

## S.F. No. 73 – Cannabis Legalization and Regulation (1<sup>st</sup> Engrossment)

**Author:** Senator Lindsey Port

**Prepared by:** The Office of Senate Counsel, Research, and Fiscal Analysis  
(651/296-4791)

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**S.F. No. 73** authorizes the possession, consumption, and sale of adult-use cannabis and lower-dose cannabinoid products and establishes a regulatory framework for this under the newly created Office of Cannabis Management (OCM). The bill also moves the existing medical cannabis program so that it will be overseen by the new office, establishes taxes on adult-use cannabis, provides grants to assist individuals entering into the legal cannabis market, amends criminal penalties, provides for expungement and resentencing of certain convictions, provides for temporary regulation of hemp-derived edible cannabinoid products, reschedules marijuana, makes numerous conforming changes to other existing laws to accommodate the legalization decisions made in the bill, and appropriates money to establish the regulatory structure for adult-use cannabis and pay for the bill’s costs.

### Article 1 – Regulation of Adult-Use Cannabis

**Section 1 [Definitions]** defines terms including, but not limited to, “adult-use cannabinoid product,” “adult-use cannabis concentrate,” “adult-use cannabis flower,” “artificially derived cannabinoid,” “batch,” “cannabinoid,” “cannabinoid profile,” “cannabis business,” “cannabis prohibition,” “cannabis worker,” “edible cannabinoid product,” “hemp-derived consumer product,” “hemp fiber product,” “intoxicating cannabinoid,” “labor peace agreement,” “lower potency edible product,” “medical cannabinoid product,” “medical cannabis business,” “medical cannabis flower,” “office,” “patient,” “qualifying medical condition,” “registry or registry program,” “statewide monitoring system,” “synthetic cannabinoid,” “visiting patient,” and “volatile solvent,” as used in the new chapter of law.

**Section 2, Subdivision 1 [Establishment]** establishes an Office of Cannabis Management (OCM).

**Subdivision 2 [Powers and duties]** lists the powers and duties of the OCM. Requires the OCM to regulate the cannabis industry and perform other specified duties related to cannabis.

**Subdivision 3 [Medical cannabis program]** transfers the powers and duties of the department of health with respect to medical cannabis are transferred to the OCM.

**Subdivision 4 [Interagency agreements]** authorizes the OCM and the commissioner of agriculture to enter into interagency agreements to ensure edible cannabinoid products are handled, manufactured and inspected according to certain food safety requirements.

**Subdivision 5 [Rulemaking]** authorizes the OCM to adopt rules. Authorizes expedited rulemaking for rules for which notice is published in the State Register by July 1, 2025.

**Subdivision 6 [Director]** requires the governor to appoint the director of the OCM with the advice and consent of the senate. Places the director position in the unclassified service and provides that the director serves at the governor's pleasure. Caps the director's salary at 133 percent of the governor's salary, like the salaries of the commissioners of other major state agencies. Precludes the director from having a direct or indirect financial interest in a cannabis business for two years after terminating service.

**Subdivision 7 [Employees]** authorizes the OCM to employ staff in the classified service. Requires a prospective employee to consent to a criminal history records check and for the Bureau of Criminal Apprehension to perform the check. Authorizes the Bureau to exchange an applicant's fingerprints with the FBI to obtain a national criminal history record information. Requires the bureau to return the results of the state and federal records checks to the director to determine if the applicant is disqualified. Precludes employees from having a direct or indirect financial interest in a cannabis business for two years after terminating employment.

**Subdivision 8 [Division of Social Equity]** requires the OCM to establish a Division of Social Equity to perform specified duties, including administering grants to communities that experienced a disproportionate, negative impact from cannabis prohibition, for certain purposes; acting as an ombudsperson for the OCM to provide information for investigative complaints related to cannabis and provide or facilitate dispute resolution; and report to the OCM on status of complaints and social equity in the cannabis industry.

Section 2 is effective July 1, 2023, except for the transfer of responsibilities for medical cannabis to the OCM which is effective January 1, 2024.

**Section 3 [Cannabis Advisory Council]** establishes a Cannabis Advisory Council.

**Subdivision 1 [Membership]** specifies the membership of the Cannabis Advisory Council.

**Subdivision 2 [Terms; compensation; removal; vacancy; expiration]** provides that certain specifics for the structure and operation of the council are as provided in section 15.059, as follows:

- Terms: four years. One-half of the members shall serve terms coterminous with the governor. The remaining members serve a terms that ends the first Monday in January one year after the other members. Members serve until successors are appointed. Certain other specifics regarding members terms apply.

- Compensation: \$55 per day spent on council activities, when authorized by the council, plus reimbursement of expenses including for child care.
- Removal: members may be removed by the appointing authority at any time at the pleasure of the appointing authority.
- Vacancy: the appointing authority shall appoint a person to fill the vacancy for the remainder of the unexpired term.
- Expiration: The council is mandated in statute and the enabling statute is silent as to the expiration of the council, so the council expires two years after the effective date of this section by operation of section 15.059, subdivision 6.

**Subdivision 3 [Officers; meetings]** requires the director of the OCM or the director's designee to serve as chair of the Cannabis Advisory Council. Requires the council to elect a vice-chair and authorizes election of additional officers. Requires the council to meet quarterly or at the call of the chair. Meetings of the council are subject to the open meeting law.

**Subdivision 4 [Duties]** specifies the duties of the council, including reviewing national cannabis policy, examining the effectiveness of state cannabis policy, reviewing industry developments, reviewing results of studies on cannabis flower and cannabinoid products, taking public testimony, and making recommendations to the OCM. Authorizes the council to examine other related issues.

**Section 4 – [Studies; reports]** requires the OCM to study the cannabis industry and its effects and to report its findings to the legislature.

**Section 5 [Statewide monitoring system]** requires a statewide monitoring system.

**Subdivision 1 [Statewide monitoring]** requires the OCM to contract with a vendor to establish a statewide monitoring system to track all cannabis plants, cannabis flower, cannabinoid products and artificially derived cannabinoids from seed, immature plant, or creation until disposal or sale to a patient or customer.

**Subdivision 2 [Data submission requirements]** requires the monitoring system to allow cannabis businesses to submit data through common software used in the industry. Authorizes the monitoring system to collect data through manual entry with office approval.

**Section 6 [Approval of cannabis flower, products, and cannabinoids]** requires the OCM to approve types of products and includes types of products that are prohibited.

**Section 7 [Agricultural and food safety practices; rulemaking]** requires the OCM to make rules to establish requirements for certification, testing, and labeling; prohibits genetically engineered cannabis plants; requires the OCM to establish best practices for cannabis cultivation; and requires the OCM to establish an edible cannabinoid product handler endorsement.

**Section 8 [Environmental standards]** requires the development of standards relating to water, energy, solid waste, and odors for cannabis businesses; authorizes rulemaking; and requires cannabis businesses to comply with those rules.

**Section 9 [Personal adult use of cannabis]** provides legal limitations on the use, possession, and transportation of cannabis and cannabis products and establishes civil penalties for violations.

States that a person age 21 or older may:

- use, possess, or transport cannabis paraphernalia;
- possess two ounces or less of cannabis flower in a public place;
- possess five pounds or less of cannabis flower in a person’s residence;
- possess or transport eight grams or less of adult-use cannabis concentrate;
- possess or transport edible products infused with a total of 800 mg or less of tetrahydrocannabinol;
- give away cannabis flower and cannabinoid products in an amount that is legal for a person to possess in public;
- use cannabis flower and cannabinoid products in private areas; and
- cultivate up to eight cannabis plants, of which four or fewer may be mature, flowering plants.

Prohibits smoking cannabis flower or cannabinoid products in places where smoking is prohibited under the Clean Indoor Air Act. Contains other prohibitions including using cannabis flower or cannabinoid products in state correctional facilities, operating a motor vehicle while under the influence of cannabis flower or cannabinoid products, giving cannabis flower or cannabinoid products to a person under the age of 21, or giving cannabis flower or cannabinoid products as a promotional gift. Requires certain disclosures by the proprietors of day care programs that operate within a part of a family home that are similar to requirements related to smoking tobacco. Prohibits the use of a volatile solvent to extract cannabis concentrate. Prohibits the sale of cannabis flower or cannabinoid products, or the importation of hemp-derived products, without an appropriate license. Establishes non-criminal financial penalties for violations.

**Section 10 [Licenses; types]** sets forth the types of licenses that the OCM must issue under the new chapter. License categories are:

- cannabis cultivator (which license type includes craft cultivators and bulk cultivators);
- cannabis manufacturer;
- cannabis retailer;
- cannabis wholesaler;
- cannabis transporter;
- cannabis testing facility;
- cannabis microbusiness;
- cannabis event organizer;
- cannabis delivery service;
- lower potency edible retailer;
- medical cannabis cultivator;
- medical cannabis processor; and
- medical cannabis retailer.

**Section 11 [Licenses; fees]** prohibits charging a fee for an annual license issued under the chapter, other than certain application fees.

**Section 12 [Licenses; transfers; adjustments]** prohibits transferring licenses issued under the chapter and requires licenses to be renewed annually. Identifies significant business events upon which a licensee must obtain a new license. These events include, but are not limited to, the conversion, dissolution, merger, or transfer of the majority of ownership of the licensee, and the substitution, elimination, or withdrawal of the licensee’s responsibility for the operation of the licensee. Permits license holders to petition to adjust the tier of a license issued within a license category. Permits the OCM to allow a license holder to relocate by rule, and limits the application fee the OCM may charge for relocation to \$250.

**Section 13 [Local control]** provides that a local unit of government may not prohibit the possession, transportation, or use of cannabis flower or cannabinoid products, and may not prohibit the establishment or operation of a cannabis business licensed under this chapter. Allows the local unit of government to adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business. The local unit of government may prohibit the operation of a business within a certain distance of places listed in paragraph (c). Requires the OCM to work with local units of government to develop model ordinances for reasonable restrictions on time, place, and manner of operation of the business. Under certain circumstances, the local unit of government may adopt an interim ordinance for the purpose of protecting the planning process, however, a public hearing must be held before adopting an interim ordinance. The interim ordinance may regulate, restrict, or prohibit the operation of a cannabis business within the jurisdiction until January 1, 2025. Requires the local unit of government to certify compliance with local zoning ordinances and state fire and building codes. Requires the OCM to contact the local unit of government in which a business would be located and allow for input from the local government on the application, including information relevant to the OCM’s decision on whether to issue a license. The OCM is required to establish an expedited complaint process to review and respond to complaints made by a local unit of government about a cannabis business.

**Section 14 [License application and renewal; fees]** specifies the minimum information required for a license application; requires the OCM to establish procedures for license applications; and allows the OCM to collect fees to cover license application review costs.

**Section 15 [Social equity applicants]** describes how an individual could qualify as a social equity applicant.

**Section 16 [License selection requirements]** requires the OCM to issue licenses in a manner that maintains a stable cannabis market and gives priority to microbusiness licenses. This section also prohibits issuing licenses in such a way as to give a single applicant a vertically integrated business. License issuance is to be prioritized for social equity applicants, and the means of scoring applications must be publicly available.

**Section 17 [Inspection; license violations; penalties]** establishes that the OCM may enter and inspect cannabis businesses and records at reasonable hours. Gives the OCM the power to issue subpoenas, issue oaths, take depositions, require the production of records, detain or embargo items, and enter into laboratory analysis agreements with the commissioner of agriculture. Permits the OCM to conduct inspections at any time. Requires the OCM to prioritize inspections based on suspected violations that pose an imminent danger to customers or the public. Further directs the OCM to prioritize inspections based on complaints from local units of government. Permits the OCM to issue administrative orders directing cannabis businesses to take specific action, permits businesses to appeal those orders, and allows the OCM to assess administrative penalties of up to

\$10,000 for each violation. Classifies certain data on license applicants and license holders. Provides that private data may not be shared with any federal entity without a court order.

**Section 18 [License suspension or revocation; hearing]** specifies when and how the OCM may revoke or not renew a license.

**Section 19 [Adult-use cannabis business; general ownership disqualifications and requirements]** establishes general ownership and operation requirements that apply to all cannabis businesses. Provides for a national criminal history check. Establishes disqualifications for certain criminal offenses that last either for the person's lifetime, or for one, five, or ten years following the discharge of a sentence. Permits an applicant to apply for a set-aside of the prohibitions related to convictions.

**Section 20 [Cannabis business; general operational requirements and prohibitions]** establishes general operation requirements for a cannabis business. These requirements include, but are not limited to:

- prohibitions on hiring a person under 21 years of age or contracting with a person under 21 to perform work involving the handling of cannabis plants, cannabis flower, artificially derived cannabinoids, or cannabinoid products;
- limiting physical entry of persons under 21 solely to areas of a cannabis business that dispense medical cannabis flower or medical cannabinoid products;
- prohibiting the selling or giving cannabis flower or cannabinoid products to persons under 21 unless the individual is a patient, registered designated caregiver, or a parent, legal guardian, or spouse of a patient who is authorized to use, possess, or transport medical cannabis or medical cannabinoid products;
- prohibiting consumption of cannabis flower and cannabinoid products within a cannabis business except as authorized pursuant to a permit for on-site consumption or endorsement for the sale of lower potency edible products, for quality control, if an employee is a patient, or for other limited exceptions;
- limiting physical access to restricted areas (as defined in Section 1 to mean an area where cannabis flower or cannabinoid products are cultivated, manufactured, or stored by a cannabis business) to certain authorized individuals, and setting forth recordkeeping requirements for such access;
- requiring adequate ventilation and filtration systems;
- requiring the maintenance of certain financial records and submission to an audit of its business records by the OCM;
- requiring the provision of an annual diversity report;
- requiring the use of the statewide monitoring system;
- requiring the disposal of certain products in a manner approved by the OCM;
- limiting the sale of products to those approved by the OCM and in a manner that complies with testing, packaging, and labeling requirements under the chapter and rules adopted pursuant to the chapter;
- having adequate security;
- prohibiting a cannabis business from offering, giving, accepting, receiving, or borrowing anything of value from another cannabis business, subject to certain exceptions; and
- prohibiting sharing customer information with a federal entity unless ordered to do so by a state or federal court.

**Section 21 [Cannabis cultivator licensing]** describes the authorized actions for cannabis cultivator license holders, and specifies the information required for license applications. The section specifies the limitations on holding multiple cannabis licenses and states that health care practitioners who certify qualifying medical conditions are not allowed to hold a cannabis cultivator license. Those who hold a cannabis cultivator license cannot pay or receive payment from a health care practitioner who certifies qualifying medical conditions.

**Section 22 [Cannabis cultivator operations]** establishes operation requirements for a cannabis cultivator. These requirements include, but are not limited to:

- requiring cultivation records for each batch of cannabis plants and cannabis flower;
- compliance with rules promulgated by the OCM governing the use of pesticides, fertilizers, soil amendments, plant amendments, and other inputs to cultivate cannabis;
- preparation of an operating plan and cultivation plan, in accordance with office rule, that includes, at minimum, water usage, recycling, solid waste disposal, and a pest management protocol;
- requiring compliance with pesticide laws and rules enforced by the commissioner of agriculture, and limiting certain pesticide use;
- prohibiting the treatment or adulteration of cannabis plants or cannabis flower to alter the color, appearance, weight, or smell of the cannabis;
- permitting both indoor and outdoor cultivation subject to security, fencing, and lighting requirements, and any other requirements imposed by the OCM in rule; and
- prohibiting the cultivation of a cannabis plant that is a genetically engineered organism.

This section also prohibits the commissioner of agriculture from issuing a genetically engineered agriculturally related organism permit under chapter 18F for cannabis seed or cannabis plants.

**Section 23 [Cannabis manufacturer licensing]** describes the authorized actions for cannabis manufacturer license holders, and specifies the information required for license applications. The section specifies the limitations on holding multiple cannabis licenses and states that health care practitioners who certify qualifying medical conditions are not allowed to hold a cannabis manufacturer license. Those who hold a cannabis manufacturer license cannot pay or receive payment from a health care practitioner who certifies qualifying medical conditions.

**Section 24 [Cannabis manufacturer operations]** establishes operation requirements for a cannabis manufacturer. These requirements include, but are not limited to:

- requiring that cannabis manufacturing must take place in an enclosed, locked facility that is used exclusively for the manufacture of cannabinoid products, creation of hemp concentrate, or creation of artificially derived cannabinoids, except that a business that also holds a cannabis cultivator license may operate in a facility that shares general office space, bathrooms, entryways, and walkways;
- requiring compliance with all applicable packaging, labeling, and health and safety requirements;
- establishes approval, information, and notice requirements with the OCM for cannabis manufacturers that create cannabis concentrate, hemp concentrate, or artificially derived cannabinoids;

- requires compliance with all health and safety requirements established by the OCM for a cannabis manufacturer that manufactures cannabis concentrate from cannabis flower received from an unlicensed person who is at least 21 years of age;
- establishes disclosure requirements for cannabis manufacturers to buyers of cannabis concentrate, hemp concentrate, or artificially derived cannabinoids, and disclosure requirements to cannabis businesses that buy cannabinoid product or hemp-derived consumer product;
- requiring various endorsements from the OCM for cannabis manufacturers that produce certain products; and
- prohibiting the addition of any cannabis flower, cannabis concentrate, artificially derived cannabinoid, hemp plant part, or hemp concentrate to a product where the manufacturer of the product holds a trademark to the product's name, subject to a limited exception.

**Section 25 [Cannabis retailer licensing]** describes the authorized actions for cannabis retailer license holders, and specifies the information required for license applications. A city or county would be permitted to operate a municipal cannabis store, subject to the cannabis retailer licensing requirements. The section specifies the limitations on holding multiple cannabis licenses and states that health care practitioners who certify qualifying medical conditions are not allowed to hold a cannabis retailer license. Those who hold a cannabis retailer license cannot pay or receive payment from a health care practitioner who certifies qualifying medical conditions.

**Section 26 [Cannabis retailer operations]** establishes operation requirements for a cannabis retailer. These requirements include, but are not limited to:

- prohibiting the sale of immature cannabis plants and seedlings, adult-use cannabis flower, adult-use cannabinoid products, and hemp-derived consumer products to individuals under 21 years of age;
- permitting the sale of various products, including but not limited to adult-use cannabis flower, adult-use cannabinoid products, hemp-derived consumer products, and cannabis paraphernalia;
- requiring cannabis retailers to verify the age of customers before selling products;
- limiting the display of cannabis flower and cannabinoid products;
- requiring cannabis retailers to post notices announcing product recalls, warning of the dangers of driving while under the influence, and stating that consumption is intended only for individuals who are 21 years of age or older;
- prohibiting cannabis retailers from selling cannabis flower, cannabinoid products, or hemp-derived consumer products between 2:00 a.m. and 8:00 a.m. Monday through Saturday, or between 2:00 a.m. and 10:00 a.m. on Sunday unless operation is permitted under a city or county ordinance;
- permitting a local city or county to adopt an ordinance permitting additional hours of operation;
- requiring cannabis retailers to comply with state and local building ordinances, maintain security, maintain adequate lighting, and accept deliveries through limited access areas;
- prohibiting sales to a person who is visibly intoxicated, knowingly selling more than an individual is permitted to possess, giving away immature cannabis plants or seedlings, cannabis flower, cannabinoid products, or hemp-derived consumer products, operating a drive-through window, operating a vending machine containing cannabis plants, cannabis flower, cannabinoid products, or hemp-derived consumer products, and



selling cannabis plants, cannabis flower, or cannabinoid products when a security system, or the statewide monitoring system, is not operational; and

- permitting a cannabis retailer to sell medical cannabis flower and medical cannabinoid products from a portion of its premises that is distinct from all other areas of the cannabis retailer, accessible from a separate entrance, and contains space for consultation with a pharmacist, if the cannabis retailer is also a licensed medical cannabis retailer.

**Section 27 [Cannabis wholesaler licensing]** describes the authorized actions for cannabis wholesaler license holders, and specifies the information required for license applications. The section specifies the limitations on holding multiple cannabis licenses.

**Section 28 [Cannabis wholesaler operations]** establishes operation requirements for a cannabis wholesaler.

**Section 29 [Cannabis transporter licensing]** describes the authorized actions for cannabis transporter license holders, and specifies the information required for license applications. The section specifies the limitations on holding multiple cannabis licenses.

**Section 30 [Cannabis transporter operations]** establishes operation requirements for a cannabis transporter.

**Section 31 [Cannabis testing facility licensing]** describes the authorized actions for cannabis testing facility license holders, and specifies the information required for license applications. The section specifies the limitations on holding multiple cannabis licenses.

**Section 32 [Cannabis testing facility operations]** establishes operation requirements for a cannabis testing facility. These requirements include, but are not limited to:

- requiring a testing facility to provide some or all testing services required under section 342.60 and applicable rules, and to comply with rules adopted by the OCM establishing testing protocols;
- requiring recordkeeping related to business transactions and testing results, accreditation, and relevant to testing protocols, standards, and criteria adopted the OCM, and establishing retention periods for such records; and
- requiring disposal of cannabis plants and seedlings, cannabis flower, cannabinoid products, hemp plant parts, hemp concentrate, artificially derived cannabinoids, and hemp-derived consumer products pursuant to rules adopted by the OCM.

**Section 33 [Cannabis microbusiness licensing]** describes the authorized actions for cannabis microbusiness license holders, and specifies the information required for license applications. The section specifies the limitations on holding multiple cannabis licenses.

**Section 34 [Cannabis microbusiness operations]** establishes endorsements and compliance requirements for cannabis microbusinesses to cultivate cannabis plants and harvest cannabis flower, create cannabis concentrate, manufacture edible cannabinoid products, operate a retail location, and permit on-site consumption of edible cannabinoid products on a portion of its premises. Sets forth requirements for edible cannabinoid products sold for on-site consumption. Establishes certain prohibitions on sales by cannabis microbusiness.

**Section 35 [Cannabis event organizer licensing]** describes the authorized actions for cannabis event organizer license holders, and specifies the information required for license applications. The section specifies the limitations on holding multiple cannabis licenses.

**Section 36 [Cannabis event organizer operations]** establishes operation requirements for a cannabis event organizer. These requirements include, but are not limited to:

- requiring a cannabis event organizer to obtain local approval for a cannabis event;
- permitting a cannabis event organizer to charge an entrance fee and a fee for event participants;
- requiring event organizers to provide security and limiting access to individuals who are at least 21 years old;
- requiring an event organizer to assure that cannabis and cannabis products are disposed of in an approved manner; and
- requiring event organizers to comply with transportation and sales requirements; and
- permitting on-site consumption at a cannabis event if approved by the local unit of government.

**Section 37 [Cannabis delivery service licensing]** describes the authorized actions for cannabis delivery service license holders, and specifies the information required for license applications. The section specifies the limitations on holding multiple cannabis licenses.

**Section 38 [Cannabis delivery service operations]** establishes operation requirements for a cannabis delivery service.

**Section 39 [Lower potency edible product retailer licensing]** describes the authorized actions for lower potency edible product retailer license holders. The requirements for these licenses are different from the other cannabis licenses in this bill. A lower potency edible product retailer license holder is not allowed to participate in any other cannabis business.

**Section 40 [Lower potency edible product retailer operations]** establishes operation requirements for a lower potency edible product retailer. This section further requires the OCM to inspect lower potency cannabinoid product retailers and take enforcement action as provided in sections 342.18 and 342.19.

**Sections 41 – 54** move the current medical cannabis program that is currently administered by the Department of Health to the newly created OCM and a newly created Division of Medical Cannabis. The program remains essentially the same except for the following changes:

- **Article 1, section 1** adds a definition of the following:
  - medical cannabinoid product (this is a change from the term “medical cannabis” used in the current program).
  - medical cannabis flower (the current program does not distinguish between a medical cannabinoid product and medical cannabis flower).
  - “medical cannabis paraphernalia” (this is a new definition).
  - “visiting designated caregiver” (this is a new definition).
  - “visiting patient” (this is a new definition).
- **Article 1, sections 42 - 45** establish new medical business licenses for medical cannabis cultivator; medical cannabis processor; and medical cannabis retailer (these are

new licenses. In the current program the commissioner of health registers two in state medical cannabis manufacturers. The registered manufacturer agrees to supply medical cannabis to patients and is required to maintain one location for cultivation, harvesting, manufacturing, packaging, and processing and to operate eight distribution facilities in geographical service areas specified by the commissioner).

- **Article 1, section 46** establishes a separate patient registry program application and certification process for veterans. It also establishes an annual enrollment fee of \$40 (the current fee is \$200, or \$50 if the patient meets certain circumstances). Adds forms in which medical cannabis may be delivered consistent with current Minnesota Department of Health rules.
- **Article 1, section 47** allows the OCM to add allowable forms of medical cannabinoids to the program, but not other allowable forms of medical cannabis flower.
- **Article 1, section 50** removes the limitation of possessing or consuming medical cannabis on the grounds of any preschool, primary school or secondary school that is in the current program.
- **Article 1, section 51** establishes an action for damages for patients if the patient is discriminated against because the patient is enrolled in the registry program.
- **Article 1, section 54** authorizes the Division to conduct or award grants to health care providers or research organizations to conduct clinical trials on the safety and efficacy of using medical cannabis flower and medical cannabinoid products to treat a specific health condition (the current program authorizes the commissioner to conduct research and studies based on data from health records submitted to the registry program and authorizes the commissioner to contract with a third party to complete this research, but no mention of conducting clinical trials).

**Section 41 [Medical cannabis business licenses]** establishes the following new medical cannabis business licenses: medical cannabis cultivator; medical cannabis processor; and medical cannabis retailer and gives the Division of Medical Cannabis the authority to oversee the licensing and regulation of medical cannabis businesses. This section specifies that the registration of current registered manufacturers expire on July 1, 2024.

**Section 42 [Medical cannabis business applications]** specifies the information that must be submitted to obtain a medical cannabis business license. It also requires that the applicant must identify the methods that will be used to segregate medical cannabis flower and medical cannabinoid products from other cannabis flower and cannabinoids products to avoid cross contamination.

**Section 43 [Medical cannabis cultivators]** establishes the requirements for a medical cannabis cultivator license and permits the license holder to grow cannabis plants within an approved space from seed or immature plant to mature plant, harvest cannabis flower, package and label cannabis flower as medical cannabis flower, sell medical cannabis flower to medical cannabis processors and medical cannabis retailers, transport medical cannabis flower to a medical cannabis processor located on the same premises and other actions as approved by the OCM.

**Section 44 [Medical cannabis processors]** establishes the requirements for a medical cannabis processor license and permits the license holder to: purchase medical cannabis flower, medical cannabis cannabinoid products, hemp plant parts, and hemp concentrate from medical cannabis cultivators, other medical cannabis processors, and industrial hemp growers; make cannabis concentrate from medical cannabis flower; make hemp concentrate; manufacture medical cannabis

products; package and label medical cannabis products for sale to other medical cannabis processors and to medical cannabis retailers; and perform other actions as approved by the OCM.

**Section 45 [Medical cannabis retailers]** establishes the requirements for a medical cannabis retailer and permits the license holder to purchase medical cannabis flower and medical cannabis cannabinoid products from medical cannabis cultivators and medical cannabis processors and sell and distribute medical cannabis flower and medical cannabinoid products to any person authorized to receive distribution (this section maintains the current requirements for distribution). This section requires that a medical cannabis retailer that is also a cannabis retailer distribute medical cannabis flower and medical cannabinoid products from a portion of the premises that is distinct and definite from all other areas of the cannabis retailer, that this area of the premise can be accessed through a distinct entrance and provides for an appropriate space for the pharmacist employee to consult with the patient.

**Section 46 [Patient registry program]** establishes the patient registry program and specifies that the program is to be administered by the division of medical cannabis (this section is essentially the same as the current program except as indicated above).

**Section 47 [Duties of Office of Cannabis Management; registry program]** would permit the OCM to add additional allowable cannabis products and to modify or add a qualifying medical condition. If this occurs, the OCM must notify the legislature.

**Section 48 [Duties of division of medical cannabis; registry program]** establishes duties of the division of medical cannabis related to health care practitioners, the registry program and research (this section essentially contains the same duties that are currently required to be met by the commissioner of health in the current program).

**Section 49 [Duties of health care practitioners; registry program]** establishes the duties of health care practitioners in the registry program (this section essentially contains the same duties that are currently required to be met by health care practitioners in the current program).

**Section 50 [Limitations]** establishes limitations on consumption and the locations of consumption (this section essentially contains the same limitations and locations as the current program with the exception as indicated above).

**Section 51 [Protections for registry program participants]** establishes criminal and civil protections for registry program participants (this section essentially contains the same criminal and civil protections as are in the current program with the exception that it adds a subdivision that permits a patient to bring an action for damages against any person who violates this section by discriminating against the person because the person is enrolled in the registry program by refusing to enroll the person in a school, refusing to rent to the person, disqualifying a person from needed medical care or discriminating against a person in an employment situation).

**Section 52 [Violation by health care practitioner; criminal penalty]** specifies violations by health care practitioners that may be subject to criminal penalties (this section essentially contains the same violations and penalties as are in the current program).

**Section 53 [Data practices]** specifies the data classification and allowable uses (this section essentially contains the same data classifications and uses as are in the current program).

**Section 54 [Clinical trials]** authorizes the division to conduct or award grants to health care providers or research organizations to conduct clinical trials on the safety and efficacy of using medical cannabis flower or medical cannabinoid products to treat a specific health condition. Requires an entity receiving a grant to provide the OCM with access to all data collected in a clinical trial funded under this section. Permits the OCM to use this data as evidence to approve additional qualifying medical conditions or additional allowable forms of medical cannabis.

**Section 55 [Testing]** requires each batch of cannabis products to have a representative sample tested by a licensed cannabis testing facility. The OCM must establish procedures and standards that each sample must meet in order to be sold. A licensed cannabis testing facility must issue certification to products that meet the testing standards. Test results must be maintained for at least five years and available to the public upon request.

**Section 56 [Packaging]** requires that cannabis flower, cannabinoid products, and hemp-derived consumer products sold to customers and patients be prepackaged or placed in packaging at the final point of sale in packaging or a container that is plain, child-resistant, tamper-evident, and opaque. Excludes certain products from the child-resistant packaging requirement. Establishes packaging requirements for cannabinoid products and hemp-derived consumer products packaged in a manner that includes more than a single serving. Prohibits cannabis flower, cannabinoid products, and hemp-derived consumer products from being sold to customers and patients in a manner of packaging that bears a reasonable resemblance to any commercially available product that does not contain cannabinoids or that is designed to appeal to persons under 21 years of age. Prohibits packaging for cannabis flower, cannabinoid products, and hemp-derived consumer products from containing or being coated with any perfluoroalkyl substance. Prohibits an edible cannabinoid product from being packaged in a material that is not approved by the US FDA for use in packaging food.

**Section 57 [Labeling]** sets forth labeling requirements for all cannabis flower, cannabinoid products, and hemp-derived consumer products sold to customers and patients. Identifies the information a label must contain, including, but not limited to, information about the cannabis cultivator, microbusiness, medical cannabis cultivator, or industrial hemp grower that cultivated the product, the batch number, the cannabinoid profile, and a certain statements or information required by the OCM. Requires certain warnings. Requires labels on the packaging or container of medical cannabis flower and medical cannabinoid products to contain information about the patient. Requires labels on the packaging or container of hemp-derived topical products sold to customers to contain information relevant to those products. Permits cannabis retailers, cannabis microbusinesses, and medical cannabis retailers to provide customers and patients with certain additional information.

**Section 58 [Advertisement]** establishes requirements and limitations for advertisements for cannabis flower, cannabinoid products, cannabis businesses, and hemp-derived consumer products. These requirements and limitations include, but are not limited to:

- prohibiting advertisements from containing false or misleading statements, containing unverified claims, promoting overconsumption, depicting persons under 21 consuming cannabis or a cannabis product, or including an image likely to appeal to persons under 21;
- prohibiting outdoor advertisement, but permitting up to two fixed outdoor signs that satisfy certain criteria;

- prohibiting advertisements via a medium in which 30 percent or more of the audience is reasonably expected to be under age 21;
- prohibiting the use of unsolicited pop-up advertisements on the internet;
- requiring a cannabis business or other person to verify a recipient is 21 or older before using direct, individualized communication or dialogue to advertise, and listing permissible methods of age affirmation;
- identifying criteria that must be met for a cannabis business or other person to advertise with advertising directed toward location-based devices such as cell phones; and
- providing statements, information, and symbols that cannot be included in advertising by health care practitioners participating in the medical cannabis program.

This section further provides that, if the OCM finds a health care practitioner violated this subdivision, the practitioner is prohibited from certifying patient qualifying medical conditions for the registry program.

**Section 59 [Industrial hemp]** states that nothing in the chapter limits the industrial hemp provisions in chapter 18K, and clarifies that for purposes of this section “processing” does not include the process of creating artificially derived cannabinoids.

**Section 60 [Hemp-derived topical products]** sets forth requirements and limitations for the manufacture, marketing, distribution, and sale of hemp-derived topical products. Specifically, this section permits such products to contain cannabidiol, but, subject to an exception or approval by the OCM, prohibits such products from containing any other cannabinoid; requires such products to be manufactured, marketed, distributed, intended, or generally expected to be used by applying the product externally to a part of the body of a human or animal; prohibits such products sold to consumers from being manufactured, marketed, distributed, or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; prohibits such products sold to consumers from being manufactured, marketed, distributed, or intended for consumption by combustion, vaporization, chewing, injection, or various other means; prohibits the manufacture, marketing, distribution, and sale of products that do not comply with certain health and safety requirements; prohibits the sale of any cannabinoid to an individual under 21 years of age. This section further provides that the OCM may enforce the section under the relevant provisions of section 342.18.

**Section 61 [Legal assistance to cannabis businesses]** provides that an attorney is not subject to disciplinary action for providing legal assistance to cannabis businesses.

**Section 62 [Cannabis industry community renewal grants]** establishes CanRenew, a grant program to invest in communities where there are many social equity applicants. These grants must be awarded to organizations that will make community investments. The OCM is required to submit an annual report to the legislature about these grants.

**Section 63 [Substance use disorder treatment and prevention grants]** establishes the substance use disorder treatment and prevention account in the special revenue fund into which money appropriated in Article 9 are transferred from the general fund. The balance of the account is statutorily appropriated to the OCM for the following purposes: 75 percent of the balance to publicly funded substance use disorder treatment providers in the form of increased rates and funding for provider training and education; 20 percent for grants for substance use disorder prevention; and 5 percent for education regarding the adverse health effects of substance use. The OCM must consult with the commissioners of health and human services and the Substance Use

Disorder Advisory Council concerning the administration and distribution of the money from the account and report annually to the legislature on the use of the funds.

**Section 64 [Cannabis grower grants]** requires the OCM to establish CanGrow, a grant program to help farmers navigate cannabis regulations and fund loans for farmers to become legal cannabis growers. These grants have annual reporting requirements.

**Section 65 [Substance Use Disorder Advisory Council]** establishes a Substance Use Disorder Advisory Council.

**Subdivision 1 [Establishment]** establishes the council and specifies the duties of the council.

**Subdivision 2 [Membership]** specifies the membership of the council. Requires the commissioner of human services to coordinate appointments to ensure geographic diversity and metro/greater Minnesota balance. Other specifics regarding the structure and operation of the council are as provided in section 15.059, except that members are not paid and the council does not expire. Requires the chair to convene the council at least quarterly at locations around the state. Requires the commissioner of human services to provide staff and administrative services for the council.

**Subdivision 3 [Reports and grants]** requires the commissioner of human services to report annually by March 1 to the legislature on grants and funding recommended by the advisory council to be awarded for the upcoming fiscal year. The commissioner of human services must consider recommendations of the council that address the council's priorities when awarding grants.

**Section 66 [Lawful activities]** provides that, notwithstanding any law to the contrary, the cultivation, manufacturing, possessing, and selling of cannabis flower, cannabinoid products, artificially derived cannabinoids, and hemp-derived consumer products by a licensed cannabis business in conformity with the rights granted by a cannabis business license is lawful, except as provided by the new chapter. Further provides that a person is not subject to arrest, prosecution, or forfeiture of property for acting as an agent of a licensed cannabis retailer or licensed cannabis microbusiness and selling or otherwise transferring cannabis flower, cannabinoid products, or hemp-derived consumer products to a person under 21, if the person complied with section 342.27, subdivision 3, and applicable rules.

**Section 67 [Civil actions]** establishes a civil cause of action similar to the Dram Shop Act under section 340A.801.

**Section 68 [Substance Use Disorder Advisory Council first meeting]** sets October 1, 2023 as the deadline for the commissioner of human services to convene the first meeting of the Substance Use Disorder Advisory Council. Requires the members to elect a chair at the first meeting.

**Section 69 [Effective date]** provides that the sections of Article 1 of the bill are effective July 1, 2023, unless otherwise provided.

## Article 2 – Taxes

**Section 1 (273.13, subdivision 24; Class 3)** provides that property used for raising, cultivating, processing, or storing cannabis plants, cannabis flowers, or cannabinoids products for sale must be classified as class 3 commercial-industrial. Effective beginning with property taxes payable in 2024 and thereafter.

**Section 2 (275.025, subdivision 2; Commercial-industrial tax capacity)** requires that property used for raising, cultivating, processing, or storing cannabis plants, cannabis flowers, or cannabinoids products for sale is treated as commercial-industrial property for purposes of the state general levy, excluding the tax capacity attributable to the first \$150,000 of market value of each parcel. Effective beginning with property taxes payable in 2024 and thereafter.

**Section 3 [Filing requirements and duties; special dates]** provides that a cannabis business required to collect and remit taxes under this article is not subject to electronic submission requirements ordinarily applicable to most taxpayers, and that cannabis businesses must file returns and remits taxes as otherwise required by the commissioner of revenue. Effective the day following final enactment.

**Sections 4 and 5 (290.0132, subdivision 29, Disallowed section 280E expenses; and 290.0134, subdivision 29, cannabis licensees)** expands the subtraction for business expenses allowed by medical cannabis manufacturers under current law to include all entities holding licenses related to the business of nonmedical cannabis. Effective for taxable years beginning after December 31, 2022.

### **Section 6. [Adult-use cannabis flower and adult-use cannabinoid products gross receipts tax]**

**Subdivision 1 [Definitions]** references definitions of “adult-use cannabis flower,” “adult use cannabinoid product,” adult-use cannabis solution product,” “cannabis microbusiness,” and “lower potency edible product” that were established in Article 1, and the definition of “retail sale” under current law. Provides new definitions for “cannabis retailer,” “gross receipts,” and “on-site sale.”

**Subdivision 2 [Gross receipts tax imposed]** imposes an eight percent gross receipts tax on retail and on-side sales in Minnesota of adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, and lower potency edible products by a cannabis retailer, cannabis microbusiness, or lower potency edible product retailer. Allows these entities to collect the tax from the purchaser as long as it is separately stated on the receipt or similar document given to the purchaser.

**Subdivision 3 [Use tax imposed; credit for taxes paid]** imposes the gross receipts tax on the receipt of adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, or lower potency edible products for use or storage in the state by anyone other than a retailer of these products. The tax must be remitted to the commissioner in the same manner as required under current law. Allows a credit against the use tax for the amount of taxes paid to another state or political subdivision equal to the lesser of the tax actually paid to the other state or political subdivision, or the amount of tax imposed by Minnesota on the transaction subject to tax in the other state or political subdivision.



**Subdivision 4 [Exemptions]** provides an exemption for the possession, use, or storage of adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, or lower potency edible products that in cost less than \$100 in the aggregate in a calendar month, or if those products were carried into the state by the customer. Exempts medical cannabis flower from the tax, and provides that sales tax exemptions provided in the sales tax chapter to not apply to the taxes imposed under this article, unless otherwise specified.

**Subdivision 5 [Tax collection required]** requires out-of-state retailers with nexus in Minnesota to collect the tax imposed under this section from purchasers and remit to the commissioner of revenue.

**Subdivision 6 [Taxes paid to another state or any subdivision thereof; credit]** provides a credit to retailers that have paid taxes to another jurisdiction equal to the amount of tax paid if taxes are owed in Minnesota.

**Subdivision 7 [Sourcing of sales]** applies the rules governing sourcing of sales in the sales tax chapter apply to the tax imposed under this section.

**Subdivision 8 [Administration]** provides that the tax administration chapters governing sales tax also apply to the tax imposed under this section.

**Subdivision 9 [Returns; payment of tax]** requires the tax imposed under this chapter to be remitted on a return form prescribed by the commissioner of revenue on the same dates as required for sales taxes.

**Subdivision 10 [Deposit of revenues]** requires the commissioner of revenue to deposit all proceeds from the tax into the general fund.

**Subdivision 11 [Personal debt]** provides that the taxes imposed under this section and any applicable interest and penalties are a personal debt of the person required to file a return from the date the liability arises.

Effective for gross receipts received after December 31, 2023.

**Section 7 (297A.61, subdivision 3; Sale and purchase)** adds the sale and purchase of adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, and lower potency edible products to the definition of “sale and purchase” in the sales tax chapter, therefore subjecting the sale and purchase of these products to sales tax. Effective for sales and purchases made after December 31, 2023.

**Section 8 (297A.67, subdivision 2; Food and food ingredients)** excludes adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, lower potency edible products, medical cannabis flower, and medical cannabinoid products from the definition of “food and food ingredients” in the sales tax chapter. Effective for sales and purchases made after December 31, 2023.

**Section 9 (297A.67, subdivision 7; Drugs; medical devices)** specifies that adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, and lower potency

edible products are excluded from the definition of “drug” in the sales tax chapter. Effective for sales and purchases made after December 31, 2023.

**Section 10 (297A.70, subdivision 2; Sales to government)** adds adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, and lower potency edible products to the list of items excluded from the exemption for sales to and purchases by local governments. The exemption would apply if these products were purchased by directly by the United States or its agencies or instrumentalities. Effective for sales and purchases made after December 31, 2023.

**Section 11 (297A.70, subdivision 18; Nursing homes and boarding care homes)** adds adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, and lower potency edible products to the list of items excluded from the exemption for sales to and purchases by nursing homes and boarding care homes. Effective for sales and purchases made after December 31, 2023.

**Section 12 (297A.99; Adult-use cannabis local tax prohibited)** prohibits local governments from imposing a local gross receipts tax on the sale of adult-use cannabis flower, adult-use cannabinoid products, adult-use cannabis solution products, and lower potency edible products. Effective the day following final enactment.

### **Section 13 (297D.01; Definitions)**

**Subdivision 1 (Illegal cannabis)** updates the existing definition of “marijuana” with a new definition of “illegal cannabis” that incorporates recreational cannabis products held, possessed, transported, transferred, sold, or offered for sale in violation of Article 1 or criminal laws.

**Subdivision 2 (Controlled substance)** updates the definition of “controlled substance” to exclude illegal cannabis.

**Subdivision 3 (Tax obligor or obligor)** removes the term “marijuana” from the controlled substances tax chapter in accordance with the changes made to this section.

Effective January 1, 2025.

**Section 14 (297D.04; Tax payment required for possession)** removes the term “marijuana” from the controlled substances tax chapter and adds the new term “illegal cannabis” in accordance with the changes in section 13. Effective January 1, 2025.

**Section 15 (297D.06; Pharmaceuticals)** removes the term “marijuana” from the controlled substances tax chapter and adds the new term “illegal cannabis” in accordance with the changes in section 13. Effective January 1, 2025.

**Section 16 (297D.07; Measurement)** removes the term “marijuana” from the controlled substances tax chapter and adds the new term “illegal cannabis” in accordance with the changes in section 13. Effective January 1, 2025.

**Section 17 (297D.08; Tax rate)** removes the term “marijuana” from the controlled substances tax chapter and adds the new term “illegal cannabis” in accordance with the changes in section 13. Effective January 1, 2025.

**Section 18 (297D.085; Credit for previously paid taxes)** removes the term “marijuana” from the controlled substances tax chapter and adds the new term “illegal cannabis” in accordance with the changes in section 13. Effective January 1, 2025.

**Section 19 (297D.09, subdivision 1; Criminal penalty; sale without affixed stamps)** removes the term “marijuana” from the controlled substances tax chapter and adds the new term “illegal cannabis” in accordance with the changes in section 13. Effective January 1, 2025.

**Section 20 (297D.10; Stamp price)** removes the term “marijuana” from the controlled substances tax chapter and adds the new term “illegal cannabis” in accordance with the changes in section 13. Effective January 1, 2025.

**Section 21 (297D.11; Payment due)** removes the term “marijuana” from the controlled substances tax chapter and adds the new term “illegal cannabis” in accordance with the changes in section 13. Effective January 1, 2025.

### **Article 3 – Business Development**

#### **Section 1 [Cannabis industry startup financing grants]**

**Subdivision 1 [Establishment]** directs the commissioner of employment and economic development to establish the CanStartup grant program to award grants to nonprofit job corporations to fund loans to new businesses in the legal cannabis industry.

**Subdivision 2 [Definitions]** provides definitions of terms used in this section for the grant program including “commissioner,” “industry,” “new business,” “program,” and “social equity applicant.”

**Subdivision 3 [Grants]** directs the commissioner to establish a revolving loan account to make grants through a competitive grant process to nonprofits for the CanStartup program. Provides considerations for awarding grants and requirements for recipient nonprofit corporations when receiving a grant.

**Subdivision 4 [Loans to businesses]** provides criteria for making loans to new businesses by a nonprofit corporation under the program. Specifies the minimum state contribution to a loan is \$2,500 up to a maximum of \$50,000, or \$150,000 if state contributions are matched by a new private investment. Requires final approval by the commissioner for each loan made by a nonprofit corporation. Allows loans to be renewed on an annual basis for up to six consecutive years. Gives discretion to the commissioner to approve full or partial forgiveness of interest or principal amounts of loans if a borrower has met criteria and is current with payments for three years.

**Subdivision 5 [Revolving loan account administration]** requires the commissioner to establish a minimum interest rate for loans not to exceed the Wall Street Journal prime rate. Allows a nonprofit corporation to charge a loan origination fee, which may be retained by

the nonprofit, equal to or less than one percent of the loan value. Provides that loan repayments must be paid to the commissioner and deposited in the revolving loan account. Requires loan interest payments to be deposited in the nonprofit revolving loan account.

**Subdivision 6 [Program outreach]** directs the commissioner to conduct outreach efforts to publicize the CanStartup grant program through partnerships with community organizations.

**Subdivision 7 [Reporting requirements]** requires a nonprofit corporation that receives a grant to submit an annual report to the commissioner including information about the businesses supported by the program, loans made, program's impact on business and job creation, administrative expenses, and provide an independent annual audit. Requires the commissioner to provide an annual report to the legislature detailing the awards made through the CanStartup program.

## **Section 2 [Cannabis industry navigation grants]**

**Subdivision 1 [Establishment]** directs the commissioner of employment and economic development to establish the CanNavigate grant program to award grants to eligible organizations to help individuals navigate the regulatory structure of the legal cannabis industry.

**Subdivision 2 [Definitions]** provides definitions of terms used in this section for the grant program including "commissioner," "eligible organization," "industry," "program," and "social equity applicant."

**Subdivision 3 [Grants to organizations]** allows grant awards to be used for developing technical assistance relevant to the regulatory structure of the legal cannabis industry.

**Subdivision 4 [Program outreach]** directs the commissioner to conduct outreach efforts to publicize the CanNavigate grant program through partnerships with community organizations.

**Subdivision 5 [Reporting requirements]** requires the commissioner to provide an annual report to the legislature detailing the CanNavigate awards and use of the grant money.

## **Section 3 [Cannabis industry training grants]**

**Subdivision 1 [Establishment]** Directs the commissioner of employment and economic development to establish the CanTrain program to award grants to eligible organizations to train people for work in the legal cannabis industry and for grants to individuals for training.

**Subdivision 2 [Definitions]** provides definitions of terms used in this section for the program including "commissioner," "eligible organization," "eligible individual," "industry," "program," and "social equity applicant."

**Subdivision 3 [Grants to organizations]** allows grant awards to be used for developing a training program and for providing training to individuals. Provides considerations for awarding grants to organizations.

**Subdivision 4 [Grants to individuals]** allows an unspecified grant award amount to eligible individuals to pursue training in a career in the legal cannabis industry. Provides criteria for eligibility in awarding grants to individual applicants. Directs a lottery process be used for awarding grants to eligible individuals.

**Subdivision 5 [Program outreach]** directs the commissioner to conduct outreach efforts to publicize the training grants through partnerships with community organizations.

**Subdivision 6 [Reporting requirements]** requires the commissioner to provide an annual report to the legislature detailing the CanTrain awards and use of the grant money.

#### **Article 4 – Criminal Penalties**

**Sections 1 to 6** add cross-referenced definitions relating to cannabis to Minnesota Statutes, chapter 152 (drugs; controlled substances).

**Section 7 (152.021, subdivision 1; Possession crimes)** amends the first-degree controlled substance possession crime to eliminate the crime related to the possession of 500 or more marijuana plants. Leaves intact the prohibition on possessing 50 kilograms or more of marijuana.

**Section 8 (152.022, subdivision 1; Sale crimes)** amends the second-degree controlled substance sales crime so that it doesn't apply to marijuana.

**Section 9 (152.022, subdivision 2; Possession crimes)** amends the second-degree controlled substance possession crime to eliminate the crime related to the possession of 100 or more marijuana plants. Leaves intact the prohibition on possessing 25 kilograms or more of marijuana.

**Section 10 (152.023, subdivision 1; Sale crimes)** amends the third-degree controlled substance sales crime so that it doesn't apply to marijuana.

**Section 11 (152.023, subdivision 2; Possession crimes)** amends the third-degree controlled substance possession crime relating to marijuana to provide that a person commits the offense if the person possesses more than ten kilograms of cannabis flower, more than two kilograms of cannabis concentrate, or cannabinoid products infused with more than 200 grams of tetrahydrocannabinol.

**Section 12 (152.024, subdivision 1, Sale crimes)** amends the fourth-degree controlled substance sales crime to eliminate the crime of sale of marijuana in a school zone, park zone, public housing zone, or a drug treatment center offense.

**Section 13 (152.025, subdivision 1; Sale crimes)** amends the fifth-degree controlled substance sales crime so that it doesn't apply to marijuana.

**Section 14 (152.025, subdivision 2; Possession and other crimes)** amends the fifth-degree controlled substance possession crime so it doesn't apply to marijuana.

**Section 15 [Cannabis possession crimes]** establishes petty misdemeanor, misdemeanor, gross misdemeanor, and felony crimes for possessing cannabis and cannabis products in excess of the

amounts that would be legal under this bill. Establishes a misdemeanor penalty for using cannabis flower or cannabinoid products while driving, operating, or being in physical control of a motor vehicle. Permits local units of government to establish ordinances prohibiting use of cannabis in public places provided the ordinance establishes only a petty misdemeanor penalty.

**Section 16 [Cannabis sale crimes]** establishes petty misdemeanor, misdemeanor, gross misdemeanor, and felony crimes for selling cannabis and cannabis products without a license. Includes increased penalties for repeat offenders; sale to a minor; or sale in a school zone, park zone, public housing zone, or drug treatment facility. Establishes a petty misdemeanor offense for the first-time sale by a minor.

**Section 17 [Cannabis cultivation crimes]** establishes gross misdemeanor and felony crimes for cultivating cannabis without a license and in excess of the amounts that would be legal under this bill.

**Section 18 (244.05, subdivision 2; Rules)** requires a chemical use assessment before a supervising agent can prohibit a person under supervision following release from prison (i.e., supervised release) from using cannabis. Prohibits the commissioner of corrections from revoking supervision for use of medical cannabis if the person is on the medical cannabis registry.

**Section 19 (609.135, subdivision 1; Term and conditions)** requires a chemical use assessment before a court can prohibit a person under probation supervision from using cannabis. Prohibits the court from imposing a condition of probation that prevents a person from participating in the medical cannabis program.

**Sections 20 and 22 (609.5311, subdivision 1; and 609.5316, subdivision 2; Controlled substances)** make conforming changes.

**Section 21 (609.5314, subdivision 1; Property subject to administrative forfeiture)** prohibits the administrative forfeiture of certain property associated with cannabis offenses.

**Section 23 [Oral fluid preliminary testing; pilot project authorized]** directs the commissioner of public safety to design and implement a pilot project to determine the efficacy of oral fluid roadside testing to determine the presence of a controlled or intoxicating substance in drivers. Prohibits use of the test in any court action. Permits other screening tests to be required consistent with current Minnesota law. Provides that the section is effective on August 1, 2023, and expires on July 31, 2025.

## **Article 5 – Expungement**

**Sections 1-3 (609A.01, Expungement of criminal records; 609A.03, subdivision 5, Nature of remedy; and 609A.03, subdivision 9, Stay of order)** are conforming changes.

**Section 4 [Automatic expungement of certain cannabis offenses]** provides for automatic expungement for individuals who, regarding a marijuana case, received a stay of adjudication under Minnesota Statutes, section 152.18 (lower-level drug possession cases for mostly first-time offenders), a stayed petty misdemeanor or misdemeanor sentence for possessing or giving away a small amount of marijuana or possessing a low level of marijuana in a motor vehicle, or where charges were dismissed prior to a probable cause determination or where the proceedings were resolved in the individual's favor. Directs the Bureau of Criminal Apprehension (BCA) to identify

persons eligible for automatic expungement and share this with the judiciary. Requires both the judicial branch and the BCA (and law enforcement agencies who have also been notified) to grant expungement.

**Section 5 [Expungement and resentencing of felony cannabis offenses]** establishes the Cannabis Expungement Board.

**Subdivision 1 [Cannabis Expungement Board]** provides that the board consists of the following five members: the chief justice of the Supreme Court or a designee, the attorney general or a designee, one public defender, one commissioner, and one public member. Provides that the board will have the power and duty to review records, determine whether a person should receive an expungement, and determine whether a person should be resentenced to a lesser offense. The board must complete its work by June 30, 2028.

**Subdivision 2 [Eligibility; possession of cannabis]** provides that a person is eligible to have a conviction vacated, charges dismissed, and records expunged, or resentencing if the person was convicted of or received a stayed sentence for a felony offense involving the possession of marijuana, if the offense did not involve a dangerous weapon or harm to another, the act for which the person was sentenced would be a lesser offense or no longer be criminal under changes to law, and the person has no existing right to an appeal.

**Subdivision 3 [Bureau of Criminal Apprehension to identify eligible records]** directs the BCA to identify convictions that qualify for review under the standards established in subdivision 2.

**Subdivision 4 [Access to records]** provides that the board will have access to all records of any type related to a conviction for possession of a controlled substance held by law enforcement agencies, prosecuting authorities, and court administrators.

**Subdivision 5 [Meetings; anonymous identifier]** requires the board to meet at least monthly. Provides that meetings are subject to chapter 13D (open meetings). Permits crime victims and law enforcement agencies to submit written or oral statements. Requires the board to use anonymous identifiers when discussing an individual's records.

**Subdivision 6 [Review and determination]** directs the board to review available records to determine whether the conviction or stay of adjudication is eligible for expungement or resentencing. Provides that expungement under this section is presumed to be in the public interest unless there is clear and convincing evidence that expungement or resentencing would create a risk to public safety. Directs the board to determine whether limitations on expungement apply to each individual case and, if expungement is not appropriate, whether resentencing is appropriate. Directs the board to consider factors including public safety in making its determination.

**Subdivision 7 [Notice to judicial branch and offenders]** directs the board to provide notice to the judicial branch of individuals eligible to have a conviction vacated, charges dismissed, and records expunged, or to receive resentencing. Directs the board to make a reasonable effort to notify an individual whose information is sent to the judicial branch under this section.

**Subdivision 8 [Data classification]** provides that all data collected, created, received, maintained, or disseminated by the board, in which each victim of a crime and person whose conviction or stay of adjudication the board reviews is or can be identified as the subject of the data, is classified as private data on individuals.

**Subdivision 9 [Order of expungement]** directs the courts to issue an order vacating a conviction, dismissing charges, and expunging records consistent with the findings of the board upon receipt of information from the board.

**Subdivision 10 [Resentencing]** provides that, if the board determined that a person is eligible for resentencing, the court shall proceed as if the appellate court directed a reduction of the conviction to an offense of lesser degree pursuant to rule 28.02, subdivision 12, of the Rules of Criminal Procedure. Permits the court to issue an order without holding a hearing if the person completed or was discharged from the sentence. Directs the court to issue an order restoring the person's right to possess firearms and ammunition where applicable.

## **Article 6 – Miscellaneous Provisions**

**Sections 1 and 2 [Compacts to be negotiated]** authorize the governor or his representatives to negotiate compacts with Indian tribes following a public hearing. These compacts would regulate medical cannabis flower, medical cannabinoid products, and adult-use cannabis. These sections specify what must be addressed in each compact. These compacts provide civil and criminal immunity for licensed cannabis businesses operated by an Indian Tribe. All compacts must be posted on a public website. Information on compacts negotiated and prospective negotiations must be reported to the legislature annually.

**Sections 3 and 4 (13.411 and 13.871)** add cross-references to Chapter 13, the Minnesota Government Data Practices Act for data maintained by the OCM and Cannabis Expungement Board.

**Section 5 (34A.01)** modifies the definition of “food” in chapter 34A by updating the statute reference for edible cannabinoid products.

### **Section 6 [Education on cannabis use and substance use]**

**Subdivision 1 [Model program]** directs the Commissioner of Education, in consultation with the Commissioners of Health and Human Services, local district and school health education specialists, and other qualified experts, to identify one or more model programs used to educate middle school and high school students on the health effects of cannabis use and substance use consistent with locally adopted health academic standards. The Commissioner of Education must publish a list of model programs that include written materials, curriculum resources, and training for instructors. The identified model programs must be medically accurate, age and developmentally appropriate, culturally inclusive, and grounded in science, and must address the following:

- The physical and mental health effects of cannabis use and substance use by children and adolescents, including effects on the developing brains of children and adolescents;



- Unsafe or unhealthy behaviors associated with cannabis use and substance use;
- Signs of substance use disorders;
- Treatment options; and
- Healthy coping strategies for children and adolescents.

**Subdivision 2 [School programs]** (a) Beginning in the 2026-2027 school year, school districts and charter schools must implement a comprehensive education program on cannabis use and substance use for students in middle school and high school. School programs must include instruction on the topics listed in subdivision 1 and must:

- Respect community values and encourage students to communicate with parents, guardians, and other trusted adults about cannabis use and substance use; and
- Refer students to local resources where students may obtain medically accurate information about cannabis use and substance use, and treatment for a substance use disorder.

(b) A school district's efforts to develop, implement, or improve instruction or curriculum as a result of this section must be consistent with the process to improve instruction and curriculum under section 120B.10 and the process for reviewing curriculum, instruction, and student achievement under section 120B.11.

**Subdivision 3 [Parental review]** requires a school district to have a procedure for a parent, a guardian, or an adult student age 18 or older to review the content of the instructional materials to be provided to a minor child or an adult student according to this section. Requires the district or charter school to allow a parent or adult student to opt out of instruction under this section with no academic or other penalty for the student and must inform the parents and adult students of this right to opt out of the instruction.

**Subdivision 4 [Youth council]** permits a school district or charter school to establish a youth council where student members of the council receive education and training on cannabis use and substance use and provide peer-to-peer education on these topics.

**Section 7 [Cannabis data collection and biennial reports]** requires the commissioner of health to engage in research and data collection activities to measure the prevalence of cannabis flower use and cannabinoid product use by persons under the age of 21 and by persons 21 years of age or older. Permits the commissioner to use existing data collection tools used by the Department of Health or other state agencies or to establish new data collection tools. This section also requires the commissioner to conduct a statewide assessment to establish a baseline for the prevalence of cannabis flower use and cannabinoid products use in the state with the initial assessment to be completed by July 1, 2024, and to collect updated data at least every two years thereafter. This section also requires the commissioner to issue a public report on the prevalence of use beginning January 1, 2025 and every two years thereafter and to make recommendations on statutory changes that would discourage or prevent personal use by persons under the age of 21, by pregnant or breastfeeding women, and by young children or that would otherwise promote public health.

**Section 8 [Cannabis education programs]** requires the commissioner of health to conduct a coordinated education program to raise awareness and address the top three adverse health effects

as determined by the commissioner associated with the use of cannabis flower or cannabinoid products by person under the age of 21. It also requires the commissioner to conduct a coordinate program to educate pregnant women, breastfeeding women and women who may become pregnant on the adverse health effects experienced by infants and children who are exposed to cannabis flower or cannabinoid products in breast milk, secondhand smoke or by ingesting cannabinoid products. This section also requires the commissioner to provide training, technical assistance, and educational materials to local public health visiting programs and Tribal home visiting programs regarding the safe and unsafe use of cannabis flower or cannabinoid products in homes with infants and young children.

**Section 9 (181.938, subdivision 2; Prohibited practice)** includes cannabis in the list of “lawful consumable products” the use of which an employer may not refuse to hire a job applicant or discipline an employee when consumed off the premises of the employer during nonworking hours.

**Section 10 (181.950, subdivision 2; Confirmatory test; confirmatory retest)** amends within the definitions applicable to drug and alcohol testing in the workplace, the definition of “confirmatory test; confirmatory retest” to include cannabis tests.

**Section 11 (181.950, subdivision 4; Drug)** amends the definition of “drug” to exclude marijuana, tetrahydrocannabinols, cannabis flower, or cannabinoid product in the employer drug and alcohol testing statute.

**Section 12 (181.950, subdivision 5; Drug and alcohol testing)** amends the definition of “drug and alcohol testing” to specify that the term does not include cannabis or cannabis testing.

**Section 13 (181.950, subdivision 5a; Cannabis testing)** provides a definition of “cannabis testing” within the statutory definitions applicable to drug and alcohol testing in the workplace.

**Section 14 (181.950, subdivision 8; Initial screening test)** amends the definition of “initial screening test” to include cannabis testing.

**Section 15 (181.950, subdivision 13; Safety-sensitive position)** amends the definition of “safety-sensitive position” to include cannabis usage.

**Section 16 (181.951, subdivision 8; Limitations on cannabis testing)** provides limitations on an employer’s ability to require a job applicant or employee to undergo cannabis testing. Specifies conditions when an employer may request or require cannabis testing.

**Section 17 (181.951, subdivision 9; Cannabis testing exceptions)** lists the job positions for which cannabis is considered a drug and therefore are subject to drug and alcohol testing requirements including: safety-sensitive positions; peace officers; firefighters; positions requiring face-to-face care, training, education, supervision, counseling, consultation or medical assistance to children, vulnerable adults, or patients; positions requiring a commercial driver’s license; positions funded by a federal grant; or positions for which a state or federal law requires testing.

**Section 18 (181.952; Cannabis policy)** states that an employer is not required to permit or accommodate use, possession, impairment, sale, or transfer while an employee is working, on the

employer's premises, or operating machinery or equipment unless required by state or federal law. Allows employers to have written work rules regarding cannabis.

**Section 19 (181.953; Reliability and fairness safeguards)** adds cannabis testing to the reliability and fairness safeguards statute that governs existing drug or alcohol testing by employers. Adds a new subdivision to the statute regarding an employer's ability to discipline, discharge or take other adverse personnel action against an employer for cannabis use, possession, impairment, sale or transfer while an employee is working, on the employer's premises, or operating machinery or equipment.

**Sections 20 to 22 (181.954; 181.955; and 181.955; Existing drug testing provisions)** add reference to cannabis testing in existing statutes that govern drug or alcohol testing by employers.

**Section 23 (245C.08, subdivision 1; Background studies conducted by the Department of Human Services)** prohibits the commissioner of human services, when determining whether a person is disqualified under a background study, from considering certain information without first determining if an offense involved the possession of marijuana or THC, and if so, whether there was an expungement or resentencing to a lesser offense. Further prohibits the commissioner from considering information relating to that violation if an expungement was granted.

**Section 24 (256.01, subdivision 18c; Drug convictions)** removes convictions for cannabis possession and sale of cannabis from the report the court administrator must provide to the commissioner of human services. Removes obsolete language.

**Section 25 (256B.0625, subdivision 13d; Drug formulary)** makes conforming changes to the drug formulary.

**Section 26 (256D.024, subdivision 1; Person convicted of drug offenses)** allows persons with a drug offense conviction related to cannabis, marijuana, or THC to remain eligible for general assistance. Also specifies that a positive test must be for an illegal controlled substance under chapter 152. Modifies the definition of "drug offense."

**Section 27 (256D.024, subdivision 3; Fleeing felons)** modifies when a fleeing felon is ineligible to receive general assistance.

**Section 28 (256J.26, subdivision 1; Person convicted of drug offenses)** removes MFIP applicants with a drug offense conviction related to cannabis, marijuana, or THC from being subject to certain conditions in order to receive economic assistance benefits. Specifies that a positive test must be for an illegal controlled substance under chapter 152. Removes applicants with a drug offense conviction related to cannabis, marijuana, or THC that request only SNAP benefits from being subject to random drug testing as a condition of continued eligibility. Modifies the definition of "drug offense."

**Section 29 (256J.26, subdivision 3; Fleeing felons)** modifies when a fleeing felon is ineligible to receive MFIP benefits.

**Section 30 [Retail license not prohibited; lower potency edible products]** clarifies that the new chapter does not limit the issuance of a retail license or permit to a person also holding a lower potency edible product retailer license, or permit the revocation or suspension of a retail liquor

license or permit, or imposition of a penalty on a retail license or permit holder, solely because a licensee or permit holder holds a lower potency edible product retailer license.

**Section 31 (340A.412, subdivision 14; Exclusive liquor stores)** permits exclusive liquor stores to sell lower potency edible products, as defined in section 342.01, subdivision 45.

**Section 32 (609B.425, subdivision 2; Benefit eligibility)** allows persons with a drug offense conviction related to cannabis, marijuana, or THC to remain eligible for general assistance benefits and Supplemental Security Income. Also specifies that a positive test must be for an illegal controlled substance under chapter 152.

**Section 33 (609B.435, subdivision 2; Drug offenders; random testing; sanctions)** removes MFIP applicants with a drug offense conviction related to cannabis, marijuana, or THC from being subject to certain conditions, such as random drug testing, in order to receive economic assistance benefits. Also specifies that a positive test must be for an illegal controlled substance under chapter 152.

**Sections 34-44 (624.712; 624.713, subdivision 1; 624.714, subdivision 6; 624.7142, subdivision 1; and 624.7151)** incorporate definitions related to adult-use cannabis and medical cannabis into provisions relating to firearm possession and add protections related to firearm possession and use for persons in the medical cannabis program or those who legally use cannabis under the bill.

**Section 45 [Lawful cannabis users]** provides that a medical program enrollee may not possess a pistol in public after use if the person knows the use has the capacity to cause impairment.

**Section 46 [Repealer]** repeals existing administrative rules and statutory provisions governing the medical cannabis registry program. Repeals the THC Therapeutic Research Act and section 152.027, subdivisions 3 and 4, which establish criminal penalties for possession of marijuana in a motor vehicle and the possession or sale of small amounts of marijuana.

## **Article 7 – Temporary Regulation of Certain Products**

**Section 1 (34A.01, subdivision 4; Food)** modifies the definition of “food” in chapter 34A to incorporate the changes in section 3 of this article.

**Section 2 (144.99; Remedies available)** adds section 151.72 to the provisions over which the commissioner health has enforcement authority.

**Section 3 (151.72; Sale of certain cannabinoid products)** changes the regulatory authority of this statute (sale of certain cannabinoid products) from the board of pharmacy to the commissioner of health. This section makes the following changes to this statute:

**Subdivision 1 (Definitions)** adds a definition for artificially derived cannabinoid; batch; commissioner; distributor; and synthetic cannabinoid.

**Subdivision 3 (Sale of cannabinoids derived from hemp)** clarifies that a manufacturer must submit a representative sample of each batch of the product to be tested to certify that the product complies with the standards adopted by the board of pharmacy on or before July 1, 2023, or with the standards adopted by the commissioner.

**Subdivision 4 (Testing requirements)** requires a manufacturer of a product to disclose all known information regarding foreign materials applied during production or processing stages of any batch from which a representative sample has been sent for testing. This disclosure must be made to the lab performing the testing and to the commissioner upon request. Also authorizes the commissioner to determine that any testing lab that does not operate formal management systems under International Organization for Standardization is not an accredited lab and require that a sample be retested by a lab that does meet this requirement.

**Subdivision 5 (Labeling requirements)** requires the batch number to be on the label.

**Subdivision 5a (Additional requirements for edible cannabinoid products)** changes the reference to no more than a trace amount of THC to no more than a total of 0.25 milligrams of all THC. Also clarifies that the indicators designating individual serving size appear on the edible cannabinoid product. Also specifies that an edible cannabinoid may contain delta-8 THC or delta -9 THC that is extracted from hemp plants or hemp plant parts or is an artificially derived cannabinoid; and prohibits any edible cannabinoid product from containing any other artificially derived cannabinoid.

**Subdivision 5b (Registration; prohibitions)** is a new subdivision requiring any person selling edible cannabinoid products to consumers to apply for registration with the commissioner by October 1, 2023.

**Subdivision 5c (Age verification)** is a new subdivision requiring an employee of a retailer to verify that the customer is at least 21 years of age before selling an edible cannabinoid product to the customer. Specifies the type of proof that is acceptable. Permits the retailer to seize a form of identification if the retailer reasonable believes that the identification has been altered or falsified or is being used in violation of the law.

**Subdivision 6 (Noncompliant products; enforcement)** clarifies that a product shall be considered a noncompliant product if it does not meet the provisions of this section. Authorizes the commissioner to enforce this section under the commissioner's regulatory authority under chapter 144. Authorizes the commissioner to enter into an interagency agreement with the OCM to perform inspections and take other enforcement actions on behalf of the commissioner.

**Subdivision 7 (Violations; criminal penalties)** is a new subdivision establishing a criminal penalty for knowingly altering or otherwise falsifying testing results; intentionally altering or falsifying information required to on the label; or intentionally making a false material statement to the commissioner. It also establishes a criminal penalty for doing any of the following on the premise of a retailer or other business that sells retail goods: selling an edible cannabinoid product knowing that the product does not comply with the limits on the amount or types of cannabinoids that the product contains; selling a product knowing that it does not comply with the requirements of this section; or selling an edible cannabinoid product to a person under the age of 21.

**Section 4 (340A.412, subdivision 14; Exclusive liquor stores)** permits exclusive liquor stores to sell edible cannabinoid products as defined in section 151.72, subdivision 1, paragraph (f).

**Section 5 [Repealer]** repeals section 152.72 effective July 1, 2024.

### **Article 8 – Scheduling of Marijuana**

**Article 8 (152.02, subdivision 2; and 152.02, subdivision 4)** moves marijuana and tetrahydrocannabinols from being listed as a Schedule I controlled substance to being listed as a Schedule III controlled substance.

### **Article 9 – Appropriations**

**Article 9** appropriates unspecified sums to various agencies to implement the provisions of the bill.