

1 **Workers' Compensation Cannabis Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Walt Brooks**

Senate Sponsor:

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3 **LONG TITLE**4 **General Description:**

5 This bill amends provisions related to workers' compensation and cannabis use.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ creates a rebuttal presumption regarding cannabis use that would reduce a workers'
- 10 compensation award under certain circumstances; and
- 11 ▶ amends provisions related to testing for cannabinoids.

12 **Money Appropriated in this Bill:**

13 None

14 **Other Special Clauses:**

15 None

16 **Utah Code Sections Affected:**17 **AMENDS:**18 **34A-2-302**, as last amended by Laws of Utah 2024, Chapter 352

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20 *Be it enacted by the Legislature of the state of Utah:*21 Section 1. Section **34A-2-302** is amended to read:22 **34A-2-302 . Employee's willful misconduct -- Penalty.**

23 (1) For purposes of this section:

- 24 (a) "Controlled substance" is as defined in Section 58-37-2.
- 25 (b) "Local government employee" is as defined in Section 34-41-101.
- 26 (c) "Local governmental entity" is as defined in Section 34-41-101.
- 27 (d) "State institution of higher education" is as defined in Section 34-41-101.
- 28 (e) "THC" means the same as that term is defined in Section 4-41-102.
- 29 (f)(i) "THC analog" means a substance that is structurally or pharmacologically
- 30 substantially similar to, or is represented as being similar to, delta-9-THC.

(ii) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:

- (A) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;
- (B) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;
- (C) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;
- (D) cannabidivarol (CBDV), the cannabinoid identified as CAS# 24274-48-4;
- (E) cannabielsin (CBE), the cannabinoid identified as CAS# 52025-76-0;
- (F) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;
- (G) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;
- (H) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;
- (I) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0;
- (J) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0; or
- (K) a non-intoxicating metabolite of tetrahydrocannabinol, including 11-nor-9-carboxy-delta-9-tetrahydrocannabinol.

[e)] (g) "Valid prescription" is a prescription, as defined in Section 58-37-2, that:

- (i) is prescribed for a controlled substance for use by the employee for whom it was prescribed; and
- (ii) has not been altered or forged.

(2) An employee may not:

- (a) remove, displace, damage, destroy, or carry away any safety device or safeguard provided for use in any employment or place of employment;
- (b) interfere in any way with the use of a safety device or safeguard described in Subsection (2)(a) by any other person;
- (c) interfere with the use of any method or process adopted for the protection of any employee in the employer's employment or place of employment; or
- (d) fail or neglect to follow and obey orders and to do every other thing reasonably necessary to protect the life, health, and safety of employees.

(3)(a) Except in case of injury resulting in death:

[**(a)**] **(i)** compensation provided for by this chapter shall be reduced 15% when injury is caused by the willful failure of the employee:

[**(i)**] **(A)** to use safety devices when provided by the employer; or

[**(ii)**] **(B)** to obey any order or reasonable rule adopted by the employer for the safety of the employee[; and].

65 (b) [except] Except when the employer permitted, encouraged, or had actual knowledge  
66 of the conduct described in Subsection (4):  
67 (i) disability compensation may not be awarded under this chapter or Chapter 3, Utah  
68 Occupational Disease Act, to an employee when the major contributing cause of  
69 the employee's injury is the employee's conduct described in Subsection (4); or  
70 (ii) disability compensation to an employee under this chapter or Chapter 3, Utah  
71 Occupational Disease Act, shall be reduced by 15% when the employee's conduct  
72 is a contributing cause of the employee's injury but not the major contributing  
73 cause.

74 (4) The conduct described in Subsection (3)(b) is the employee's:  
75 (a) knowing use of a controlled substance that the employee did not obtain under a valid  
76 prescription;  
77 (b) intentional abuse of a controlled substance that the employee obtained under a valid  
78 prescription if the employee uses the controlled substance intentionally:  
79 (i) in excess of prescribed therapeutic amounts; or  
80 (ii) in an otherwise abusive manner; or  
81 (c) intoxication from alcohol with a blood or breath alcohol concentration of .05 grams  
82 or greater as shown by a chemical test[.] ; or  
83 (d) notwithstanding any other provision of this Subsection (4), intoxication from THC or  
84 a THC analog with a whole blood level of THC or THC analog in excess of 20  
85 nanograms/ml.

86 (5)(a) For purposes of Subsections (3) and (4), as shown by a chemical test that  
87 conforms to scientifically accepted analytical methods and procedures and includes  
88 verification or confirmation of any positive test result by gas chromatography, gas  
89 chromatography-mass spectroscopy, or other comparably reliable analytical method,  
90 before the result of the test may be used as a basis for the presumption, it is presumed  
91 that the major contributing cause of the employee's injury is the employee's conduct  
92 described in Subsection (4) if at the time of the injury:  
93 (i) the employee has in the employee's system:  
94 (A) any amount of a controlled substance or its metabolites if the employee did  
95 not obtain the controlled substance under a valid prescription; or  
96 (B) a controlled substance the employee obtained under a valid prescription or the  
97 metabolites of the controlled substance if the amount in the employee's system  
98 is consistent with the employee using the controlled substance intentionally:

- (I) in excess of prescribed therapeutic amounts; or
- (II) in an otherwise abusive manner; or
- (ii) the employee has a blood or breath alcohol concentration of .05 grams or greater[.] ;  
or
- (iii) notwithstanding any other provision of this Subsection (5)(a), the employee has a concentration of THC or THC analog in whole blood that exceeds 20 nanograms/ml.

(b) The presumption created under Subsection (5)(a) may be rebutted by a preponderance of the evidence showing that:

- (i) the chemical test creating the presumption is inaccurate because the employer failed to comply with:
  - (A) Sections 34-38-4 through 34-38-6; or
  - (B) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104, Subsection 34-41-103(7), or, if applicable, Subsection 34-41-103(6);
- (ii) the employee did not engage in the conduct described in Subsection (4);
- (iii) the test results do not exclude the possibility of passive inhalation of marijuana because the concentration of total [urinary cannabinoids] THC or THC analog in whole blood is less than [50] 20 nanograms/ml as determined by a blood test conducted in accordance with:
  - (A) Subsection (8); and
  - (B)(I) Sections 34-38-4 through 34-38-6; or
    - [B] (II) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104[, Subseetion 34-41-103(7), or, if applicable, Subseetion 34-41-103(6)];
- (iv) a competent medical opinion from a physician verifies that the amount of controlled substances, metabolites, or alcohol in the employee's system does not support a finding that the conduct described in Subsection (4) was the major contributing cause of the employee's injury or a contributing cause of the employee's injury; [or]
- (v)[(A)] the conduct described in Subsection (4) was not a contributing cause of the employee's injury; or
  - [B] (vi) the employee's mental and physical condition were not impaired at the time of the injury.

133 (c)(i) Except as provided in Subsections (5)(c)(ii) and (iii), if a chemical test that  
134 creates the presumption under Subsection (5)(a) is taken at the request of the  
135 employer, the employer shall comply with:  
136 (A) Title 34, Chapter 38, Drug and Alcohol Testing; or  
137 (B) if the employee is a local governmental employee or an employee of a state  
138 institution of higher education, Title 34, Chapter 41, Local Governmental  
139 Entity Drug-Free Workplace Policies.

140 (ii) Notwithstanding Section 34-38-13, the results of a test taken under Title 34,  
141 Chapter 38, Drug and Alcohol Testing, may be disclosed to the extent necessary  
142 to establish or rebut the presumption created under Subsection (5)(a).

143 (iii) Notwithstanding Section 34-41-103, the results of a test taken under Title 34,  
144 Chapter 41, Local Governmental Entity Drug-Free Workplace Policies, may be  
145 disclosed to the extent necessary to establish or rebut the presumption created  
146 under Subsection (5)(a).

147 (6)(a) A test sample taken pursuant to this section shall be taken as a split sample.  
148 (b) One part of the sample is to be used by the employer for testing pursuant to  
149 Subsection (5)(a):  
150 (i) at a testing facility selected by the employer; and  
151 (ii) at the employer's or the employer's workers' compensation carrier's expense.  
152 (c) The testing facility selected under Subsection (6)(b) shall hold the part of the sample  
153 not used under Subsection (6)(b) until the sooner of:  
154 (i) six months from the date of the original test; or  
155 (ii) when the employee requests that the sample be tested.  
156 (d) The employee has only six months from the date of the original test to have the  
157 remaining sample tested:  
158 (i) at the employee's expense; and  
159 (ii) at the testing facility selected by the employee, except that the test shall meet the  
160 requirements of Subsection (5)(a).

161 (7) If any provision of this section, or the application of any provision of this section to any  
162 person or circumstance, is held invalid, the remainder of this section shall be given  
163 effect without the invalid provision or application.

164 (8) When testing for a cannabinoid under this section a blood test shall be used.

165 **Section 2. Effective Date.**

166 This bill takes effect on May 6, 2026.