

1 **INDUSTRIAL HEMP AMENDMENTS**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill modifies and enacts provisions related to industrial hemp.

8 **Highlighted Provisions:**

9 This bill:

- 10 ▶ defines terms;
- 11 ▶ modifies serving size requirements;
- 12 ▶ modifies provisions to allow the transportation of transportable industrial hemp
- 13 concentrate under certain circumstances;
- 14 ▶ repeals provisions related to the industrial hemp laboratory permit;
- 15 ▶ repeals provisions related to the registration fee of a cannabinoid product;
- 16 ▶ allows a local health department to notify the Department of Agriculture and Food
- 17 regarding violations related to cannabinoid products;
- 18 ▶ exempts a sale of a cannabinoid product from sales and use tax;
- 19 ▶ enacts the Cannabinoid Product Licensing and Tax Act;
- 20 ▶ authorizes the State Tax Commission to disclose to the Department of Agriculture
- 21 information related to retailers that are licensed to sell and collect tax on a sale of a
- 22 cannabinoid product;
- 23 ▶ creates a grant program to encourage the production of industrial hemp products;
- 24 ▶ requires law enforcement to conduct underage buying investigations regarding the
- 25 sale of cannabinoid products that contain THC or a THC analog; and
- 26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

- 33 4-41-102, as last amended by Laws of Utah 2023, Chapter 146
- 34 4-41-103.1, as last amended by Laws of Utah 2023, Chapter 146
- 35 4-41-103.4, as last amended by Laws of Utah 2023, Chapter 146
- 36 4-41-104, as last amended by Laws of Utah 2023, Chapter 146
- 37 4-41-105, as last amended by Laws of Utah 2023, Chapter 146
- 38 4-41-106, as last amended by Laws of Utah 2023, Chapter 146
- 39 4-41-403, as last amended by Laws of Utah 2023, Chapter 146
- 40 26A-1-114, as last amended by Laws of Utah 2023, Chapters 90, 327
- 41 58-37-2, as last amended by Laws of Utah 2022, Chapters 165, 415
- 42 58-37-3.6, as last amended by Laws of Utah 2023, Chapter 329
- 43 59-1-306, as last amended by Laws of Utah 2020, Chapter 294
- 44 59-1-403, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329
- 45 59-12-104, as last amended by Laws of Utah 2023, Chapters 213, 518
- 46 77-39-101, as last amended by Laws of Utah 2021, Chapter 291

47 ENACTS:

- 48 59-31-101, Utah Code Annotated 1953
- 49 59-31-201, Utah Code Annotated 1953
- 50 59-31-202, Utah Code Annotated 1953
- 51 59-31-203, Utah Code Annotated 1953
- 52 59-31-301, Utah Code Annotated 1953
- 53 59-31-302, Utah Code Annotated 1953
- 54 59-31-401, Utah Code Annotated 1953
- 55 59-31-402, Utah Code Annotated 1953
- 56 63N-3-1301, Utah Code Annotated 1953
- 57 63N-3-1302, Utah Code Annotated 1953



59 *Be it enacted by the Legislature of the state of Utah:*

60 Section 1. Section 4-41-102 is amended to read:

61 **4-41-102. Definitions.**

62 As used in this chapter:

- 63 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may

64 be injurious to human health, including:

- 65 (a) pesticides;
- 66 (b) heavy metals;
- 67 (c) solvents;
- 68 (d) microbial life;
- 69 (e) artificially derived cannabinoids;
- 70 (f) toxins; or
- 71 (g) foreign matter.

72 (2) (a) "Artificially derived cannabinoid" means a chemical substance that is created by
73 a chemical reaction that changes the molecular structure of any chemical substances derived
74 from the cannabis plant.

75 (b) "Artificially derived cannabinoid" does not include:

- 76 (i) a naturally occurring chemical substance that is separated from the cannabis plant
77 by a chemical or mechanical extraction process; or
- 78 (ii) cannabinoids that are produced by decarboxylation from a naturally occurring
79 cannabinoid acid without the use of a chemical catalyst.

80 (3) "Cannabidiol" or "CBD" means the cannabinoid identified as CAS# 13956-29-1.

81 (4) "Cannabidiolic acid" or "CBDA" means the cannabinoid identified as CAS#
82 1244-58-2.

83 (5) "Cannabinoid processor license" means a license that the department issues to a
84 person for the purpose of processing a cannabinoid product.

85 (6) "Cannabinoid product" means a product that:

- 86 (a) contains or is represented to contain one or more naturally occurring cannabinoids;
- 87 (b) contains less than the cannabinoid product THC level, by dry weight;
- 88 (c) contains a combined amount of total THC and any THC analog that does not
89 exceed 10% of the total cannabinoid content; ~~and~~

90 (d) does not exceed a total of THC and any THC analog that is greater than:

91 (i) 5 milligrams per serving; and

92 (ii) 150 milligrams per package~~[-]; and~~

93 (e) unless the product is in an oil based suspension, has a serving size that:

94 (i) is an integer; and

95 (ii) is a discrete unit of the cannabinoid product.

96 (7) "Cannabinoid product class" means a group of cannabinoid products that:

97 (a) have all ingredients in common; and

98 (b) are produced by or for the same company.

99 (8) "Cannabinoid product THC level" means a combined concentration of total THC
100 and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a
101 result within a measurement of uncertainty that includes the combined concentration of 0.3%.

102 (9) "Cannabis" means the same as that term is defined in Section 26B-4-201.

103 ~~[(9)]~~ (10) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid
104 identified as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.

105 ~~[(10)]~~ (11) "Industrial hemp" means any part of a cannabis plant, whether growing or
106 not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

107 ~~[(11) "Industrial hemp laboratory permit" means a permit that the department issues to
108 a laboratory qualified to test industrial hemp.]~~

109 (12) "Industrial hemp producer registration" means a registration that the department
110 issues to a person for the purpose of processing industrial hemp or an industrial hemp product.

111 (13) "Industrial hemp retailer permit" means a permit that the department issues to a
112 retailer who sells any viable industrial hemp seed or cannabinoid product.

113 (14) (a) "Industrial hemp product" means a product made by processing industrial
114 hemp plants or industrial hemp parts.

115 (b) "Industrial hemp product" does not include cannabinoid material.

116 (15) "Key participant" means any of the following:

117 (a) a licensee;

118 (b) an operation manager;

119 (c) a site manager; or

120 (d) an employee who has access to any industrial hemp material with a THC
121 concentration above 0.3%.

122 ~~[(16) "Laboratory permittee" means a person possessing an industrial hemp laboratory
123 permit that the department issues under this chapter.]~~

124 ~~[(17)]~~ (16) "Licensee" means a person possessing a cannabinoid processor license that
125 the department issues under this chapter.

126 ~~[(18)]~~ (17) "Non-compliant material" means:

127 (a) a hemp plant that does not comply with this chapter, including a cannabis plant
128 with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

129 (b) a cannabinoid product, chemical, or compound with a concentration that exceeds
130 the cannabinoid product THC level.

131 ~~[(19)]~~ (18) "Permittee" means a person possessing a permit that the department issues
132 under this chapter.

133 ~~[(20)]~~ (19) "Person" means:

134 (a) an individual, partnership, association, firm, trust, limited liability company, or
135 corporation; and

136 (b) an agent or employee of an individual, partnership, association, firm, trust, limited
137 liability company, or corporation.

138 ~~[(21)]~~ (20) "Retailer permittee" means a person possessing an industrial hemp retailer
139 permit that the department issues under this chapter.

140 ~~[(22)]~~ (21) "Tetrahydrocannabinol" or "THC" means a delta-9-tetrahydrocannabinol,
141 the cannabinoid identified as CAS# 1972-08-3.

142 ~~[(23)]~~ (22) (a) "THC analog" means a substance that is structurally or
143 pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

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

146 (i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

147 (ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

148 (iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

149 (iv) cannabidivanol (CBDV), the cannabinoid identified as CAS# 24274-48-4;

150 (v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

151 (vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

152 (vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

153 (viii) cannabiol (CBN), the cannabinoid identified as CAS# 521-35-7;

154 (ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

155 (x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS#
156 31262-37-0.

157 ~~[(24)]~~ (23) "Total cannabidiol" or "total CBD" means the combined amounts of
158 cannabidiol and cannabidiolic acid, calculated as "total CBD = CBD + (CBDA x 0.877)".

159 ~~[(25)]~~ (24) "Total tetrahydrocannabinol" or "total THC" means the sum of the
160 determined amounts of delta-9-THC, tetrahydrocannabinolic acid, calculated as "total THC =
161 delta-9-THC + (THCA x 0.877)".

162 (25) "Transportable industrial hemp concentrate" means any amount of a natural
163 cannabinoid in a purified state that:

164 (a) is the product of any chemical or physical process applied to naturally occurring
165 biomass that concentrates or isolates the cannabinoids contained in the biomass;

166 (b) is derived from a cannabis plant that, based on sampling that was collected no more
167 than 30 days before the day on which the cannabis plant was harvested, contains a combined
168 concentration of total THC and any THC analog of less than 0.3% on a dry weight basis;

169 (c) has a THC and THC analog concentration total that is less than 25% when
170 concentrated from the cannabis plant to the purified state; and

171 (d) is intended to be processed into a cannabinoid product.

172 Section 2. Section **4-41-103.1** is amended to read:

173 **4-41-103.1. Authority to regulate production, sale, and testing of cannabinoid**
174 **products and industrial hemp -- Information sharing with the State Tax Commission.**

175 (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
176 Administrative Rulemaking Act, to:

177 (a) establish requirements for a cannabinoid processor license to process cannabinoid
178 products;

179 (b) establish requirements for an industrial hemp retailer permit to market or sell
180 industrial hemp products;

181 (c) establish the standards, methods, practices, and procedures a laboratory must use
182 ~~[to qualify for a permit to test]~~ when:

183 (i) testing industrial hemp and cannabinoid products; and ~~[to dispose]~~

184 (ii) disposing of non-compliant material; and

185 (d) establish requirements for registration of processors of non-cannabinoid industrial
186 hemp products.

187 (2) The department shall maintain a list of each licensee and permittee.

- 188 (3) The department shall provide to the State Tax Commission:
189 (a) a regularly updated list of every retailer permittee that sells a cannabinoid product;
190 (b) any information obtained by the department regarding a person who is not a retailer
191 permittee and is selling a cannabinoid product; and
192 (c) the tax identification number:
193 (i) for a retailer permittee described in Subsection (3)(a); and
194 (ii) a person described in Subsection (3)(b).

195 Section 3. Section **4-41-103.4** is amended to read:

196 **4-41-103.4. Industrial hemp laboratory testing.**

197 (1) The department or a laboratory [~~permittee of~~] contracted with the department may
198 test industrial hemp and cannabinoid products.

199 (2) The department or a laboratory [~~permittee of~~] contracted with the department may
200 dispose of non-compliant material.

201 ~~[(3) A laboratory seeking an industrial hemp laboratory permit shall:]~~

202 ~~[(a) demonstrate to the department that:]~~

203 ~~[(i) the laboratory and laboratory staff possess the professional certifications required~~
204 ~~by department rule;]~~

205 ~~[(ii) the laboratory has the ability to test industrial hemp and industrial hemp products~~
206 ~~using the standards, methods, practices, and procedures required by department rule;]~~

207 ~~[(iii) the laboratory has the ability to meet the department's minimum standards of~~
208 ~~performance for detecting concentration levels of THC and any cannabinoid known to be~~
209 ~~present; and]~~

210 ~~[(iv) the laboratory has a plan that complies with the department's rule for the safe~~
211 ~~disposal of non-compliant material; and]~~

212 ~~[(b) provide to the department written consent allowing a representative of the~~
213 ~~department and local law enforcement to enter all premises where the laboratory tests,~~
214 ~~processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the~~
215 ~~purpose of:]~~

216 ~~[(i) conducting a physical inspection; or]~~

217 ~~[(ii) ensuring compliance with the requirements of this chapter.]~~

218 ~~[(4) An individual who has been convicted of a drug-related felony within the last 10~~

219 years is not eligible to obtain a license under this chapter.]

220 [(5) The department may set a fee in accordance with Subsection 4-2-103(2) for the
221 application for an industrial hemp laboratory permit.]

222 Section 4. Section **4-41-104** is amended to read:

223 **4-41-104. Product registration required for distribution -- Application -- Fees --
224 Renewal.**

225 (1) A cannabinoid product class or cannabinoid product that is not registered with the
226 department may not be distributed in this state.

227 (2) A person seeking registration for a cannabinoid product class or cannabinoid
228 product shall[;]

229 [(a)] apply to the department on forms provided by the department for a registration for
230 each cannabinoid product class or cannabinoid product the person intends to distribute in the
231 state.[;and]

232 [(b) submit an annual registration fee, determined by the department pursuant to
233 Subsection 4-2-103(2), for each cannabinoid product class or cannabinoid product the person
234 intends to distribute in this state.]

235 (3) The department may conduct tests, or require test results, to ensure that any claim
236 made by an applicant about a cannabinoid product class or cannabinoid product is accurate.

237 (4) Upon receipt by the department of a proper application [~~and payment of the~~
238 ~~appropriate fee~~], as described in Subsection (2), the department shall issue a registration to the
239 applicant allowing the applicant to distribute the registered cannabinoid product class or
240 cannabinoid product in the state for one year from the date [~~of the payment of the fee~~] on which
241 the application is approved, subject to suspension or revocation for cause.

242 (5) The department shall mail, either through the postal service or electronically, forms
243 for the renewal of a registration to a registrant at least 30 days before the day on which the
244 registrant's registration expires.

245 Section 5. Section **4-41-105** is amended to read:

246 **4-41-105. Unlawful acts.**

247 (1) It is unlawful for a person to handle, process, or market living industrial hemp
248 plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp
249 without the appropriate license or permit issued by the department under this chapter.

250 (2) (a) It is unlawful for any person to:

251 ~~[(a)]~~ (i) distribute, sell, or market a cannabinoid product that is:

252 ~~[(+)]~~ (A) not registered with the department under Section 4-41-104; or

253 ~~[(+)]~~ (B) noncompliant material;

254 ~~[(b)]~~ (ii) except is provided in Subsection (2)(b), transport into or out of the state

255 extracted material or final product that contains 0.3% or more of total THC and any THC

256 analog;

257 ~~[(c)]~~ (iii) sell or use a cannabinoid product that is:

258 ~~[(+)]~~ (A) added to a conventional food or beverage, as the department further defines in

259 rules described in Section 4-41-403;

260 ~~[(+)]~~ (B) marketed or manufactured to be enticing to children, as further defined in

261 rules described in Section 4-41-403; or

262 ~~[(+)]~~ (C) smokable flower; or

263 ~~[(d)]~~ (iv) knowingly or intentionally sell or give a cannabinoid product that contains

264 THC or a THC analog in the course of business to an individual who is not at least 21 years

265 old.

266 (b) A person may transport transportable industrial hemp concentrate if the person:

267 (i) has an industrial hemp producer registration; or

268 (ii) the equivalent to an industrial hemp producer registration from another state.

269 (3) The department may seize and destroy non-compliant material.

270 (4) Nothing in this chapter authorizes any person to violate federal law, regulation, or

271 any provision of this title.

272 Section 6. Section **4-41-106** is amended to read:

273 **4-41-106. Enforcement -- Fine -- Citation.**

274 (1) If a person violates this part, the department may:

275 (a) revoke the person's license or permit;

276 (b) decline to renew the person's license or permit; or

277 (c) assess the person a civil penalty that the department establishes in accordance with

278 Section 4-2-304.

279 (2) Except for a fine that the department assesses for an unlicensed processor, an

280 unregistered product, or the sale of a cannabinoid product to an individual younger than 21

281 years old, the department shall deposit a penalty imposed under this section into the General
282 Fund.

283 (3) The department may take an action described in Subsection (4) if the department
284 concludes, upon investigation, that a person has violated this chapter, a rule made under this
285 chapter, or an order issued under this chapter.

286 (4) If the department makes the conclusion described in Subsection (3), the department
287 shall:

- 288 (a) issue the person a written administrative citation;
- 289 (b) attempt to negotiate a stipulated settlement;
- 290 (c) seize, embargo, or destroy the industrial hemp batch or unregistered product;
- 291 (d) order the person to cease the violation; and
- 292 (e) if a stipulated settlement cannot be reached, conduct an adjudicative proceeding
293 under Title 63G, Chapter 4, Administrative Procedures Act.

294 (5) The department may, for a person, other than an individual, that is subject to an
295 uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative
296 proceeding under this section, for a fine amount not already specified in law, assess the person
297 a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department
298 establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
299 Act.

300 (6) The department may not revoke a cannabinoid processor license~~;~~ or an industrial
301 hemp retailer's permit~~;~~ or an industrial hemp laboratory permit] without first giving the person
302 the opportunity to appear before an adjudicative proceeding conducted under Title 63G,
303 Chapter 4, Administrative Procedures Act.

304 (7) If, within 30 calendar days after the day on which a department serves a citation for
305 a violation of this chapter, the person that is the subject of the citation fails to request a hearing
306 to contest the citation, the citation becomes the department's final order.

307 (8) The department may, for a person who fails to comply with a citation under this
308 section:

- 309 (a) refuse to issue or renew the person's processor license~~;~~ or retailer permit~~;~~ or
310 ~~laboratory permit~~]; or
- 311 (b) suspend, revoke, or place on probation the person's processor license~~;~~ or retailer

312 permit~~[, or laboratory permit]~~.

313 Section 7. Section **4-41-403** is amended to read:

314 **4-41-403. Standards for registration.**

315 (1) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
316 Administrative Rulemaking Act:

317 (i) to determine standards for a registered cannabinoid product, including standards for:

318 (A) testing to ensure the product is safe for human consumption; and

319 (B) accurate labeling;

320 (ii) governing an entity that manufactures cannabinoid products, including standards
321 for health and safety;

322 (iii) to determine when and how a cannabinoid processor's cannabinoid must be tested
323 by the department at the expense of the cannabinoid processor;

324 (iv) regarding what constitutes:

325 (A) a conventional food or beverage; and

326 (B) a product that is marketed or manufactured to be enticing to children; ~~[and]~~

327 (v) regarding any other issue the department considers necessary for the safe
328 production and sale of cannabinoid products~~[-]; and~~

329 (vi) for a cannabinoid product that is not in an oil based suspension, prohibiting a
330 serving size that is less than the full portion of a discrete unit of the cannabinoid product.

331 (b) Notwithstanding Subsection (1)(a), the department may not prohibit a sugar coating
332 on a cannabinoid product to mask the product's taste, subject to the limitations described in
333 Subsection (1)(a)(iv) or (v).

334 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
335 department may make rules to immediately ban or limit the presence of any substance in a
336 cannabinoid product after receiving a recommendation to do so from a public health authority
337 as defined in Section 26B-1-102.

338 ~~[(3) The department shall set a fee for a registered cannabinoid product, in accordance~~
339 ~~with Section 4-2-103.]~~

340 ~~[(4)(a) A producer, manufacturer, or distributor of a cannabinoid product may pay the~~
341 ~~fee described in Subsection (3).]~~

342 ~~[(b) A cannabinoid product may not be registered with the department until the fee~~

343 ~~described in Subsection (3) is paid.]~~

344 ~~[(5)] (3)~~ The department shall set ~~[an administrative fine, larger than the fee described~~
345 ~~in Subsection (3);]~~ a fine of not more than \$5,000 for a person who sells a cannabinoid product
346 that is not registered by the department.

347 Section 8. Section **26A-1-114** is amended to read:

348 **26A-1-114. Powers and duties of departments.**

349 (1) Subject to Subsections (7), (8), and (11), a local health department may:

350 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,
351 department rules, and local health department standards and regulations relating to public
352 health and sanitation, including the plumbing code administered by the Division of
353 Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code
354 Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food
355 Safety , in all incorporated and unincorporated areas served by the local health department;

356 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
357 control over property and over individuals as the local health department finds necessary for
358 the protection of the public health;

359 (c) establish and maintain medical, environmental, occupational, and other laboratory
360 services considered necessary or proper for the protection of the public health;

361 (d) establish and operate reasonable health programs or measures not in conflict with
362 state law which:

363 (i) are necessary or desirable for the promotion or protection of the public health and
364 the control of disease; or

365 (ii) may be necessary to ameliorate the major risk factors associated with the major
366 causes of injury, sickness, death, and disability in the state;

367 (e) close theaters, schools, and other public places and prohibit gatherings of people
368 when necessary to protect the public health;

369 (f) abate nuisances or eliminate sources of filth and infectious and communicable
370 diseases affecting the public health and bill the owner or other person in charge of the premises
371 upon which this nuisance occurs for the cost of abatement;

372 (g) make necessary sanitary and health investigations and inspections on the local
373 health department's own initiative or in cooperation with the Department of Health and Human

374 Services or the Department of Environmental Quality, or both, as to any matters affecting the
375 public health;

376 (h) pursuant to county ordinance or interlocal agreement:

377 (i) establish and collect appropriate fees for the performance of services and operation
378 of authorized or required programs and duties;

379 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
380 property, services, or materials for public health purposes; and

381 (iii) make agreements not in conflict with state law which are conditional to receiving a
382 donation or grant;

383 (i) prepare, publish, and disseminate information necessary to inform and advise the
384 public concerning:

385 (i) the health and wellness of the population, specific hazards, and risk factors that may
386 adversely affect the health and wellness of the population; and

387 (ii) specific activities individuals and institutions can engage in to promote and protect
388 the health and wellness of the population;

389 (j) investigate the causes of morbidity and mortality;

390 (k) issue notices and orders necessary to carry out this part;

391 (l) conduct studies to identify injury problems, establish injury control systems,
392 develop standards for the correction and prevention of future occurrences, and provide public
393 information and instruction to special high risk groups;

394 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules
395 within the jurisdiction of the boards;

396 (n) cooperate with the state health department, the Department of Corrections, the
397 Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and
398 the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual
399 offenders, convicted sexual offenders, and any victims of a sexual offense;

400 (o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321;

401 [~~and~~]

402 (p) provide public health assistance in response to a national, state, or local emergency,
403 a public health emergency as defined in Section 26B-7-301, or a declaration by the President of
404 the United States or other federal official requesting public health-related activities[-]; and

405 (q) when conducting routine inspections of businesses regulated by the local health
406 department, notify the Department of Agriculture and Food of a potential violation of Title 4,
407 Chapter 41, Hemp and Cannabinoid Act.

408 (2) The local health department shall:

409 (a) establish programs or measures to promote and protect the health and general
410 wellness of the people within the boundaries of the local health department;

411 (b) investigate infectious and other diseases of public health importance and implement
412 measures to control the causes of epidemic and communicable diseases and other conditions
413 significantly affecting the public health which may include involuntary testing of alleged sexual
414 offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims
415 of sexual offenses for HIV infection pursuant to Section 53-10-803;

416 (c) cooperate with the department in matters pertaining to the public health and in the
417 administration of state health laws; and

418 (d) coordinate implementation of environmental programs to maximize efficient use of
419 resources by developing with the Department of Environmental Quality a Comprehensive
420 Environmental Service Delivery Plan which:

421 (i) recognizes that the Department of Environmental Quality and local health
422 departments are the foundation for providing environmental health programs in the state;

423 (ii) delineates the responsibilities of the department and each local health department
424 for the efficient delivery of environmental programs using federal, state, and local authorities,
425 responsibilities, and resources;

426 (iii) provides for the delegation of authority and pass through of funding to local health
427 departments for environmental programs, to the extent allowed by applicable law, identified in
428 the plan, and requested by the local health department; and

429 (iv) is reviewed and updated annually.

430 (3) The local health department has the following duties regarding public and private
431 schools within the local health department's boundaries:

432 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
433 persons attending public and private schools;

434 (b) exclude from school attendance any person, including teachers, who is suffering
435 from any communicable or infectious disease, whether acute or chronic, if the person is likely

436 to convey the disease to those in attendance; and

437 (c) (i) make regular inspections of the health-related condition of all school buildings
438 and premises;

439 (ii) report the inspections on forms furnished by the department to those responsible for
440 the condition and provide instructions for correction of any conditions that impair or endanger
441 the health or life of those attending the schools; and

442 (iii) provide a copy of the report to the department at the time the report is made.

443 (4) If those responsible for the health-related condition of the school buildings and
444 premises do not carry out any instructions for corrections provided in a report in Subsection
445 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
446 persons responsible.

447 (5) The local health department may exercise incidental authority as necessary to carry
448 out the provisions and purposes of this part.

449 (6) Nothing in this part may be construed to authorize a local health department to
450 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
451 monoxide detector in a residential dwelling against anyone other than the occupant of the
452 dwelling.

453 (7) (a) Except as provided in Subsection (7)(c), a local health department may not
454 declare a public health emergency or issue an order of constraint until the local health
455 department has provided notice of the proposed action to the chief executive officer of the
456 relevant county no later than 24 hours before the local health department issues the order or
457 declaration.

458 (b) The local health department:

459 (i) shall provide the notice required by Subsection (7)(a) using the best available
460 method under the circumstances as determined by the local health department;

461 (ii) may provide the notice required by Subsection (7)(a) in electronic format; and

462 (iii) shall provide the notice in written form, if practicable.

463 (c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a
464 public health emergency or issue an order of constraint without approval of the chief executive
465 officer of the relevant county if the passage of time necessary to obtain approval of the chief
466 executive officer of the relevant county as required in Subsection (7)(a) would substantially

467 increase the likelihood of loss of life due to an imminent threat.

468 (ii) If a local health department declares a public health emergency or issues an order
469 of constraint as described in Subsection (7)(c)(i), the local health department shall notify the
470 chief executive officer of the relevant county before issuing the order of constraint.

471 (iii) The chief executive officer of the relevant county may terminate a declaration of a
472 public health emergency or an order of constraint issued as described in Subsection (7)(c)(i)
473 within 72 hours of declaration of the public health emergency or issuance of the order of
474 constraint.

475 (d) (i) The relevant county governing body may at any time terminate a public health
476 emergency or an order of constraint issued by the local health department by majority vote of
477 the county governing body in response to a declared public health emergency.

478 (ii) A vote by the relevant county governing body to terminate a public health
479 emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto
480 by the relevant chief executive officer.

481 (8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by
482 a local health department expires at the earliest of:

483 (i) the local health department or the chief executive officer of the relevant county
484 finding that the threat or danger has passed or the public health emergency reduced to the
485 extent that emergency conditions no longer exist;

486 (ii) 30 days after the date on which the local health department declared the public
487 health emergency; or

488 (iii) the day on which the public health emergency is terminated by majority vote of the
489 county governing body.

490 (b) (i) The relevant county legislative body, by majority vote, may extend a public
491 health emergency for a time period designated by the county legislative body.

492 (ii) If the county legislative body extends a public health emergency as described in
493 Subsection (8)(b)(i), the public health emergency expires on the date designated by the county
494 legislative body.

495 (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a
496 local health department expires as described in Subsection (8)(a), the local health department
497 may not declare a public health emergency for the same illness or occurrence that precipitated

498 the previous public health emergency declaration.

499 (d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local
500 health department finds that exigent circumstances exist, after providing notice to the county
501 legislative body, the department may declare a new public health emergency for the same
502 illness or occurrence that precipitated a previous public health emergency declaration.

503 (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in
504 accordance with Subsection (8)(a) or (b).

505 (e) For a public health emergency declared by a local health department under this
506 chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures
507 for Communicable Diseases, the Legislature may terminate by joint resolution a public health
508 emergency that was declared based on exigent circumstances or that has been in effect for more
509 than 30 days.

510 (f) If the Legislature or county legislative body terminates a public health emergency
511 declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health
512 department may not declare a new public health emergency for the same illness, occurrence, or
513 exigent circumstances.

514 (9) (a) During a public health emergency declared under this chapter or under Title
515 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable
516 Diseases:

517 (i) except as provided in Subsection (9)(b), a local health department may not issue an
518 order of constraint without approval of the chief executive officer of the relevant county;

519 (ii) the Legislature may at any time terminate by joint resolution an order of constraint
520 issued by a local health department in response to a declared public health emergency that has
521 been in effect for more than 30 days; and

522 (iii) a county governing body may at any time terminate by majority vote of the
523 governing body an order of constraint issued by a local health department in response to a
524 declared public health emergency.

525 (b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an
526 order of constraint without approval of the chief executive officer of the relevant county if the
527 passage of time necessary to obtain approval of the chief executive officer of the relevant
528 county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of

529 life due to an imminent threat.

530 (ii) If a local health department issues an order of constraint as described in Subsection
531 (9)(b), the local health department shall notify the chief executive officer of the relevant county
532 before issuing the order of constraint.

533 (iii) The chief executive officer of the relevant county may terminate an order of
534 constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of
535 constraint.

536 (c) (i) For a local health department that serves more than one county, the approval
537 described in Subsection (9)(a)(i) is required for the chief executive officer for which the order
538 of constraint is applicable.

539 (ii) For a local health department that serves more than one county, a county governing
540 body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the
541 county served by the county governing body.

542 (10) (a) During a public health emergency declared as described in this title:

543 (i) the department or a local health department may not impose an order of constraint
544 on a religious gathering that is more restrictive than an order of constraint that applies to any
545 other relevantly similar gathering; and

546 (ii) an individual, while acting or purporting to act within the course and scope of the
547 individual's official department or local health department capacity, may not:

548 (A) prevent a religious gathering that is held in a manner consistent with any order of
549 constraint issued pursuant to this title; or

550 (B) impose a penalty for a previous religious gathering that was held in a manner
551 consistent with any order of constraint issued pursuant to this title.

552 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
553 prevent the violation of this Subsection (10).

554 (c) During a public health emergency declared as described in this title, the department
555 or a local health department shall not issue a public health order or impose or implement a
556 regulation that substantially burdens an individual's exercise of religion unless the department
557 or local health department demonstrates that the application of the burden to the individual:

558 (i) is in furtherance of a compelling government interest; and

559 (ii) is the least restrictive means of furthering that compelling government interest.

560 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
561 department shall allow reasonable accommodations for an individual to perform or participate
562 in a religious practice or rite.

563 (11) An order of constraint issued by a local health department pursuant to a declared
564 public health emergency does not apply to a facility, property, or area owned or leased by the
565 state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

566 (12) A local health department may not:

567 (a) require a person to obtain an inspection, license, or permit from the local health
568 department to engage in a practice described in Subsection 58-11a-304(5); or

569 (b) prevent or limit a person's ability to engage in a practice described in Subsection
570 58-11a-304(5) by:

571 (i) requiring the person to engage in the practice at a specific location or at a particular
572 type of facility or location; or

573 (ii) enforcing a regulation applicable to a facility or location where the person chooses
574 to engage in the practice.

575 Section 9. Section **58-37-2** is amended to read:

576 **58-37-2. Definitions.**

577 (1) As used in this chapter:

578 (a) "Administer" means the direct application of a controlled substance, whether by
579 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
580 by:

581 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;

582 or

583 (ii) the patient or research subject at the direction and in the presence of the
584 practitioner.

585 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
586 manufacturer, distributor, or practitioner but does not include a motor carrier, public
587 warehouseman, or employee of any of them.

588 (c) "Consumption" means ingesting or having any measurable amount of a controlled
589 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a
590 controlled substance.

591 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
592 partnership, corporation, business trust, association, or other legal entity, and any union or
593 groups of individuals associated in fact although not a legal entity, and includes illicit as well
594 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
595 the commission of episodes of activity made unlawful by Chapter 37, Utah Controlled
596 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
597 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
598 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
599 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
600 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
601 unlawful conduct and be related either to each other or to the enterprise.

602 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
603 immediate precursor under Section 58-37-3.

604 (f) (i) "Controlled substance" means a drug or substance:

605 (A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

606 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,
607 Title II, P.L. 91-513;

608 (C) that is a controlled substance analog; or

609 (D) listed in Section 58-37-4.2.

610 (ii) "Controlled substance" does not include:

611 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B,
612 Alcoholic Beverage Control Act;

613 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
614 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,
615 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
616 transferred, or furnished as an over-the-counter medication without prescription; or

617 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances
618 including concentrates or extracts, which:

619 (I) are not otherwise regulated by law; and

620 (II) may contain naturally occurring amounts of chemical or substances listed in this
621 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking

622 Act.

623 (g) (i) "Controlled substance analog" means:

624 (A) a substance the chemical structure of which is substantially similar to the chemical
625 structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance
626 listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act,
627 Title II, P.L. 91-513;

628 (B) a substance which has a stimulant, depressant, or hallucinogenic effect on the
629 central nervous system substantially similar to the stimulant, depressant, or hallucinogenic
630 effect on the central nervous system of controlled substances listed in Schedules I and II of
631 Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and
632 II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

633 (C) A substance which, with respect to a particular individual, is represented or
634 intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system
635 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central
636 nervous system of controlled substances listed in Schedules I and II of Section 58-37-4,
637 substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal
638 Controlled Substances Act, Title II, P.L. 91-513.

639 (ii) "Controlled substance analog" does not include:

640 (A) a controlled substance currently scheduled in Schedules I through V of Section
641 58-37-4;

642 (B) a substance for which there is an approved new drug application;

643 (C) a substance with respect to which an exemption is in effect for investigational use
644 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
645 to the extent the conduct with respect to the substance is permitted by the exemption;

646 (D) any substance to the extent not intended for human consumption before an
647 exemption takes effect with respect to the substance;

648 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
649 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
650 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
651 transferred, or furnished as an over-the-counter medication without prescription; or

652 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances

653 including concentrates or extracts, which are not otherwise regulated by law, which may
654 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
655 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

656 (h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench,
657 or plea, whether guilty or no contest, for any offense proscribed by:

658 (A) Chapter 37, Utah Controlled Substances Act;

659 (B) Chapter 37a, Utah Drug Paraphernalia Act;

660 (C) Chapter 37b, Imitation Controlled Substances Act;

661 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

662 (E) Chapter 37d, Clandestine Drug Lab Act; or

663 (ii) for any offense under the laws of the United States and any other state which, if
664 committed in this state, would be an offense under:

665 (A) Chapter 37, Utah Controlled Substances Act;

666 (B) Chapter 37a, Utah Drug Paraphernalia Act;

667 (C) Chapter 37b, Imitation Controlled Substances Act;

668 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

669 (E) Chapter 37d, Clandestine Drug Lab Act.

670 (i) "Counterfeit substance" means:

671 (i) any controlled substance or container or labeling of any controlled substance that:

672 (A) without authorization bears the trademark, trade name, or other identifying mark,
673 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
674 other than the person or persons who in fact manufactured, distributed, or dispensed the
675 substance which falsely purports to be a controlled substance distributed by any other
676 manufacturer, distributor, or dispenser; and

677 (B) a reasonable person would believe to be a controlled substance distributed by an
678 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as
679 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled
680 substance; or

681 (ii) any substance other than under Subsection (1)(i)(i) that:

682 (A) is falsely represented to be any legally or illegally manufactured controlled
683 substance; and

- 684 (B) a reasonable person would believe to be a legal or illegal controlled substance.
- 685 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
686 controlled substance or a listed chemical, whether or not an agency relationship exists.
- 687 (k) "Department" means the Department of Commerce.
- 688 (l) "Depressant or stimulant substance" means:
- 689 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric
690 acid;
- 691 (ii) a drug which contains any quantity of:
- 692 (A) amphetamine or any of its optical isomers;
- 693 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
- 694 (C) any substance which the Secretary of Health and Human Services or the Attorney
695 General of the United States after investigation has found and by regulation designated
696 habit-forming because of its stimulant effect on the central nervous system;
- 697 (iii) lysergic acid diethylamide; or
- 698 (iv) any drug which contains any quantity of a substance which the Secretary of Health
699 and Human Services or the Attorney General of the United States after investigation has found
700 to have, and by regulation designated as having, a potential for abuse because of its depressant
701 or stimulant effect on the central nervous system or its hallucinogenic effect.
- 702 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
703 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes
704 distributing to, leaving with, giving away, or disposing of that substance as well as the
705 packaging, labeling, or compounding necessary to prepare the substance for delivery.
- 706 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.
- 707 (o) "Distribute" means to deliver other than by administering or dispensing a controlled
708 substance or a listed chemical.
- 709 (p) "Distributor" means a person who distributes controlled substances.
- 710 (q) "Division" means the Division of Professional Licensing created in Section
711 58-1-103.
- 712 (r) (i) "Drug" means:
- 713 (A) a substance recognized in the official United States Pharmacopoeia, Official
714 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any

715 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
716 prevention of disease in humans or animals;

717 (B) a substance that is required by any applicable federal or state law or rule to be
718 dispensed by prescription only or is restricted to administration by practitioners only;

719 (C) a substance other than food intended to affect the structure or any function of the
720 body of humans or other animals; and

721 (D) substances intended for use as a component of any substance specified in
722 Subsections (1)(r)(i)(A), (B), and (C).

723 (ii) "Drug" does not include dietary supplements.

724 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
725 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so
726 dependent upon the use of controlled substances as to have lost the power of self-control with
727 reference to the individual's dependency.

728 (t) "Food" means:

729 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as
730 specified in this chapter, and normally ingested by human beings; and

731 (ii) foods for special dietary uses as exist by reason of a physical, physiological,
732 pathological, or other condition including but not limited to the conditions of disease,
733 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and
734 overweight; uses for supplying a particular dietary need which exist by reason of age including
735 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for
736 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for
737 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional
738 purposes.

739 (u) "Immediate precursor" means a substance which the Attorney General of the United
740 States has found to be, and by regulation designated as being, the principal compound used or
741 produced primarily for use in the manufacture of a controlled substance, or which is an
742 immediate chemical intermediary used or likely to be used in the manufacture of a controlled
743 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the
744 controlled substance.

745 (v) "Indian" means a member of an Indian tribe.

746 (w) "Indian religion" means any religion:

747 (i) the origin and interpretation of which is from within a traditional Indian culture or
748 community; and

749 (ii) which is practiced by Indians.

750 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or
751 community of Indians, including any Alaska Native village, which is legally recognized as
752 eligible for and is consistent with the special programs, services, and entitlements provided by
753 the United States to Indians because of their status as Indians.

754 (y) "Manufacture" means the production, preparation, propagation, compounding, or
755 processing of a controlled substance, either directly or indirectly by extraction from substances
756 of natural origin, or independently by means of chemical synthesis or by a combination of
757 extraction and chemical synthesis.

758 (z) "Manufacturer" includes any person who packages, repackages, or labels any
759 container of any controlled substance, except pharmacists who dispense or compound
760 prescription orders for delivery to the ultimate consumer.

761 (aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus,
762 whether growing or not, including:

763 (A) seeds;

764 (B) resin extracted from any part of the plant, including the resin extracted from the
765 mature stalks;

766 (C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant,
767 seeds, or resin;

768 (D) any synthetic equivalents of the substances contained in the plant cannabis sativa
769 or any other species of the genus cannabis which are chemically indistinguishable and
770 pharmacologically active; and

771 (E) any component part or cannabinoid extracted or isolated from the plant, including
772 extracted or isolated tetrahydrocannabinols.

773 (ii) "Marijuana" does not include:

774 (A) the mature stalks of the plant;

775 (B) fiber produced from the stalks;

776 (C) oil or cake made from the seeds of the plant;

777 (D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture,
778 salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;

779 (E) the sterilized seed of the plant which is incapable of germination; [~~or~~]

780 (F) any compound, mixture, or preparation approved by the federal Food and Drug
781 Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.
782 that is not listed in a schedule of controlled substances in Section 58-37-4 or in the federal
783 Controlled Substances Act, Title II, P.L. 91-513[:]; or

784 (G) transportable industrial hemp concentrate as that term is defined in Section
785 4-41-102.

786 (bb) "Money" means officially issued coin and currency of the United States or any
787 foreign country.

788 (cc) "Narcotic drug" means any of the following, whether produced directly or
789 indirectly by extraction from substances of vegetable origin, or independently by means of
790 chemical synthesis, or by a combination of extraction and chemical synthesis:

791 (i) opium, coca leaves, and opiates;

792 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or
793 opiates;

794 (iii) opium poppy and poppy straw; or

795 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the
796 substance, which is chemically identical with any of the substances referred to in Subsection
797 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or
798 extracts of coca leaves which do not contain cocaine or ecgonine.

799 (dd) "Negotiable instrument" means documents, containing an unconditional promise
800 to pay a sum of money, which are legally transferable to another party by endorsement or
801 delivery.

802 (ee) "Opiate" means any drug or other substance having an addiction-forming or
803 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
804 having addiction-forming or addiction-sustaining liability.

805 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the
806 seeds of the plant.

807 (gg) "Person" means any corporation, association, partnership, trust, other institution or

808 entity or one or more individuals.

809 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after
810 mowing.

811 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
812 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,
813 or consumption, as distinguished from distribution, of controlled substances and includes
814 individual, joint, or group possession or use of controlled substances. For a person to be a
815 possessor or user of a controlled substance, it is not required that the person be shown to have
816 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that
817 the person jointly participated with one or more persons in the use, possession, or control of
818 any substances with knowledge that the activity was occurring, or the controlled substance is
819 found in a place or under circumstances indicating that the person had the ability and the intent
820 to exercise dominion and control over it.

821 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,
822 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or
823 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use
824 in teaching or chemical analysis a controlled substance in the course of professional practice or
825 research in this state.

826 (kk) "Prescribe" means to issue a prescription:

827 (i) orally or in writing; or

828 (ii) by telephone, facsimile transmission, computer, or other electronic means of
829 communication as defined by division rule.

830 (ll) "Prescription" means an order issued:

831 (i) by a licensed practitioner, in the course of that practitioner's professional practice or
832 by collaborative pharmacy practice agreement; and

833 (ii) for a controlled substance or other prescription drug or device for use by a patient
834 or an animal.

835 (mm) "Production" means the manufacture, planting, cultivation, growing, or
836 harvesting of a controlled substance.

837 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
838 property.

839 (oo) "State" means the state of Utah.

840 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
841 for the person's own use, for the use of a member of the person's household, or for
842 administration to an animal owned by the person or a member of the person's household.

843 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
844 Utah Criminal Code, shall apply.

845 Section 10. Section **58-37-3.6** is amended to read:

846 **58-37-3.6. Exemption for possession or distribution of a cannabinoid product,**
847 **expanded cannabinoid product, or transportable industrial hemp concentrate.**

848 (1) As used in this section:

849 (a) "Cannabinoid product" means a product intended for human ingestion that:

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

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

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

853 (b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

854 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

855 (d) "Expanded cannabinoid product" means a product intended for human ingestion

856 that:

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

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

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

860 tetrahydrocannabinol.

861 (e) "Hemp cannabinoid product" means a product that:

862 (i) contains or is represented to contain one or more naturally occurring cannabinoids;

863 (ii) contains less than the cannabinoid product THC level, by dry weight;

864 (iii) contains a combined amount of total THC and any THC analog that does not
865 exceed 10% of the total cannabinoid content;

866 (iv) does not exceed a total of THC and any THC analog that is greater than five
867 milligrams per serving and 150 milligrams per package; and

868 (v) unless the product is in an oil based suspension, has a serving size that is an integer.

869 (f) "Transportable industrial hemp concentrate" means any amount of a natural

870 cannabinoid in a purified state that:

871 (i) is the product of any chemical or physical process applied to naturally occurring
872 biomass that concentrates or isolates the cannabinoids contained in the biomass;

873 (ii) is derived from a cannabis plant that, based on sampling that was collected no more
874 than 30 days before the day on which the cannabis plant was harvested, contains a combined
875 concentration of total THC and any THC analog of less than 0.3% on a dry weight basis; and

876 (iii) has a THC and THC analog concentration total less than 25% when concentrated
877 from the cannabis plant to the purified state.

878 ~~(e)~~ (g) "Medicinal dosage form" means:

879 (i) a tablet;

880 (ii) a capsule;

881 (iii) a concentrated oil;

882 (iv) a liquid suspension;

883 (v) a transdermal preparation; or

884 (vi) a sublingual preparation.

885 ~~(f)~~ (h) "Tetrahydrocannabinol" means a substance derived from cannabis that meets
886 the description in Subsection 58-37-4(2)(a)(iii)(AA).

887 (2) Notwithstanding any other provision of this chapter an individual who possesses or
888 distributes a cannabinoid product or an expanded cannabinoid product is not subject to the
889 penalties described in this title for the possession or distribution of marijuana or
890 tetrahydrocannabinol to the extent that the individual's possession or distribution of the
891 cannabinoid product or expanded cannabinoid product complies with Title 26B, Chapter 4,
892 Part 2, Cannabinoid Research and Medical Cannabis.

893 (3) Notwithstanding any other provision of this chapter, a person who possesses and
894 distributes transportable industrial hemp concentrate is not subject to the penalties described in
895 this chapter for the possession or distribution of transportable industrial hemp concentrate if the
896 transportable hemp concentrate is processed into a hemp cannabinoid product or is destroyed.

897 Section 11. Section **59-1-306** is amended to read:

898 **59-1-306. Definition -- State Tax Commission Administrative Charge Account --**
899 **Amount of administrative charge -- Deposit of revenue into the restricted account --**
900 **Interest deposited into General Fund -- Expenditure of money deposited into the**

901 **restricted account.**

902 (1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge
903 the commission administers under:

904 (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

905 (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

906 (c) Section 19-6-714;

907 (d) Section 19-6-805;

908 (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax
909 Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

910 (f) Section 59-27-105;

911 (g) Chapter 31, Cannabinoid Licensing and Tax Act;

912 [~~(g)~~] (h) Section 63H-1-205; or

913 [~~(h)~~] (i) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service
914 Charges.

915 (2) There is created a restricted account within the General Fund known as the "State
916 Tax Commission Administrative Charge Account."

917 (3) Subject to the other provisions of this section, the restricted account shall consist of
918 administrative charges the commission retains and deposits in accordance with this section.

919 (4) For purposes of this section, the administrative charge is a percentage of [~~revenues~~]
920 revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the
921 lesser of:

922 (a) 1.5%; or

923 (b) an equal percentage of [~~revenues~~] revenue the commission collects from each
924 qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the
925 qualifying taxes, fees, or charges.

926 (5) The commission shall deposit an administrative charge into the restricted account.

927 (6) Interest earned on the restricted account shall be deposited into the General Fund.

928 (7) The commission shall expend money appropriated by the Legislature to the
929 commission from the restricted account to administer qualifying taxes, fees, or charges.

930 Section 12. Section **59-1-403** is amended to read:

931 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

- 932 (1) As used in this section:
- 933 (a) "Distributed tax, fee, or charge" means a tax, fee, or charge:
- 934 (i) the commission administers under:
- 935 (A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;
- 936 (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 937 (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 938 (D) Section 19-6-805;
- 939 (E) Section 63H-1-205; or
- 940 (F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;
- 941 and
- 942 (ii) with respect to which the commission distributes the revenue collected from the
- 943 tax, fee, or charge to a qualifying jurisdiction.
- 944 (b) "Qualifying jurisdiction" means:
- 945 (i) a county, city, town, or metro township;
- 946 (ii) the military installation development authority created in Section 63H-1-201; or
- 947 (iii) the Utah Inland Port Authority created in Section 11-58-201.
- 948 (2) (a) Any of the following may not divulge or make known in any manner any
- 949 information gained by that person from any return filed with the commission:
- 950 (i) a tax commissioner;
- 951 (ii) an agent, clerk, or other officer or employee of the commission; or
- 952 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
- 953 town.
- 954 (b) An official charged with the custody of a return filed with the commission is not
- 955 required to produce the return or evidence of anything contained in the return in any action or
- 956 proceeding in any court, except:
- 957 (i) in accordance with judicial order;
- 958 (ii) on behalf of the commission in any action or proceeding under:
- 959 (A) this title; or
- 960 (B) other law under which persons are required to file returns with the commission;
- 961 (iii) on behalf of the commission in any action or proceeding to which the commission
- 962 is a party; or

963 (iv) on behalf of any party to any action or proceeding under this title if the report or
964 facts shown by the return are directly involved in the action or proceeding.

965 (c) Notwithstanding Subsection (2)(b), a court may require the production of, and may
966 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
967 pertinent to the action or proceeding.

968 (3) This section does not prohibit:

969 (a) a person or that person's duly authorized representative from receiving a copy of
970 any return or report filed in connection with that person's own tax;

971 (b) the publication of statistics as long as the statistics are classified to prevent the
972 identification of particular reports or returns; and

973 (c) the inspection by the attorney general or other legal representative of the state of the
974 report or return of any taxpayer:

975 (i) who brings action to set aside or review a tax based on the report or return;

976 (ii) against whom an action or proceeding is contemplated or has been instituted under
977 this title; or

978 (iii) against whom the state has an unsatisfied money judgment.

979 (4) (a) Notwithstanding Subsection (2) and for purposes of administration, the
980 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
981 Rulemaking Act, provide for a reciprocal exchange of information with:

982 (i) the United States Internal Revenue Service; or

983 (ii) the revenue service of any other state.

984 (b) Notwithstanding Subsection (2) and for all taxes except individual income tax and
985 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
986 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
987 other written statements with the federal government, any other state, any of the political
988 subdivisions of another state, or any political subdivision of this state, except as limited by
989 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
990 government grant substantially similar privileges to this state.

991 (c) Notwithstanding Subsection (2) and for all taxes except individual income tax and
992 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
993 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the

994 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
995 due.

996 (d) Notwithstanding Subsection (2), the commission shall provide to the director of the
997 Division of Environmental Response and Remediation, as defined in Section 19-6-402, as
998 requested by the director of the Division of Environmental Response and Remediation, any
999 records, returns, or other information filed with the commission under Chapter 13, Motor and
1000 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
1001 participation fee.

1002 (e) Notwithstanding Subsection (2), at the request of any person the commission shall
1003 provide that person sales and purchase volume data reported to the commission on a report,
1004 return, or other information filed with the commission under:

1005 (i) Chapter 13, Part 2, Motor Fuel; or

1006 (ii) Chapter 13, Part 4, Aviation Fuel.

1007 (f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer,
1008 as defined in Section 59-22-202, the commission shall report to the manufacturer:

1009 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
1010 manufacturer and reported to the commission for the previous calendar year under Section
1011 59-14-407; and

1012 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
1013 manufacturer for which a tax refund was granted during the previous calendar year under
1014 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

1015 (g) Notwithstanding Subsection (2), the commission shall notify manufacturers,
1016 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
1017 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

1018 (h) Notwithstanding Subsection (2), the commission may:

1019 (i) provide to the Division of Consumer Protection within the Department of
1020 Commerce and the attorney general data:

1021 (A) reported to the commission under Section 59-14-212; or

1022 (B) related to a violation under Section 59-14-211; and

1023 (ii) upon request, provide to any person data reported to the commission under
1024 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

1025 (i) Notwithstanding Subsection (2), the commission shall, at the request of a committee
1026 of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of
1027 Planning and Budget, provide to the committee or office the total amount of revenues collected
1028 by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
1029 specified by the committee or office.

1030 (j) Notwithstanding Subsection (2), the commission shall make the directory required
1031 by Section 59-14-603 available for public inspection.

1032 (k) Notwithstanding Subsection (2), the commission may share information with
1033 federal, state, or local agencies as provided in Subsection 59-14-606(3).

1034 (l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of
1035 Recovery Services within the Department of Health and Human Services any relevant
1036 information obtained from a return filed under Chapter 10, Individual Income Tax Act,
1037 regarding a taxpayer who has become obligated to the Office of Recovery Services.

1038 (ii) The information described in Subsection (4)(l)(i) may be provided by the Office of
1039 Recovery Services to any other state's child support collection agency involved in enforcing
1040 that support obligation.

1041 (m) (i) Notwithstanding Subsection (2), upon request from the state court
1042 administrator, the commission shall provide to the state court administrator, the name, address,
1043 telephone number, county of residence, and social security number on resident returns filed
1044 under Chapter 10, Individual Income Tax Act.

1045 (ii) The state court administrator may use the information described in Subsection
1046 (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

1047 (n) (i) As used in this Subsection (4)(n):

1048 (A) "GO Utah office" means the Governor's Office of Economic Opportunity created in
1049 Section 63N-1a-301.

1050 (B) "Income tax information" means information gained by the commission that is
1051 required to be attached to or included in a return filed with the commission under Chapter 7,
1052 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

1053 (C) "Other tax information" means information gained by the commission that is
1054 required to be attached to or included in a return filed with the commission except for a return
1055 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual

1056 Income Tax Act.

1057 (D) "Tax information" means income tax information or other tax information.

1058 (ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection
1059 (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the
1060 GO Utah office all income tax information.

1061 (B) For purposes of a request for income tax information made under Subsection
1062 (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the
1063 GO Utah office a person's address, name, social security number, or taxpayer identification
1064 number.

1065 (C) In providing income tax information to the GO Utah office, the commission shall
1066 in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

1067 (iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection
1068 (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO
1069 Utah office other tax information.

1070 (B) Before providing other tax information to the GO Utah office, the commission
1071 shall redact or remove any name, address, social security number, or taxpayer identification
1072 number.

1073 (iv) The GO Utah office may provide tax information received from the commission in
1074 accordance with this Subsection (4)(n) only:

1075 (A) as a fiscal estimate, fiscal note information, or statistical information; and

1076 (B) if the tax information is classified to prevent the identification of a particular
1077 return.

1078 (v) (A) A person may not request tax information from the GO Utah office under Title
1079 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO
1080 Utah office received the tax information from the commission in accordance with this
1081 Subsection (4)(n).

1082 (B) The GO Utah office may not provide to a person that requests tax information in
1083 accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the
1084 GO Utah office provides in accordance with Subsection (4)(n)(iv).

1085 (o) Notwithstanding Subsection (2), the commission may provide to the governing
1086 board of the agreement or a taxing official of another state, the District of Columbia, the United

1087 States, or a territory of the United States:

1088 (i) the following relating to an agreement sales and use tax:

1089 (A) information contained in a return filed with the commission;

1090 (B) information contained in a report filed with the commission;

1091 (C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

1092 (D) a document filed with the commission; or

1093 (ii) a report of an audit or investigation made with respect to an agreement sales and
1094 use tax.

1095 (p) Notwithstanding Subsection (2), the commission may provide information
1096 concerning a taxpayer's state income tax return or state income tax withholding information to
1097 the Driver License Division if the Driver License Division:

1098 (i) requests the information; and

1099 (ii) provides the commission with a signed release form from the taxpayer allowing the
1100 Driver License Division access to the information.

1101 (q) Notwithstanding Subsection (2), the commission shall provide to the Utah
1102 Communications Authority, or a division of the Utah Communications Authority, the
1103 information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and
1104 63H-7a-502.

1105 (r) Notwithstanding Subsection (2), the commission shall provide to the Utah
1106 Educational Savings Plan information related to a resident or nonresident individual's
1107 contribution to a Utah Educational Savings Plan account as designated on the resident or
1108 nonresident's individual income tax return as provided under Section 59-10-1313.

1109 (s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under
1110 Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with
1111 the Department of Health and Human Services or its designee with the adjusted gross income
1112 of an individual if:

1113 (i) an eligibility worker with the Department of Health and Human Services or its
1114 designee requests the information from the commission; and

1115 (ii) the eligibility worker has complied with the identity verification and consent
1116 provisions of Sections 26B-3-106 and 26B-3-903.

1117 (t) Notwithstanding Subsection (2), the commission may provide to a county, as

1118 determined by the commission, information declared on an individual income tax return in
1119 accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption
1120 authorized under Section 59-2-103.

1121 (u) Notwithstanding Subsection (2), the commission shall provide a report regarding
1122 any access line provider that is over 90 days delinquent in payment to the commission of
1123 amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless
1124 Telecommunications Service Charges, to the board of the Utah Communications Authority
1125 created in Section 63H-7a-201.

1126 (v) Notwithstanding Subsection (2), the commission shall provide the Department of
1127 Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the
1128 previous calendar year under Section 59-24-103.5.

1129 (w) Notwithstanding Subsection (2), the commission may, upon request, provide to the
1130 Department of Workforce Services any information received under Chapter 10, Part 4,
1131 Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

1132 (x) Notwithstanding Subsection (2), the commission may provide the Public Service
1133 Commission or the Division of Public Utilities information related to a seller that collects and
1134 remits to the commission a charge described in Subsection 69-2-405(2), including the seller's
1135 identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

1136 (y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying
1137 jurisdiction the collection data necessary to verify the revenue collected by the commission for
1138 a distributed tax, fee, or charge collected within the qualifying jurisdiction.

1139 (ii) In addition to the information provided under Subsection (4)(y)(i), the commission
1140 shall provide a qualifying jurisdiction with copies of returns and other information relating to a
1141 distributed tax, fee, or charge collected within the qualifying jurisdiction.

1142 (iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief
1143 executive officer or the chief executive officer's designee of the qualifying jurisdiction shall
1144 submit a written request to the commission that states the specific information sought and how
1145 the qualifying jurisdiction intends to use the information.

1146 (B) The information described in Subsection (4)(y)(ii) is available only in official
1147 matters of the qualifying jurisdiction.

1148 (iv) Information that a qualifying jurisdiction receives in response to a request under

1149 this subsection is:

1150 (A) classified as a private record under Title 63G, Chapter 2, Government Records
1151 Access and Management Act; and

1152 (B) subject to the confidentiality requirements of this section.

1153 (z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic
1154 Beverage Services Commission, upon request, with taxpayer status information related to state
1155 tax obligations necessary to comply with the requirements described in Section 32B-1-203.

1156 (aa) Notwithstanding Subsection (2), the commission shall inform the Department of
1157 Workforce Services, as soon as practicable, whether an individual claimed and is entitled to
1158 claim a federal earned income tax credit for the year requested by the Department of Workforce
1159 Services if:

1160 (i) the Department of Workforce Services requests this information; and

1161 (ii) the commission has received the information release described in Section
1162 35A-9-604.

1163 (bb) (i) As used in this Subsection (4)(bb), "unclaimed property administrator" means
1164 the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

1165 (ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed property
1166 administrator and to the extent allowed under federal law, the commission shall provide the
1167 unclaimed property administrator the name, address, telephone number, county of residence,
1168 and social security number or federal employer identification number on any return filed under
1169 Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

1170 (B) The unclaimed property administrator may use the information described in
1171 Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's
1172 owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

1173 (iii) The unclaimed property administrator is subject to the confidentiality provisions of
1174 this section with respect to any information the unclaimed property administrator receives
1175 under this Subsection (4)(aa).

1176 (cc) Notwithstanding Subsection (2), the commission may provide the Department of
1177 Agriculture and Food with information from a return filed in accordance with Chapter 31,
1178 Cannabinoid Licensing and Tax Act.

1179 (5) (a) Each report and return shall be preserved for at least three years.

1180 (b) After the three-year period provided in Subsection (5)(a) the commission may
1181 destroy a report or return.

1182 (6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

1183 (b) If the individual described in Subsection (6)(a) is an officer or employee of the
1184 state, the individual shall be dismissed from office and be disqualified from holding public
1185 office in this state for a period of five years thereafter.

1186 (c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting
1187 information in accordance with Subsection (4)(n)(iii), or an individual who requests
1188 information in accordance with Subsection (4)(n)(v):

1189 (i) is not guilty of a class A misdemeanor; and

1190 (ii) is not subject to:

1191 (A) dismissal from office in accordance with Subsection (6)(b); or

1192 (B) disqualification from holding public office in accordance with Subsection (6)(b).

1193 (d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the
1194 Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative
1195 Organization, an individual described in Subsection (2):

1196 (i) is not guilty of a class A misdemeanor; and

1197 (ii) is not subject to:

1198 (A) dismissal from office in accordance with Subsection (6)(b); or

1199 (B) disqualification from holding public office in accordance with Subsection (6)(b).

1200 (7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

1201 Section 13. Section **59-12-104** is amended to read:

1202 **59-12-104. Exemptions.**

1203 Exemptions from the taxes imposed by this chapter are as follows:

1204 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1205 under Chapter 13, Motor and Special Fuel Tax Act;

1206 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1207 subdivisions; however, this exemption does not apply to sales of:

1208 (a) construction materials except:

1209 (i) construction materials purchased by or on behalf of institutions of the public
1210 education system as defined in Utah Constitution, Article X, Section 2, provided the

1211 construction materials are clearly identified and segregated and installed or converted to real
1212 property which is owned by institutions of the public education system; and

1213 (ii) construction materials purchased by the state, its institutions, or its political
1214 subdivisions which are installed or converted to real property by employees of the state, its
1215 institutions, or its political subdivisions; or

1216 (b) tangible personal property in connection with the construction, operation,
1217 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1218 providing additional project capacity, as defined in Section 11-13-103;

1219 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
1220 (i) the proceeds of each sale do not exceed \$1; and
1221 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1222 the cost of the item described in Subsection (3)(b) as goods consumed; and

1223 (b) Subsection (3)(a) applies to:
1224 (i) food and food ingredients; or
1225 (ii) prepared food;

1226 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
1227 (i) alcoholic beverages;
1228 (ii) food and food ingredients; or
1229 (iii) prepared food;

1230 (b) sales of tangible personal property or a product transferred electronically:
1231 (i) to a passenger;
1232 (ii) by a commercial airline carrier; and
1233 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
1234 (c) services related to Subsection (4)(a) or (b);

1235 (5) sales of parts and equipment for installation in an aircraft operated by a common
1236 carrier in interstate or foreign commerce;

1237 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1238 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1239 exhibitor, distributor, or commercial television or radio broadcaster;

1240 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
1241 cleaning or washing of tangible personal property if the cleaning or washing of the tangible

1242 personal property is not assisted cleaning or washing of tangible personal property;

1243 (b) if a seller that sells at the same business location assisted cleaning or washing of

1244 tangible personal property and cleaning or washing of tangible personal property that is not

1245 assisted cleaning or washing of tangible personal property, the exemption described in

1246 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning

1247 or washing of the tangible personal property; and

1248 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,

1249 Utah Administrative Rulemaking Act, the commission may make rules:

1250 (i) governing the circumstances under which sales are at the same business location;

1251 and

1252 (ii) establishing the procedures and requirements for a seller to separately account for

1253 sales of assisted cleaning or washing of tangible personal property;

1254 (8) sales made to or by religious or charitable institutions in the conduct of their regular

1255 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are

1256 fulfilled;

1257 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

1258 this state if:

1259 (a) the sale is not from the vehicle's lessor to the vehicle's lessee;

1260 (b) the vehicle is not registered in this state; and

1261 (c) (i) the vehicle is not used in this state; or

1262 (ii) the vehicle is used in this state:

1263 (A) if the vehicle is not used to conduct business, for a time period that does not

1264 exceed the longer of:

1265 (I) 30 days in any calendar year; or

1266 (II) the time period necessary to transport the vehicle to the borders of this state; or

1267 (B) if the vehicle is used to conduct business, for the time period necessary to transport

1268 the vehicle to the borders of this state;

1269 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1270 (i) the item is intended for human use; and

1271 (ii) (A) a prescription was issued for the item; or

1272 (B) the item was purchased by a hospital or other medical facility; and

- 1273 (b) (i) Subsection (10)(a) applies to:
- 1274 (A) a drug;
- 1275 (B) a syringe; or
- 1276 (C) a stoma supply; and
- 1277 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1278 commission may by rule define the terms:
- 1279 (A) "syringe"; or
- 1280 (B) "stoma supply";
- 1281 (11) purchases or leases exempt under Section 19-12-201;
- 1282 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1283 (i) the following if the item described in Subsection (12)(c) is not available to the
- 1284 general public:
- 1285 (A) a church; or
- 1286 (B) a charitable institution; or
- 1287 (ii) an institution of higher education if:
- 1288 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1289 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1290 offered by the institution of higher education; or
- 1291 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1292 (i) a medical facility; or
- 1293 (ii) a nursing facility; and
- 1294 (c) Subsections (12)(a) and (b) apply to:
- 1295 (i) food and food ingredients;
- 1296 (ii) prepared food; or
- 1297 (iii) alcoholic beverages;
- 1298 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1299 or a product transferred electronically by a person:
- 1300 (i) regardless of the number of transactions involving the sale of that tangible personal
- 1301 property or product transferred electronically by that person; and
- 1302 (ii) not regularly engaged in the business of selling that type of tangible personal
- 1303 property or product transferred electronically;

- 1304 (b) this Subsection (13) does not apply if:
- 1305 (i) the sale is one of a series of sales of a character to indicate that the person is
- 1306 regularly engaged in the business of selling that type of tangible personal property or product
- 1307 transferred electronically;
- 1308 (ii) the person holds that person out as regularly engaged in the business of selling that
- 1309 type of tangible personal property or product transferred electronically;
- 1310 (iii) the person sells an item of tangible personal property or product transferred
- 1311 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 1312 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 1313 this state in which case the tax is based upon:
- 1314 (A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or
- 1315 vessel being sold; or
- 1316 (B) in the absence of a bill of sale, lease agreement, or other written evidence of value,
- 1317 the fair market value of the vehicle or vessel being sold at the time of the sale as determined by
- 1318 the commission; and
- 1319 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1320 commission shall make rules establishing the circumstances under which:
- 1321 (i) a person is regularly engaged in the business of selling a type of tangible personal
- 1322 property or product transferred electronically;
- 1323 (ii) a sale of tangible personal property or a product transferred electronically is one of
- 1324 a series of sales of a character to indicate that a person is regularly engaged in the business of
- 1325 selling that type of tangible personal property or product transferred electronically; or
- 1326 (iii) a person holds that person out as regularly engaged in the business of selling a type
- 1327 of tangible personal property or product transferred electronically;
- 1328 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 1329 operating repair or replacement parts, or materials, except for office equipment or office
- 1330 supplies, by:
- 1331 (a) a manufacturing facility that:
- 1332 (i) is located in the state; and
- 1333 (ii) uses or consumes the machinery, equipment, normal operating repair or
- 1334 replacement parts, or materials:

1335 (A) in the manufacturing process to manufacture an item sold as tangible personal
1336 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
1337 Utah Administrative Rulemaking Act; or

1338 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
1339 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1340 Administrative Rulemaking Act;

1341 (b) an establishment, as the commission defines that term in accordance with Title
1342 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1343 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
1344 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
1345 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
1346 2002 North American Industry Classification System of the federal Executive Office of the
1347 President, Office of Management and Budget;

1348 (ii) is located in the state; and

1349 (iii) uses or consumes the machinery, equipment, normal operating repair or
1350 replacement parts, or materials in:

1351 (A) the production process to produce an item sold as tangible personal property, as the
1352 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1353 Administrative Rulemaking Act;

1354 (B) research and development, as the commission may define that phrase in accordance
1355 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1356 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
1357 produced from mining;

1358 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
1359 mining; or

1360 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

1361 (c) an establishment, as the commission defines that term in accordance with Title
1362 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1363 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
1364 American Industry Classification System of the federal Executive Office of the President,
1365 Office of Management and Budget;

- 1366 (ii) is located in the state; and
- 1367 (iii) uses or consumes the machinery, equipment, normal operating repair or
- 1368 replacement parts, or materials in the operation of the web search portal;
- 1369 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1370 (i) tooling;
- 1371 (ii) special tooling;
- 1372 (iii) support equipment;
- 1373 (iv) special test equipment; or
- 1374 (v) parts used in the repairs or renovations of tooling or equipment described in
- 1375 Subsections (15)(a)(i) through (iv); and
- 1376 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1377 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 1378 performance of any aerospace or electronics industry contract with the United States
- 1379 government or any subcontract under that contract; and
- 1380 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 1381 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 1382 by:
- 1383 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 1384 (B) listing on a government-approved property record if placing a government
- 1385 identification tag on the tooling, equipment, or parts is impractical;
- 1386 (16) sales of newspapers or newspaper subscriptions;
- 1387 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
- 1388 product transferred electronically traded in as full or part payment of the purchase price, except
- 1389 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
- 1390 trade-ins are limited to other vehicles only, and the tax is based upon:
- 1391 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 1392 vehicle being traded in; or
- 1393 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 1394 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 1395 commission; and
- 1396 (b) Subsection (17)(a) does not apply to the following items of tangible personal

1397 property or products transferred electronically traded in as full or part payment of the purchase
1398 price:

1399 (i) money;

1400 (ii) electricity;

1401 (iii) water;

1402 (iv) gas; or

1403 (v) steam;

1404 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1405 or a product transferred electronically used or consumed primarily and directly in farming
1406 operations, regardless of whether the tangible personal property or product transferred
1407 electronically:

1408 (A) becomes part of real estate; or

1409 (B) is installed by a farmer, contractor, or subcontractor; or

1410 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
1411 product transferred electronically if the tangible personal property or product transferred
1412 electronically is exempt under Subsection (18)(a)(i); and

1413 (b) amounts paid or charged for the following are subject to the taxes imposed by this
1414 chapter:

1415 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
1416 supplies if used in a manner that is incidental to farming; and

1417 (B) tangible personal property that is considered to be used in a manner that is
1418 incidental to farming includes:

1419 (I) hand tools; or

1420 (II) maintenance and janitorial equipment and supplies;

1421 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
1422 transferred electronically if the tangible personal property or product transferred electronically
1423 is used in an activity other than farming; and

1424 (B) tangible personal property or a product transferred electronically that is considered
1425 to be used in an activity other than farming includes:

1426 (I) office equipment and supplies; or

1427 (II) equipment and supplies used in:

- 1428 (Aa) the sale or distribution of farm products;
- 1429 (Bb) research; or
- 1430 (Cc) transportation; or
- 1431 (iii) a vehicle required to be registered by the laws of this state during the period
- 1432 ending two years after the date of the vehicle's purchase;
- 1433 (19) sales of hay;
- 1434 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 1435 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 1436 garden, farm, or other agricultural produce is sold by:
- 1437 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 1438 agricultural produce;
- 1439 (b) an employee of the producer described in Subsection (20)(a); or
- 1440 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 1441 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 1442 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 1443 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 1444 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 1445 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 1446 manufacturer, processor, wholesaler, or retailer;
- 1447 (23) a product stored in the state for resale;
- 1448 (24) (a) purchases of a product if:
- 1449 (i) the product is:
- 1450 (A) purchased outside of this state;
- 1451 (B) brought into this state:
- 1452 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 1453 (II) by a nonresident person who is not living or working in this state at the time of the
- 1454 purchase;
- 1455 (C) used for the personal use or enjoyment of the nonresident person described in
- 1456 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 1457 (D) not used in conducting business in this state; and
- 1458 (ii) for:

1459 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
1460 the product for a purpose for which the product is designed occurs outside of this state;

1461 (B) a boat, the boat is registered outside of this state; or

1462 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1463 outside of this state;

1464 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1465 (i) a lease or rental of a product; or

1466 (ii) a sale of a vehicle exempt under Subsection (33); and

1467 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1468 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
1469 following:

1470 (i) conducting business in this state if that phrase has the same meaning in this
1471 Subsection (24) as in Subsection (63);

1472 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
1473 as in Subsection (63); or

1474 (iii) a purpose for which a product is designed if that phrase has the same meaning in
1475 this Subsection (24) as in Subsection (63);

1476 (25) a product purchased for resale in the regular course of business, either in its
1477 original form or as an ingredient or component part of a manufactured or compounded product;

1478 (26) a product upon which a sales or use tax was paid to some other state, or one of its
1479 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1480 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1481 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1482 Act;

1483 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1484 person for use in compounding a service taxable under the subsections;

1485 (28) purchases made in accordance with the special supplemental nutrition program for
1486 women, infants, and children established in 42 U.S.C. Sec. 1786;

1487 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
1488 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
1489 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of

- 1490 the President, Office of Management and Budget;
- 1491 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
- 1492 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 1493 (a) not registered in this state; and
- 1494 (b) (i) not used in this state; or
- 1495 (ii) used in this state:
- 1496 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 1497 time period that does not exceed the longer of:
- 1498 (I) 30 days in any calendar year; or
- 1499 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 1500 the borders of this state; or
- 1501 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 1502 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 1503 state;
- 1504 (31) sales of aircraft manufactured in Utah;
- 1505 (32) amounts paid for the purchase of telecommunications service for purposes of
- 1506 providing telecommunications service;
- 1507 (33) sales, leases, or uses of the following:
- 1508 (a) a vehicle by an authorized carrier; or
- 1509 (b) tangible personal property that is installed on a vehicle:
- 1510 (i) sold or leased to or used by an authorized carrier; and
- 1511 (ii) before the vehicle is placed in service for the first time;
- 1512 (34) (a) 45% of the sales price of any new manufactured home; and
- 1513 (b) 100% of the sales price of any used manufactured home;
- 1514 (35) sales relating to schools and fundraising sales;
- 1515 (36) sales or rentals of durable medical equipment if:
- 1516 (a) a person presents a prescription for the durable medical equipment; and
- 1517 (b) the durable medical equipment is used for home use only;
- 1518 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 1519 Section 72-11-102; and
- 1520 (b) the commission shall by rule determine the method for calculating sales exempt

1521 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
1522 (38) sales to a ski resort of:
1523 (a) snowmaking equipment;
1524 (b) ski slope grooming equipment;
1525 (c) passenger ropeways as defined in Section 72-11-102; or
1526 (d) parts used in the repairs or renovations of equipment or passenger ropeways
1527 described in Subsections (38)(a) through (c);
1528 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,
1529 fuel oil, or other fuels for industrial use;
1530 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
1531 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
1532 59-12-102;
1533 (b) if a seller that sells or rents at the same business location the right to use or operate
1534 for amusement, entertainment, or recreation one or more unassisted amusement devices and
1535 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
1536 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
1537 amusement, entertainment, or recreation for the assisted amusement devices; and
1538 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
1539 Utah Administrative Rulemaking Act, the commission may make rules:
1540 (i) governing the circumstances under which sales are at the same business location;
1541 and
1542 (ii) establishing the procedures and requirements for a seller to separately account for
1543 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
1544 assisted amusement devices;
1545 (41) (a) sales of photocopies by:
1546 (i) a governmental entity; or
1547 (ii) an entity within the state system of public education, including:
1548 (A) a school; or
1549 (B) the State Board of Education; or
1550 (b) sales of publications by a governmental entity;
1551 (42) amounts paid for admission to an athletic event at an institution of higher

1552 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1553 20 U.S.C. Sec. 1681 et seq.;

1554 (43) (a) sales made to or by:

1555 (i) an area agency on aging; or

1556 (ii) a senior citizen center owned by a county, city, or town; or

1557 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1558 (44) sales or leases of semiconductor fabricating, processing, research, or development
1559 materials regardless of whether the semiconductor fabricating, processing, research, or
1560 development materials:

1561 (a) actually come into contact with a semiconductor; or

1562 (b) ultimately become incorporated into real property;

1563 (45) an amount paid by or charged to a purchaser for accommodations and services
1564 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
1565 59-12-104.2;

1566 (46) the lease or use of a vehicle issued a temporary sports event registration certificate
1567 in accordance with Section 41-3-306 for the event period specified on the temporary sports
1568 event registration certificate;

1569 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
1570 adopted by the Public Service Commission only for purchase of electricity produced from a
1571 new alternative energy source built after January 1, 2016, as designated in the tariff by the
1572 Public Service Commission; and

1573 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
1574 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
1575 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
1576 customer would have paid absent the tariff;

1577 (48) sales or rentals of mobility enhancing equipment if a person presents a
1578 prescription for the mobility enhancing equipment;

1579 (49) sales of water in a:

1580 (a) pipe;

1581 (b) conduit;

1582 (c) ditch; or

- 1583 (d) reservoir;
- 1584 (50) sales of currency or coins that constitute legal tender of a state, the United States,
1585 or a foreign nation;
- 1586 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 1587 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
1588 (ii) has a gold, silver, or platinum content of 50% or more; and
- 1589 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 1590 (i) ingot;
1591 (ii) bar;
1592 (iii) medallion; or
1593 (iv) decorative coin;
- 1594 (52) amounts paid on a sale-leaseback transaction;
- 1595 (53) sales of a prosthetic device:
- 1596 (a) for use on or in a human; and
1597 (b) (i) for which a prescription is required; or
1598 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 1599 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
1600 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
1601 or equipment is primarily used in the production or postproduction of the following media for
1602 commercial distribution:
- 1603 (i) a motion picture;
1604 (ii) a television program;
1605 (iii) a movie made for television;
1606 (iv) a music video;
1607 (v) a commercial;
1608 (vi) a documentary; or
1609 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
1610 commission by administrative rule made in accordance with Subsection (54)(d); or
1611 (b) purchases, leases, or rentals of machinery or equipment by an establishment
1612 described in Subsection (54)(c) that is used for the production or postproduction of the
1613 following are subject to the taxes imposed by this chapter:

- 1614 (i) a live musical performance;
- 1615 (ii) a live news program; or
- 1616 (iii) a live sporting event;
- 1617 (c) the following establishments listed in the 1997 North American Industry
- 1618 Classification System of the federal Executive Office of the President, Office of Management
- 1619 and Budget, apply to Subsections (54)(a) and (b):
- 1620 (i) NAICS Code 512110; or
- 1621 (ii) NAICS Code 51219; and
- 1622 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1623 commission may by rule:
- 1624 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 1625 or
- 1626 (ii) define:
- 1627 (A) "commercial distribution";
- 1628 (B) "live musical performance";
- 1629 (C) "live news program"; or
- 1630 (D) "live sporting event";
- 1631 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 1632 on or before June 30, 2027, of tangible personal property that:
- 1633 (i) is leased or purchased for or by a facility that:
- 1634 (A) is an alternative energy electricity production facility;
- 1635 (B) is located in the state; and
- 1636 (C) (I) becomes operational on or after July 1, 2004; or
- 1637 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1638 2004, as a result of the use of the tangible personal property;
- 1639 (ii) has an economic life of five or more years; and
- 1640 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1641 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 1642 transmission grid including:
- 1643 (A) a wind turbine;
- 1644 (B) generating equipment;

1645 (C) a control and monitoring system;
1646 (D) a power line;
1647 (E) substation equipment;
1648 (F) lighting;
1649 (G) fencing;
1650 (H) pipes; or
1651 (I) other equipment used for locating a power line or pole; and
1652 (b) this Subsection (55) does not apply to:
1653 (i) tangible personal property used in construction of:
1654 (A) a new alternative energy electricity production facility; or
1655 (B) the increase in the capacity of an alternative energy electricity production facility;
1656 (ii) contracted services required for construction and routine maintenance activities;
1657 and
1658 (iii) unless the tangible personal property is used or acquired for an increase in capacity
1659 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
1660 acquired after:
1661 (A) the alternative energy electricity production facility described in Subsection
1662 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
1663 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
1664 in Subsection (55)(a)(iii);
1665 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
1666 on or before June 30, 2027, of tangible personal property that:
1667 (i) is leased or purchased for or by a facility that:
1668 (A) is a waste energy production facility;
1669 (B) is located in the state; and
1670 (C) (I) becomes operational on or after July 1, 2004; or
1671 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1672 2004, as a result of the use of the tangible personal property;
1673 (ii) has an economic life of five or more years; and
1674 (iii) is used to make the facility or the increase in capacity of the facility described in
1675 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

1676 transmission grid including:

1677 (A) generating equipment;

1678 (B) a control and monitoring system;

1679 (C) a power line;

1680 (D) substation equipment;

1681 (E) lighting;

1682 (F) fencing;

1683 (G) pipes; or

1684 (H) other equipment used for locating a power line or pole; and

1685 (b) this Subsection (56) does not apply to:

1686 (i) tangible personal property used in construction of:

1687 (A) a new waste energy facility; or

1688 (B) the increase in the capacity of a waste energy facility;

1689 (ii) contracted services required for construction and routine maintenance activities;

1690 and

1691 (iii) unless the tangible personal property is used or acquired for an increase in capacity

1692 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

1693 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as

1694 described in Subsection (56)(a)(iii); or

1695 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described

1696 in Subsection (56)(a)(iii);

1697 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on

1698 or before June 30, 2027, of tangible personal property that:

1699 (i) is leased or purchased for or by a facility that:

1700 (A) is located in the state;

1701 (B) produces fuel from alternative energy, including:

1702 (I) methanol; or

1703 (II) ethanol; and

1704 (C) (I) becomes operational on or after July 1, 2004; or

1705 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as

1706 a result of the installation of the tangible personal property;

- 1707 (ii) has an economic life of five or more years; and
- 1708 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 1709 (b) this Subsection (57) does not apply to:
- 1710 (i) tangible personal property used in construction of:
- 1711 (A) a new facility described in Subsection (57)(a)(i); or
- 1712 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 1713 (ii) contracted services required for construction and routine maintenance activities;
- 1714 and
- 1715 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 1716 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
- 1717 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 1718 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 1719 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product
- 1720 transferred electronically to a person within this state if that tangible personal property or
- 1721 product transferred electronically is subsequently shipped outside the state and incorporated
- 1722 pursuant to contract into and becomes a part of real property located outside of this state; and
- 1723 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 1724 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 1725 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 1726 state or political entity allows a credit for sales and use taxes imposed by this chapter;
- 1727 (59) purchases:
- 1728 (a) of one or more of the following items in printed or electronic format:
- 1729 (i) a list containing information that includes one or more:
- 1730 (A) names; or
- 1731 (B) addresses; or
- 1732 (ii) a database containing information that includes one or more:
- 1733 (A) names; or
- 1734 (B) addresses; and
- 1735 (b) used to send direct mail;
- 1736 (60) redemptions or repurchases of a product by a person if that product was:
- 1737 (a) delivered to a pawnbroker as part of a pawn transaction; and

1738 (b) redeemed or repurchased within the time period established in a written agreement
1739 between the person and the pawnbroker for redeeming or repurchasing the product;

1740 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

1741 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

1742 and

1743 (ii) has a useful economic life of one or more years; and

1744 (b) the following apply to Subsection (61)(a):

1745 (i) telecommunications enabling or facilitating equipment, machinery, or software;

1746 (ii) telecommunications equipment, machinery, or software required for 911 service;

1747 (iii) telecommunications maintenance or repair equipment, machinery, or software;

1748 (iv) telecommunications switching or routing equipment, machinery, or software; or

1749 (v) telecommunications transmission equipment, machinery, or software;

1750 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible

1751 personal property or a product transferred electronically that are used in the research and

1752 development of alternative energy technology; and

1753 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1754 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

1755 purchases of tangible personal property or a product transferred electronically that are used in

1756 the research and development of alternative energy technology;

1757 (63) (a) purchases of tangible personal property or a product transferred electronically

1758 if:

1759 (i) the tangible personal property or product transferred electronically is:

1760 (A) purchased outside of this state;

1761 (B) brought into this state at any time after the purchase described in Subsection

1762 (63)(a)(i)(A); and

1763 (C) used in conducting business in this state; and

1764 (ii) for:

1765 (A) tangible personal property or a product transferred electronically other than the

1766 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

1767 for a purpose for which the property is designed occurs outside of this state; or

1768 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

1769 outside of this state and not required to be registered in this state under Section 41-1a-202 or
1770 73-18-9 based on residency;

1771 (b) the exemption provided for in Subsection (63)(a) does not apply to:

1772 (i) a lease or rental of tangible personal property or a product transferred electronically;

1773 or

1774 (ii) a sale of a vehicle exempt under Subsection (33); and

1775 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

1776 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

1777 following:

1778 (i) conducting business in this state if that phrase has the same meaning in this

1779 Subsection (63) as in Subsection (24);

1780 (ii) the first use of tangible personal property or a product transferred electronically if

1781 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

1782 (iii) a purpose for which tangible personal property or a product transferred

1783 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

1784 Subsection (24);

1785 (64) sales of disposable home medical equipment or supplies if:

1786 (a) a person presents a prescription for the disposable home medical equipment or

1787 supplies;

1788 (b) the disposable home medical equipment or supplies are used exclusively by the

1789 person to whom the prescription described in Subsection (64)(a) is issued; and

1790 (c) the disposable home medical equipment and supplies are listed as eligible for

1791 payment under:

1792 (i) Title XVIII, federal Social Security Act; or

1793 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

1794 (65) sales:

1795 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

1796 District Act; or

1797 (b) of tangible personal property to a subcontractor of a public transit district, if the

1798 tangible personal property is:

1799 (i) clearly identified; and

- 1800 (ii) installed or converted to real property owned by the public transit district;
- 1801 (66) sales of construction materials:
- 1802 (a) purchased on or after July 1, 2010;
- 1803 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 1804 (i) located within a county of the first class; and
- 1805 (ii) that has a United States customs office on its premises; and
- 1806 (c) if the construction materials are:
- 1807 (i) clearly identified;
- 1808 (ii) segregated; and
- 1809 (iii) installed or converted to real property:
- 1810 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 1811 (B) located at the international airport described in Subsection (66)(b);
- 1812 (67) sales of construction materials:
- 1813 (a) purchased on or after July 1, 2008;
- 1814 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 1815 (i) located within a county of the second class; and
- 1816 (ii) that is owned or operated by a city in which an airline as defined in Section
- 1817 59-2-102 is headquartered; and
- 1818 (c) if the construction materials are:
- 1819 (i) clearly identified;
- 1820 (ii) segregated; and
- 1821 (iii) installed or converted to real property:
- 1822 (A) owned or operated by the new airport described in Subsection (67)(b);
- 1823 (B) located at the new airport described in Subsection (67)(b); and
- 1824 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 1825 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
- 1826 common carrier that is a railroad for use in a locomotive engine;
- 1827 (69) purchases and sales described in Section 63H-4-111;
- 1828 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 1829 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 1830 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

1831 lists a state or country other than this state as the location of registry of the fixed wing turbine
1832 powered aircraft; or

1833 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
1834 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
1835 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
1836 lists a state or country other than this state as the location of registry of the fixed wing turbine
1837 powered aircraft;

1838 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
1839 (a) to a person admitted to an institution of higher education; and
1840 (b) by a seller, other than a bookstore owned by an institution of higher education, if
1841 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
1842 textbook for a higher education course;

1843 (72) a license fee or tax a municipality imposes in accordance with Subsection
1844 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
1845 level of municipal services;

1846 (73) amounts paid or charged for construction materials used in the construction of a
1847 new or expanding life science research and development facility in the state, if the construction
1848 materials are:

1849 (a) clearly identified;
1850 (b) segregated; and
1851 (c) installed or converted to real property;

1852 (74) amounts paid or charged for:
1853 (a) a purchase or lease of machinery and equipment that:
1854 (i) are used in performing qualified research:
1855 (A) as defined in Section 41(d), Internal Revenue Code; and
1856 (B) in the state; and
1857 (ii) have an economic life of three or more years; and
1858 (b) normal operating repair or replacement parts:
1859 (i) for the machinery and equipment described in Subsection (74)(a); and
1860 (ii) that have an economic life of three or more years;

1861 (75) a sale or lease of tangible personal property used in the preparation of prepared

- 1862 food if:
- 1863 (a) for a sale:
- 1864 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 1865 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 1866 tangible personal property prior to making the sale; or
- 1867 (b) for a lease:
- 1868 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 1869 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 1870 personal property prior to making the lease;
- 1871 (76) (a) purchases of machinery or equipment if:
- 1872 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 1873 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 1874 System of the federal Executive Office of the President, Office of Management and Budget;
- 1875 (ii) the machinery or equipment:
- 1876 (A) has an economic life of three or more years; and
- 1877 (B) is used by one or more persons who pay admission or user fees described in
- 1878 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 1879 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 1880 (A) amounts paid or charged as admission or user fees described in Subsection
- 1881 59-12-103(1)(f); and
- 1882 (B) subject to taxation under this chapter; and
- 1883 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1884 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 1885 previous calendar quarter is:
- 1886 (i) amounts paid or charged as admission or user fees described in Subsection
- 1887 59-12-103(1)(f); and
- 1888 (ii) subject to taxation under this chapter;
- 1889 (77) purchases of a short-term lodging consumable by a business that provides
- 1890 accommodations and services described in Subsection 59-12-103(1)(i);
- 1891 (78) amounts paid or charged to access a database:
- 1892 (a) if the primary purpose for accessing the database is to view or retrieve information

- 1893 from the database; and
- 1894 (b) not including amounts paid or charged for a:
- 1895 (i) digital audio work;
- 1896 (ii) digital audio-visual work; or
- 1897 (iii) digital book;
- 1898 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 1899 payment service, of:
- 1900 (a) machinery and equipment that:
- 1901 (i) are used in the operation of the electronic financial payment service; and
- 1902 (ii) have an economic life of three or more years; and
- 1903 (b) normal operating repair or replacement parts that:
- 1904 (i) are used in the operation of the electronic financial payment service; and
- 1905 (ii) have an economic life of three or more years;
- 1906 (80) sales of a fuel cell as defined in Section 54-15-102;
- 1907 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 1908 product transferred electronically if the tangible personal property or product transferred
- 1909 electronically:
- 1910 (a) is stored, used, or consumed in the state; and
- 1911 (b) is temporarily brought into the state from another state:
- 1912 (i) during a disaster period as defined in Section 53-2a-1202;
- 1913 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 1914 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 1915 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 1916 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 1917 in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation
- 1918 Program;
- 1919 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 1920 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
- 1921 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
- 1922 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
- 1923 parts:

- 1924 (a) are used in:
- 1925 (i) the operation of the qualifying data center; or
- 1926 (ii) the occupant's operations in the qualifying data center; and
- 1927 (b) have an economic life of one or more years;
- 1928 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 1929 vehicle that includes cleaning or washing of the interior of the vehicle;
- 1930 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 1931 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 1932 or consumed:
- 1933 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
- 1934 in Section 79-6-701 located in the state;
- 1935 (b) if the machinery, equipment, normal operating repair or replacement parts,
- 1936 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 1937 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
- 1938 added to gasoline or diesel fuel;
- 1939 (ii) research and development;
- 1940 (iii) transporting, storing, or managing raw materials, work in process, finished
- 1941 products, and waste materials produced from refining gasoline or diesel fuel, or adding
- 1942 blendstock to gasoline or diesel fuel;
- 1943 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
- 1944 refining; or
- 1945 (v) preventing, controlling, or reducing pollutants from refining; and
- 1946 (c) if the person holds a valid refiner tax exemption certification as defined in Section
- 1947 79-6-701;
- 1948 (87) amounts paid to or charged by a proprietor for accommodations and services, as
- 1949 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
- 1950 imposed under Section 63H-1-205;
- 1951 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 1952 operating repair or replacement parts, or materials, except for office equipment or office
- 1953 supplies, by an establishment, as the commission defines that term in accordance with Title
- 1954 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1955 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
1956 American Industry Classification System of the federal Executive Office of the President,
1957 Office of Management and Budget;

1958 (b) is located in this state; and

1959 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
1960 materials in the operation of the establishment;

1961 (89) amounts paid or charged for an item exempt under Section 59-12-104.10;

1962 (90) sales of a note, leaf, foil, or film, if the item:

1963 (a) is used as currency;

1964 (b) does not constitute legal tender of a state, the United States, or a foreign nation; and

1965 (c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any
1966 transparent polymer holder, coating, or encasement;

1967 (91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or
1968 surfing facility, if a trained instructor:

1969 (a) is present with the participant, in person or by video, for the duration of the activity;

1970 and

1971 (b) actively instructs the participant, including providing observation or feedback;

1972 (92) amounts paid or charged in connection with the construction, operation,
1973 maintenance, repair, or replacement of facilities owned by or constructed for:

1974 (a) a distribution electrical cooperative, as defined in Section 54-2-1; or

1975 (b) a wholesale electrical cooperative, as defined in Section 54-2-1;

1976 (93) amounts paid by the service provider for tangible personal property, other than
1977 machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

1978 (a) is consumed in the performance of a service that is subject to tax under Subsection
1979 59-12-103(1)(b), (f), (g), (h), (i), or (j);

1980 (b) has to be consumed for the service provider to provide the service described in
1981 Subsection (93)(a); and

1982 (c) will be consumed in the performance of the service described in Subsection (93)(a),
1983 to one or more customers, to the point that the tangible personal property disappears or cannot
1984 be used for any other purpose;

1985 (94) sales of rail rolling stock manufactured in Utah; [~~and~~]

1986 (95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement
 1987 products, or construction materials between establishments, as the commission defines that
 1988 term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

1989 (a) the establishments are related directly or indirectly through 100% common
 1990 ownership or control; and

1991 (b) each establishment is described in one of the following subsectors of the 2022
 1992 North American Industry Classification System of the federal Executive Office of the
 1993 President, Office of Management and Budget:

1994 (i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

1995 (ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing[-]; and

1996 (96) amounts paid or charged for sales of a cannabinoid product as that term is defined
 1997 in Section 4-41-102.

1998 Section 14. Section **59-31-101** is enacted to read:

1999 **CHAPTER 31. CANNABINOID LICENSING AND TAX ACT**

2000 **Part 1. General Provisions.**

2001 **59-31-101. Definitions.**

2002 As used in this chapter:

2003 (1) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

2004 (2) "Licensee" means a retailer that holds a valid license under Part 2, Licensing, to sell
 2005 a cannabinoid product.

2006 (3) "Retail price" means the amount charged by a retailer for a cannabinoid product.

2007 (4) "Retailer" means a person that sells a cannabionoid product to a consumer for
 2008 personal use.

2009 Section 15. Section **59-31-201** is enacted to read:

2010 **Part 2. Licensing.**

2011 **59-31-201. Prohibition on sale of cannabinoid product without license.**

2012 (1) A person may not sell, offer to sell, or distribute a cannabinoid product in this state
 2013 without first:

2014 (a) obtaining a license from the commission under Section 59-31-202; and

2015 (b) complying with the bonding requirement described in Section 59-31-202.

2016 (2) It is a class B misdemeanor for a person to violate Subsection (1).

2017 Section 16. Section **59-31-202** is enacted to read:

2018 **59-31-202. Issuance of license.**

2019 (1) The commission shall issue a license to sell a cannabinoid product to a retailer that
2020 submits an application, on a form created by the commission, that includes:

2021 (a) the retailer's name;

2022 (b) the address of the location permitted under Section 4-41-103.3 where the retailer
2023 sells the cannabinoid product; and

2024 (c) any other information the commission requires to implement this chapter.

2025 (2) A license is:

2026 (a) valid at only one fixed business address;

2027 (b) valid for three years;

2028 (c) valid only for a physical location; and

2029 (d) renewable if a licensee meets the criteria for licensing described in Subsection (1).

2030 (3) (a) The commission shall require a retailer that is responsible under this part for the
2031 collection of tax on a cannabinoid product to post a bond.

2032 (b) Subject to Subsection (3)(c), the commission shall determine the form and amount
2033 of the bond.

2034 (c) The minimum amount of the bond shall be \$500.

2035 (4) In accordance with Title 63G, Chapter 3, Utah Rulemaking Authority, the
2036 commission may make rules to establish the additional information described in Subsection
2037 (1)(c) that a retailer shall provide in the application described in Subsection (1).

2038 (5) The commission may not charge a fee for a license under this section.

2039 (6) The license under this section is in addition to a license required under Section
2040 4-41-103.3.

2041 (7) (a) The commission shall maintain a public list that includes the identity of each
2042 person licensed under this section.

2043 (b) The list shall:

2044 (i) include the type of license possessed; and

2045 (ii) be updated by the commission at least once per quarter.

2046 Section 17. Section **59-31-203** is enacted to read:

2047 **59-31-203. License revocation and reinstatement.**

2048 (1) The commission shall, on a reasonable notice and after a hearing, revoke the license
2049 of any licensee violating any provisions of this chapter.

2050 (2) A license may not be reissued to a licensee described in Subsection (1) until the
2051 licensee has complied with the requirements of this chapter, including paying any:

2052 (a) tax due under Part 3, Tax;

2053 (b) penalty as provided in Section 59-1-401; and

2054 (c) interest as provided in Section 59-1-402.

2055 Section 18. Section **59-31-301** is enacted to read:

2056 **Part 3. Tax**

2057 **59-31-301. Taxation of cannabinoid product.**

2058 (1) A tax is imposed on a cannabinoid product at a rate of .10 multiplied by the retail
2059 price.

2060 (2) (a) A licensee shall collect the tax imposed under Subsection (1) from a purchaser
2061 at the time the cannabinoid product is sold.

2062 (b) A consumer that purchases or receives an untaxed cannabinoid product shall pay
2063 the tax at the time the cannabinoid product is first received in this state.

2064 Section 19. Section **59-31-302** is enacted to read:

2065 **59-31-302. Remittance of tax.**

2066 (1) (a) The licensee that collects the tax imposed on a cannabinoid product shall remit
2067 to the commission, in an electronic format approved by the commission:

2068 (i) the tax due in the previous quarter; and

2069 (ii) the tax return.

2070 (b) The tax collected and the return are due on or before the last day of April, July,
2071 October, and January.

2072 (2) A licensee that sells a cannabinoid product to a purchaser shall maintain records to
2073 determine the amount of tax due under this part for a period of three years.

2074 (3) (a) A consumer that receives or purchases an untaxed cannabinoid product for use
2075 or other consumption shall:

2076 (i) file with the commission, on a form provided by the commission, a statement
2077 showing the quantity and description of the cannabinoid product subject to tax under this part;
2078 and

- 2079 (ii) pay the tax imposed by this part on the cannabinoid product.
- 2080 (b) The consumer shall file the statement described in Subsection (3)(a) and pay the tax
- 2081 due on or before the last day of the month immediately following the month during which the
- 2082 consumer purchased an untaxed cannabinoid product.
- 2083 (c) A consumer shall maintain records necessary to determine the amount of tax the
- 2084 consumer is liable to pay under this part for a period of three years after the day on which the
- 2085 consumer filed the statement required by this section.
- 2086 (4) A tourist who imports an untaxed cannabinoid product into the state does not need
- 2087 to file the statement described in Subsection (3) or pay the tax if the cannabinoid product is for
- 2088 the tourist's own use or consumption while in this state.
- 2089 (5) In addition to the tax required by this part, a person shall pay a penalty as provided
- 2090 in Section 59-1-401, plus interest at the rate and in the manner provide in Section 59-1-402, if a
- 2091 person subject to this section fails to:
- 2092 (a) pay the tax imposed by this part;
- 2093 (b) pay the tax on time; or
- 2094 (c) file a return or statement required by this part.
- 2095 (6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in
- 2096 the manner provided in Section 59-1-402.
- 2097 (7) (a) The commission shall retain and deposit an administrative charge in accordance
- 2098 with Section 59-1-306 from revenue generated by the tax under this part.
- 2099 (b) The commission shall deposit the remaining revenue generated by the tax imposed
- 2100 by this part into the Cannabinoid Proceeds Restricted Account created in Section 59-31-401.
- 2101 Section 20. Section **59-31-401** is enacted to read:
- 2102 **Part 4. Miscellaneous Provisions.**
- 2103 **59-31-401. Cannabinoid Proceeds Restricted Account.**
- 2104 (1) There is created within the General Fund a restricted account known as the
- 2105 "Cannabinoid Proceeds Restricted Account."
- 2106 (2) The Cannabinoid Proceeds Restricted Account consists of:
- 2107 (a) revenue collected from the tax imposed by Section 59-31-301; and
- 2108 (b) amounts appropriated by the Legislature.
- 2109 (3) Money in the account may be used for the following:

2110 (a) enforcement of Title 4, Chapter 41, Hemp and Cannabinoid Act by the Department
2111 of Agriculture and Food;
2112 (b) investigations described in Section 77-39-101, regarding cannabinoid products;
2113 (c) the Industrial Hemp Grant Program created in Section 63N-3-1302; and
2114 (d) provided to counties, cities, and towns in proportion to the county's, city's, or town's
2115 distribution under Section 59-12-205 for the preceding fiscal year.

2116 Section 21. Section **59-31-402** is enacted to read:

2117 **59-31-402. Report to Department of Agriculture and Food of illegal cannabinoid**
2118 **product.**

2119 If the commission suspects that a cannabinoid product is being sold in the state in
2120 violation of a law other than a law described in this chapter, the commission shall report the
2121 name and tax identification number of the seller and the cannabinoid product:

2122 (1) to the Department of Agriculture and Food; and
2123 (2) within 30 days after the day on which the commission becomes aware of the sale.

2124 Section 22. Section **63N-3-1301** is enacted to read:

2125 **Part 13. Industrial Hemp Grant Program**

2126 **63N-3-1301. Definitions.**

2127 As used in this part;

2128 (1) "Cannabinoid processor license" means the same as that term is defined in Section
2129 4-41-102.

2130 (2) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

2131 (3) "Industrial hemp" means the same as that term is defined in Section 4-41-102.

2132 (4) "Industrial hemp producer registration" means the same as that term is defined in
2133 Section 4-41-102.

2134 Section 23. Section **63N-3-1302** is enacted to read:

2135 **63N-3-1302. Industrial Hemp Grant Program.**

2136 (1) (a) There is created the Industrial Hemp Grant Program to be administered by the
2137 office.

2138 (b) The purpose of the program is to award grants to existing Utah businesses that have
2139 a cannabinoid processor license or an industrial hemp producer registrations to develop
2140 industrial hemp products.

2141 (2) (a) An entity that submits a proposal for a grant to the office shall include details in
2142 the proposal regarding:

2143 (i) how the entity plans to use the grant to fulfill the purpose described in Subsection
2144 (1)(b);

2145 (ii) any plan to use funding sources in addition to a grant for the proposal; and

2146 (iii) any existing or planned partnerships between the entity and another individual or
2147 entity to implement the proposal.

2148 (b) In evaluating a proposal for a grant, the office shall consider:

2149 (i) the likelihood the proposal will accomplish the purpose described in Subsection
2150 (1)(b);

2151 (ii) the extent to which any additional funding sources or existing or planned
2152 partnerships will benefit the proposal; and

2153 (iii) the viability and sustainability of the proposal.

2154 (c) In determining a grant award, the office:

2155 (i) shall consult with:

2156 (A) the GO Utah board; and

2157 (B) the Department of Agriculture and Food; and

2158 (ii) may prioritize a business that is committed to switching from producing
2159 cannabinoid products to industrial hemp products.

2160 (3) Before receiving the grant, a grant recipient shall enter into a written agreement
2161 with the office that specifies:

2162 (a) the grant amount;

2163 (b) the time period and structure for distribution of the grant, including any terms and
2164 conditions the recipient is required to meet to receive a distribution; and

2165 (c) the expenses for which the recipient may use the grant.

2166 (4) Subject to Subsection (2), the office may, in accordance with Title 63G, Chapter 3,
2167 Utah Administrative Rulemaking Act, make rules to establish:

2168 (a) the form and process for submitting a proposal to the office for a grant;

2169 (b) which entities are eligible to apply for a grant;

2170 (c) the method and formula for determining a grant amount; and

2171 (d) the reporting requirements for a grant recipient.

2172 Section 24. Section **77-39-101** is amended to read:

2173 **77-39-101. Investigation of sales of alcohol, tobacco products, electronic cigarette**
2174 **products, nicotine products, and cannabinoid products to underage individuals.**

2175 (1) As used in this section:

2176 (a) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

2177 (b) "Electronic cigarette product" means the same as that term is defined in Section
2178 76-10-101.

2179 [~~(b)~~] (c) "Nicotine product" means the same as that term is defined in Section
2180 76-10-101.

2181 [~~(c)~~] (d) "Peace officer" means the same as the term is described in Section 53-13-109.

2182 [~~(d)~~] (e) "Tobacco product" means the same as that term is defined in Section
2183 76-10-101.

2184 (2) (a) A peace officer may investigate the possible violation of:

2185 (i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and
2186 attempt to purchase or make a purchase of alcohol from a retail establishment; [~~or~~]

2187 (ii) Section 76-10-114 by requesting an individual under 21 years old to enter into and
2188 attempt to purchase or make a purchase from a retail establishment of:

2189 (A) a tobacco product;

2190 (B) an electronic cigarette product; or

2191 (C) a nicotine product[~~;~~]; or

2192 (iii) Subsection 4-41-105(2)(d) by requesting an individual under 21 years old to enter
2193 into and attempt to purchase or make a purchase of a cannabinoid product that contains THC or
2194 a THC analog from a retail establishment.

2195 (b) A peace officer who is present at the site of a proposed purchase shall direct,
2196 supervise, and monitor the individual requested to make the purchase.

2197 (c) Immediately following a purchase or attempted purchase or as soon as practical the
2198 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
2199 establishment that the attempted purchaser was under the legal age to purchase:

2200 (i) alcohol; [~~or~~]

2201 (ii) (A) a tobacco product;

2202 (B) an electronic cigarette product; or

- 2203 (C) a nicotine product~~[:]; or~~
2204 (iii) a cannabinoid product that contains THC or a THC analog.
- 2205 (d) If a citation or information is issued, the citation or information shall be issued
2206 within seven days after the day on which the purchase occurs.
- 2207 (3) (a) If an individual under 18 years old is requested to attempt a purchase, a written
2208 consent of that individual's parent or guardian shall be obtained before the individual
2209 participates in any attempted purchase.
- 2210 (b) An individual requested by the peace officer to attempt a purchase may:
- 2211 (i) be a trained volunteer; or
- 2212 (ii) receive payment, but may not be paid based on the number of successful purchases
2213 of alcohol, tobacco products, electronic cigarette products, ~~[or]~~ nicotine products, or
2214 cannabinoid products that contain THC or a THC analog.
- 2215 (4) The individual requested by the peace officer to attempt a purchase and anyone
2216 accompanying the individual attempting a purchase may use false identification in attempting
2217 the purchase if:
- 2218 (a) the Department of Public Safety created in Section 53-1-103 provides the false
2219 identification;
- 2220 (b) the false identification:
- 2221 (i) accurately represents the individual's age; and
- 2222 (ii) displays a current photo of the individual; and
- 2223 (c) the peace officer maintains possession of the false identification at all times outside
2224 the attempt to purchase.
- 2225 (5) An individual requested to attempt to purchase or make a purchase pursuant to this
2226 section is immune from prosecution, suit, or civil liability for the purchase of, attempted
2227 purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product, ~~[or]~~ a
2228 nicotine product, or a cannabinoid product that contains THC or a THC analog if a peace
2229 officer directs, supervises, and monitors the individual.
- 2230 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section
2231 shall be conducted within a 12-month period:
- 2232 (i) on a random basis at any one retail establishment location, not more often than four
2233 times for the attempted purchase of alcohol; ~~[and]~~

2234 (ii) a minimum of two times at a retail establishment that sells tobacco products,
2235 electronic cigarette products, or nicotine products for the attempted purchase of a tobacco
2236 product, an electronic cigarette product, or a nicotine product[-]; and

2237 (iii) a minimum of one time at a retail establishment that sells a cannabinoid product
2238 that contains THC or a THC analog.

2239 (b) This section does not prohibit an investigation or an attempt to purchase alcohol, a
2240 tobacco product, an electronic cigarette product, or a nicotine product under this section if:

2241 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a
2242 tobacco product, an electronic cigarette product, [~~or~~] a nicotine product, or a cannabinoid
2243 product that contains THC or a THC analog to an individual under the age established by
2244 Section 32B-4-403, [~~or~~] Section 76-10-114, or Subsection 4-41-105(2)(d); and

2245 (ii) the supervising peace officer makes a written record of the grounds for the
2246 reasonable suspicion.

2247 (7) (a) The peace officer exercising direction, supervision, and monitoring of the
2248 attempted purchase shall make a report of the attempted purchase, whether or not a purchase
2249 was made.

2250 (b) The report required by this Subsection (7) shall include:

2251 (i) the name of the supervising peace officer;

2252 (ii) the name of the individual attempting the purchase;

2253 (iii) a photograph of the individual attempting the purchase showing how that
2254 individual appeared at the time of the attempted purchase;

2255 (iv) the name and description of the cashier or proprietor from whom the individual
2256 attempted the purchase;

2257 (v) the name and address of the retail establishment; and

2258 (vi) the date and time of the attempted purchase.

2259 **Section 25. Effective date.**

2260 (1) Except as provided in Subsection (2), this bill takes effect on January 1, 2025.

2261 (2) The actions affecting the following sections take effect on May 1, 2024:

2262 (a) Section 4-41-102;

2263 (b) Section 4-41-103.4;

2264 (c) Section 4-41-105;

- 2265 (d) Section 4-41-106;
- 2266 (e) Section 26A-1-114;
- 2267 (f) Section 58-37-2; and
- 2268 (g) Section 58-37-3.6.