

**Senator Evan J. Vickers** proposes the following substitute bill:

**CANNABIDIOL PRODUCT ACT**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: Brad M. Daw

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**LONG TITLE**

**General Description:**

This bill enacts and amends provisions related to cannabidiol products.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes the Department of Agriculture and Food to make rules regarding cannabidiol;
- ▶ authorizes the cultivation, production, and possession of hemp and the sale and use of cannabidiol products under certain circumstances;
- ▶ directs the Department of Agriculture and Food to issue licenses and enforce operating requirements;
- ▶ grants the Department of Agriculture and Food, the Division of Occupational and Professional Licensing, the Department of Financial Institutions, and the Department of Health rulemaking authority;
- ▶ creates an exemption from sales and use tax for sales of cannabidiol products;
- ▶ imposes a special tax on the sale of cannabidiol products;
- ▶ creates the Cannabinoid Product Restricted Account;
- ▶ amends provisions related to driving with a measurable metabolite of cannabinoid



26 medicine; and

27       ▶ prohibits a court from discriminating against a parent in a child custody case based  
28 on the parent's legal use of a cannabidiol product.

29 **Money Appropriated in this Bill:**

30       None

31 **Other Special Clauses:**

32       This bill provides a special effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35       4-41-101, as enacted by Laws of Utah 2014, Chapter 25

36       4-41-102, as enacted by Laws of Utah 2014, Chapter 25

37       41-6a-517, as last amended by Laws of Utah 2017, Chapter 446

38       58-37-3.6, as enacted by Laws of Utah 2017, Chapter 398

39       58-37f-203, as last amended by Laws of Utah 2015, Chapters 89 and 326

40       78A-6-508, as last amended by Laws of Utah 2014, Chapter 409

41 ENACTS:

42       4-41-201, Utah Code Annotated 1953

43       4-41-202, Utah Code Annotated 1953

44       4-41-203, Utah Code Annotated 1953

45       4-41-204, Utah Code Annotated 1953

46       4-43-101, Utah Code Annotated 1953

47       4-43-102, Utah Code Annotated 1953

48       4-43-201, Utah Code Annotated 1953

49       4-43-202, Utah Code Annotated 1953

50       4-43-203, Utah Code Annotated 1953

51       4-43-301, Utah Code Annotated 1953

52       4-43-401, Utah Code Annotated 1953

53       4-43-402, Utah Code Annotated 1953

54       4-43-501, Utah Code Annotated 1953

55       4-43-502, Utah Code Annotated 1953

56       4-43-503, Utah Code Annotated 1953



88 **4-41-101. Title.**

89 (1) This chapter is known as the "Hemp and Cannabidiol Act."

90 (2) This part is known as "Industrial Hemp Research [Act]."

91 Section 2. Section **4-41-102** is amended to read:

92 **4-41-102. Definitions.**

93 For purposes of this chapter:

94 (1) "Cannabidiol product" means a chemical compound extracted from a hemp product

95 that:

96 (a) is processed into a medicinal dosage form; and

97 (b) contains less than 0.3% tetrahydrocannabinol by weight before processing and no

98 more than a 10:1 ratio of cannabidiol to tetrahydrocannabinol after processing.

99 ~~[(+)]~~ (2) "Industrial hemp" means any part of a cannabis plant, whether growing or not,  
100 with a concentration of less than 0.3% tetrahydrocannabinol by weight.

101 ~~[(2)]~~ (3) "Industrial hemp certificate" means a certificate issued by the department to a  
102 higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

103 (4) "Medicinal dosage form" means the same as that term is defined in Section

104 26-62-102.

105 Section 3. Section **4-41-201** is enacted to read:

106 **Part 2. Cannabidiol Product Act**

107 **4-41-201. Title.**

108 This part is known as "Cannabidiol Product Act."

109 Section 4. Section **4-41-202** is enacted to read:

110 **4-41-202. Cannabidiol sales and use authorized.**

111 (1) The sale or use of a cannabidiol product is prohibited except as provided in this  
112 chapter or unless the product is approved by the United States Food and Drug Administration.

113 (2) The department shall keep a list of registered cannabidiol products that the  
114 department has determined, pursuant to Section 4-41-203, are safe for human consumption.

115 (3) A person may sell or use a cannabidiol product that is in the list of registered  
116 cannabidiol products described in Subsection (2).

117 Section 5. Section **4-41-203** is enacted to read:

118 **4-41-203. Standards for registration.**

119 (1) The department shall determine by rule, made in accordance with Title 63G,  
120 Chapter 3, Utah Administrative Rulemaking Act, standards for a registered cannabidiol  
121 product, including standards for:

122 (a) testing to ensure the product is safe for human consumption;

123 (b) accurate labeling; and

124 (c) any other issue the department considers necessary.

125 (2) The department shall set a fee for a registered cannabidiol product, in accordance  
126 with Section [4-2-103](#).

127 (3) The fee described in Subsection (2) may be paid by a producer, manufacturer, or  
128 distributor of a cannabidiol product, but a cannabidiol product may not be registered with the  
129 department until the fee is paid.

130 (4) The department shall set an administrative fine, larger than the fee described in  
131 Subsection (2), for a person who sells a cannabidiol product that is not registered by the  
132 department.

133 Section 6. Section **4-41-204** is enacted to read:

134 **4-41-204. Department duties.**

135 (1) The department shall work with the state's federal congressional delegation and  
136 relevant federal agencies to seek a federal waiver from the Controlled Substances Act, in  
137 whatever form that waiver may take, for a cannabidiol product produced in:

138 (a) compliance with the rules established pursuant to Subsection [4-41-203](#)(1); or

139 (b) another state with similarly stringent rules, as determined by the department, to the  
140 rules established pursuant to Subsection [4-41-203](#)(1).

141 (2) The department shall report to the Legislature:

142 (a) on the rules established pursuant to Subsection [4-41-203](#)(1) by October 31, 2018;

143 and

144 (b) in the event the department is successful in procuring a federal waiver.

145 (3) The department may seize and destroy any cannabidiol product offered for sale in  
146 this state from a person that is not registered with the department.

147 (4) The department shall assess the fine described in Subsection [4-41-203](#)(4) against  
148 any person who offers an unregistered cannabidiol product for sale in this state.

149 Section 7. Section **4-43-101** is enacted to read:

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**CHAPTER 43. CANNABIDIOL PRODUCERS**

**Part 1. General Provisions**

**4-43-101. Title.**

This chapter is known as "Cannabidiol Producers."

Section 8. Section **4-43-102** is enacted to read:

**4-43-102. Definitions.**

As used in this chapter:

(1) "Agent" means an employee or independent contractor of an entity.

(2) "Cannabidiol laboratory" means a person that:

(a) conducts a chemical or other analysis of a cannabidiol product; or

(b) possesses a cannabidiol product with the intent to conduct a chemical or other analysis of the cannabidiol product.

(3) "Cannabidiol processor" means a person that:

(a) manufactures a hemp-grade product into a cannabidiol product;

(b) purchases or possesses a hemp-grade product with the intent to manufacture a cannabidiol product; or

(c) sells or intends to sell a cannabidiol product to a cannabidiol-qualified pharmacy.

(4) "Cannabidiol product" means the same as that term is defined in Section [4-41-102](#).

(5) "Cannabidiol-qualified pharmacy" means a facility that:

(a) sells a cannabidiol product at retail to a patient with a written recommendation from the patient's physician; and

(b) complies with any rules issued by the Division of Professional Licensing under Section [58-88-104](#).

(6) "Cannabinoid Product Restricted Account" means the account created in Section [4-43-801](#).

(7) "Hemp cultivator" means a person licensed by the department to grow hemp.

(8) "Medical dosage form" means the same as that term is defined in Section [26-62-102](#).

(9) "Physician" means the same as that term is defined in Section [26-62-102](#).

Section 9. Section **4-43-201** is enacted to read:

**Part 2. Cannabidiol Producer License**

181 **4-43-201. Cannabidiol processor -- Cannabidiol laboratory -- License -- Renewal.**

182 (1) A person may not act as a cannabidiol processor or a cannabidiol laboratory  
183 without a cannabidiol producer license issued by the department in accordance with this  
184 chapter.

185 (2) A person may submit an application to the department for a cannabidiol producer  
186 license of the class of:

187 (a) cannabidiol processor; or

188 (b) cannabidiol laboratory.

189 (3) An applicant for a license described in Subsection (2) shall submit to the  
190 department:

191 (a) an application in a form determined by the department that includes information  
192 required by the department by rule made in accordance with Title 63G, Chapter 3, Utah  
193 Administrative Rulemaking Act;

194 (b) a bond, as required by Section 4-43-203, for each license for which the person  
195 applies;

196 (c) an application fee established by the department, in accordance with Section  
197 63J-1-504, in an amount equal to the amount necessary to cover the department's cost to  
198 implement this chapter; and

199 (d) an operating plan that complies with minimum operating standards determined by  
200 the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
201 Rulemaking Act, that includes a plan for:

202 (i) security;

203 (ii) a cannabidiol processor:

204 (A) cannabidiol extraction; and

205 (B) processing technique; and

206 (iii) a cannabidiol laboratory:

207 (A) testing method; and

208 (B) testing capability.

209 (4) The department shall require a separate license and separate license fee for each  
210 physical location of a cannabidiol processor and cannabidiol laboratory.

211 (5) The department may not issue a license to operate a hemp cultivator or a hemp

212 producer to a person:

213 (a) that holds a license for or has an ownership interest in a cannabidiol-qualified  
214 pharmacy in the state; or

215 (b) that otherwise has an interest in a cannabidiol-qualified pharmacy, as determined by  
216 the department.

217 (6) The department may not issue a license to operate a cannabidiol laboratory to a  
218 person:

219 (a) that holds a license for or has an ownership interest in a cannabidiol-qualified  
220 pharmacy, a cannabidiol processor, or a hemp cultivator in the state; or

221 (b) that otherwise has an interest in a cannabidiol-qualified pharmacy, a cannabidiol  
222 processor, or a hemp cultivator as determined by the department.

223 (7) The department may establish additional application criteria and procedures by rule  
224 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

225 Section 10. Section **4-43-202** is enacted to read:

226 **4-43-202. Renewal.**

227 Except as provided in Subsection (2), the department shall renew the license of a  
228 cannabidiol processor or cannabidiol laboratory licensed under Section [4-43-201](#) every two  
229 years if, at the time of renewal:

230 (1) the cannabidiol processor or cannabidiol laboratory meets the requirements of  
231 Section [4-43-201](#); and

232 (2) the cannabidiol processor or cannabidiol laboratory pays the department a license  
233 renewal fee in an amount determined by the department in accordance with Section [63J-1-504](#).

234 Section 11. Section **4-43-203** is enacted to read:

235 **4-43-203. Bond required for license.**

236 (1) A cannabidiol processor or cannabidiol laboratory licensed under Section [4-43-201](#)  
237 shall post a \$100,000 cash bond or surety bond, payable to the department.

238 (2) A cannabidiol processor or cannabidiol laboratory licensed under Section [4-43-201](#)  
239 shall maintain the bond described in Subsection (1) for as long as the processor or laboratory  
240 continues to operate.

241 (3) The department shall require a bond posted under this section to be:

242 (a) in a form approved by the attorney general; and



243 (b) conditioned upon the cannabidiol processor or cannabidiol laboratory's compliance  
244 with this chapter.

245 (4) If a bond described in Subsection (1) is canceled due to a processor's or laboratory's  
246 negligence, the department may assess the producer or laboratory a \$300 reinstatement fee.

247 (5) A processor or laboratory may not withdraw any part of a bond posted under  
248 Subsection (1):

249 (a) during the period when the license is in effect; or

250 (b) while a license revocation proceeding is pending against the processor or  
251 laboratory.

252 (6) A processor or laboratory forfeits a bond posted under Subsection (1) if the  
253 processor's or laboratory's license is revoked.

254 (7) The department may, without revoking a license, make a claim against a bond  
255 posted under Subsection (1) for money the processor or laboratory owes the department under  
256 this chapter.

257 Section 12. Section **4-43-301** is enacted to read:

258 **Part 3. Hemp Producer Agents**

259 **4-43-301. Cannabidiol processor and laboratory agents.**

260 (1) A cannabidiol processor or cannabidiol laboratory licensed under Section [4-43-201](#)  
261 shall maintain a current list of each agent of the cannabidiol processor or cannabidiol  
262 laboratory.

263 (2) A cannabidiol processor or cannabidiol laboratory shall submit the list described in  
264 Subsection (1) to the department before:

265 (a) January 1 of each year; and

266 (b) July 1 of each year.

267 (3) The department may audit the list described in Subsection (1) at any time, at  
268 random, in order to determine that the list is accurate.

269 (4) A cannabidiol processor or cannabidiol laboratory is guilty of an infraction if the  
270 cannabidiol processor or cannabidiol laboratory fails to maintain an accurate list of each agent  
271 of the cannabidiol processor or cannabidiol laboratory in accordance with this section.

272 Section 13. Section **4-43-401** is enacted to read:

273 **Part 4. Cannabidiol Processor or Cannabidiol Laboratory**

274 **General Operating Requirements**

275 **4-43-401. Cannabidiol processor or cannabidiol laboratory -- General operating**  
276 **requirements.**

277 (1) (a) A cannabidiol processor or cannabidiol laboratory shall operate in accordance  
278 with the operating plan provided to the department under Section [4-43-201](#).

279 (b) A cannabidiol processor or cannabidiol laboratory shall notify the department  
280 within 30 days of any change in the cannabidiol processor or cannabidiol laboratory operation  
281 plan.

282 (c) The department shall review a cannabidiol processor's or cannabidiol laboratory's  
283 operating plan for compliance with state law and administrative rules.

284 (d) A cannabidiol processor or cannabidiol laboratory may not operate under an  
285 operating plan until the operating plan is reviewed and approved by the department under  
286 Subsection (1)(c).

287 (2) The department shall establish physical facility standards for a cannabidiol  
288 processor or cannabidiol laboratory by rule made in accordance with Title 63G, Chapter 3,  
289 Utah Administrative Rulemaking Act.

290 Section 14. Section **4-43-402** is enacted to read:

291 **4-43-402. Cannabidiol processor or cannabidiol laboratory -- Inspection by**  
292 **department.**

293 (1) Subject to Subsection (2), the department shall inspect the records and facility of a  
294 cannabidiol processor or cannabidiol laboratory in order to determine if the cannabidiol  
295 processor or cannabidiol laboratory complies with the requirements of this chapter.

296 (2) The department may inspect the records and facility of a cannabidiol processor or  
297 cannabidiol laboratory:

298 (a) as many as four times per year, scheduled or unscheduled; and

299 (b) if the department has reason to believe that the cannabidiol processor or  
300 cannabidiol laboratory has violated the law, at any time, scheduled or unscheduled.

301 Section 15. Section **4-43-501** is enacted to read:

302 **Part 5. Cannabidiol Processor Operating Requirements**

303 **4-43-501. Cannabidiol processor -- Operating requirements.**

304 (1) A cannabidiol processor shall ensure that a cannabidiol product that the cannabidiol

305 processor sells or provides to a cannabidiol-qualified pharmacy complies with the requirements  
306 of this part.

307 (2) A cannabidiol processor shall operate in a facility with a carbon filtration system  
308 for air output.

309 (3) The department shall establish, by rule made in accordance with Title 63G, Chapter  
310 3, Utah Administrative Rulemaking Act, physical facility standards for a cannabidiol processor.

311 Section 16. Section **4-43-502** is enacted to read:

312 **4-43-502. Cannabidiol product.**

313 A cannabidiol processor may only produce a cannabidiol product in a medicinal dosage  
314 form.

315 Section 17. Section **4-43-503** is enacted to read:

316 **4-43-503. Cannabidiol medicine -- Labeling and packaging.**

317 (1) A cannabidiol processor shall ensure that any cannabidiol product that the  
318 cannabidiol processor distributes to a cannabidiol-qualified pharmacy has a label or package  
319 that:

320 (a) clearly displays the cannabidiol profile of the product; and

321 (b) has a unique batch identifier that identifies the unique manufacturing process when  
322 the cannabidiol product was manufactured.

323 (2) In addition to Subsection (1), the department shall establish, by rule made in  
324 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, labeling and  
325 packaging standards for a cannabidiol product produced by a cannabidiol processor.

326 Section 18. Section **4-43-601** is enacted to read:

327 **Part 6. Cannabidiol Laboratory Operating Requirements**

328 **4-43-601. Hemp and cannabidiol product testing.**

329 (1) A cannabidiol laboratory may not operate unless the cannabidiol laboratory is  
330 capable of accurately testing a cannabidiol product as described in this section.

331 (2) A cannabidiol laboratory shall, before cannabidiol is offered for sale at a  
332 cannabidiol-qualified pharmacy, test the cannabidiol as described in this section.

333 (3) A cannabidiol laboratory shall determine if a cannabidiol product contains, in an  
334 amount that is harmful to human health:

335 (a) mold;

- 336 (b) fungus;
- 337 (c) pesticides;
- 338 (d) other microbial contaminants; or
- 339 (e) another harmful substance identified by the department under Subsection (5).

340 (4) For a cannabidiol product that is manufactured using a process that involves  
341 extraction using hydrocarbons, a cannabidiol laboratory shall test the cannabidiol product for  
342 residual solvents.

343 (5) The department shall determine by rule made in accordance with Title 63G,  
344 Chapter 3, Utah Administrative Rulemaking Act:

345 (a) the amount of substances described in Subsection (3) and the amount of residual  
346 solvents that are safe for human consumption;

347 (b) additional cannabidiol testing that a cannabidiol laboratory is required to perform;  
348 and

349 (c) minimum standards for a cannabidiol laboratory's testing methods and procedures.

350 Section 19. Section **4-43-602** is enacted to read:

351 **4-43-602. Reporting -- Inspections.**

352 (1) A cannabidiol laboratory shall report the results of each product test to the  
353 department.

354 (2) A cannabidiol laboratory shall determine if the results of a lab test indicate that a  
355 cannabidiol product batch is unsafe for human consumption.

356 (3) If a cannabidiol laboratory makes a determination described in Subsection (2), the  
357 cannabidiol laboratory may not release the batch to a cannabidiol processor or a  
358 cannabidiol-qualified pharmacy until the department has an opportunity to respond to the  
359 cannabidiol laboratory within a period of time determined by the department.

360 (4) (a) If the department determines that a cannabidiol product batch is unsafe for  
361 human consumption, the department shall destroy the product batch.

362 (b) If the department determines that a cannabidiol product batch was not cultivated in  
363 accordance with this title, the department may seize, embargo, or destroy the cannabidiol  
364 product batch.

365 (5) The department shall establish, by rule made in accordance with Title 63G, Chapter  
366 3, Utah Administrative Rulemaking Act, the amount of time that a cannabidiol laboratory is

367 required to hold a batch under Subsection (3).

368 (6) The department may conduct a test to:

369 (a) determine the accuracy of a cannabidiol laboratory's:

370 (i) cannabidiol product test results; or

371 (ii) analytical method; or

372 (b) validate a cannabidiol laboratory's testing methods.

373 Section 20. Section **4-43-701** is enacted to read:

374 **Part 7. Enforcement**

375 **4-43-701. Enforcement -- Fine -- Citation.**

376 (1) The department may, for a violation of this chapter by a cannabidiol processor or  
377 cannabidiol laboratory:

378 (a) revoke a license;

379 (b) refuse to renew a license;

380 (c) assess an administrative penalty; or

381 (d) take any other appropriate administrative action.

382 (2) The department shall deposit an administrative penalty imposed under this section  
383 into the Cannabinoid Product Restricted Account established in Section [4-43-801](#).

384 (3) (a) The department may take an action described in Subsection (3)(b) if the  
385 department concludes, upon inspection or investigation, that:

386 (i) the person has violated the provisions of this chapter or a rule made under this  
387 chapter; or

388 (ii) the person prepared a cannabidiol product batch in a manner, or such that the batch  
389 contains a substance, that poses a threat to human health.

390 (b) If the department makes the determination about a person described in Subsection  
391 (3)(a)(i), the department shall:

392 (i) issue the person a citation in writing;

393 (ii) attempt to negotiate a stipulated settlement; or

394 (iii) direct the person to appear before an adjudicative proceeding conducted under  
395 Title 63G, Chapter 4, Administrative Procedures Act.

396 (c) If the department makes the determination about a person described in Subsection  
397 (3)(a)(ii), the department may:

398 (i) seize, embargo, or destroy a hemp or cannabidiol product batch; and  
399 (ii) direct the person to appear before an adjudicative proceeding conducted under Title  
400 63G, Chapter 4, Administrative Procedures Act.

401 (4) The department may, for a person subject to an uncontested citation, a stipulated  
402 settlement, or a finding of a violation in an adjudicative proceeding under this section:

403 (a) assess the person a fine in an amount determined by the department in accordance  
404 with Section 63J-1-504; or

405 (b) order the person to cease and desist from the action that creates a violation.

406 (5) The department may not revoke a license issued pursuant to this chapter via a  
407 citation.

408 (6) If, within 15 calendar days after the day on which a department serves a citation for  
409 a violation of this chapter, the person that is the subject of the citation fails to request a hearing  
410 to contest the citation, the citation becomes the basis of the department's final order.

411 (7) The department may, for a person that fails to comply with a citation under this  
412 section:

413 (a) refuse to issue or renew the person's license; or

414 (b) suspend, revoke, or place on probation the person's license.

415 Section 21. Section **4-43-702** is enacted to read:

416 **4-43-702. Report to the Legislature.**

417 The department shall report, each year before November 1, to the Health and Human  
418 Services Interim Committee, on the department's administration and enforcement of this  
419 chapter.

420 Section 22. Section **4-43-703** is enacted to read:

421 **4-43-703. Fees -- Deposit into Cannabinoid Product Restricted Account.**

422 The department shall deposit fees the department collects under this chapter into the  
423 Cannabinoid Product Restricted Account created in Section 4-43-801.

424 Section 23. Section **4-43-801** is enacted to read:

425 **4-43-801. Cannabinoid Product Restricted Account -- Creation.**

426 (1) There is created in the General Fund a restricted account known as the  
427 "Cannabinoid Product Restricted Account."

428 (2) The account created in this section is funded from:

- 429 (a) money deposited by the State Tax Commission under Title 59, Chapter 29,
- 430 Cannabidiol Product Tax Act;
- 431 (b) money deposited into the account by the Department of Agriculture and Food under
- 432 Title 4, Chapter 43, Cannabidiol Producers;
- 433 (c) appropriations made to the account by the Legislature; and
- 434 (d) the interest described in Subsection (3).
- 435 (3) Interest earned on the account is deposited into the account.
- 436 (4) The money in the account may only be used to fund, upon appropriation:
- 437 (a) the cost of state regulation of cannabidiol products under:
- 438 (i) Title 4, Chapter 43, Cannabidiol Producers;
- 439 (ii) Title 26, Chapter 62, Cannabidiol Product Act;
- 440 (iii) Title 59, Chapter 29, Cannabidiol Product Tax Act; and
- 441 (b) the cost to the state for investigation and enforcement related to cannabinoid
- 442 products.
- 443 (5) Subject to appropriation and available funds in the restricted account, at the end of
- 444 fiscal year 2020 and fiscal year 2021, the director of the Division of Finance shall transfer into
- 445 the General Fund from the Cannabinoid Product Restricted Account an amount equal to the
- 446 General Fund appropriation in fiscal year 2018 and fiscal year 2019, respectively, to implement
- 447 the programs described in Subsection (4).

448 Section 24. Section **26-62-101** is enacted to read:

449 **CHAPTER 62. CANNABIDIOL PRODUCT ACT**

450 **Part 1. General Provisions**

451 **26-62-101. Title.**

452 This chapter is known as the "Cannabidiol Product Act."

453 Section 25. Section **26-62-102** is enacted to read:

454 **26-62-102. Definitions.**

455 (1) "Agent" means an employee or independent contractor of an entity.

456 (2) "Cannabidiol laboratory" means the same as that term is defined in Section  
457 [4-43-102](#).

458 (3) "Cannabidiol product" means the same as that term is defined in Section [4-41-102](#).

459 (4) "Cannabidiol-qualified pharmacy" means the same as that term is defined in

460 Section 4-43-102.

461 (5) "Cannabinoid Product Restricted Account" means the account created in Section  
462 4-43-801.

463 (6) "Medicinal dosage form" means a qualifying dosage form for a cannabidiol product  
464 under Section 26-62-103.

465 (7) "Physician" means an individual who is licensed to practice:

466 (a) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or

467 (b) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical  
468 Practice Act.

469 Section 26. Section **26-62-103** is enacted to read:

470 **26-62-103. Medicinal dosage form.**

471 (1) For the purpose of this chapter, any of the following is a qualifying medicinal  
472 dosage form for a cannabidiol product:

473 (a) a tablet;

474 (b) a capsule;

475 (c) a concentrated oil;

476 (d) a liquid suspension;

477 (e) a transdermal preparation; and

478 (f) a sublingual preparation.

479 (2) A patient may not purchase, use, or possess a cannabidiol product unless the  
480 cannabidiol product is prepared in a medicinal dosage form.

481 (3) A cannabidiol-qualified pharmacy may not purchase, possess, or sell a cannabidiol  
482 product unless the cannabidiol product is prepared in a medicinal dosage form.

483 (4) The department may recommend that the Legislature approve the use of an  
484 additional medicinal dosage form.

485 Section 27. Section **26-62-201** is enacted to read:

486 **Part 2. Miscellaneous**

487 **26-62-201. Insurance coverage.**

488 An insurance carrier, third-party administrator, or employer is not required to provide  
489 reimbursement for treatment of an individual with a cannabinoid product under this chapter.

490 Section 28. Section **26-62-202** is enacted to read:



491 **26-62-202. Report to the Legislature.**

492 The department shall, before November 1 each year, report to the Health and Human  
493 Services Interim Committee on the department's administration and enforcement of this  
494 chapter.

495 Section 29. Section **41-6a-517** is amended to read:

496 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
497 **body -- Penalties -- Arrest without warrant.**

498 (1) As used in this section:

499 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

500 (b) "Practitioner" means the same as that term is defined in Section [58-37-2](#).

501 (c) "Prescribe" means the same as that term is defined in Section [58-37-2](#).

502 (d) "Prescription" means the same as that term is defined in Section [58-37-2](#).

503 (2) In cases not amounting to a violation of Section [41-6a-502](#), a person may not  
504 operate or be in actual physical control of a motor vehicle within this state if the person has any  
505 measurable controlled substance or metabolite of a controlled substance in the person's body.

506 (3) It is an affirmative defense to prosecution under this section that the controlled  
507 substance was:

508 (a) involuntarily ingested by the accused;

509 (b) prescribed by a practitioner for use by the accused or recommended by a physician  
510 for use by the accused; or

511 (c) otherwise legally ingested.

512 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
513 misdemeanor.

514 (b) A person who violates this section is subject to conviction and sentencing under  
515 both this section and any applicable offense under Section [58-37-8](#).

516 (5) A peace officer may, without a warrant, arrest a person for a violation of this  
517 section when the officer has probable cause to believe the violation has occurred, although not  
518 in the officer's presence, and if the officer has probable cause to believe that the violation was  
519 committed by the person.

520 (6) The Driver License Division shall, if the person is 21 years of age or older on the  
521 date of arrest:

522 (a) suspend, for a period of 120 days, the driver license of a person convicted under  
523 Subsection (2) of an offense committed on or after July 1, 2009; or

524 (b) revoke, for a period of two years, the driver license of a person if:

525 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

526 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
527 and within a period of 10 years after the date of the prior violation.

528 (7) The Driver License Division shall, if the person is 19 years of age or older but  
529 under 21 years of age on the date of arrest:

530 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is  
531 longer, the driver license of a person convicted under Subsection (2) of an offense committed  
532 on or after July 1, 2011; or

533 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is  
534 longer, the driver license of a person if:

535 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

536 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
537 and within a period of 10 years after the date of the prior violation.

538 (8) The Driver License Division shall, if the person is under 19 years of age on the date  
539 of arrest:

540 (a) suspend, until the person is 21 years of age, the driver license of a person convicted  
541 under Subsection (2) of an offense committed on or after July 1, 2009; or

542 (b) revoke, until the person is 21 years of age, the driver license of a person if:

543 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

544 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
545 and within a period of 10 years after the date of the prior violation.

546 (9) The Driver License Division shall subtract from any suspension or revocation  
547 period the number of days for which a license was previously suspended under Section  
548 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
549 which the record of conviction is based.

550 (10) The Driver License Division shall:

551 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in  
552 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was

553 committed prior to July 1, 2009; or

554 (b) deny, suspend, or revoke the operator's license of a person for the denial,  
555 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

556 (i) the person was 20 years of age or older but under 21 years of age at the time of  
557 arrest; and

558 (ii) the conviction under Subsection (2) is for an offense that was committed on or after  
559 July 1, 2009, and prior to July 1, 2011.

560 (11) A court that reported a conviction of a violation of this section for a violation that  
561 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension  
562 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period  
563 if the person:

564 (a) completes at least six months of the license suspension;

565 (b) completes a screening;

566 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
567 (11)(b);

568 (d) completes substance abuse treatment if it is found appropriate by the assessment  
569 under Subsection (11)(c);

570 (e) completes an educational series if substance abuse treatment is not required by the  
571 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

572 (f) has not been convicted of a violation of any motor vehicle law in which the person  
573 was involved as the operator of the vehicle during the suspension period imposed under  
574 Subsection (7)(a) or (8)(a);

575 (g) has complied with all the terms of the person's probation or all orders of the court if  
576 not ordered to probation; and

577 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the  
578 person has not consumed a controlled substance not prescribed by a practitioner for use by the  
579 person or unlawfully consumed alcohol during the suspension period imposed under  
580 Subsection (7)(a) or (8)(a); or

581 (ii) is under 18 years of age and has the person's parent or legal guardian provide an  
582 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's  
583 knowledge the person has not consumed a controlled substance not prescribed by a practitioner

584 for use by the person or unlawfully consumed alcohol during the suspension period imposed  
585 under Subsection (7)(a) or (8)(a).

586 (12) If the court shortens a person's license suspension period in accordance with the  
587 requirements of Subsection (11), the court shall forward the order shortening the person's  
588 license suspension period prior to the completion of the suspension period imposed under  
589 Subsection (7)(a) or (8)(a) to the Driver License Division.

590 (13) (a) The court shall notify the Driver License Division if a person fails to:

591 (i) complete all court ordered screening and assessment, educational series, and  
592 substance abuse treatment; or

593 (ii) pay all fines and fees, including fees for restitution and treatment costs.

594 (b) Upon receiving the notification, the division shall suspend the person's driving  
595 privilege in accordance with Subsections 53-3-221(2) and (3).

596 (14) The court:

597 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person  
598 convicted under Subsection (2); and

599 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety  
600 program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

601 (15) (a) A court that reported a conviction of a violation of this section to the Driver  
602 License Division may shorten the suspension period imposed under Subsection (6) before  
603 completion of the suspension period if the person is participating in or has successfully  
604 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

605 (b) If the court shortens a person's license suspension period in accordance with the  
606 requirements of this Subsection (15), the court shall forward to the Driver License Division the  
607 order shortening the person's suspension period.

608 (c) The court shall notify the Driver License Division if a person fails to complete all  
609 requirements of a 24-7 sobriety program.

610 (d) Upon receiving the notification described in Subsection (15)(c), the division shall  
611 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

612 Section 30. Section 58-37-3.6 is amended to read:

613 **58-37-3.6. Exemption for possession or distribution of a cannabinoid product or**  
614 **expanded cannabinoid product pursuant to an approved study.**

615 (1) As used in this section:

616 (a) "Cannabidiol product" means the same as that term is defined in Section [4-41-102](#).

617 ~~(a)~~ (b) "Cannabinoid product" means a product intended for human ingestion that:

618 (i) contains an extract or concentrate that is obtained from cannabis;

619 (ii) is prepared in a medicinal dosage form; and

620 (iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

621 ~~(b)~~ (c) "Cannabis" means any part of the plant cannabis sativa, whether growing or

622 not.

623 ~~(c)~~ (d) "Drug paraphernalia" means the same as that term is defined in Section

624 [58-37a-3](#).

625 ~~(d)~~ (e) "Expanded cannabinoid product" means a product intended for human

626 ingestion that:

627 (i) contains an extract or concentrate that is obtained from cannabis;

628 (ii) is prepared in a medicinal dosage form; and

629 (iii) contains less than 10 units of cannabidiol for every one unit of

630 tetrahydrocannabinol.

631 ~~(e)~~ (f) "Medicinal dosage form" means:

632 (i) a tablet;

633 (ii) a capsule;

634 (iii) a concentrated oil;

635 (iv) a liquid suspension;

636 (v) a transdermal preparation; or

637 (vi) a sublingual preparation.

638 ~~(f)~~ (g) "Tetrahydrocannabinol" means a substance derived from cannabis that meets

639 the description in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

640 (2) Notwithstanding any other provision of this chapter~~;~~:

641 (a) an individual who possesses or distributes a cannabinoid product or an expanded

642 cannabinoid product is not subject to the penalties described in this title for the possession or

643 distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession

644 or distribution of the cannabinoid product or expanded cannabinoid product complies with

645 Title 26, Chapter 61, Cannabinoid Research Act~~;~~:

646 (b) an individual who grows, processes, possesses, transports, or distributes  
647 cannabidiol for medicinal use or a hemp-grade product that is intended to be processed into  
648 cannabidiol for medicinal use, is not subject to the penalties described in this title to the extent  
649 that the individual's growth, processing, possession, transportation, or distribution of the  
650 cannabidiol or hemp-grade product is in compliance with Title 4, Chapter 43, Cannabidiol  
651 Producers; and

652 (c) a person who processes, possesses, or sells cannabidiol is not subject to the  
653 penalties described in this title if:

654 (i) the person is a cannabidiol-qualified pharmacy; or

655 (ii) the person is an individual whose physician has recommended use of the  
656 cannabidiol and the individual purchased the cannabidiol from a cannabidiol-qualified  
657 pharmacy.

658 Section 31. Section **58-37f-203** is amended to read:

659 **58-37f-203. Submission, collection, and maintenance of data.**

660 (1) (a) The division shall implement on a statewide basis, including non-resident  
661 pharmacies as defined in Section **58-17b-102**, the following two options for a pharmacist to  
662 submit information:

663 (i) real-time submission of the information required to be submitted under this part to  
664 the controlled substance database; and

665 (ii) 24-hour daily or next business day, whichever is later, batch submission of the  
666 information required to be submitted under this part to the controlled substance database.

667 (b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

668 (A) the submission time requirements established by the division under Subsection  
669 (1)(a)(i); or

670 (B) the submission time requirements established by the division under Subsection  
671 (1)(a)(ii).

672 (ii) Prior to January 1, 2016, a pharmacist may submit information using either option  
673 under this Subsection (1).

674 (c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

675 (2) (a) The pharmacist in charge of the drug outlet where a controlled substance is  
676 dispensed shall submit the data described in this section to the division:

- 677 (i) in accordance with the requirements of this section;  
678 (ii) in accordance with the procedures established by the division; and  
679 (iii) in the format established by the division.

680 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing  
681 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with  
682 the provisions of this section and the dispensing medical practitioner shall assume the duties of  
683 the pharmacist under this chapter.

684 (3) The pharmacist described in Subsection (2) shall, for each controlled substance  
685 dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an  
686 inpatient at a health care facility, submit to the division the following information:

- 687 (a) the name of the prescribing practitioner;  
688 (b) the date of the prescription;  
689 (c) the date the prescription was filled;  
690 (d) the name of the individual for whom the prescription was written;  
691 (e) positive identification of the individual receiving the prescription, including the  
692 type of identification and any identifying numbers on the identification;  
693 (f) the name of the controlled substance;  
694 (g) the quantity of the controlled substance prescribed;  
695 (h) the strength of the controlled substance;  
696 (i) the quantity of the controlled substance dispensed;  
697 (j) the dosage quantity and frequency as prescribed;  
698 (k) the name of the drug outlet dispensing the controlled substance; [~~and~~]  
699 (l) the name of the pharmacist dispensing the controlled substance[.]; and  
700 (m) in the case of a cannabidiol-qualified pharmacy dispensing a cannabidiol product:  
701 (i) the name of the recommending physician;  
702 (ii) the date of the recommendation;  
703 (iii) the date the recommendation was filled by the cannabidiol-qualified pharmacy;  
704 (iv) the name of the individual for whom the recommendation was written; and  
705 (v) any other information the division requires by rule, made in accordance with Title  
706 63G, Chapter 3, Utah Administrative Rulemaking Act.

707 (4) An individual whose records are in the database may obtain those records upon

708 submission of a written request to the division.

709 (5) (a) A patient whose record is in the database may contact the division in writing to  
710 request correction of any of the patient's database information that is incorrect. The patient  
711 shall provide a postal address for the division's response.

712 (b) The division shall grant or deny the request within 30 days from receipt of the  
713 request and shall advise the requesting patient of its decision by mail postmarked within 35  
714 days of receipt of the request.

715 (c) If the division denies a request under this Subsection (5) or does not respond within  
716 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days  
717 after the postmark date of the patient's letter making a request for a correction under this  
718 Subsection (5).

719 (6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
720 Administrative Rulemaking Act, to establish submission requirements under this part,  
721 including the electronic format in which the information required under this section shall be  
722 submitted to the division.

723 (7) The division shall ensure that the database system records and maintains for  
724 reference:

725 (a) the identification of each individual who requests or receives information from the  
726 database;

727 (b) the information provided to each individual; and

728 (c) the date and time that the information is requested or provided.

729 Section 32. Section **58-67-808** is enacted to read:

730 **58-67-808. Recommendation of cannabidiol products.**

731 (1) A physician may recommend the use of a cannabidiol product to a patient.

732 (2) It is not a breach of the applicable standard of care for a physician to recommend  
733 treatment with a cannabidiol product to an individual under this section.

734 (3) A physician who recommends treatment with a cannabidiol product to an  
735 individual under this section may not, solely based on that recommendation, be subject to:

736 (a) civil liability;

737 (b) criminal liability; or

738 (c) licensure sanctions under this title.



739 Section 33. Section **58-68-808** is enacted to read:

740 **58-68-808. Recommendation of cannabidiol products.**

741 (1) A physician may recommend the use of a cannabidiol product to a patient.

742 (2) It is not a breach of the applicable standard of care for a physician to recommend  
743 treatment with a cannabidiol product to an individual under this section.

744 (3) A physician who recommends treatment with a cannabidiol product to an  
745 individual under this section may not, solely based on that recommendation, be subject to:

746 (a) civil liability;

747 (b) criminal liability; or

748 (c) licensure sanctions under this title.

749 Section 34. Section **58-88-101** is enacted to read:

750 **CHAPTER 88. CANNABIDIOL-QUALIFIED PHARMACIES**

751 **Part 1. General Provisions**

752 **58-88-101. Title.**

753 This chapter is known as "Cannabidiol-Qualified Pharmacies."

754 Section 35. Section **58-88-102** is enacted to read:

755 **58-88-102. Definitions.**

756 As used in this chapter:

757 (1) "Cannabidiol-qualified pharmacy" means a pharmacy that sells cannabidiol at retail  
758 to a patient with a written recommendation from the patient's physician.

759 (2) "Physician" means an individual who is licensed to practice:

760 (a) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or

761 (b) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical

762 Practice Act.

763 Section 36. Section **58-88-103** is enacted to read:

764 **58-88-103. Cannabidiol-qualified pharmacy requirements.**

765 (1) A pharmacy licensed in this state may become a cannabidiol-qualified pharmacy if  
766 it:

767 (a) registers with the division, on a form and in a manner prescribed by the division;

768 and

769 (b) complies with all rules issued by the division under Section [58-88-104](#).

770 (2) A cannabidiol-qualified pharmacy may sell a cannabidiol product to a patient if the  
771 patient produces a written recommendation from the patient's physician.

772 Section 37. Section **58-88-104** is enacted to read:

773 **58-88-104. Division to make rules.**

774 (1) A pharmacy that seeks to sell cannabidiol at retail shall do so in accordance with  
775 rules established by the division.

776 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
777 Administrative Rulemaking Act, governing:

778 (a) the requirements for a pharmacy to become a cannabidiol-qualified pharmacy,  
779 including:

780 (i) the manner in which a pharmacy registers with the division to become a  
781 cannabidiol-qualified pharmacy;

782 (ii) requirements for the division to accept or reject a pharmacy's registration as a  
783 cannabidiol-qualified pharmacy;

784 (iii) the class of pharmacy that may become a cannabidiol-qualified pharmacy; and

785 (iv) any other requirements the division considers reasonably necessary to implement  
786 its duties under this chapter; and

787 (b) the manner in which a pharmacy may sell cannabidiol at retail.

788 Section 38. Section **59-12-104.8** is enacted to read:

789 **59-12-104.8. Exemption from sales tax for cannabinoid products.**

790 (1) As used in this section:

791 (a) "Cannabidiol product" means the same as that term is defined in Section [4-41-102](#).

792 (b) "Cannabidiol-qualified pharmacy" means the same as that term is defined in  
793 Section [58-88-102](#).

794 (2) In addition to the exemptions described in Section [59-12-104](#), the sale by a  
795 cannabinoid-qualified pharmacy of a cannabidiol product is not subject to the taxes imposed by  
796 this chapter.

797 Section 39. Section **59-29-101** is enacted to read:

798 **CHAPTER 29. CANNABIDIOL PRODUCT TAX ACT**

799 **Part 1. General Provisions**

800 **59-29-101. Title.**

801 This chapter is known as the "Cannabidiol Product Tax Act."

802 Section 40. Section **59-29-102** is enacted to read:

803 **59-29-102. Definitions.**

804 As used in this chapter:

805 (1) "Cannabidiol product" means the same as that term is defined in Section 4-41-102.

806 (2) "Cannabidiol-qualified pharmacy" means the same as that term is defined in

807 Section 58-88-102.

808 (3) "Cannabinoid Product Restricted Account" means the account created in Section

809 4-43-801.

810 Section 41. Section **59-29-103** is enacted to read:

811 **59-29-103. Imposition of tax -- Rate -- Administration.**

812 (1) There is imposed a tax on the retail purchaser of a cannabidiol product at a  
813 cannabidiol-qualified pharmacy in the state in an amount equal to 5.77% of amounts paid or  
814 charged for the cannabidiol product.

815 (2) The commission shall administer, collect, and enforce the tax authorized under this  
816 chapter in accordance with the provisions of Chapter 1, General Taxation Policies, and Chapter  
817 12, Sales and Use Tax Act.

818 Section 42. Section **59-29-104** is enacted to read:

819 **59-29-104. Collection of tax.**

820 A cannabidiol-qualified pharmacy shall:

821 (1) collect the tax imposed by Section 59-29-103 from a cannabidiol product  
822 purchaser; and

823 (2) file a return with the commission and pay the tax calculated on the return to the  
824 commission:

825 (a) quarterly on or before the last day of the month immediately following the last day  
826 of the previous calendar quarter if:

827 (i) the cannabidiol-qualified pharmacy is required to file a quarterly sales and use tax  
828 return with the commission under Section 59-12-107; or

829 (ii) the cannabidiol-qualified pharmacy is not required to file a sales and use tax return  
830 with the commission under Chapter 12, Sales and Use Tax Act; or

831 (b) monthly on or before the last day of the month immediately following the last day

832 of the previous calendar month if the cannabidiol-qualified pharmacy is required to file a  
833 monthly sales and use tax return with the commission under Section 59-12-108.

834 Section 43. Section **59-29-105** is enacted to read:

835 **59-29-105. Deposit of tax revenue.**

836 The commission shall deposit revenues generated by the tax imposed by this chapter  
837 into the Cannabinoid Product Restricted Account created in Section 4-43-801.

838 Section 44. Section **59-29-106** is enacted to read:

839 **59-29-106. Records.**

840 (1) A cannabidiol-qualified pharmacy shall maintain any record typically considered  
841 necessary to determine the amount of tax that the pharmacy is required to remit to the  
842 commission under this chapter.

843 (2) The commission may require a cannabidiol-qualified pharmacy to keep any record  
844 the commission reasonably considers necessary to constitute sufficient evidence of the amount  
845 of tax the cannabidiol-qualified pharmacy is required to remit to the commission under this  
846 chapter:

847 (a) by notice served upon the cannabidiol-qualified pharmacy; or

848 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
849 Rulemaking Act.

850 (3) Upon notice by the commission, a cannabidiol-qualified pharmacy shall open the  
851 pharmacy's records for examination by the commission.

852 Section 45. Section **59-29-107** is enacted to read:

853 **59-29-107. Rulemaking authority.**

854 The commission may make rules in accordance with Title 63G, Chapter 3, Utah  
855 Administrative Rulemaking Act, to:

856 (1) implement the tax imposed by this chapter; and

857 (2) enforce payment of the tax imposed by this chapter.

858 Section 46. Section **59-29-108** is enacted to read:

859 **59-29-108. Penalties and interest.**

860 A cannabidiol-qualified pharmacy that fails to comply with any provision of this  
861 chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

862 Section 47. Section **78A-6-508** is amended to read:

863 **78A-6-508. Evidence of grounds for termination.**

864 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
865 evidence of abandonment that the parent or parents:

866 (a) although having legal custody of the child, have surrendered physical custody of the  
867 child, and for a period of six months following the surrender have not manifested to the child  
868 or to the person having the physical custody of the child a firm intention to resume physical  
869 custody or to make arrangements for the care of the child;

870 (b) have failed to communicate with the child by mail, telephone, or otherwise for six  
871 months;

872 (c) failed to have shown the normal interest of a natural parent, without just cause; or

873 (d) have abandoned an infant, as described in Subsection [78A-6-316\(1\)](#).

874 (2) In determining whether a parent or parents are unfit or have neglected a child the  
875 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

876 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the  
877 parent unable to care for the immediate and continuing physical or emotional needs of the child  
878 for extended periods of time;

879 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive  
880 nature;

881 (c) habitual or excessive use of intoxicating liquors, controlled substances, or  
882 dangerous drugs that render the parent unable to care for the child;

883 (d) repeated or continuous failure to provide the child with adequate food, clothing,  
884 shelter, education, or other care necessary for the child's physical, mental, and emotional health  
885 and development by a parent or parents who are capable of providing that care;

886 (e) whether the parent is incarcerated as a result of conviction of a felony, and the  
887 sentence is of such length that the child will be deprived of a normal home for more than one  
888 year;

889 (f) a history of violent behavior; or

890 (g) whether the parent has intentionally exposed the child to pornography or material  
891 harmful to a minor, as defined in Section [76-10-1201](#).

892 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent  
893 because of the parent's possession or consumption of a cannabidiol product, in accordance with

894 Title 26, Chapter 62, Cannabidiol Product Act.

895 ~~[(3)]~~ (4) A parent who, legitimately practicing the parent's religious beliefs, does not  
896 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit  
897 parent.

898 ~~[(4)]~~ (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful  
899 or unfit because of a health care decision made for a child by the child's parent unless the state  
900 or other party to the proceeding shows, by clear and convincing evidence, that the health care  
901 decision is not reasonable and informed.

902 (b) Nothing in Subsection ~~[(4)]~~ (5)(a) may prohibit a parent from exercising the right to  
903 obtain a second health care opinion.

904 ~~[(5)]~~ (6) If a child has been placed in the custody of the division and the parent or  
905 parents fail to comply substantially with the terms and conditions of a plan within six months  
906 after the date on which the child was placed or the plan was commenced, whichever occurs  
907 later, that failure to comply is evidence of failure of parental adjustment.

908 ~~[(6)]~~ (7) The following circumstances constitute prima facie evidence of unfitness:

909 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any  
910 child, due to known or substantiated abuse or neglect by the parent or parents;

911 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
912 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
913 child's physical, mental, or emotional health and development;

914 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
915 of the child;

916 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
917 commit murder or manslaughter of a child or child abuse homicide; or

918 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent  
919 of the child, without legal justification.

920 Section 48. **Contingent effective date.**

921 (1) Except as provided in Subsection (2), this bill takes effect on May 8, 2018.

922 (2) The following sections take effect on July 1, 2019 or the day on which the  
923 Department of Agriculture and Food receives a federal waiver as described in Section  
924 4-41-204, whichever comes first:

- 925            (a) Section 4-43-101;
- 926            (b) Section 4-43-102;
- 927            (c) Section 4-43-201;
- 928            (d) Section 4-43-202;
- 929            (e) Section 4-43-203;
- 930            (f) Section 4-43-301;
- 931            (g) Section 4-43-401;
- 932            (h) Section 4-43-402;
- 933            (i) Section 4-43-501;
- 934            (j) Section 4-43-502;
- 935            (k) Section 4-43-503;
- 936            (l) Section 4-43-601;
- 937            (m) Section 4-43-602;
- 938            (n) Section 4-43-701;
- 939            (o) Section 4-43-702;
- 940            (p) Section 4-43-703;
- 941            (q) Section 4-43-801;
- 942            (r) Section 26-62-101;
- 943            (s) Section 26-62-102;
- 944            (t) Section 26-62-103;
- 945            (u) Section 26-62-201;
- 946            (v) Section 26-62-202;
- 947            (w) Section 41-6a-517;
- 948            (x) Section 58-37-3.6;
- 949            (y) Section 58-37f-203;
- 950            (z) Section 58-67-808;
- 951            (aa) Section 58-68-808;
- 952            (bb) Section 58-88-101;
- 953            (cc) Section 58-88-102;
- 954            (dd) Section 58-88-103;
- 955            (ee) Section 58-88-104;

- 956            (ff) Section 59-12-104.8;
- 957            (gg) Section 59-29-101;
- 958            (hh) Section 59-29-102;
- 959            (ii) Section 59-29-103;
- 960            (jj) Section 59-29-104;
- 961            (kk) Section 59-29-105;
- 962            (ll) Section 59-29-106;
- 963            (mm) Section 59-29-107;
- 964            (nn) Section 59-29-108; and
- 965            (oo) Section 78A-6-508.