 vehicle, or within the curtilage of any residential structure.

"§ 18D-800. Illegal cultivation, etc., of marijuana or marijuana products by licensees; penalty.

- (a) No licensee or any agent or employee of such licensee shall do any of the following:
- (1) Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products of a kind other than that which such license or this Chapter authorizes him or her to cultivate, manufacture, transport, sell, or test.
 - (2) Sell retail marijuana or retail marijuana products of a kind that such license or this Chapter authorizes him or her to sell, but to any person other than to those to whom such license or this subtitle authorizes him or her to sell.
 - (3) Cultivate, manufacture, transport, sell, or test retail marijuana or retail marijuana products that such license or this Chapter authorizes him or her to sell, but in any place or in any manner other than such license or this Chapter authorizes him or her to cultivate, manufacture, transport, sell, or test.
 - (4) Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products when forbidden by this Chapter.
 - (5) Keep or allow to be kept, other than in his residence and for his or her personal use, any retail marijuana or retail marijuana products other than that which he or she is authorized to cultivate, manufacture, transport, sell, or transport by such license or by this Chapter.
 - (6) Except for marijuana wholesaler licensees, sell or transfer any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds to a retail marijuana store licensee.
 - (7) Keep any retail marijuana or retail marijuana product other than in the container in which it was purchased by him or her.
 - (8) Allow a person younger than 21 years of age to be employed by or volunteer for such licensee at a retail marijuana store.

(b) Any person convicted of a violation of this section is guilty of a Class A1 misdemeanor.

"§ 18D-801. Prohibited acts by employees of retail marijuana store licensees; civil penalty.

(a) In addition to the provisions of G.S. 18D-800, no retail marijuana store licensee or his agent or employee shall consume any retail marijuana or retail marijuana products while on duty and in a position that is involved in the selling of retail marijuana or retail marijuana products to consumers.

(b) No retail marijuana store licensee or his agent or employee shall make any gift of any marijuana or marijuana products.

(c) Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed five hundred dollars (\$500.00).

"§ 18D-802. Sale of; purchase for resale; marijuana or marijuana products from a person without a license; penalty.

No retail marijuana store licensee shall purchase for resale or sell any retail marijuana, retail marijuana products, immature marijuana plants, or marijuana seeds purchased from anyone other than a marijuana wholesaler licensee. Any person convicted of a violation of this section is guilty of a Class A1 misdemeanor.

"§ 18D-803. Prohibiting transfer of retail marijuana or retail marijuana products by licensees; penalty.

(a) No retail marijuana store licensee shall transfer any retail marijuana or retail marijuana products from one licensed place of business to another licensed place of business, whether or not such places of business are under the same ownership.

(b) Any person convicted of a violation of this section is guilty of a Class A1 misdemeanor.

"§ 18D-804. Illegal advertising materials; civil penalty.

1 No person subject to the jurisdiction of the Board shall induce, attempt to induce, or consent
2 to any licensee selling, renting, lending, buying for, or giving to any person any advertising
3 materials or decorations under circumstances prohibited by this Chapter or Board rules. Any
4 person found by the Board to have violated this section shall be subject to a civil penalty as
5 authorized in G.S. 18D-504.

6 **"§ 18D-805. Solicitation by persons interested in manufacture, etc., of marijuana or**
7 **marijuana products; penalty.**

8 (a) No person having any interest, direct or indirect, in the manufacture, distribution, or
9 sale of retail marijuana or retail marijuana products shall, without a permit granted by the Board
10 and upon such conditions as the Board may prescribe, solicit either directly or indirectly (i) a
11 retail marijuana store licensee; (ii) any agent or employee of such licensee; or (iii) any person
12 connected with the licensee in any capacity whatsoever in his or her licensed business to sell or
13 offer for sale the retail marijuana or retail marijuana products in which such person may be so
14 interested. The Board, upon proof of any solicitation in violation of this subsection, may suspend
15 or terminate the sale of the retail marijuana or retail marijuana products that were the subject
16 matter of the unlawful solicitation or promotion. In addition, the Board may suspend or terminate
17 the sale of all retail marijuana or retail marijuana products manufactured or distributed by either
18 the employer or principal of such solicitor, the broker, or by the owner of the brand unlawfully
19 solicited or promoted. The Board may impose a civil penalty not to exceed two hundred fifty
20 thousand dollars (\$250,000) in lieu of such suspension or termination of sales, or both. Any
21 person convicted of a violation of this subsection is guilty of a Class A1 misdemeanor.

22 (b) No retail marijuana store licensee or any agent or employee of such licensee, or any
23 person connected with the licensee in any capacity whatsoever in his or her licensed business
24 shall, either directly or indirectly, be a party to, consent to, solicit, or aid or abet another in a
25 violation of subsection (a) of this section. The Board may suspend or revoke the license granted
26 to such licensee or may impose a civil penalty not to exceed twenty-five thousand dollars
27 (\$25,000) in lieu of such suspension or any portion thereof, or both. Any person convicted of a
28 violation of this subsection is guilty of a Class A1 misdemeanor.

29 **"§ 18D-806. Failure of licensee to pay tax or to deliver, keep, and preserve records and**
30 **accounts or to allow examination and inspection; penalty.**

31 (a) No licensee shall fail or refuse to (i) pay any tax provided for in G.S. 18D-603 and
32 G.S. 18D-604; (ii) deliver, keep, and preserve such records, invoices, and accounts as are
33 required by G.S. 18D-303 or Board rule; or (iii) allow such records, invoices, and accounts or his
34 or her place of business to be examined and inspected in accordance with G.S. 18D-303. Any
35 person convicted of a violation of this subsection is guilty of a Class A1 misdemeanor.

36 (b) After reasonable notice to a licensee that failed to make a return or pay taxes due, the
37 Commission may suspend or revoke any license of such licensee that was issued by the
38 Commission.

39 **"§ 18D-807. Nonpayment of marijuana tax; penalties.**

40 (a) No person shall make a sale taxable under G.S. 18D-603 or G.S. 18D-604 without
41 paying all applicable taxes due under G.S. 18D-603 and G.S. 18D-604. No retail marijuana store
42 licensee shall purchase, receive, transport, store, or sell any retail marijuana or retail marijuana
43 products on which such retailer has reason to know such tax has not been paid and may not be
44 paid. Any person convicted of a violation of this subsection is guilty of a Class A1 misdemeanor.

45 (b) On any person who fails to file a return required for a tax due under G.S. 18D-603 or
46 G.S. 18D-604, there shall be imposed a civil penalty to be added to the tax in the amount of five
47 percent (5%) of the proper tax due if the failure is for not more than 30 days, with an additional
48 five percent (5%) for each additional 30 days, or fraction thereof, during which the failure
49 continues. Such civil penalty shall not exceed twenty-five percent (25%) in the aggregate.

50 (c) In the case of a false or fraudulent return, where willful intent exists to defraud the
51 State of any tax due on retail marijuana or retail marijuana products, a civil penalty of fifty

1 percent (50%) of the amount of the proper tax due shall be assessed. Such penalty shall be in
2 addition to any penalty imposed under subsection (b) of this section. It shall be prima facie
3 evidence of willful intent to defraud the State when any person reports its taxable sales to the
4 Commission at fifty percent (50%) or less of the actual amount.

5 (d) If any check tendered for any amount due under G.S. 18D-603 or G.S. 18D-604 or
6 this section is not paid by the bank on which it is drawn, and the person that tendered the check
7 fails to pay the Commission the amount due within five days after the Commission gives it notice
8 that such check was returned unpaid, the person by which such check was tendered is guilty of a
9 Class A1 misdemeanor.

10 (e) The clear proceeds of civil penalties provided for in this section shall be remitted to
11 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

12 "Article 9.

13 "Prohibited Practices. – Procedural Matters.

14 **"§ 18D-900. Enjoining nuisances.**

15 (a) In addition to the penalties imposed by G.S. 18D-713, the Board, its special agents,
16 the Attorney General, or any citizen of the county, city, or town where a common nuisance as
17 defined in G.S. 18D-713 exists may maintain a suit in equity in the name of the State to enjoin
18 the common nuisance.

19 (b) The courts of equity shall have jurisdiction, and in every case where the bill charges,
20 on the knowledge or belief of the complainant, and is sworn to by two reputable citizens, that
21 marijuana or marijuana products are cultivated, manufactured, stored, sold, dispensed, given
22 away, or used in such house, building, or other place described in G.S. 18D-713 contrary to the
23 laws of the State, an injunction shall be granted as soon as the bill is presented to the court. The
24 injunction shall enjoin and restrain the owners and tenants and their agents and employees, and
25 any person connected with such house, building, or other place, and all persons whomsoever
26 from cultivating, manufacturing, storing, selling, dispensing, giving away, or using marijuana or
27 marijuana products on such premises. The injunction shall also restrain all persons from
28 removing any marijuana or marijuana products then on such premises until the further order of
29 the court. If the court is satisfied that the material allegations of the bill are true, although the
30 premises complained of may not then be unlawfully used, it shall continue the injunction against
31 such place for a period of time as the court deems proper. The injunction may be dissolved if a
32 proper case is shown for dissolution.

33 **"§ 18D-901. Contraband marijuana or marijuana products and other articles subject to**
34 **forfeiture.**

35 (a) All apparatus and materials for the cultivation or manufacture of marijuana or
36 marijuana products, all marijuana or marijuana products and materials used in their manufacture,
37 all containers in which marijuana or marijuana products may be found, that are kept, stored,
38 possessed, or in any manner used in violation of the provisions of this Chapter, and any dangerous
39 weapons that may be used or that may be found upon the person, or in any vehicle that such
40 person is using, to aid such person in the unlawful cultivation, manufacture, transportation, or
41 sale of marijuana or marijuana products, or found in the possession of such person, or any horse,
42 mule, or other beast of burden or any wagon, automobile, truck, or vehicle of any nature
43 whatsoever that is found in the immediate vicinity of any place where marijuana or marijuana
44 products are being unlawfully manufactured and where such animal or vehicle is being used to
45 aid in the unlawful manufacture, shall be deemed contraband and shall be forfeited to the State.

46 (b) Proceedings for the confiscation of the property in subsection (a) of this section shall
47 be in accordance with G.S. 18D-904 for all such property.

48 **"§ 18D-902. Search without warrant; odor of marijuana.**

49 (a) No law enforcement officer may lawfully stop, search, or seize any person, place, or
50 thing solely on the basis of the odor of marijuana and no evidence discovered or obtained

1 pursuant to a violation of this subsection, including evidence discovered or obtained with the
2 person's consent, shall be admissible in any trial, hearing, or other proceeding.

3 (b) The provisions of subsection (a) of this section shall not apply in any airport or if the
4 violation occurs in a commercial motor vehicle.

5 **"§ 18D-903. Search warrants.**

6 (a) If complaint on oath is made that marijuana or marijuana products are being
7 cultivated, manufactured, sold, kept, stored, or in any manner held, used, or concealed in a
8 particular house, or other place, in violation of law, the judge, magistrate, or other person having
9 authority to issue criminal warrants, to whom such complaint is made, if satisfied that there is a
10 probable cause for such belief, shall issue a warrant to search such house or other place for
11 marijuana or marijuana products. Such warrants, except as herein otherwise provided, shall be
12 issued, directed, and executed in accordance with the laws of the State pertaining to search
13 warrants.

14 (b) Warrants issued under this Chapter for the search of any automobile, boat,
15 conveyance, or vehicle, whether of like kind or not, or for the search of any article of baggage,
16 whether of like kind or not, for marijuana or marijuana products may be executed in any part of
17 the State where they are overtaken and shall be made returnable before any judge within whose
18 jurisdiction such automobile, boat, conveyance, vehicle, truck, or article of baggage, or any of
19 them, was transported or attempted to be transported contrary to law.

20 **"§ 18D-904. Confiscation proceedings; disposition of forfeited articles.**

21 (a) All proceedings for the confiscation of articles declared contraband and forfeited to
22 the State under this Chapter shall be as provided in this section.

23 (b) Whenever any article declared contraband under the provisions of this Chapter and
24 required to be forfeited to the State has been seized, with or without a warrant, by any officer
25 charged with the enforcement of this Chapter, he or she shall produce the contraband article and
26 any person in whose possession it was found. In those cases where no person is found in
27 possession of such articles, the return shall so state and a copy of the warrant shall be posted on
28 the door of the buildings or room where the articles were found, or if there is no door, then in
29 any conspicuous place upon the premises. In case of seizure of any item for any offense involving
30 its forfeiture where it is impracticable to remove such item to a place of safe storage from the
31 place where seized, the seizing officer may destroy such item only as necessary to prevent use of
32 all or any part thereof. The destruction shall be in the presence of at least one credible witness,
33 and such witness shall join the officer in a sworn report of the seizure and destruction to be made
34 to the Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for
35 seizure and destruction, an estimate of the fair cash value of the item destroyed, and the materials
36 remaining after such destruction. The report shall include a statement that, from facts within their
37 own knowledge, the seizing officer and witness have no doubt whatever that the item was set up
38 for use, or had been used in the unlawful cultivation or manufacture of marijuana, and that it was
39 impracticable to remove such apparatus to a place of safe storage. In case of seizure of any
40 quantity of marijuana or marijuana products for any offense involving forfeiture of the same, the
41 seizing officer may destroy them to prevent the use of all or any part thereof for the purpose of
42 unlawful cultivation or manufacture of marijuana or marijuana products or any other violation of
43 this Chapter. The destruction shall be in the presence of at least one credible witness, and such
44 witness shall join the officer in a sworn report of the seizure and destruction to be made to the
45 Board. The report shall set forth the grounds of the claim of forfeiture, the reasons for seizure
46 and destruction, and a statement that, from facts within their own knowledge, the seizing officer
47 and witness have no doubt whatever that the marijuana or marijuana products were intended for
48 use in the unlawful cultivation or manufacture of marijuana or marijuana products or were
49 intended for use in violation of this Chapter.

50 (c) Upon the return of the warrant as provided in this section, the court shall fix a time
51 not less than 10 days, unless waived by the accused in writing, and not more than 30 days

1 thereafter, for the hearing on such return to determine whether or not the articles seized, or any
2 part thereof, were used or in any manner kept, stored, or possessed in violation of this Chapter.
3 At such hearing, if no claimant appears, the court shall declare the articles seized forfeited to the
4 State and, if such articles are not necessary as evidence in any pending prosecution, shall turn
5 them over to the Board. Any person claiming an interest in any of the articles seized may appear
6 at the hearing and file a written claim setting forth particularly the character and extent of his
7 interest. The court shall certify the warrant and the articles seized along with any claim filed to
8 the superior court to hear and determine the validity of such claim. If the evidence warrants, the
9 court shall enter a judgment of forfeiture and order the articles seized to be turned over to the
10 Board. Action under this section and the forfeiture of any articles hereunder shall not be a bar to
11 any prosecution under any other provision of this Chapter.

12 (d) Any articles forfeited to the State and turned over to the Board in accordance with
13 this section shall be sold by the Board. The net proceeds from such sales shall be paid into the
14 county board of education in the county where the articles were seized.

15 **"§ 18D-905. Search and seizure of conveyances or vehicles used in violation of law; arrests.**

16 (a) When any officer charged with the enforcement of the cannabis control laws of the
17 State has reason to believe that retail marijuana or retail marijuana products illegally acquired,
18 or being illegally transported, are in any conveyance or vehicle of any kind, either on land or on
19 water, except a conveyance or vehicle owned or operated by a railroad, express, sleeping, or
20 parlor car, or steamboat company, other than barges, tugs, or small craft, he shall obtain a search
21 warrant and search such conveyance or vehicle. If illegally acquired retail marijuana or retail
22 marijuana products or retail marijuana or retail marijuana products being illegally transported in
23 amounts in excess of two and one-half ounces of retail marijuana, 16 ounces of solid retail
24 marijuana product, or 72 ounces of liquid retail marijuana product, the officer shall seize the
25 retail marijuana or retail marijuana product, seize and take possession of such conveyance or
26 vehicle, and deliver them to the chief law-enforcement officer of the locality in which such
27 seizure was made, taking his receipt therefor in duplicate.

28 (b) The officer making such seizure shall forthwith report in writing such seizure and
29 arrest to the attorney for the county or city in which seizure and arrest were made.

30 **"§ 18D-906. Contraband retail marijuana or retail marijuana products.**

31 Retail marijuana or retail marijuana products seized pursuant to G.S. 18D-905 shall be
32 deemed contraband and disposed of accordingly. Failure to maintain on a conveyance or vehicle
33 a permit or other indicia of permission issued by the Board authorizing the transportation of retail
34 marijuana or retail marijuana products within the State when other Board rules applicable to such
35 transportation have been complied with shall not be cause for deeming such retail marijuana or
36 retail marijuana products contraband.

37 **"§ 18D-907. Punishment for violations of Chapter or rules; bond.**

38 (a) Any person convicted of a misdemeanor under the provisions of this Chapter without
39 specification as to the class of offense or penalty, or convicted of violating any other provision
40 thereof, or convicted of violating any Board rule is guilty of a Class A1 misdemeanor.

41 (b) In addition to the penalties imposed by this Chapter for violations, any court before
42 whom any person is convicted of a violation of any provision of this Chapter may require such
43 defendant to execute bond based upon his or her ability to pay, with approved security, in the
44 penalty of not more than one thousand dollars (\$1,000), with the condition that the defendant will
45 not violate any of the provisions of this Chapter for the term of one year. If any such bond is
46 required and is not given, the defendant shall be committed to jail until it is given, or until he or
47 she is discharged by the court, provided that he or she shall not be confined for a period longer
48 than six months. If any such bond required by a court is not given during the term of the court by
49 which conviction is had, it may be given before any judge or before the clerk of such court.

"§ 18D-1001. Mandatory testing; scope; recordkeeping; notification; additional testing not required; required destruction; random testing.

(a) A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer or to another licensee under this Chapter unless a representative sample of the retail marijuana or retail marijuana product has been tested pursuant to this Chapter and the rules adopted pursuant to this Chapter and that mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and (ii) the labeling on the retail marijuana or retail marijuana product is correct.

(b) Mandatory testing of retail marijuana and retail marijuana products under this section shall include testing for all of the following:

- (1) Residual solvents, poisons, and toxins.
- (2) Harmful chemicals.
- (3) Dangerous molds and mildew.
- (4) Harmful microbes, including but not limited to Escherichia coli and Salmonella.
- (5) Pesticides, fungicides, and insecticides.
- (6) Tetrahydrocannabinol (THC) potency, homogeneity, and cannabinoid profiles to ensure correct labeling.

Testing shall be performed on the final form in which the retail marijuana or retail marijuana product will be consumed.

(c) A licensee shall maintain a record of all mandatory testing that includes a description of the retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of the marijuana testing facility, and the results of the mandatory test.

(d) If the results of a mandatory test conducted pursuant to this section indicate that the tested retail marijuana or retail marijuana product exceeds the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required, the marijuana testing facility shall immediately quarantine, document, and properly destroy the retail marijuana or retail marijuana product and within seven days of completing the test shall notify the Board of the test results. A marijuana testing facility is not required to notify the Board of the results of any test that meets any of the following conditions:

- (1) Conducted on retail marijuana or a retail marijuana product at the direction of a licensee pursuant to this section that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable tetrahydrocannabinol (THC) or contamination for any contaminant that is injurious to health and for which testing is required.
- (2) Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for research and development purposes only, so long as the licensee notifies the marijuana testing facility prior to the performance of the test that the testing is for research and development purposes only.
- (3) Conducted on retail marijuana or a retail marijuana product at the direction of a person who is not a licensee.

(e) Notwithstanding any provision of this section to the contrary, a licensee may sell or furnish to a consumer or to another licensee retail marijuana or a retail marijuana product that the licensee has not submitted for testing in accordance with this Chapter and rules adopted pursuant to this Chapter if all of the following conditions are met:

- (1) The retail marijuana or retail marijuana product has previously undergone testing in accordance with this Chapter and rules adopted pursuant to this Chapter at the direction of another licensee and that testing demonstrated that the retail marijuana or retail marijuana product does not exceed the maximum

1 level of allowable tetrahydrocannabinol (THC) or contamination for any
2 contaminant that is injurious to health and for which testing is required.

3 (2) The mandatory testing process and the test results for the retail marijuana or
4 retail marijuana product are documented in accordance with the requirements
5 of this Chapter and all applicable rules adopted pursuant to this Chapter.

6 (3) Tracking from immature marijuana plant to the point of retail sale has been
7 maintained for the retail marijuana or retail marijuana product and transfers
8 of the retail marijuana or retail marijuana product to another licensee or to a
9 consumer can be easily identified.

10 (4) The retail marijuana or retail marijuana product has not undergone any further
11 processing, manufacturing, or alteration subsequent to the performance of the
12 prior testing under subsection (a) of this section.

13 (f) Licensees shall be required to destroy harvested batches of retail marijuana or batches
14 of retail marijuana products whose testing samples indicate noncompliance with the health and
15 safety standards required by this Chapter and the rules adopted by the Board pursuant to this
16 Chapter, unless remedial measures can bring the retail marijuana or retail marijuana products
17 into compliance with such required health and safety standards.

18 (g) A licensee shall comply with all requests for samples of retail marijuana and retail
19 marijuana products for the purpose of random testing by a State-owned laboratory or
20 State-approved private laboratory.

21 **"§ 18D-1002. Labeling and packaging requirements; prohibitions.**

22 (a) Retail marijuana and retail marijuana products to be sold or offered for sale by a
23 licensee to a consumer in accordance with the provisions of this Chapter shall be labeled with all
24 of the following information:

25 (1) Identification of the type of marijuana or marijuana product and the date of
26 cultivation, manufacturing, and packaging.

27 (2) The license numbers of the marijuana cultivation facility, the marijuana
28 manufacturing facility, and the retail marijuana store where the retail
29 marijuana or retail marijuana product was cultivated, manufactured, and
30 offered for sale, as applicable.

31 (3) A statement of the net weight of the retail marijuana or retail marijuana
32 product.

33 (4) Information concerning (i) pharmacologically active ingredients, including
34 tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid
35 content; (ii) the THC and other cannabinoid amount in milligrams per serving,
36 the total servings per package, and the THC and other cannabinoid amount in
37 milligrams for the total package; and (iii) the potency of the THC and other
38 cannabinoid content.

39 (5) Information on gases, solvents, and chemicals used in marijuana extraction, if
40 applicable.

41 (6) Instructions on usage.

42 (7) For retail marijuana products, (i) a list of ingredients and possible allergens
43 and (ii) a recommended use by date or expiration date.

44 (8) For edible retail marijuana products, a nutritional fact panel.

45 (9) The following statements, prominently displayed in bold print and in a clear
46 and legible fashion:

47 a. For retail marijuana: "GOVERNMENT WARNING: THIS
48 PACKAGE CONTAINS MARIJUANA. MARIJUANA IS FOR USE
49 BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF
50 REACH OF CHILDREN. CONSUMPTION OF MARIJUANA
51 IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND

1 MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE
2 USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE
3 CAUTION AND VISIT _____ (website maintained by the Board
4 pursuant to G.S. 18D-204) FOR MORE INFORMATION."

5 b. For retail marijuana products: "GOVERNMENT WARNING: THIS
6 PACKAGE CONTAINS MARIJUANA. MARIJUANA IS FOR USE
7 BY ADULTS 21 YEARS OF AGE AND OLDER. KEEP OUT OF
8 REACH OF CHILDREN. CONSUMPTION OF MARIJUANA
9 IMPAIRS COGNITION AND YOUR ABILITY TO DRIVE AND
10 MAY BE HABIT FORMING. MARIJUANA SHOULD NOT BE
11 USED WHILE PREGNANT OR BREASTFEEDING. PLEASE USE
12 CAUTION AND VISIT _____ (website maintained by the Board
13 pursuant to G.S. 18D-204) FOR MORE INFORMATION."

14 (10) A universal symbol stamped or embossed on the packaging of any retail
15 marijuana and retail marijuana products.

16 (11) Any other information required by Board rules.

17 (b) Retail marijuana and retail marijuana products to be sold or offered for sale by a
18 licensee to a consumer in accordance with the provisions of this Chapter shall be packaged in
19 accordance with all of the following requirements:

20 (1) Retail marijuana and retail marijuana products shall be prepackaged in
21 child-resistant, tamper-evident, and resealable packaging that is opaque or
22 shall be placed at the final point of sale to a consumer in child-resistant,
23 tamper-evident, and resealable packaging that is opaque.

24 (2) Packaging for multi-serving liquid marijuana products shall include an
25 integral measurement component.

26 (3) Packaging shall comply with any other requirements imposed by Board rules.

27 (c) Retail marijuana and retail marijuana products to be sold or offered for sale by a
28 licensee to a consumer in accordance with the provisions of this Chapter shall not be any of the
29 following:

30 (1) Be labeled or packaged in violation of a federal trademark law or regulation.

31 (2) Be labeled or packaged in a manner that appeals particularly to persons
32 younger than 21 years of age.

33 (3) Be labeled or packaged in a manner that obscures identifying information on
34 the label.

35 (4) Be labeled or packaged using a false or misleading label.

36 (5) Be sold or offered for sale using a label or packaging that depicts a human, an
37 animal, a vehicle, or fruit.

38 (6) Be labeled or packaged in violation of any other labeling or packaging
39 requirements imposed by Board regulations.

40 **"§ 18D-1003. Other health and safety requirements for edible retail marijuana products**
41 **and other retail marijuana products deemed applicable by the Commission;**
42 **health and safety regulations.**

43 (a) In addition to all other applicable provisions of this Chapter, edible retail marijuana
44 products and other retail marijuana products deemed applicable by the Commission to be sold or
45 offered for sale by a licensee to a consumer in accordance with all of the following requirements:

46 (1) Shall be manufactured by an approved source.

47 (2) Shall comply with the applicable State laws governing food and drink.

48 (3) Shall be manufactured in a manner that results in the cannabinoid content
49 within the product being homogeneous throughout the product or throughout
50 each element of the product that has a cannabinoid content.

- 1 (4) Shall be manufactured in a manner that results in the amount of marijuana
2 concentrate within the product being homogeneous throughout the product or
3 throughout each element of the product that contains marijuana concentrate.
4 (5) Shall have a universal symbol stamped or embossed on the packaging of each
5 product.
6 (6) Shall not contain more than five milligrams of tetrahydrocannabinol (THC)
7 per serving of the product and shall not contain more than 50 milligrams of
8 THC per package of the product.
9 (7) Shall not contain additives that (i) are toxic or harmful to human beings, (ii)
10 are specifically designed to make the product more addictive, (iii) contain
11 alcohol or nicotine, (iv) are misleading to consumers, or (v) are specifically
12 designed to make the product appeal particularly to persons younger than 21
13 years of age.
14 (8) Shall not involve the addition of marijuana to a trademarked food or drink
15 product, except when the trademarked product is used as a component of or
16 ingredient in the edible retail marijuana product and the edible retail marijuana
17 product is not advertised or described for sale as containing the trademarked
18 product.

19 (b) The Board shall adopt any additional labeling, packaging, or other health and safety
20 rules that it deems necessary for retail marijuana and retail marijuana products to be sold or
21 offered for sale by a licensee to a consumer in accordance with this Chapter. Rules adopted
22 pursuant to this subsection shall establish mandatory health and safety standards applicable to
23 the cultivation of retail marijuana, the manufacture of retail marijuana products, and the
24 packaging and labeling of retail marijuana and retail marijuana products sold by a licensee to a
25 consumer. Such regulations shall address all of the following:

- 26 (1) Requirements for the storage, warehousing, and transportation of retail
27 marijuana and retail marijuana products by licensees.
28 (2) Sanitary standards for marijuana establishments, including sanitary standards
29 for the manufacture of retail marijuana and retail marijuana products.
30 (3) Limitations on the display of retail marijuana and retail marijuana products at
31 retail marijuana stores.

32 **"§ 18D-1004. Advertising and marketing restrictions.**

33 (a) As used in this section, unless the context requires a different meaning, "health-related
34 statement" means any statement related to health and includes statements of a curative or
35 therapeutic nature that, expressly or by implication, suggest a relationship between the
36 consumption of retail marijuana or retail marijuana products and health benefits or effects on
37 health.

38 (b) No person shall advertise in or send any advertising matter into the State about or
39 concerning retail marijuana or retail marijuana products other than those that may be legally
40 manufactured in the State under this Chapter.

41 (c) A licensee shall not advertise (i) through any means unless at least eighty-five percent
42 (85%) of the audience is reasonably expected to be 21 years of age or older, as determined by
43 reliable, up-to-date audience composition data or (ii) on television or the radio at any time outside
44 of regular school hours for elementary and secondary schools.

45 (d) A licensee shall not engage in the use of pop-up digital advertisements but may list
46 their establishment in public phone books and directories.

47 (e) A licensee shall not display any marijuana or marijuana product pricing through any
48 means of advertisement other than their establishment website, which shall be registered with the
49 Commission, or an opt-in subscription-based service, provided that the licensee utilizes proper
50 age verification techniques to confirm that the person attempting to access the website or sign up
51 for a subscription-based service is 21 years of age or older.

1 (f) Advertising or marketing used by or on behalf of a licensee shall meet all of the
2 following requirements:

3 (1) Shall accurately and legibly identify the licensee responsible for its content by
4 adding, at a minimum, the licensee's license number, and shall include the
5 statement "For use by adults 21 years of age and older."

6 (2) Shall not be misleading, deceptive, or false.

7 (3) Shall not appeal particularly to persons younger than 21 years of age,
8 including by using cartoons in any way.

9 (4) Shall comply with any other provisions imposed by Board rules.

10 (g) Any advertising or marketing involving direct, individualized communication or
11 dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the
12 recipient is 21 years of age or older before engaging in that communication or dialogue controlled
13 by the licensee. For the purposes of this subsection, that method of age affirmation may include
14 user confirmation, birth date disclosure, or any other similar registration method.

15 (h) A licensee shall not give away any amount of retail marijuana or retail marijuana
16 products, or any marijuana accessories, as part of a business promotion or other commercial
17 activity.

18 (i) A licensee shall not include on the label of any retail marijuana or retail marijuana
19 product or publish or disseminate advertising or marketing containing any health-related
20 statement that is untrue in any particular manner or tends to create a misleading impression as to
21 the effects on health of marijuana consumption.

22 (j) The provisions of this section shall not apply to noncommercial speech.

23 (k) The purpose of the advertising limitations set forth in this Chapter is to displace the
24 illicit market and notify the public of the location of marijuana establishments.

25 **"§ 18D-1005. Outdoor advertising; limitations; variances; compliance with other**
26 **applicable laws.**

27 (a) No outdoor retail marijuana or retail marijuana products advertising shall be placed
28 within 1,000 linear feet on the same side of the road, and parallel to such road, measured from
29 the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a
30 building or structure located on the real property of (i) a public, private, or parochial school or
31 an institution of higher education; (ii) a public or private playground or similar recreational or
32 child-centered facility; or (iii) a substance use disorder treatment facility.

33 (b) However, (i) if there is no building or structure on a playground or similar recreational
34 or child-centered facility, the measurement shall be from the nearest edge of the sign face upon
35 which the advertisement is placed to the property line of such playground or similar recreational
36 or child-centered facility and (ii) if a public, private, or parochial school providing grades
37 kindergarten through 12 education is located across the road from a sign, the measurement shall
38 be from the nearest edge of the sign face upon which the advertisement is placed to the nearest
39 edge of a building or structure located on such real property across the road.

40 (c) If at the time the advertisement was displayed, the advertisement was more than 1,000
41 feet from (i) a public, private, or parochial school or an institution of higher education; (ii) a
42 public or private playground or similar recreational or child-centered facility; or (iii) a substance
43 use disorder treatment facility, but the circumstances change such that the advertiser would
44 otherwise be in violation of subsection (a) of this section, the Board shall permit the
45 advertisement to remain as displayed for the remainder of the term of any written advertising
46 contract, but in no event more than one year from the date of the change in circumstances.

47 (d) Provided that such signs are in compliance with local ordinances, the distance and
48 zoning restrictions contained in this section shall not apply to either of the following:

49 (1) Signs placed by licensees upon the property on which the licensed premises
50 are located so long as such signs do not display imagery of marijuana or the

1 use of marijuana or utilize long luminous gas-discharge tubes that contain
2 rarefied neon or other gases.

3 (2) Directional signs placed by marijuana manufacturing facility licensees or
4 marijuana wholesaler licensees with advertising limited to trade names and
5 brand names.

6 (e) The distance and zoning restrictions contained in this section shall not apply to any
7 sign regulated by the Department of Transportation.

8 (f) A marijuana licensee shall not use any billboard advertisements or advertise at any
9 sporting event in the State.

10 (g) Except as otherwise provided in this section, all lawfully erected outdoor retail
11 marijuana or retail marijuana products signs shall comply with the provisions of this Chapter,
12 Board rules, Article 11 of Chapter 136 of the General Statutes and rules adopted pursuant thereto,
13 and federal law.

14 "Article 11.

15 "Cannabis Equity Business Loan Program and Fund.

16 **"§ 18D-1100. Definitions.**

17 The following definitions apply in this Article:

18 (1) CDFI. – A community development financial institution that provides credit
19 and financial services for underserved communities.

20 (2) Fund. – The Cannabis Equity Business Loan Fund established in
21 G.S. 18D-1101.

22 (3) Funding. – Loans made from the Fund.

23 (4) Program. – The Cannabis Equity Business Loan Program established in
24 G.S. 18D-1102.

25 (5) Social equity qualified cannabis licensee. – A person or business who meets
26 the criteria in this Chapter to qualify as a social equity applicant and who either
27 holds or is in the final stages of acquiring, as determined by the Board, a
28 license to operate a marijuana establishment.

29 **"§ 18D-1101. Cannabis Equity Business Loan Fund.**

30 There is hereby created in the State Treasury a special nonreverting fund to be known as the
31 Cannabis Equity Business Loan Fund, referred to in this section as "the Fund." All funds
32 appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received
33 on its behalf shall be paid into the State Treasury and credited to the Fund. Interest earned on
34 moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the
35 Fund, including interest thereon, at the end of each fiscal year shall not revert to the General Fund
36 but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of
37 providing low-interest and zero-interest loans to social equity qualified cannabis licensees in
38 order to foster business ownership and economic growth within communities that have been the
39 most disproportionately impacted by the former prohibition of cannabis. Expenditures and
40 disbursements from the Fund shall be made upon written request signed by the Chief Executive
41 Officer of the Commission.

42 **"§ 18D-1102. Selection of CDFI; Program requirements; guidelines for management of the**
43 **Fund.**

44 (a) The Commission shall establish a Program to provide loans to qualified social equity
45 cannabis licensees for the purpose of promoting business ownership and economic growth by
46 communities that have been disproportionately impacted by the prohibition of cannabis. The
47 Commission shall select and work in collaboration with a CDFI to assist in administering the
48 Program and carrying out the purposes of the Fund. The CDFI selected by the Commission shall
49 have (i) a statewide presence in North Carolina, (ii) experience in business lending, (iii) a proven
50 track record of working with disadvantaged communities, and (iv) the capability to dedicate
51 sufficient staff to manage the Program. Working with the selected CDFI, the Commission shall

1 establish monitoring and accountability mechanisms for businesses receiving funding and shall
2 report annually the number of businesses funded; the geographic distribution of the businesses;
3 the costs of the Program; and the outcomes, including the number and types of jobs created.

4 (b) The Program shall do all of the following:

5 (1) Identify social equity qualified cannabis licensees who are in need of capital
6 for the start-up of a cannabis business properly licensed pursuant to the
7 provisions of this Chapter.

8 (2) Provide loans for the purposes described in subsection (a) of this section.

9 (3) Provide technical assistance.

10 (4) Bring together community partners to sustain the Program.

11 **"§ 18D-1103. Annual reports.**

12 On or before December 1 of each year, the Commission shall report to the Secretary of Public
13 Safety, the Governor, the Senate Appropriations/Base Budget Committee, and the House
14 Committee on Appropriations, on such other matters regarding the Fund as the Commission may
15 deem appropriate, including the amount of funding committed to projects from the Fund, or other
16 items as may be requested by any of the foregoing persons to whom such report is to be
17 submitted."

18 **SECTION 2.2.** Article 6 of Chapter 53C of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 53C-6-21. Financial services for licensed marijuana establishments.**

21 (a) As used in this section, the terms "licensed" and "marijuana establishment" are as
22 defined in Chapter 18D of the General Statutes.

23 (b) A bank that provides a financial service to a licensed marijuana establishment, and
24 the officers, directors, and employees of that bank, shall not be held liable pursuant to any State
25 law or regulation solely for providing such a financial service or for further investing any income
26 derived from such a financial service.

27 (c) Nothing in this section shall require a bank to provide financial services to a licensed
28 marijuana establishment."

29 **SECTION 2.3.** Article 14B of Chapter 54 of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 54-109.20A. Financial services for licensed marijuana establishments.**

32 (a) As used in this section, the terms "licensed" and "marijuana establishment" are as
33 defined in Chapter 18D of the General Statutes.

34 (b) A credit union that provides a financial service to a licensed marijuana establishment,
35 and the officers, directors, and employees of that credit union, shall not be held liable pursuant
36 to any State law or regulation solely for providing such a financial service or for further investing
37 any income derived from such a financial service.

38 (c) Nothing in this section shall require a credit union to provide financial services to a
39 licensed marijuana establishment."

40 **SECTION 2.4.** The Board of Directors of the Cannabis Control Commission, as
41 created by this Part, shall adopt rules to implement the provisions of this act by July 1, 2024.

42 **SECTION 2.5.** The Cannabis Control Commission may start accepting applications
43 for licenses under this act on July 1, 2024, and shall, from July 1, 2024, until December 31, 2024,
44 give preference to qualified social equity applicants, as determined by rules adopted by the Board
45 of Directors of the Commission in accordance with this act. The Commission may issue any
46 license authorized by this act to any applicant who meets the requirements for licensure
47 established by this act and by any rules adopted by the Board of Directors of the Commission in
48 accordance with this act.

49 **SECTION 2.6.** Any applicant issued a license by the Commission may operate in
50 accordance with the provisions of this act prior to January 1, 2025; however, no retail marijuana
51 store licensee may sell retail marijuana or retail marijuana products to a consumer prior to

1 January 1, 2025. If a limit is placed on the number of licenses to be granted pursuant to this act,
2 the Commission shall, from July 1, 2024, to July 1, 2029, reserve a license slot for a qualified
3 social equity applicant for every license that was initially granted to a social equity applicant and
4 was subsequently surrendered. The Commission shall develop and implement its diversity,
5 equity, and inclusion plan pursuant to G.S. 18D-202, as created by this Part, and publish
6 resources to assist social equity applicants by January 1, 2024. The Commission shall ensure that
7 geographic dispersion is achieved regarding the issuance of retail marijuana store licenses and
8 shall reassess the issuance of retail marijuana store licenses at the following intervals to ensure
9 that geographic dispersion is maintained: after issuance of 100 licenses, 200 licenses, and 300
10 licenses.

11 **SECTION 2.7.** The Commission shall, in consultation with the Secretaries of Public
12 Safety, Transportation, and Health and Human Services, develop and implement a health, safety,
13 and safe driving campaign by January 1, 2024.

14 **SECTION 2.8.** The Secretaries of Health and Human Services and Public Safety
15 shall convene a work group with all appropriate State agencies and authorities to develop a plan
16 for identifying and collecting data that can determine the use and misuse of marijuana in order
17 to determine appropriate policies and programs to promote public health and safety. The plan
18 shall include marijuana-related data regarding (i) poison control center calls; (ii) hospital and
19 emergency room visits; (iii) impaired driving; (iv) use rates, including heavy or frequent use,
20 mode of use, and demographic information for vulnerable populations, including youth and
21 pregnant women; and (v) treatment rates for cannabis use disorder and any other diseases related
22 to marijuana use. The plan shall detail the categories for which each data source will be collected,
23 including the region where the individual lives or the incident occurred and the age and race or
24 ethnicity of the individual. The plan shall also include the means by which initial data will be
25 collected as soon as practicable as a benchmark prior to the effective date of an act legalizing
26 marijuana for adult use, the plan for regular collection of such data thereafter, and the cost of the
27 initial and ongoing collection of such data. The plan shall also recommend a timetable and
28 determine the cost for analyzing and reporting the data. The work group shall also recommend
29 metrics to identify disproportionate impacts of marijuana legalization, if any, to include
30 discrimination in the State's cannabis industry. The work group shall report its findings and
31 recommendations to the Governor and the General Assembly by November 1, 2022.

32 **SECTION 2.9.** The State Board of Education, with assistance from appropriate
33 experts, shall implement a plan to ensure that teachers have access to sufficient information,
34 resources, and lesson ideas to assist them in teaching about the harms of marijuana use among
35 the youth and about substance abuse. The State Board of Education shall (i) review resources
36 currently provided to teachers to determine if additional or updated material or lesson ideas are
37 needed and (ii) provide or develop any additional materials and resources deemed necessary and
38 make the same available to teachers by January 1, 2025.

39 **SECTION 2.10.** The State Board of Education shall develop a plan for introducing
40 teachers, particularly those teaching health, to the information and resources available to them to
41 assist them in teaching standards related to marijuana use. Such plan shall include providing
42 professional development webinars as soon as practicable, as well as ongoing periodic
43 professional development relating to marijuana, as well as alcohol, tobacco, and other drugs as
44 appropriate. The plan shall include the estimated cost of implementation and any potential source
45 of funds to cover such cost and shall be submitted to the Governor and the General Assembly by
46 November 1, 2022.

47 **SECTION 2.11.** The Board of Governors of the University of North Carolina and
48 the State Board of Community Colleges determine what, if any, additional evidence-based efforts
49 should be undertaken for college-age individuals to promote education and prevention strategies
50 relating to marijuana. The plan shall include the estimated cost of implementation and any

1 potential source of funds to cover such cost and shall be submitted to the Governor and the
2 General Assembly by November 1, 2022.

3 **SECTION 2.12.** The initial terms of office of those persons appointed to serve as
4 nonlegislative citizen members on the Cannabis Public Health Advisory Council, as created by
5 this Part, shall be staggered as follows: six persons shall be appointed for a term to expire June
6 30, 2026; six persons shall be appointed for a term to expire June 30, 2027; and five persons shall
7 be appointed for a term to expire June 30, 2028. Thereafter, nonlegislative citizen members of
8 the Cannabis Public Health Advisory Council shall serve for terms of four years.

9 **SECTION 2.13.** Sections 2.4 through 2.13 of this act are effective when they become
10 law. G.S. 18D-200 through G.S. 18D-225, as enacted by this Part, and become effective July 1,
11 2022. The remainder of this Part becomes effective January 1, 2025.

12 **PART III. REVISE LAW ON INDUSTRIAL HEMP**

13 **SECTION 3.1.** Article 50E of Chapter 106 of the General Statutes is repealed.

14 **SECTION 3.2.** Chapter 106 of the General Statutes is amended by adding two new
15 Articles to read:

16 "Article 50F.

17 "Industrial Hemp.

18 **§ 106-568.58. Definitions.**

19 The following definitions apply in this Article:

- 20 (1) Board. – The North Carolina Board of Agriculture.
- 21 (2) Cannabis sativa product. – A product made from any part of the plant
22 Cannabis sativa, including seeds thereof and any derivative, extract,
23 cannabinoid, isomer, acid, salt, or salt of an isomer, whether growing or not,
24 with a concentration of tetrahydrocannabinol that is greater than that allowed
25 by federal law.
- 26 (3) Commissioner. – The Commissioner of Agriculture of North Carolina.
- 27 (4) Deal. – To buy industrial hemp grown in compliance with State or federal law
28 and to sell such industrial hemp to a person who (i) processes industrial hemp
29 in compliance with State or federal law or (ii) sells industrial hemp to a person
30 who processes industrial hemp in compliance with State or federal law.
- 31 (5) Dealer. – Any person who is registered to deal in industrial hemp by the
32 Commission pursuant to this Article. This term does not include (i) a grower,
33 (ii) a processor, or (iii) any person who buys industrial hemp for personal use
34 or retail sale in this State.
- 35 (6) Dealership. – The location at which a dealer stores or intends to store the
36 industrial hemp in which he or she deals.
- 37 (7) Department. – The Department of Agriculture and Consumer Services.
- 38 (8) Grow. – To plant, cultivate, or harvest a plant or crop.
- 39 (9) Grower. – Any person registered to grow industrial hemp pursuant to this
40 Article.
- 41 (10) Hemp product. – A product that contains industrial hemp and has completed
42 all stages of processing needed for the product.
- 43 (11) Hemp product intended for smoking. – Any hemp product intended to be
44 consumed by inhalation.
- 45 (12) Hemp testing laboratory. – A laboratory licensed pursuant to this Article to
46 test hemp products or a marijuana testing facility as defined in Chapter 18D
47 of the General Statutes.
- 48 (13) Industrial hemp. – Any part of the plant Cannabis sativa, including seeds
49 thereof, whether growing or not, with a concentration of tetrahydrocannabinol
50 that is no greater than that allowed by federal law. This term includes an
51

1 industrial hemp extract that has not completed all stages of processing needed
2 to convert into a hemp product.

3 (14) Process. – To convert industrial hemp into a hemp product.

4 (15) Processor. – A person who is licensed to process industrial hemp by the
5 Commission pursuant to this Article.

6 (16) Process site. – The location at which a processor processes or intends to
7 process industrial hemp.

8 (17) Production field. – The land or area on which a grower is growing or intends
9 to grow industrial hemp.

10 **"§ 106-568.59. Production of industrial hemp lawful.**

11 (a) It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a
12 processor or his agent to process industrial hemp in the State for any lawful purpose. No grower
13 or his agent, dealer or his agent, or processor or his agent shall be prosecuted for the possession,
14 growing, dealing, or processing of industrial hemp.

15 (b) Nothing in this Article shall be construed to authorize any person to violate any
16 federal law or regulation.

17 (c) No person shall be prosecuted for the involuntary growth of industrial hemp through
18 the inadvertent natural spread of seeds or pollen as a result of proximity to a production field,
19 dealership, or process site.

20 **"§ 106-568.60. Rules.**

21 (a) The Board may adopt rules pursuant to this Article as necessary to register persons to
22 grow, deal in, or process industrial hemp or implement the provisions of this Article.

23 (b) Upon publication by the U.S. Department of Agriculture in the Federal Register of
24 any final rule regarding industrial hemp that materially expands opportunities for growing,
25 producing, or dealing in industrial hemp in the State, the Board shall immediately adopt
26 amendments conforming Department rules to such federal final rule. Such adoption of rules by
27 the Board shall be exempt from the provisions of Chapter 150B of the General Statutes.

28 (c) The Board shall adopt rules (i) establishing acceptable testing practices for hemp
29 products intended for smoking and hemp products that are an industrial hemp extract intended
30 for human consumption, (ii) identifying the contaminants for which hemp products intended for
31 smoking and hemp products that are an industrial hemp extract intended for human consumption
32 shall be tested, and (iii) establishing the maximum level of allowable contamination for each
33 contaminant.

34 (d) The Board shall adopt rules establishing (i) labeling and packaging requirements for
35 a hemp product intended for smoking and a hemp product that is an industrial hemp extract
36 intended for human consumption and (ii) advertising requirements for a hemp product intended
37 for smoking and a hemp product that is an industrial hemp extract intended for human
38 consumption.

39 **"§ 106-568.61. Authority of Commissioner; notice to law enforcement; report.**

40 (a) The Commissioner may charge a nonrefundable fee not to exceed fifty dollars
41 (\$50.00) for any application for registration or license or renewal of registration or license
42 allowed under this Article. The Commissioner may charge a nonrefundable fee for the
43 tetrahydrocannabinol testing allowed under this Article. All fees collected by the Commissioner
44 shall be deposited in the General Fund.

45 (b) The Commissioner shall notify the State Bureau of Investigation of the locations of
46 all industrial hemp production fields, dealerships, process sites, and hemp testing laboratories.

47 (c) The Commissioner shall forward a copy or appropriate electronic record of each
48 registration issued by the Commissioner under this chapter to the chief law enforcement officer
49 of the county or city where industrial hemp will be grown, dealt, or processed, or where a hemp
50 testing laboratory will be located.

1 (d) The Commissioner shall be responsible for monitoring the industrial hemp grown,
2 dealt, or processed by a person registered pursuant to this Article and shall provide for random
3 testing of the industrial hemp, at the cost of the grower, dealer, or processor, for compliance with
4 tetrahydrocannabinol limits and for other appropriate purposes established pursuant to this
5 Article. In addition to any routine inspection and sampling, the Commissioner may inspect and
6 sample the industrial hemp at any production field, dealership, or process site during normal
7 business hours without advance notice if he or she has reason to believe a violation of this Article
8 is occurring or has occurred.

9 (e) The Commissioner may require a grower, dealer, or processor to destroy, at the cost
10 of the grower, dealer, or processor and in a manner approved of and verified by the
11 Commissioner, any Cannabis sativa that the grower grows, in which the dealer deals, or that the
12 processor processes that has been tested and is found to have a concentration of
13 tetrahydrocannabinol that is greater than that allowed by federal law, or any Cannabis sativa
14 product that the processor produces.

15 (f) Notwithstanding the provisions of subsection (e) of this section, if the provisions of
16 subdivisions (1) and (2) of this subsection are included in a plan that (i) is submitted by the
17 Department pursuant to § 10113 of the federal Agriculture Improvement Act of 2018, P.L.
18 115-334, (ii) requires the Department to monitor and regulate the production of industrial hemp
19 in the State, and (iii) is approved by the U.S. Secretary of Agriculture:

20 (1) The Commissioner may require a grower, dealer, or processor to destroy, at
21 the cost of the grower, dealer, or processor and in a manner approved of and
22 verified by the Commissioner, any Cannabis sativa that the grower grows, in
23 which the dealer deals, or that the processor processes that has been tested and
24 is found to have a concentration of tetrahydrocannabinol that is greater than
25 six tenths of one percent (0.6%).

26 (2) If such a test of Cannabis sativa indicates a concentration of
27 tetrahydrocannabinol that is greater than six tenths of one percent (0.6%), but
28 less than one percent (1%), the Commissioner shall allow the grower, dealer,
29 or processor to request that the Cannabis sativa be sampled and tested again
30 before he or she requires its destruction.

31 (g) The Commissioner shall advise the Attorney General of the United States and the
32 State Bureau of Investigation or the chief law enforcement officer of the appropriate county or
33 city when, with a culpable mental state greater than negligence, a grower grows, a dealer deals
34 in, or a processor processes any Cannabis sativa with a concentration of tetrahydrocannabinol
35 that is greater than that allowed by federal law or a processor produces a Cannabis sativa product.

36 (h) The Commissioner may pursue any permits or waivers from the U.S. Drug
37 Enforcement Administration or appropriate federal agency that he or she determines to be
38 necessary for the advancement of the industrial hemp industry.

39 (i) The Commissioner may establish a corrective action plan to address a negligent
40 violation of any provision of this chapter.

41 **"§ 106-568.62. Issuance of registrations.**

42 (a) The Commissioner shall establish a registration program to allow a person to grow,
43 deal in, or process industrial hemp in the State.

44 (b) Any person seeking to grow, deal in, or process industrial hemp in the State shall
45 apply to the Commissioner for a registration on a form provided by the Commissioner. At a
46 minimum, the application shall include all of the following:

47 (1) The name and mailing address of the applicant.

48 (2) The legal description and geographic data sufficient for locating (i) the land
49 on which the applicant intends to grow industrial hemp, (ii) the site at which
50 the applicant intends to deal in industrial hemp, or (iii) the site at which the
51 applicant intends to process industrial hemp. A registration shall authorize

- 1 industrial hemp growth, dealing in, or processing only at the location specified
2 in the registration.
- 3 (3) A signed statement indicating whether the applicant has ever been convicted
4 of a felony. A person with a prior felony drug conviction within 10 years of
5 applying for a registration under this section shall not be eligible to be
6 registered.
- 7 (4) Written consent allowing the sheriff's office, police department, or State
8 Bureau of Investigation, if a registration is ultimately issued to the applicant,
9 to enter the premises on which the industrial hemp is grown, dealt in, or
10 processed to conduct physical inspections of the industrial hemp and to ensure
11 compliance with the requirements of this Article. No more than two physical
12 inspections shall be conducted under this subdivision per year, unless a valid
13 search warrant for an inspection has been issued by a court of competent
14 jurisdiction.
- 15 (5) Written consent allowing the Commissioner or his or her designee to enter the
16 premises on which the industrial hemp is grown, dealt in, or processed to
17 conduct inspections and sampling of the industrial hemp to ensure compliance
18 with the requirements of this Article.
- 19 (6) A statement of the approximate square footage or acreage of the location he
20 or she intends to use as a production field, dealership, or process site.
- 21 (7) Any other information required by the Commissioner.
- 22 (8) The payment of a nonrefundable application fee, in an amount set by the
23 Commissioner not to exceed fifty dollars (\$50.00).
- 24 (c) Each registration issued pursuant to this section shall be valid for a period of one year
25 from the date of issuance and may be renewed in successive years. Each annual renewal shall
26 require the payment of a registration renewal fee, in an amount set by the Commissioner not to
27 exceed fifty dollars (\$50.00).
- 28 (d) All records, data, and information filed in support of a registration application
29 submitted pursuant to this section shall be considered proprietary and are not a public record.
- 30 **§ 106-568.63. Registration conditions.**
- 31 (a) A person shall obtain a registration pursuant to this Article prior to growing, dealing
32 in, or processing any industrial hemp in the State.
- 33 (b) A person issued a registration pursuant to this Article shall do all of the following:
- 34 (1) Maintain records that reflect compliance with this Article and with all other
35 State or federal laws regulating the growing, dealing in, or processing of
36 industrial hemp.
- 37 (2) Retain all industrial hemp growing, dealing, or processing records for at least
38 three years.
- 39 (3) Allow his or her production field, dealership, or process site to be inspected
40 by and at the discretion of the Commissioner or his or her designee, the State
41 Bureau of Investigation, or the chief law enforcement officer of the locality in
42 which the production field or dealership or process site exists.
- 43 (4) Allow the Commissioner or his or her designee to monitor and test the
44 grower's, dealer's, or processor's industrial hemp for compliance with
45 tetrahydrocannabinol levels and for other appropriate purposes established
46 pursuant to this Article, at the cost of the grower, dealer, or processor.
- 47 (5) If required by the Commissioner, destroy, at the cost of the grower, dealer, or
48 processor and in a manner approved of and verified by the Commissioner, any
49 Cannabis sativa that the grower grows, the dealer deals in, or the processor
50 processes that has been tested and, following any re-sampling and retesting as
51 authorized pursuant to the provisions of this Article, is found to have a

1 concentration of tetrahydrocannabinol that is greater than that allowed by
2 federal law, or any Cannabis sativa product that the processor produces.

3 (c) A processor that processes a hemp product intended for smoking or a hemp product
4 that is an industrial hemp extract intended for human consumption shall make available the
5 results of the testing conducted to each retail establishment that offers for sale the processor's
6 hemp products.

7 **"§ 106-568.64. Forfeiture of industrial hemp grower, dealer, or processor registration;**
8 **violations.**

9 (a) The Commissioner shall deny the application, or suspend or revoke the registration,
10 of any person who, with a culpable mental state greater than negligence, violates any provision
11 of this Article. The Commissioner shall provide reasonable notice of an informal fact-finding
12 hearing pursuant to any person in connection with the denial, suspension, or revocation of a
13 registration.

14 (b) If a registration is revoked as the result of an informal hearing, the decision may be
15 appealed, and upon appeal an administrative hearing shall be conducted in accordance with
16 Chapter 150B of the General Statutes. The grower, dealer, or processor may appeal a final order
17 in accordance with Chapter 150B of the General Statutes.

18 (c) A person issued a registration pursuant to this Article who negligently (i) fails to
19 provide a description and geographic data sufficient for locating his or her production field,
20 dealership, or process site; (ii) grows, deals in, or processes Cannabis sativa with a
21 tetrahydrocannabinol concentration greater than that allowed by federal law; or (iii) produces a
22 Cannabis sativa product shall comply with any corrective action plan established by the
23 Commissioner in accordance with the provisions of subsection (e) of this section.

24 (d) A person who grows, deals in, or processes industrial hemp and who negligently fails
25 to register pursuant to this Article shall comply with any corrective action plan established by the
26 Commissioner in accordance with the provisions of subsection (e) of this section.

27 (e) A corrective action plan established by the Commissioner in response to a negligent
28 violation of a provision of this Article shall identify a reasonable date by which the person who
29 is the subject of the plan shall correct the negligent violation and shall require such person to
30 report periodically for not less than two calendar years to the Commissioner on the person's
31 compliance with the provisions of this Article.

32 (f) No person who negligently violates the provisions of this Article three times in a
33 five-year period shall be eligible to grow, deal in, or process industrial hemp for a period of five
34 years beginning on the date of the third violation.

35 **"§ 106-568.65. Hemp testing laboratory license program.**

36 (a) The Commissioner shall establish a licensure program to allow a laboratory to test
37 industrial hemp or hemp products in the State.

38 (b) Any laboratory seeking to test industrial hemp or hemp products in the State shall
39 apply to the Commissioner for a license on a form provided by the Commissioner. At a minimum,
40 the application shall include all of the following:

41 (1) The name and address of the laboratory.

42 (2) The address of each location at which the laboratory intends to test industrial
43 hemp or hemp products.

44 (3) The name of the person who will oversee and be responsible for the testing
45 and documentation that such person has earned from an institution of higher
46 education accredited by a national or regional certifying authority at least (i)
47 a master's degree in chemical or biological sciences and a minimum of two
48 years of post-degree laboratory experience or (ii) a bachelor's degree in
49 chemical or biological sciences and a minimum of four years of post-degree
50 laboratory experience.

1 The following definitions apply in this Article:

2 (1) Board. – As defined in G.S. 106-568.58.

3 (2) Commissioner. – As defined in G.S. 106-568.58.

4 (3) Edible marijuana product. – As defined in G.S. 18D-101.

5 (4) Food. – Any article that is intended for human consumption and introduction
6 into commerce, whether the article is simple, mixed, or compound, and all
7 substances or ingredients used in the preparation thereof. This term does not
8 include (i) articles or substances recognized in the official United States
9 Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia
10 of the United States, or any supplement to any of them; (ii) articles or
11 substances intended for use in the diagnosis, cure, mitigation, treatment, or
12 prevention of disease in man or animals; (iii) articles or substances, other than
13 food, intended to affect the structure or any function of the body of man or
14 animals; (iv) articles or substances intended for use as a component of any
15 article specified in clause (i), (ii), or (iii); or (v) a biological product.

16 **"§ 106-568.68. Edible marijuana products; approved food; adulterated food.**

17 (a) An edible marijuana product is a food and is subject to the requirements of this Article
18 and rules adopted pursuant to this Article.

19 (b) An edible marijuana product that does not comply with the provisions of Chapter 18D
20 of the General Statutes or health and safety rules adopted pursuant thereto shall be deemed to be
21 adulterated.

22 **"§ 106-568.69. Manufacturer of edible marijuana products.**

23 A manufacturer of an edible marijuana product shall be an approved source if the
24 manufacturer operates as follows:

25 (1) Under inspection by the Commissioner in the location in which such
26 manufacturing occurs.

27 (2) In compliance with the laws, regulations, or criteria that pertain to the
28 manufacture of edible marijuana products in the location in which such
29 manufacturing occurs.

30 **"§ 106-568.70. Rules.**

31 The Board shall adopt rules for the enforcement of this Article."

32 **SECTION 3.3.** The Board of Agriculture shall adopt rules to implement the
33 provisions of this Part by December 1, 2024.

34 **SECTION 3.4.** Section 3.3 of this act is effective when it becomes law. The
35 remainder of this Part becomes effective January 1, 2025.

36
37 **PART IV. AUTOMATIC EXPUNCTION OF MARIJUANA OFFENSES**

38 **SECTION 4.1.** Article 5 of Chapter 15A of the General Statutes is amended by
39 adding a new section to read:

40 **"§ 15A-145.8B. Automatic expunction of certain marijuana offenses.**

41 (a) If a person was charged with an offense involving marijuana or hashish that is legal
42 under Chapter 18D of the General Statutes, and such person was convicted, such conviction shall
43 be ordered to be automatically expunged no later than July 1, 2027, in the manner set forth in
44 this section.

45 (b) The Administrative Office of the Courts shall determine which offenses meet the
46 criteria for expunction set forth in subsection (a) of this section. Upon completing the
47 determination required under this subsection, the Administrative Office of the Courts shall
48 provide an electronic list of the offenses to the clerk of each superior court. Upon receipt of the
49 electronic list required under this subsection, the clerk of each superior court shall prepare an
50 order of expungement for each case that meets the criteria set forth in subsection (a) of this section
51 and was finalized in his or her court. Upon completion of the order of expungement, the court

1 shall order the expunction. Upon order of expungement, the clerk shall forward the petition to
 2 the Administrative Office of the Courts.

3 (c) No person as to whom such an order has been entered under this section shall be held
 4 thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise
 5 giving a false statement or response to any inquiry made for any purpose, by reason of the
 6 person's failure to recite or acknowledge any expunged entries concerning apprehension, charge,
 7 or trial.

8 (d) The court shall also order that the conviction ordered expunged under this section be
 9 expunged from the records of the court and direct all law enforcement agencies bearing record
 10 of the same to expunge their records of the conviction. The clerk shall notify State and local
 11 agencies of the court's order as provided in G.S. 15A-150.

12 (e) Any other applicable State or local government agency shall expunge from its records
 13 entries made as a result of the conviction ordered expunged under this section. The agency shall
 14 also reverse any administrative actions taken against a person whose record is expunged under
 15 this section as a result of the charges or convictions expunged. This subsection shall not apply to
 16 the Department of Justice for DNA records and samples stored in the State DNA Database and
 17 the State DNA Databank."

18 **SECTION 4.2.** The Administrative Office of the Courts shall provide the list
 19 required under G.S. 15A-145.8B(b), as enacted by this Part, by October 1, 2026.

20 **SECTION 4.3.** This Part becomes effective January 1, 2025.

21
 22 **PART V. CONFORMING CHANGES**

23 **SECTION 5.1.** G.S. 90-87(16) is repealed.

24 **SECTION 5.2.** G.S. 90-94 is repealed.

25 **SECTION 5.3.** G.S. 90-95 reads as rewritten:

26 **"§ 90-95. Violations; penalties.**

27 ...

28 (b) Except as provided in subsections (h) and (i) of this section, any person who violates
 29 G.S. 90-95(a)(1) with respect to:

30 ...

31 (2) A controlled substance classified in Schedule III, IV, ~~V, or VI~~ or V shall be
 32 punished as a Class I felon, except that the sale of a controlled substance
 33 classified in Schedule III, IV, ~~V, or VI~~ or V shall be punished as a Class H
 34 felon. ~~The transfer of less than 5 grams of marijuana for no remuneration shall~~
 35 ~~not constitute a delivery in violation of G.S. 90-95(a)(1).~~

36 ...

37 (d) Except as provided in subsections (h) and (i) of this section, any person who violates
 38 G.S. 90-95(a)(3) with respect to:

39 ...

40 (4) ~~A controlled substance classified in Schedule VI shall be guilty of a Class 3~~
 41 ~~misdemeanor, but any sentence of imprisonment imposed must be suspended~~
 42 ~~and the judge may not require at the time of sentencing that the defendant~~
 43 ~~serve a period of imprisonment as a special condition of probation. If the~~
 44 ~~quantity of the controlled substance exceeds one half of an ounce~~
 45 ~~(avoirdupois) of marijuana or one twentieth of an ounce (avoirdupois) of the~~
 46 ~~extracted resin of marijuana, commonly known as hashish, the violation shall~~
 47 ~~be punishable as a Class 1 misdemeanor. If the quantity of the controlled~~
 48 ~~substance exceeds one and one-half ounces (avoirdupois) of marijuana, or~~
 49 ~~three twentieths of an ounce (avoirdupois) of the extracted resin of marijuana,~~
 50 ~~commonly known as hashish, or if the controlled substance consists of any~~
 51 ~~quantity of synthetic tetrahydrocannabinols or tetrahydrocannabinols isolated~~

1 from the resin of marijuana, the violation shall be punishable as a Class I
 2 felony.

3 ...

4 (e) The prescribed punishment and degree of any offense under this Article shall be
 5 subject to the following conditions, but the punishment for an offense may be increased only by
 6 the maximum authorized under any one of the applicable conditions:

7 ...

8 (8) Any person 21 years of age or older who commits an offense under
 9 G.S. 90-95(a)(1) on property used for a child care center, or for an elementary
 10 or secondary school or within 1,000 feet of the boundary of real property used
 11 for a child care center, or for an elementary or secondary school shall be
 12 punished as a Class E felon. ~~For purposes of this subdivision, the transfer of~~
 13 ~~less than five grams of marijuana for no remuneration shall not constitute a~~
 14 ~~delivery in violation of G.S. 90-95(a)(1).~~ For purposes of this subdivision, a
 15 child care center is as defined in G.S. 110-86(3)a., and that is licensed by the
 16 Secretary of the Department of Health and Human Services.

17 ...

18 (10) Any person 21 years of age or older who commits an offense under
 19 G.S. 90-95(a)(1) on property that is a public park or within 1,000 feet of the
 20 boundary of real property that is a public park shall be punished as a Class E
 21 felon. ~~For purposes of this subdivision, the transfer of less than five grams of~~
 22 ~~marijuana for no remuneration shall not constitute a delivery in violation of~~
 23 ~~G.S. 90-95(a)(1).~~

24 ...

25 (h) Notwithstanding any other provision of law, the following provisions apply except as
 26 otherwise provided in this Article:

27 (1) ~~Any person who sells, manufactures, delivers, transports, or possesses in~~
 28 ~~excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony~~
 29 ~~which felony shall be known as "trafficking in marijuana" and if the quantity~~
 30 ~~of such substance involved:~~

31 a. ~~Is in excess of 10 pounds, but less than 50 pounds, such person shall~~
 32 ~~be punished as a Class H felon and shall be sentenced to a minimum~~
 33 ~~term of 25 months and a maximum term of 39 months in the State's~~
 34 ~~prison and shall be fined not less than five thousand dollars (\$5,000);~~

35 b. ~~Is 50 pounds or more, but less than 2,000 pounds, such person shall be~~
 36 ~~punished as a Class G felon and shall be sentenced to a minimum term~~
 37 ~~of 35 months and a maximum term of 51 months in the State's prison~~
 38 ~~and shall be fined not less than twenty-five thousand dollars (\$25,000);~~

39 e. ~~Is 2,000 pounds or more, but less than 10,000 pounds, such person~~
 40 ~~shall be punished as a Class F felon and shall be sentenced to a~~
 41 ~~minimum term of 70 months and a maximum term of 93 months in the~~
 42 ~~State's prison and shall be fined not less than fifty thousand dollars~~
 43 ~~(\$50,000);~~

44 d. ~~Is 10,000 pounds or more, such person shall be punished as a Class D~~
 45 ~~felon and shall be sentenced to a minimum term of 175 months and a~~
 46 ~~maximum term of 222 months in the State's prison and shall be fined~~
 47 ~~not less than two hundred thousand dollars (\$200,000).~~

48"

49 **SECTION 5.4.** G.S. 90-113.22A is repealed.

50 **SECTION 5.5.** G.S. 90-113.21 reads as rewritten:

51 **"§ 90-113.21. General provisions.**

1 (a) As used in this Article, "drug paraphernalia" means all equipment, products and
 2 materials of any kind that are used to facilitate, or intended or designed to facilitate, violations of
 3 the Controlled Substances Act, including planting, propagating, cultivating, growing, harvesting,
 4 manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing,
 5 packaging, repackaging, storing, containing, and concealing controlled substances and injecting,
 6 ingesting, inhaling, or otherwise introducing controlled substances into the human body. "Drug
 7 paraphernalia" includes, but is not limited to, the following:

- 8 ...
- 9 ~~(7) Separation gins and sifters for removing twigs and seeds from, or otherwise~~
 10 ~~cleaning or refining, marijuana;~~
- 11 ...
- 12 (12) Objects for ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine,~~
 13 ~~hashish, or hashish oil cocaine~~ into the body, such as:
- 14 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or
 - 15 without screens, permanent screens, hashish heads, or punctured metal
 - 16 bowls;
 - 17 b. Water pipes;
 - 18 c. Carburetion tubes and devices;
 - 19 d. Smoking and carburetion masks;
 - 20 e. Objects, commonly called roach clips, for holding burning material,
 - 21 ~~such as a marijuana cigarette,~~ that has become too small or too short
 - 22 to be held in the hand;

23"

24 **SECTION 5.6.** G.S. 105-113.106 reads as rewritten:

25 **"§ 105-113.106. Definitions.**

26 The following definitions apply in this Article:

- 27 ...
- 28 (3) Dealer. – Any of the following:
- 29 a. A person who actually or constructively possesses ~~more than 42.5~~
 30 ~~grams of marijuana,~~ seven or more grams of any ~~other~~ controlled
 31 substance other than marijuana that is sold by weight, or 10 or more
 32 dosage units of any other controlled substance that is not sold by
 33 weight.
 - 34 b. A person who in violation of Chapter 18B of the General Statutes
 35 possesses illicit spirituous liquor for sale.
 - 36 c. A person who in violation of Chapter 18B of the General Statutes
 37 possesses mash.
 - 38 d. A person who in violation of Chapter 18B of the General Statutes
 39 possesses an illicit mixed beverage for sale.
- 40 ...
- 41 (6) ~~Marijuana.—All parts of the plant of the genus Cannabis, whether growing or~~
 42 ~~not; the seeds of this plant; the resin extracted from any part of this plant; and~~
 43 ~~every compound, salt, derivative, mixture, or preparation of this plant, its~~
 44 ~~seeds, or its resin.~~

45"

46 **SECTION 5.7.** G.S. 105-113.107 reads as rewritten:

47 **"§ 105-113.107. Excise tax on unauthorized substances.**

48 (a) Controlled Substances. – An excise tax is levied on controlled substances possessed,
 49 either actually or constructively, by dealers at the following rates:

- 1 (1) ~~At the rate of forty cents (40¢) for each gram, or fraction thereof, of harvested~~
 2 ~~marijuana stems and stalks that have been separated from and are not mixed~~
 3 ~~with any other parts of the marijuana plant.~~
 4 (1a) ~~At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction~~
 5 ~~thereof, of marijuana, other than separated stems and stalks taxed under~~
 6 ~~subdivision (1) of this [sub]section, or synthetic cannabinoids.~~
 7 (1b) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of
 8 cocaine.
 9 (1c) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of any
 10 low-street-value drug that is sold by weight.
 11 (2) At the rate of two hundred dollars (\$200.00) for each gram, or fraction thereof,
 12 of any other controlled substance that is sold by weight.
 13 (2a) At the rate of fifty dollars (\$50.00) for each 10 dosage units, or fraction
 14 thereof, of any low-street-value drug that is not sold by weight.
 15 (3) At the rate of two hundred dollars (\$200.00) for each 10 dosage units, or
 16 fraction thereof, of any other controlled substance that is not sold by weight.
 17 (a1) Weight. – A quantity of ~~marijuana or other~~ controlled substance is measured by the
 18 weight of the substance whether pure or impure or dilute, or by dosage units when the substance
 19 is not sold by weight, in the dealer's possession. A quantity of a controlled substance is dilute if
 20 it consists of a detectable quantity of pure controlled substance and any excipients or fillers.
 21"

22 **SECTION 5.8.** G.S. 105-113.107A reads as rewritten:

23 **"§ 105-113.107A. Exemptions.**

24 (a) ~~Authorized Possession.~~—The tax levied in this Article does not apply to a substance
 25 in the possession of a dealer who is authorized by law to possess the substance. This exemption
 26 applies only during the time the dealer's possession of the substance is authorized by law.

27 (b) ~~Certain Marijuana Parts.~~—~~The tax levied in this Article does not apply to the~~
 28 ~~following marijuana:~~

- 29 (1) ~~Harvested mature marijuana stalks when separated from and not mixed with~~
 30 ~~any other parts of the marijuana plant.~~
 31 (2) ~~Fiber or any other product of marijuana stalks described in subdivision (1) of~~
 32 ~~this subsection, except resin extracted from the stalks.~~
 33 (3) ~~Marijuana seeds that have been sterilized and are incapable of germination.~~
 34 (4) ~~Roots of the marijuana plant."~~

35 **SECTION 5.9.** G.S. 105-113.108(b)(1) is repealed.

36 **SECTION 5.10.** G.S. 106-134(4) reads as rewritten:

- 37 "(4) If it is for use by man and contains any quantity of the narcotic or hypnotic
 38 substance alphaeucaine, barbituric acid, betaeucaine, bromal, ~~cannabis,~~
 39 carbromal, chloral, coca, cocaine, codeine, heroin, ~~marijuana,~~ morphine,
 40 opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative
 41 of such substances, which derivative has been by the Board after investigation,
 42 found to be, and by regulations under this Article, designated as, habit
 43 forming; unless its label bears the name and quantity or proportion of such
 44 substance or derivative and in juxtaposition therewith the statement "Warning
 45 – May be habit forming."

46 **SECTION 5.11.** G.S. 148-64.1(a)(2)e. is repealed.

47 **SECTION 5.12.** G.S. 90-94.1 is repealed.

48 **SECTION 5.13.** This Part becomes effective January 1, 2025, and applies to offenses
 49 committed on or after that date.

50 **PART VI. SAVINGS CLAUSE AND EFFECTIVE DATE**

- 1 **SECTION 6.1.** Prosecutions for offenses committed before the effective date of this
2 act are not abated or affected by this act, and the statutes that would be applicable but for this act
3 remain applicable to those prosecutions.
4 **SECTION 6.2.** Except as otherwise provided in this act, this act is effective when it
5 becomes law.