

Senator Mark B. Madsen proposes the following substitute bill:

**MEDICAL CANNABIS ACT**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark B. Madsen**

House Sponsor: Gage Froerer

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**LONG TITLE**

**General Description:**

This bill modifies and enacts provisions related to medical cannabis.

**Highlighted Provisions:**

This bill:

▶ allows an individual with a qualifying illness who registers with the Department of Health to possess and use, under certain circumstances, ~~§~~ [cannabis,] ~~←§~~ a cannabis product ~~§~~ [ ] ~~←§~~ or a medical cannabis device;

▶ directs the Department of Health, the Department of Agriculture and Food, the Department of Public Safety, and the Department of Technology Services to:

- determine the function and operation of a state electronic verification system;

and

- select a third party provider to develop and maintain the state electronic verification system;

▶ directs the Department of Health to issue:

- a license to operate a cannabis dispensary to a person who meets certain qualifications; and

- to an individual who meets certain qualifications, a registration card to act as an agent of a cannabis dispensary;



26           ▶ directs the Department of Agriculture and Food to issue, to a person who meets  
27 certain qualifications, a license to operate a cannabis production establishment,  
28 including:

- 29           • a cannabis cultivation facility;
- 30           • a cannabis processing facility; or
- 31           • an independent cannabis testing laboratory;

32           ▶ directs the Department of Agriculture and Food to issue, to an individual who meets  
33 certain qualifications, a registration card to act as an agent of a cannabis production  
34 establishment;

35           ▶ directs the Department of Health to issue a medical cannabis card to an individual  
36 who meets the requirements of:

- 37           • a qualified patient;
- 38           • a parent or guardian of a minor who is a qualified patient; or
- 39           • a designated caregiver of a qualified patient;

40           ▶ allows a licensed cannabis dispensary to possess ~~§~~→ [cannabis,] ←~~§~~ a cannabis  
40a product ~~§~~→ [;] ←~~§~~ or a  
41 medical cannabis device, and to sell the ~~§~~→ [cannabis,] ←~~§~~ cannabis product ~~§~~→ [;] ←~~§~~ or  
41a medical

42 cannabis device to an individual with a medical cannabis card;

43           ▶ allows a licensed cannabis cultivation facility to grow cannabis, possess cannabis,  
44 and sell the cannabis to a licensed cannabis processing facility ~~§~~→ [or a licensed  
45 cannabis dispensary] ←~~§~~ ;

46           ▶ allows a licensed cannabis processing facility to possess cannabis, process cannabis  
47 into a cannabis product, and sell the cannabis product to a licensed cannabis  
48 dispensary;

49           ▶ allows a licensed independent cannabis testing laboratory to possess cannabis or a  
50 cannabis product for the purpose of testing the cannabis or cannabis product for  
51 content and safety;

52 ~~§~~→ [→] ~~preempts an ordinance enacted by a political subdivision regarding a medical~~  
53 ~~cannabis establishment;~~

54 ~~→] ~~provides that a licensed cannabis dispensary or licensed cannabis production~~~~  
55 ~~establishment may operate in a political subdivision as:~~

56 ~~→] ~~• a permitted use in an industrial, manufacturing, agriculture, or similar zone; and~~ ☉~~

57 ~~as a conditional use in a commercial or similar zone;~~  
 58 ~~provides that a licensed cannabis production establishment may operate in a~~  
 59 ~~political subdivision:~~

60 ~~as a permitted use in an industrial, manufacturing, agriculture, or similar zone;]~~ ←~~§~~

61 ▶ allows an individual driving with a measurable metabolite of cannabis to assert, as  
 62 an affirmative defense, that the individual used the cannabis pursuant to Utah law or  
 63 the law of another state;

64 ▶ prohibits a court from discriminating against a parent in a child custody case based  
 65 on the parent's lawful possession or use of ~~§~~→ [medical cannabis] a cannabis product ←~~§~~ ;

66 ▶ prohibits a peace officer or child welfare worker from removing a child from an  
 67 individual's home on the basis of the individual's lawful possession or use of ~~§~~→ a ←~~§~~  
 68 cannabis ~~§~~→ product ←~~§~~ ;

69 ~~§~~→ [~~prohibits a state or political subdivision employer from discriminating against a~~  
 70 ~~public employee because of the employee's lawful possession of or use of cannabis,~~  
 71 ~~a cannabis product, or a medical cannabis device.] ←~~§~~~~

72 ▶ imposes a tax on the sale of ~~§~~→ [cannabis,] ←~~§~~ a cannabis product ~~§~~→ [;] ←~~§~~ or a  
 72a medical cannabis  
 73 device at a cannabis dispensary;

74 ▶ exempts from sales and use tax the sale of ~~§~~→ [cannabis,] ←~~§~~ a cannabis product  
 74a ~~§~~→ [;] ←~~§~~ or a  
 75 medical cannabis device by a cannabis dispensary;

76 ▶ creates the Medical Cannabis Restricted Account, consisting of:

- 77 • proceeds of the medical cannabis tax;
- 78 • medical cannabis card application fees;
- 79 • cannabis dispensary application and licensing fees;
- 80 • cannabis production establishment application and licensing fees; and
- 81 • fines collected for violations of state medical cannabis law; and

82 ▶ repeals and replaces, after state medical cannabis regulation is implemented, the  
 83 Hemp Extract Regulation Act.

84 **Money Appropriated in this Bill:**

85 None

86 **Other Special Clauses:**

87 This bill provides a special effective date.

88 **Utah Code Sections Affected:**

89 AMENDS:

90 ~~§→ [—10-9a-104, as last amended by Laws of Utah 2013, Chapter 309~~

91 ~~—————17-27a-104, as last amended by Laws of Utah 2013, Chapter 309] ←§~~

92 **30-3-10**, as last amended by Laws of Utah 2014, Chapter 409

93 **41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333

94 **62A-4a-202.1**, as last amended by Laws of Utah 2012, Chapters 221 and 293

95 **63I-1-226**, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258

96 **63I-1-258**, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,

97 and 432

98 **78A-6-508**, as last amended by Laws of Utah 2014, Chapter 409

99 ENACTS:

100 **4-42-101**, Utah Code Annotated 1953

101 **4-42-102**, Utah Code Annotated 1953

102 **4-42-103**, Utah Code Annotated 1953

103 ~~§→ [—4-42-104, Utah Code Annotated 1953] ←§~~

104 **4-42-201**, Utah Code Annotated 1953

105 **4-42-202**, Utah Code Annotated 1953

106 **4-42-203**, Utah Code Annotated 1953

107 **4-42-301**, Utah Code Annotated 1953

108 **4-42-302**, Utah Code Annotated 1953

109 **4-42-303**, Utah Code Annotated 1953

110 **4-42-401**, Utah Code Annotated 1953

111 **4-42-402**, Utah Code Annotated 1953

112 **4-42-403**, Utah Code Annotated 1953

113 **4-42-404**, Utah Code Annotated 1953

114 ~~§→ [—4-42-405, Utah Code Annotated 1953] ←§~~

115 **4-42-501**, Utah Code Annotated 1953

116 **4-42-601**, Utah Code Annotated 1953

117 **4-42-602**, Utah Code Annotated 1953

118 **4-42-603**, Utah Code Annotated 1953

- 119           4-42-701, Utah Code Annotated 1953
- 120           4-42-702, Utah Code Annotated 1953
- 121           4-42-801, Utah Code Annotated 1953
- 122           26-58-101, Utah Code Annotated 1953
- 123           26-58-102, Utah Code Annotated 1953
- 124    ~~§→ [26-58-103, Utah Code Annotated 1953] ←§~~
- 125           26-58-104, Utah Code Annotated 1953
- 126           26-58-105, Utah Code Annotated 1953
- 127           26-58-106, Utah Code Annotated 1953
- 128           26-58-107, Utah Code Annotated 1953
- 129           26-58-108, Utah Code Annotated 1953
- 130           26-58-109, Utah Code Annotated 1953
- 131    ~~§→ [26-58-110, Utah Code Annotated 1953] ←§~~
- 132           26-58-201, Utah Code Annotated 1953
- 133           26-58-202, Utah Code Annotated 1953
- 134           26-58-203, Utah Code Annotated 1953
- 135           26-58-204, Utah Code Annotated 1953
- 136           26-58-301, Utah Code Annotated 1953
- 137           26-58-302, Utah Code Annotated 1953
- 138           26-58-303, Utah Code Annotated 1953
- 139           26-58-304, Utah Code Annotated 1953
- 140           26-58-401, Utah Code Annotated 1953
- 141           26-58-402, Utah Code Annotated 1953
- 142           26-58-403, Utah Code Annotated 1953
- 143           26-58-501, Utah Code Annotated 1953
- 144           26-58-502, Utah Code Annotated 1953
- 145           26-58-503, Utah Code Annotated 1953
- 146           26-58-504, Utah Code Annotated 1953
- 147           26-58-505, Utah Code Annotated 1953
- 148    ~~§→ [26-58-506, Utah Code Annotated 1953] ←§~~
- 149           26-58-601, Utah Code Annotated 1953

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

214 (14) "Independent cannabis testing laboratory agent" means an individual who is an  
215 owner, officer, director, board member, employee, or volunteer of an independent cannabis  
216 testing laboratory.

217 (15) "Inventory control system" means the system described in Section 4-42-103.

218 (16) "Medical cannabis card" means the same as that term is defined in Section  
219 26-58-102.

220 (17) "Medical Cannabis Restricted Account" means the account created in Section  
221 26-58-109.

222 (18) "Physician" means the same as that term is defined in Section 26-58-201.

223 (19) "State electronic verification system" means the system described in Section  
224 26-58-104.

225 Section 3. Section **4-42-103** is enacted to read:

226 **4-42-103. Inventory control system.**

227 (1) A cannabis production establishment and a cannabis dispensary shall maintain an  
228 inventory control system that meets the requirements of this section.

229 (2) An inventory control system shall track cannabis, using a unique identifier, in real  
230 time, from the point that a cannabis plant is eight inches tall, and has a root ball, until the  
231 cannabis is sold, in the form of ~~§~~→ [~~unprocessed cannabis or~~] ←~~§~~ a cannabis product, to an  
231a individual  
232 with a medical cannabis card.

233 (3) An inventory control system shall store in real time a record of the amount of  
234 cannabis and cannabis products in the cannabis production establishment's or cannabis  
235 dispensary's possession.

236 (4) An inventory control system shall include a video recording system that:

237 (a) tracks all handling and processing of cannabis or a cannabis product in the cannabis  
238 production establishment or cannabis dispensary;

239 (b) is tamper proof;

240 (c) is capable of storing a video record for 45 days.

241 (5) An inventory control system installed in a cannabis production establishment or  
242 cannabis dispensary shall maintain compatibility with the state electronic verification system.

243 (6) A cannabis production establishment or cannabis dispensary shall allow the  
 244 department or The Department of Health access to the cannabis production establishment's or  
 245 cannabis dispensary's inventory control system during an inspection.

246 (7) The department may establish compatibility standards for an inventory control  
 247 system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
 248 Rulemaking Act.

249 ~~§→ [Section 4. Section 4-42-104 is enacted to read:~~

250 ~~—— 4-42-104. Preemption.~~

251 ~~—— This chapter preempts any ordinance enacted by a political subdivision of the state~~  
 252 ~~regarding a cannabis production establishment.] ←§~~

253 ~~§→ [Section 5.] Section 4. ←§~~ Section 4-42-201 is enacted to read:

254 **Part 2. Cannabis Production Establishment**

255 **4-42-201. Cannabis production establishment -- License.**

256 (1) In order to operate a cannabis production establishment, a person shall obtain a  
 257 license issued by the department under this chapter.

258 (2) Subject to Subsections (6) and (7), the department shall, within 30 days after  
 259 receiving a complete application, issue a license to operate a cannabis production establishment  
 260 to a person who submits to the department:

261 (a) a proposed name, address, and physical location where the person will operate the  
 262 cannabis production establishment;

263 (b) an operating plan that complies with Section [4-42-203](#);

264 (c) evidence that the person possesses or controls a minimum of \$250,000 in liquid  
 265 assets for each license for which the person applies;

266 (d) for each location of a cannabis production establishment for which the person  
 267 applies, a complete application for a local business license;

268 (e) an application fee:

269 (i) before January 1, 2017, of \$2,500; and

270 (ii) after January 1, 2017, in an amount established by the department in accordance  
 271 with Section [63J-1-504](#), that is necessary to cover the department's cost to implement this  
 272 chapter; and

273 (f) the result of a criminal background check for each proposed cannabis production

- 460 (b) maintains a record of the individual's access.
- 461 (4) A cannabis production establishment shall operate in a facility that has:
- 462 (a) no exterior signage that indicates the type of business;
- 463 (b) a single, secure public entrance;
- 464 (c) a security system with a backup power source that:
- 465 (i) detects and records entry into the cannabis production establishment during business

466 hours; and

467 (ii) provides notice of an unauthorized entry to law enforcement when the cannabis  
468 production establishment is closed; and

469 (d) a locked and reinforced area where the cannabis production establishment stores  
470 cannabis or a cannabis product.

470a **§→ (5) A cannabis production establishment may not operate:**

470b **(a) within 600 feet of a community location, as defined in Section 32B-1-102, that is**  
470c **not a public or private school; or**

470d **(b) within 1000 feet of a public or private school. ←§**

471 Section 12. Section **4-42-402** is enacted to read:

472 **4-42-402. Inspections.**

473 (1) Subject to Subsection (2), the department shall inspect the records and facility of a  
474 cannabis production establishment in order to determine if the cannabis production  
475 establishment complies with the licensing requirements of this chapter.

476 (2) The department may inspect the records and facility of a cannabis production  
477 establishment §→ [:

478 —— (a) up to three scheduled times per year;

479 —— (b) up to as one unscheduled time per year; and

480 —— (c) if the department has reason to believe that the cannabis production establishment  
481 has violated the law,] ←§ at any time, scheduled or unscheduled.

482 Section 13. Section **4-42-403** is enacted to read:

483 **4-42-403. Advertising.**

484 (1) A cannabis production establishment may not advertise to the general public in any  
485 medium.

486 (2) Notwithstanding Subsection (1), a cannabis production establishment may advertise  
487 employment opportunities at the cannabis production facility.

488 Section 14. Section **4-42-404** is enacted to read:

489 **4-42-404. Cannabis, cannabis product, or medical cannabis device transportation.**

490 (1) Except for an individual or a designated caregiver with a medical cannabis card



491 who possesses cannabis or a cannabis product in accordance with Section 26-58-204, an  
 492 individual may only transport cannabis, a cannabis product, or a cannabis device between  
 493 cannabis production establishments or between a cannabis production establishment and a  
 494 cannabis dispensary if the individual is:

495 (a) a registered cannabis production establishment agent; or

496 (b) a registered cannabis dispensary agent.

497 (2) An individual transporting cannabis, a cannabis product, or a medical cannabis  
 498 device shall possess a transportation manifest that:

499 (a) includes a unique identifier that links the cannabis, cannabis product, or medical  
 500 cannabis device to a related inventory control system;

501 (b) includes origin and destination information for any cannabis, cannabis product, or  
 502 medical cannabis device the individual is transporting; and

503 (c) indicates the departure and arrival times and locations of the individual transporting  
 504 the cannabis, cannabis product, or medical cannabis device.

505 (3) In addition to the requirements in Subsections (1) and (2), the department may  
 506 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
 507 Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical  
 508 cannabis device that are related to safety for human consumption of cannabis or cannabis  
 509 products.

510 (4) A cannabis production establishment agent registered with the department is guilty  
 511 of an infraction if the registered cannabis production establishment agent:

512 (a) transports cannabis, a cannabis product, or a medical cannabis device; and

513 (b) does not possess, on the registered cannabis production establishment agent's  
 514 person or in the transport vehicle, a manifest that complies with Subsection (3).

515 (5) A registered cannabis production establishment agent who is guilty of an infraction  
 516 under Subsection (3) is subject to a \$100 fine.

517 **§→ [Section 15. Section 4-42-405 is enacted to read:**

518 ~~4-42-405. Zoning.~~

519 ~~(1) A municipality or local government may not enact a zoning ordinance that prohibits~~  
 520 ~~a cannabis production establishment from operating in a location within the municipality's or~~  
 521 ~~local government's jurisdiction, on the sole basis that the cannabis production establishment is~~ ✪

522 ~~a cannabis production establishment.~~

523 ~~—— (2) A municipality or local government shall allow a cannabis production~~  
524 ~~establishment to operate as a permitted use in an agricultural, an industrial, or a manufacturing~~  
525 ~~zone, or in a zone that allows for similar uses.] ←§~~

526 ~~§→ [Section 16.] Section 15. ←§~~ Section 4-42-501 is enacted to read:

527 **Part 5. Cannabis Cultivation Facility Operating Requirements**

528 **4-42-501. Cannabis cultivation facility -- Operating requirements.**

529 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the  
530 cannabis cultivation facility is screened from view at the cannabis cultivation facility perimeter.

531 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the  
532 cannabis cultivation facility's inventory control system for:

533 (a) beginning at the time a cannabis plant is 8 inches tall and has a root ball, each  
534 cannabis plant;

535 (b) each unique harvest of cannabis plants; and

536 (c) each batch of cannabis transferred to a cannabis dispensary, a cannabis processing  
537 facility, or an independent cannabis testing laboratory.

538 (4) The department shall review a cannabis cultivation facility's operating plan  
539 submitted under Section 4-42-203 for the purpose of ensuring that the cannabis that a  
540 cultivation facility cultivates is safe for human use.

541 ~~§→ [Section 17.] Section 16. ←§~~ Section 4-42-601 is enacted to read:

542 **Part 6. Cannabis Processing Facility Operating Requirements**

543 **4-42-601. Cannabis processing facility -- Operating requirements -- General.**

544 (1) A cannabis processing facility shall ensure that a cannabis product that the cannabis  
545 processing facility sells or provides to a cannabis dispensary complies with the requirements of  
546 this part.

547 (2) If a cannabis processing facility extracts cannabinoids from cannabis using a  
548 hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a  
549 blast hood.

550 (3) The department shall review a cannabis processing facility's operating plan  
551 submitted under Section 4-42-203 for the purpose of ensuring that a cannabis product that the  
552 cannabis processing facility produces is safe for human consumption.

553 Section 18. Section **4-42-602** is enacted to read:

554 **4-42-602. Cannabis product -- Labeling and packaging.**

555 (1) A cannabis product shall have a label that:

556 (a) clearly and unambiguously states that the cannabis product contains cannabis;

557 (b) clearly displays:

558 (i) the total amount of cannabinoids by weight in the cannabis product; ~~§~~ → [and] ← ~~§~~

559 (ii) the cannabinoid profile of the cannabis product; ~~§~~ → and

559a (iii) **the number of doses, and the milligrams in each dose, in the cannabis product;** ← ~~§~~

560 (c) has a unique batch identifier that is connected to the cannabis processing facility's

561 inventory control system.

562 (d) identifies the cannabinoid extraction method that the cannabis processing facility

563 used to create the cannabis product;

564 (e) if the cannabis processing facility used a hydrocarbon extraction process to create

565 the cannabis product, a certification that the product contains a level of residual solvents that is

566 safe for human consumption;

567 (f) does not display images, words, or phrases that are:

568 (i) intended to appeal to children; or

569 (ii) similar to words or phrases used on candy labels; and

570 (g) certifies that the cannabis product is free from microbiological contaminants.

571 (2) A cannabis processing facility shall package a cannabis product in a container that:

572 (a) is tamper evident;

573 (b) is not appealing to children or similar to a candy container;

574 (c) is opaque; and

575 (d) complies with the industry child-resistant effectiveness standard known as F4.

576 Section 19. Section **4-42-603** is enacted to read:

577 **4-42-603. Cannabis product -- Product quality.**

578 (1) A cannabis processing facility may not produce a cannabis product in a physical

579 form that:

580 (a) is intended to appeal to children; or

581 (b) is designed to mimic or be mistaken for an existing candy product.

582 (2) A cannabis processing facility may not manufacture a cannabis product by applying

583 a cannabis agent only to the surface of a pre-manufactured food product that is not produced by

584 the cannabis processing facility.

585 (3) A cannabis product may vary in the cannabis product's labeled cannabis profile by  
586 up to 15% of the indicated amount of a given cannabinoid, by weight.

587 (4) The department shall adopt, by rule made in accordance with Title 63G, Chapter 3,  
588 Utah Administrative Rulemaking Act, human consumption safety standards for a cannabis  
589 product that are consistent, to the extent possible, with standards adopted by the United States  
590 Food and Drug Administration for products that are similarly applied or ingested.

591 Section 20. Section **4-42-701** is enacted to read:

592 **Part 7. Independent Cannabis Testing Laboratories**

593 **4-42-701. Cannabis and cannabis product testing.**

594 (1) An independent cannabis testing laboratory shall, before ~~§~~ **[cannabis-or]** ~~←§~~ a  
594a cannabis  
595 product is offered for sale at a cannabis dispensary, accurately test and certify the ~~§~~ **[cannabis-or]** ~~←§~~  
596 cannabis product as provided in this section.

597 (2) An independent cannabis testing laboratory shall determine the cannabinoid profile  
598 of ~~§~~ **[cannabis-or]** ~~←§~~ a cannabis product.

599 (3) An independent cannabis testing laboratory shall determine if ~~§~~ **[cannabis-or]** ~~←§~~ a  
600 cannabis product contains, in an amount that is harmful to human health:

- 601 (a) mold;
- 602 (b) fungus;
- 603 (c) pesticides; or
- 604 (d) microbial contaminants.

605 (4) For a cannabis product that is manufactured using a process that involves extraction  
606 using hydrocarbons, an independent cannabis testing laboratory shall test the cannabis product  
607 for an unhealthy level of a residual solvent.

608 (5) The department may determine, by rule made in accordance with Title 63G,  
609 Chapter 3, Utah Administrative Rulemaking Act, the amount that is safe for human  
610 consumption of:

- 611 (a) a substance described in Subsection (3); and
- 612 (b) a residual solvent.

613 Section 21. Section **4-42-702** is enacted to read:

614 **4-42-702. Reporting -- Inspections -- Seizure by the department.**

615 (1) If an independent cannabis testing laboratory determines that the results of a lab test  
 616 indicate that a ~~§~~ [cannabis or] ~~§~~ cannabis product batch may be unsafe for human  
 616a consumption:  
 617 (a) the independent cannabis testing laboratory shall report the results and the ~~§~~ [cannabis  
 618 or] ~~§~~ cannabis product batch simultaneously to:  
 619 (i) the department; and  
 620 (ii) the cannabis production establishment that prepared the ~~§~~ [cannabis or] ~~§~~ cannabis  
 621 product batch;  
 622 (b) retain possession of the ~~§~~ [cannabis or] ~~§~~ cannabis product batch for one week in  
 622a order to  
 623 investigate the cause of the defective batch and to make a determination; and  
 624 (c) allow the cannabis production establishment that prepared the ~~§~~ [cannabis or] ~~§~~  
 624a cannabis  
 625 product batch to appeal the determination described in Subsection (1)(b), and, if necessary  
 626 following the appeal, allow the independent cannabis testing laboratory to retest the ~~§~~ [cannabis  
 626a or] ~~§~~  
 627 cannabis product batch.  
 628 (2) If, under Subsection (1)(b), the department determines, following an appeal, that a  
 629 ~~§~~ [cannabis or] ~~§~~ cannabis product prepared by a cannabis production establishment is unsafe  
 629a for  
 630 human consumption, the department may seize, embargo, or destroy a ~~§~~ [cannabis or] ~~§~~  
 630a cannabis  
 631 product batch.

632 Section 22. Section **4-42-801** is enacted to read:

### 633 **Part 8. Enforcement**

#### 634 **4-42-801. Enforcement -- Fine -- Citation.**

635 (1) For a violation of the licensing provisions of this chapter by a person that is a  
 636 cannabis production establishment or a cannabis production establishment agent:  
 637 (a) revoke the person's cannabis production establishment license or cannabis  
 638 production establishment agent registration card;  
 639 (b) refuse to renew the person's license or registration; or  
 640 (c) assess the person an administrative penalty.  
 641 (2) The department shall deposit an administrative penalty imposed under this section  
 642 in the Medical Cannabis Restricted Account.  
 643 (3) (a) The department may take an action described in Subsection (3)(b) if the  
 644 department concludes, upon inspection or investigation, that, for a person that is a cannabis  
 645 production establishment or a cannabis production establishment agent:

646 (i) the person has violated the provisions of this chapter, a rule made under this  
647 chapter, or an order issued under this chapter; or

648 (ii) the person produced ~~§~~→ [cannabis or] ←~~§~~ a cannabis product batch that a test shows  
648a contains

649 a contaminant described in Section [4-42-701](#).

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

652 (i) issue the person a written citation;

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

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

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

658 (i) seize, embargo, or destroy the cannabis or cannabis product batch as described in  
659 Subsection [4-42-702](#)(2); and

660 (ii) direct the person to appear before an adjudicative proceeding conducted under Title  
661 63G, Chapter 4, Administrative Procedures Act.

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

664 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to  
665 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance  
666 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

667 (b) order the person to cease and desist from, and cure, the action that creates a  
668 violation.

669 (5) The department may not revoke a cannabis production establishment's license via a  
670 citation.

671 (6) If within 20 calendar days after the day on which a department serves a citation for  
672 a violation of this chapter, the person that is the subject of the citation fails to request a hearing  
673 to contest the citation, the department shall use the citation as the basis for the department's  
674 final order.

675 (7) The department may, for a person who fails to cure the violation that the basis is for  
676 the citation under this section:

677 (a) refuse to issue or renew the person's license or cannabis production  
678 agent registration card; or

679 (b) suspend, revoke, or place on probation the person's license or cannabis production  
680 establishment registration card.

681 Section 23. Section **10-9a-104** is amended to read:

682 **10-9a-104. Stricter requirements.**

683 (1) Except as provided in Subsection (2), a municipality may enact an ordinance  
684 imposing stricter requirements or higher standards than are required by this chapter.

685 (2) A municipality may not impose stricter requirements or higher standards than are  
686 required by:

687 ~~§→ [(a) Section 4-42-405;~~

688 ~~— [ (a) [(b)] ←§ Section 10-9a-305; §→ [f] and [f]~~

689 ~~— [ (b) [(c)] ←§ Section 10-9a-514 §→ [f] . [f]; and~~

690 ~~— (d) Section 26-58-506.] ←§~~

691 Section 24. Section **17-27a-104** is amended to read:

692 **17-27a-104. Stricter requirements.**

693 (1) Except as provided in Subsection (2), a county may enact an ordinance imposing  
694 stricter requirements or higher standards than are required by this chapter.

695 (2) A county may not impose stricter requirements or higher standards than are  
696 required by:

697 ~~§→ [(a) Section 4-42-405;~~

698 ~~— [ (a) [(b)] ←§ Section 17-27a-305; §→ [f] and [f]~~

699 ~~— [ (b) [(c)] ←§ Section 17-27a-513 §→ [f] . [f]; and~~

700 ~~— (d) Section 26-58-506.] ←§~~

701 Section 25. Section **26-58-101** is enacted to read:

702 **CHAPTER 58. MEDICAL CANNABIS ACT**

703 **Part 1. General Provisions**

704 **26-58-101. Title.**

705 This chapter is known as "Medical Cannabis Act."

706 Section 26. Section **26-58-102** is enacted to read:

707 **26-58-102. Definitions.**

739 in Section 4-42-102.

740 (13) "Inventory control system" means the system described in Section 4-42-103.

741 (14) "Medical cannabis card" means an official, tamper proof document or card, issued  
742 by the department to an individual with a qualifying illness or the individual's designated  
743 caregiver under this chapter, that is connected to the electronic verification system.

744 (15) "Medical cannabis device" means the same as that term is defined in Section  
745 58-37-3.6(1)(b).

746 (16) "Medical Cannabis Restricted Account" means the account created in Section  
747 26-58-109.

748 (17) "Participating entity" means:

749 (a) the Department of Agriculture and Food;

750 (b) the Department of Health; and

751 (c) the Department of Technology Services.

752 (18) "Physician" means an individual who is qualified to recommend cannabis under  
753 Section 26-58-207.

754 (19) "Qualifying illness" means a condition described in Section 26-58-105.

755 (20) "State electronic verification system" means the system described in Section  
756 26-58-104.

757 **§→ [Section 27. Section 26-58-103 is enacted to read:**

758 ~~26-58-103. Preemption.~~

759 ~~This chapter preempts any ordinance enacted by a political subdivision of the state that~~  
760 ~~regulates a cannabis dispensary.] ←§~~

761 **§→ [Section 28.] Section 27. ←§ Section 26-58-104 is enacted to read:**

762 **26-58-104. Electronic verification system.**

763 (1) The Department of Agriculture and Food, the Department of Health, the  
764 Department of Public Safety, and the Department of Technology Services shall:

765 (a) enter into a memorandum of understanding in order to determine the function and  
766 operation of an electronic verification system;

767 (b) coordinate with the Division of Purchasing under Title 63G, Chapter 6a, Utah  
768 Procurement Code, to develop a request for proposals for a third party provider to develop and  
769 maintain an electronic verification system in coordination with the Department of Technology



770 Services; and

771 (c) select a third party provided described in Subsection (1)(b).

772 (2) The electronic verification system described in Subsection (1) shall:

773 (a) allow an individual, with the individual's physician in the physician's office, to

774 apply for a medical cannabis card;

775 (b) allow a physician to:

776 (i) electronically recommend, during a visit with a patient, treatment with ~~§~~→ [cannabis or] ←~~§~~ a  
777 cannabis product for the patient; and

778 (ii) see, on a screen where the physician inputs a recommendation, simultaneously  
779 while the physician inputs the recommendation, the patient's cannabis dispensing history;

780 (c) issue a medical cannabis card to an individual if the individual meets the  
781 requirements described in Section [26-58-201](#);

782 (d) issue to a designated caregiver, if the designated caregiver meets the requirements  
783 in Section [26-58-202](#), a medical cannabis card on behalf of a named patient;

784 (e) connect with an inventory control system used by each cannabis dispensary and  
785 cannabis production establishment to track, in real time, for the purchase of ~~§~~→ [cannabis or] ←~~§~~ a  
786 cannabis product by a medical cannabis card holder:

787 (i) the time and date of the purchase;

788 (ii) the quantity and type of ~~§~~→ [cannabis or a] ←~~§~~ cannabis product purchased; and

789 (iii) any cannabis production establishment or cannabis dispensary that cultivated,  
790 processed, tested, or sold the ~~§~~→ [cannabis or] ←~~§~~ cannabis product;

791 (f) provide access to the Department of Health and the Department of Agriculture and  
792 Food to the extent necessary to carry out the Department of Health's and the Department of  
793 Agriculture and Food's functions and responsibilities under:

794 (i) this chapter; and

795 (ii) Title 4, Chapter 42, Cannabis Production Establishment;

796 (g) provide access to state or local law enforcement:

797 (i) during a traffic stop for the purpose of determining if the individual subject to the  
798 traffic stop is complying with state medical cannabis law; or

799 (ii) after obtaining a warrant;

800 (h) create a record each time a person accesses the database that identifies the person

801 who accesses the database and the individual whose records are accessed; and

802 (i) transmit an individual's ~~S~~→ [cannabis and] ←~~S~~ cannabis product purchase history to the  
 803 controlled substance database created in Section 58-37f-203.

804 (3) The Department of Health may release de-identified data collected by the system  
 805 under Subsection (2) for the purpose of conducting medical research.

806 Section 29. Section **26-58-105** is enacted to read:

807 **26-58-105. Qualifying illness.**

808 (1) For the purposes of this chapter, the following conditions are considered a  
 809 qualifying illness:

810 (a) HIV, acquired immune deficiency syndrome or an autoimmune disorder;

811 (b) Alzheimer's disease;

812 (c) amyotrophic lateral sclerosis;

813 (d) cancer, cachexia, or such condition manifest by physical wasting, nausea, or  
 814 malnutrition associated with chronic disease;

815 (e) Crohn's disease or a similar gastrointestinal disorder;

816 (f) epilepsy or a similar condition that causes debilitating seizures;

817 (g) multiple sclerosis or a similar condition that causes persistent and debilitating  
 818 muscle spasms;

819 (h) post-traumatic stress disorder related to military service; and

820 (i) chronic pain in an individual, if:

821 (A) a physician determines that the individual is at greater risk of becoming addicted  
 822 to, chemically dependent on, or overdosing on, opiate-based pain medication; or

823 (B) a physician determines that the individual is allergic to opiates, or is otherwise  
 824 medically unable to use opiates.

825 (2) In addition to the conditions described in Subsection (1), a condition approved  
 826 under Section 26-58-106, in an individual, on a case-by-case basis, is considered a qualifying  
 827 illness for the purposes of this chapter.

828 Section 30. Section **26-58-106** is enacted to read:

829 **26-58-106. Compassionate Use Board.**

830 (1) The department shall establish a Compassionate Use Board consisting of:

831 (a) five physicians who are knowledgeable about the medical use of cannabis and

832 certified in one of the following specialties:

833 (i) neurology;

834 (ii) pain medicine and pain management;

835 (iii) medical oncology;

836 (iv) psychiatry;

837 (v) infectious disease;

838 (vi) internal medicine; and

839 (vii) pediatrics; ~~§~~ [and] ~~←§~~

840 (b) the director of the Department of Health or the director's designee as a non-voting

841 member ~~§~~ [;] ; and

841a (c) **two medical research professionals with expertise in cannabinoids or a**

841b **qualifying illness, including one medical research professional who is affiliated with a**

841c **research-based higher education institution.** ~~←§~~

842 (2) The department shall appoint at least one member of the board who has a specialty  
843 in addiction medicine.

844 (3) (a) ~~§~~ [Two] Four ~~←§~~ of the members of the board first appointed shall serve for a  
844a term of three

845 years and ~~§~~ [two] three ~~←§~~ of the members of the board first appointed shall serve for a term of  
845a four years.

846 (b) After the first members' terms expire, members of the board shall serve for a term  
847 of four years and shall be eligible for reappointment.

848 (c) Any member of the board may serve until a successor is appointed.

849 (d) The director of the Department of Health or the director's designee shall serve as  
850 the nonvoting chair of the board.

851 (4) A quorum of the Compassionate Use Board shall consist of ~~§~~ [three] five ~~←§~~  
851a members.

852 (5) A member of the board may not receive compensation or benefits for the member's  
853 service, but may receive per diem and travel expenses in accordance with:

854 (a) Section [63A-3-106](#);

855 (b) Section [63A-3-107](#); and

856 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
857 [63A-3-107](#).

858 (6) The Compassionate Use Board shall:

859 (a) review and recommend to the department approval for an individual who is not  
860 otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for  
861 compassionate use if:

862 (i) the individual and the individual's physician appear before the board and offer, in

863 the board's discretion, satisfactory evidence that the individual suffers from a condition:

864 (A) that substantially impairs the individual's quality of life;

865 (B) that is intractable;

866 (C) that is not responsive to other treatments; and

867 (D) for which it is reasonably likely the condition will respond to treatment with  
868 cannabis.

869 (ii) the board determines it is in the best interest of the patient to allow the  
870 compassionate use of medical cannabis;

871 (b) meet to receive or review compassionate use petitions:

872 (i) quarterly, unless no petitions are pending; or

873 (ii) as often as necessary if there are more petitions than the board can receive or  
874 review during the board's regular schedule;

875 (c) report before November 1 of each year, to the Legislature's Health and Human  
876 Services Interim Committee, the number of compassionate use approvals the board issued  
877 during the past year and the types of conditions for which the board approved compassionate  
878 use; and

879 (d) evaluate whether the number of cannabis dispensaries in a geographic area meets  
880 the needs for a geographic area and recommend to the Legislature whether the number of  
881 cannabis dispensaries should be increased in a geographic area;

882 (e) evaluate physician variances under Subsection 26-58-107(5).

883 (6) The department shall review any compassionate use recommended by the board  
884 under this section to confirm if the board properly exercised the board's discretion under this  
885 section.

886 (7) If the department determines the board properly approved an individual for a  
887 compassionate use under this section, the department shall issue the individual a

887a **Ŝ→ provisional ←Ŝ** medical

888 cannabis card in accordance with this chapter **Ŝ→ [:] that is valid for one year. ←Ŝ**

889 (8) Any individually identifiable health information contained in a petition received  
890 under this section shall be a protected record in accordance with Title 63G, Chapter 2,  
891 Government Records Access and Management Act.

892 (9) The Compassionate Use Board shall, before November 1 of each year, recommend  
893 to the Legislature:

925 (viii) addiction medicine;  
 926 (b) appears before the Compassionate Use Board described in Section 26-58-106; and  
 927 (c) demonstrates, to the satisfaction of the board and with the department's approval,

928 that:

929 (i) the physician's practice has unique characteristics that warrant allowing the  
 930 physician to recommend cannabis to greater than 250 of the physician's patients; and

931 (ii) the physician has established expertise in medical cannabis.

932 (5) (a) Except as provided in Subsection (5)(b), a physician eligible to recommend  
 933 cannabis or a cannabis product under this section may not advertise that the physician  
 934 recommends cannabis or a cannabis product.

935 (b) A physician may advertise via a website that displays only:

936 (i) a green cross;

937 (ii) the physician's office's hours of operation;

938 (iii) the medical cannabis endorsement image described in Subsection (3)(c);

939 (iv) a qualifying illness that the physician treats;

940 (v) scientific studies regarding cannabis use; and

941 (vi) current studies on treatment with cannabis being conducted on patients.

942 Section 32. Section **26-58-108** is enacted to read:

943 **26-58-108. Standard of care -- Medical practitioners not liable -- No private right**  
 944 **of action -- Insurance coverage.**

945 (1) It is not a breach of the applicable standard of care for a physician to recommend  
 946 treatment with ~~§~~→ [cannabis or] ←~~§~~ a cannabis product to an individual under this chapter.

947 (2) A physician who recommends treatment with ~~§~~→ [cannabis or] ←~~§~~ a cannabis product  
 947a to an

948 individual in accordance with this chapter may not, based solely on the reason that the  
 949 recommendation is for ~~§~~→ [cannabis or] ←~~§~~ a cannabis product, be subject to:

950 (a) civil liability;

951 (b) criminal liability; or

952 (c) licensure sanctions under:

953 (i) Title 58, Chapter 67, Utah Medical Practice Act; or

954 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

955 (3) An insurance carrier, third-party administrator, or employer is not required to

956 provide reimbursement for ~~§~~→ [cannabis;] ←~~§~~ a cannabis product ~~§~~→ [.] ←~~§~~ or a medical  
 956a cannabis device, under  
 957 this chapter.

958 Section 33. Section ~~26-58-109~~ is enacted to read:

959 **26-58-109. Medical Cannabis Restricted Account -- Creation.**

960 (1) There is created in the General Fund a restricted account known as the "Medical  
 961 Cannabis Restricted Account."

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

963 (a) money deposited by the State Tax Commission under Title 59, Chapter 28, Medical  
 964 Cannabis Tax;

965 (b) money deposited into the account by the Department of Agriculture and Food under  
 966 Section [4-42-801](#);

967 (c) money deposited into the account by the department under Section [26-58-601](#);

968 (d) appropriations made to the account by the Legislature; and

969 (e) the interest described in Subsection (3).

970 (3) Interest earned on the account is deposited in the account.

971 (4) The money in the account may only be used to fund, upon appropriation, the state  
 972 licensing and regulation cost of the state medical cannabis program established in:

973 (a) Title 26, Chapter 58, Medical Cannabis Act;

974 (b) Title 4, Chapter 42, Cannabis Production Establishments; and

975 (c) Title 59, Chapter 28, Medical Cannabis Tax Act.

976 ~~§~~→ [~~Section 34. Section 26-58-110 is enacted to read:~~

977 ~~———— 26-58-110. Equal treatment of a public employee recommended cannabis, a~~  
 978 ~~cannabis product, or a medical cannabis device by a physician.~~

979 ~~———— (1) As used in this section, "public employee" means an individual who is employed by~~  
 980 ~~the state or a political subdivision of the state.~~

981 ~~———— (2) An employer of a public employee may not, in matters of employment, treat an~~  
 982 ~~individual who uses cannabis, a cannabis product, or a medical cannabis device in accordance~~  
 983 ~~with this chapter differently than the employer would treat a similarly situated individual who~~  
 984 ~~uses a doctor-prescribed medication that has a side effect that is similar to a cannabis or~~  
 985 ~~cannabis product side effect.~~] ←~~§~~

986 Section 35. Section ~~26-58-201~~ is enacted to read:

987 **Part 2. Medical Cannabis Card Registration**

988 **26-58-201. Medical cannabis card -- Application -- Fees -- Database.**

989 (1) The department shall:

- 990 (a) begin issuing medical cannabis cards under this section no later than December 1,  
 991 2016; and  
 992 (b) issue a medical cannabis card, via the electronic verification system, to an  
 993 individual who complies with this section no later than 45 days after the day on which the  
 994 individual submits a complete application.

995 (2) An individual is eligible for a medical cannabis card if the individual:

- 996 (a) is at least 18 years old;  
 997 (b) is a Utah resident; and  
 998 (c) recommended by the individual's physician under Subsection (5).  
 999 (3) An individual who is the parent or legal guardian of a minor is eligible for a  
 1000 medical cannabis card if:

- 1001 (a) the individual is at least 18 years old;  
 1002 (b) the individual is a Utah resident; and  
 1003 (c) recommended by the minor's physician under Subsection (5).  
 1004 (4) An individual who is eligible for a medical cannabis card under Subsection (2) or

1005 (3) shall submit an application for a medical cannabis card to the department:

- 1006 (a) with the recommending physician, in the recommending physician's office;  
 1007 (b) via an electronic application connected to the electronic verification system;  
 1008 (c) that includes:  
 1009 (i) the individual's name, gender, age, address, and for the purpose of being notified  
 1010 about a recall or a research study, the individual's contact information; and  
 1011 (ii) a copy of the individual's valid photo identification;

1012 (5) A physician who recommends treatment with medical cannabis to an individual or  
 1013 minor shall:

- 1014 (a) input in the physician's diagnosis that the individual suffers from a qualifying  
 1015 illness:  
 1016 (i) the type of qualifying illness; and  
 1017 (ii) a recommendation that the individual try ~~§~~ → [cannabis or] ← ~~§~~ a cannabis product; and

1018 (b) look up the individual in the controlled substance database created in Section  
1019 58-37f-201 to check for potential interactions or warning signs.

1020 (6) A medical cannabis card the department issues under this section is valid for the  
1021 lesser of:

1022 (a) an amount of time determined by the physician who recommends treatment with  
1023 §→ [cannabis or] ←§ a cannabis product Subsection (5); or

1024 (b) two years.

1025 (7) An individual may not ingest cannabis or a cannabis product:

1026 (a) in public view; or

1027 (b) while the individual operates a motor vehicle.

1028 (8) The department may revoke an individual's medical cannabis card if the individual  
1029 violates this chapter.

1030 (9) The department may establish procedures, by rule in accordance with Title 63G,  
1031 Chapter 3, Utah Administrative Rulemaking Act, to implement the medical cannabis card  
1032 application and issuance provisions of this Section.

1033 (10) (a) A person may submit, to the department, a request to conduct a medical  
1034 research study using medical cannabis cardholder data contained in the electronic verification  
1035 system.

1036 (b) The department shall review a request submitted under Subsection (10)(a) to  
1037 determine if the medical research study is valid.

1038 (c) If the department determines that a medical research study is valid under Subsection  
1039 (10)(b), the department shall notify a relevant medical cannabis cardholder asking for the  
1040 medical cannabis cardholder's participation in the study.

1041 (d) The department may release, for the purposes of a study, information about a  
1042 medical cannabis cardholder who consents to participation under Subsection (10)(c).

1043 (e) The department may establish standards for a medical research study's validity, by  
1044 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1045 Section 36. Section **26-58-202** is enacted to read:

1046 **26-58-202. Medical cannabis card --- Designated caregiver -- Registration --**  
1047 **Renewal -- Revocation.**

1048 (1) An individual may designate up to two individuals to serve as designated caregivers



1049 of the individual if:

1050 (a) the individual has a valid medical cannabis card under Section [26-58-201](#); and

1051 (b) a physician determines that, due to physical impossibility or undue hardship, the

1052 individual is unable to obtain ~~§~~ [\[cannabis or\]](#) ~~←§~~ a cannabis product from a cannabis dispensary.

1053 (2) An individual registered as a designated caregiver under this section may:

1054 (a) carry a valid medical cannabis card with the designated caregiver's name for the  
1055 purpose of transporting cannabis or a cannabis product to a designating patient or assisting a

1056 designating patient in administering the ~~§~~ [\[cannabis or\]](#) ~~←§~~ cannabis product; and

1057 (b) purchase and possess, in accordance with this chapter ~~§~~ [\[;cannabis\]](#) ~~←§~~, a cannabis  
1058 product ~~§~~ [\[;\]](#) ~~←§~~ or a medical cannabis device on behalf of the designating patient.

1059 (3) The department shall register an individual designated as a caregiver under

1060 Subsection (1) if the individual:

1061 (a) is at least 18 years old;

1062 (b) is a Utah resident;

1063 (c) applies online, with the department, through the electronic verification system, for a  
1064 medical cannabis card as a designated caregiver;

1065 (d) pays, to the department, a fee established by the department in accordance with  
1066 Section [63J-1-504](#), plus the cost of a criminal background check;

1067 (e) complies with Section [26-58-205](#); and

1068 (f) completes a training program for designated caregivers established by the  
1069 department that includes an endorsement that the individual understands state law for  
1070 caregivers.

1071 (4) The department shall issue, to an individual who registers under this section, a  
1072 medical cannabis card that:

1073 (a) is connected to the electronic verification system; and

1074 (b) includes the individual's name.

1075 (5) A medical cannabis card is renewable for a designated caregiver if, at the time of  
1076 renewal:

1077 (a) an individual with a medical cannabis card described in Subsection (1) renews the  
1078 caregiver's designation; and

1079 (b) the designated caregiver meets the requirements of Subsection (3).

1080 (6) A designated caregiver may charge an individual to act as the individual's  
1081 designated caregiver.

1082 (7) The Department of Health may revoke an individual's medical cannabis card if the  
1083 individual:

1084 (a) violates this chapter; or

1085 (b) is convicted of a felony that is:

1086 (i) a crime of involving the use of force or violence against another person; or

1087 (ii) a felony conviction of a state or federal law pertaining to controlled substances.

1088 Section 37. Section **26-58-203** is enacted to read:

1089 **26-58-203. Designated caregiver -- Criminal background check.**

1090 (1) An individual registered as a designated caregiver under Section [26-58-202](#) shall  
1091 submit to a criminal background check in accordance with Subsection (2).

1092 (2) Each designated caregiver shall:

1093 (a) submit, to the department, a fingerprint card in a form acceptable to the department  
1094 and the Department of Public Safety; and

1095 (b) consent to a fingerprint background check by:

1096 (i) the Utah Bureau of Criminal Identification; and

1097 (ii) the Federal Bureau of Investigation.

1098 (3) The Department of Public Safety shall complete a Federal Bureau of Investigation  
1099 Criminal Background Check for each designated caregiver under Subsection (2) and report the  
1100 results of the background check to the department.

1101 Section 38. Section **26-58-204** is enacted to read:

1102 **26-58-204. Medical cannabis card -- Patient and designated caregiver**  
1103 **requirements -- Rebuttable presumption.**

1104 (1) An individual who has a medical cannabis card and who possesses ~~§~~→ [cannabis or] ←~~§~~ a  
1105 cannabis product outside of the individual's residence shall:

1106 (a) carry, with the individual at all times, the individual's medical cannabis card; and

1107 (b) carry, with the ~~§~~→ [cannabis or] ←~~§~~ cannabis product, a label that identifies that the

1107a ~~§~~→ [cannabis

1108 or] ←~~§~~ cannabis product was originally sold from a department licensed cannabis dispensary,

1109 including the bar code or identification number that links the cannabis or cannabis product to

1110 the dispensary's inventory control system.

1111 (2) If an individual possesses  $\hat{S} \rightarrow$  [cannabis-or]  $\leftarrow \hat{S}$  a cannabis product in compliance with  
 1112 Subsection (1), or a medical cannabis device that corresponds with the  $\hat{S} \rightarrow$  [cannabis-or]  $\leftarrow \hat{S}$   
 1112a cannabis  
 1113 product:

1114 (a) there is a rebuttable presumption that the individual possesses the  $\hat{S} \rightarrow$  [cannabis,]  $\leftarrow \hat{S}$   
 1115 cannabis product  $\hat{S} \rightarrow$  [,]  $\leftarrow \hat{S}$  or medical cannabis device legally; and

1116 (b) a law enforcement officer does not have probable cause, based solely on the  
 1117 individual's possession of the  $\hat{S} \rightarrow$  [cannabis,]  $\leftarrow \hat{S}$  cannabis product  $\hat{S} \rightarrow$  [,]  $\leftarrow \hat{S}$  or medical  
 1117a cannabis device, to  
 1118 believe that the individual is engaging in illegal activity.

1119 (3) (a) If a law enforcement officer stops an individual who possesses  $\hat{S} \rightarrow$  [cannabis,]  $\leftarrow \hat{S}$  a  
 1120 cannabis product  $\hat{S} \rightarrow$  [,]  $\leftarrow \hat{S}$  or a medical cannabis device, and the individual represents to the law  
 1121 enforcement officer that the individual holds a valid medical cannabis card, but the individual  
 1122 does not have the medical cannabis card in the individual's possession at the time of the stop by  
 1123 the law enforcement officer, the law enforcement officer shall attempt to access the state  
 1124 electronic verification system to determine the individual's identity and whether the individual  
 1125 holds a valid medical cannabis card.

1126 (b) If the law enforcement officer is able to verify the identity of the individual  
 1127 described in Subsection (3)(a), and that the individual holds a valid medical cannabis card, the  
 1128 law enforcement officer:

1129 (i) may not arrest or take the individual into custody for the sole reason that the  
 1130 individual is in possession of  $\hat{S} \rightarrow$  [cannabis,]  $\leftarrow \hat{S}$  a cannabis product  $\hat{S} \rightarrow$  [,]  $\leftarrow \hat{S}$  or a medical  
 1130a cannabis device; and

1131 (ii) may not seize the  $\hat{S} \rightarrow$  [cannabis,]  $\leftarrow \hat{S}$  cannabis product  $\hat{S} \rightarrow$  [,]  $\leftarrow \hat{S}$  or medical  
 1131a cannabis device.

1132 (4) An individual who has a valid medical cannabis card is guilty of an infraction if the  
 1133 individual:

1134 (a) possesses  $\hat{S} \rightarrow$  [cannabis,]  $\leftarrow \hat{S}$  a cannabis product  $\hat{S} \rightarrow$  [,]  $\leftarrow \hat{S}$  or a medical cannabis  
 1134a device; and

1135 (b) (i) does not possess the individual's medical cannabis card on the individual's  
 1136 person; or

1137 (ii) does not possess a label that complies with Subsection (1)(b).

1138 (5) (a) Except as described in Subsection (5)(b), an individual who has a valid medical  
 1139 cannabis card is guilty of an infraction if the individual uses  $\hat{S} \rightarrow$  [cannabis,]  $\leftarrow \hat{S}$  a cannabis product

1139a     ~~§~~ [ ] ~~§~~ or a  
1140     medical cannabis device in public view.  
1141             (b) An individual may use ~~§~~ [cannabis,] ~~§~~ a cannabis product ~~§~~ [ ] ~~§~~ or a medical  
1141a     cannabis device

1204 **26-58-303. Operating plan.**

1205 (1) A person applying for a cannabis dispensary license shall submit to the department  
 1206 a proposed operation plan for the cannabis dispensary that complies with this section.

1207 (2) A cannabis dispensary's operating plan shall include:

1208 (a) a description of the physical characteristics of the proposed facility, including a  
 1209 floor plan and architectural elevations that indicate compliance with the requirements of this  
 1210 chapter;

1211 (b) a description of the credentials and experience of:

1212 (i) each officer, director, or owner of the proposed cannabis dispensary; and

1213 (ii) any highly skilled or experienced prospective employee;

1214 (c) the cannabis dispensary's employee training standards;

1215 (d) a security plan;

1216 (e) a banking plan;

1217 (f) a description of the cannabis dispensary's inventory control system, including a plan

1218 to make the inventory control system compatible with the state electronic verification system;

1219 and

1220 (g) that the cannabis processing facility has entered into a preliminary agreement to

1221 purchase with ~~§~~ [a cannabis cultivation facility in the state or] ~~←§~~ a cannabis processing facility

1221a in the

1222 state to purchase the ~~§~~ [cannabis or] ~~←§~~ a cannabis product that the cannabis dispensary intends

1222a to sell.

1223 Section 42. Section **26-58-304** is enacted to read:

1224 **26-58-304. Maximum number of licenses.**

1225 (1) The department may not issue more than the greater of, in each county in the state:

1226 (a) one cannabis dispensary license; or

1227 (b) an amount of cannabis dispensary licenses equal to the number of residents in the

1228 county divided by 200,000, rounded up to the nearest greater whole number.

1229 (2) If more than one applicant for a license in a geographic area meets the

1230 qualifications of this chapter for a cannabis dispensary, the department shall evaluate the

1231 applicants, and award the license to the applicant that best demonstrates:

1232 (a) experience with:

1233 (i) establishing and running a similar cannabis based business;

1234 (ii) operating a secure inventory control system;

- 1235 (iii) complying with a regulatory environment; and
- 1236 (iv) training, evaluating, and monitoring employees;
- 1237 (b) connections to the local community;
- 1238 (c) the extent to which the applicant can reduce the cost of ~~§~~ **[cannabis or]** ~~§~~ cannabis
- 1239 products to a patient; and
- 1240 (d) the extent to which the applicant's business plan reflects cannabis industry best
- 1241 practices.

1242 (3) The department may conduct a face-to-face interview with an applicant for a  
 1243 license that the department evaluates under Subsection (2).

1244 Section 43. Section **26-58-401** is enacted to read:

**Part 4. Cannabis Dispensary Agents**

**26-58-401. Cannabis dispensary agent -- Registration card.**

1247 (1) An individual may only act as a cannabis dispensary agent of a cannabis dispensary  
 1248 if the individual is registered by the department as a cannabis dispensary agent.

1249 (2) A physician may not act as a cannabis dispensary agent.

1250 (3) The department shall, within 30 days after receiving a complete application,  
 1251 register and issue a cannabis dispensary agent registration card to an individual who:

1252 (a) provides to the department:

1253 (i) the individual's name and address; and

1254 (ii) the name and location of the licensed cannabis dispensary where the individual  
 1255 seeks to act as the cannabis dispensary agent;

1256 (b) pays a fee to the department:

1257 (i) before January 1, 2017, of \$250; and

1258 (ii) on or after January 1, 2017, in an amount determined by the department in  
 1259 accordance with Section [63J-1-504](#), that is necessary to cover the department's cost to  
 1260 implement this part; and

1261 (c) complies with Section [26-58-402](#).

1262 (4) A cannabis dispensary agent shall comply with a certification standard developed  
 1263 by the department, or a third party certification standard approved by the department.

1264 (5) The certification standard described in Subsection (4) shall address:

1265 (a) Utah medical cannabis law;

1328 member of the press to access the cannabis dispensary if the cannabis dispensary:

1329 (a) tracks and monitors the individual at all times while the individual is at the  
1330 cannabis dispensary; and

1331 (b) maintains a record of the individual's access.

1332 (4) A cannabis dispensary shall operate in a facility that has:

1333 (a) a single, secure public entrance with a checkpoint;

1334 (b) a security system with a backup power source that:

1335 (i) detects and records entry into the cannabis dispensary during business hours; and

1336 (ii) provides notice of an unauthorized entry to law enforcement when the cannabis  
1337 dispensary is closed; and

1338 (c) a reinforced and locked area where the cannabis dispensary stores cannabis or a  
1339 cannabis product.

1340 (5) A cannabis dispensary shall post, clearly and conspicuously in the cannabis  
1341 dispensary, the limit on the purchase of cannabis described in Subsection 26-58-502(3).

1342 (6) A cannabis dispensary may not allow any individual to consume cannabis on the  
1343 property or premises of the establishment.

1344 (7) A cannabis dispensary may not, on an interior or exterior space, display or offer  
1345 anything that glorifies or trivializes cannabis or that promotes a recreational cannabis lifestyle.

1346 (8) A cannabis dispensary shall:

1347 (a) have a clinical, medical appearance; and

1348 (b) require any employee to wear a white lab coat.

1348a **Ŝ→ (9) A cannabis dispensary may not operate:**

1348b **(a) within 600 feet of a community location, as defined in Section 32B-1-102, that is**  
1348c **not a public or private school; or**

1348d **(b) within 1000 feet of a public or private school. ←Ŝ**

1349 Section 47. Section 26-58-502 is enacted to read:

1350 **26-58-502. Dispensing -- Amount a cannabis dispensary may dispense --**

1351 **Reporting -- Form of cannabis or cannabis product.**

1352 (1) A cannabis dispensary may only sell, subject to this chapter:

1353 **Ŝ→** ~~[(a) cannabis;~~

1354 ~~(b)] (a) ←Ŝ~~ a cannabis product;

1355 **Ŝ→** ~~[(c)] (b) ←Ŝ~~ a medical cannabis device; or

1356 **Ŝ→** ~~[(d)] (c) ←Ŝ~~ educational materials related to the medical use of cannabis.

1357 (2) A cannabis dispensary may only sell **Ŝ→** ~~[cannabis;] ←Ŝ~~ a cannabis product **Ŝ→** ~~[:] ←Ŝ~~

1357a or a medical

1358 cannabis device to an individual with a medical cannabis card issued by the department.

1359 (3) A cannabis dispensary may not dispense on behalf of any one individual with a  
 1360 medical cannabis card, in any one 30-day period ~~§~~ → [ ]

1361 ~~—— (a) an amount of unprocessed cannabis flower that exceeds 60 grams by weight; or~~  
 1362 ~~—— (b)]~~ ~~←§~~ an amount of cannabis products that contains, in total, greater than 10 grams of  
 1363 cannabinoids by weight.

1364 (4) An individual with a medical cannabis card may not purchase more ~~§~~ → [cannabis or] ~~←§~~  
 1365 cannabis products than the ~~§~~ → [amounts] amount ~~←§~~ designated in Subsection (3).

1366 (5) A designated caregiver designated by any individual with a medical cannabis card  
 1367 may not purchase, for the individual, an amount of ~~§~~ → [cannabis or] ~~←§~~ cannabis products that  
 1367a exceeds  
 1368 the ~~§~~ → [amounts] amount ~~←§~~ designated in Subsection (3).

1369 (6) A cannabis dispensary shall:

1370 (a) access the electronic verification system before dispensing ~~§~~ → [cannabis or] ~~←§~~ a  
 1370a cannabis  
 1371 product to an individual with a medical cannabis card in order to determine if the individual  
 1372 has already met the maximum amount of ~~§~~ → [cannabis or] ~~←§~~ cannabis products described in  
 1373 Subsection (3); and

1374 (b) submit a record to the electronic verification system each time the cannabis  
 1375 dispensary dispenses ~~§~~ → [cannabis or] ~~←§~~ a cannabis product to an individual with a medical  
 1375a cannabis  
 1376 card.

1377 (7) (a) Except as provided in Subsection (7)(b), a cannabis dispensary may not sell a  
 1378 cannabis product that is intentionally designed or fabricated to resemble a cigarette, or made to  
 1379 resemble or be mistaken for a cigarette.

1380 (b) A cannabis dispensary may sell a cannabis product with a thin, cylindrical  
 1381 configuration that warms ~~§~~ → [cannabis or cannabis extract] a cannabis product ~~←§~~ into a vapor  
 1381a that is ingested into an  
 1382 individual's respiratory system.

1383 (8) A cannabis dispensary may not sell a medical cannabis device that produces a vapor  
 1384 with an odor or flavor.

1385 (9) A cannabis dispensary may give to an individual with a medical cannabis card, at  
 1386 no cost, a product that the cannabis dispensary may sell under Subsection (1).

1387 Section 48. Section **26-58-503** is enacted to read:

1388 **26-58-503. Advertising and signage.**

1389 (1) Except as provided in Subsections (2) and (3) a cannabis dispensary may not



1390 advertise in any medium.

1391 (2) A cannabis dispensary may display signage on the outside of the cannabis  
1392 dispensary that includes only:

1393 (a) the cannabis dispensary's name and hours of operation; and

1394 (b) a green cross.

1395 (3) A cannabis dispensary may maintain a website that includes information about:

1396 (a) the location and hours of the cannabis dispensary;

1397 (b) the products and services available at the cannabis dispensary;

1398 (c) personnel affiliated with the cannabis dispensary;

1399 (d) best practices that the cannabis dispensary upholds;

1400 (e) educational materials related to the medical use of cannabis; and

1401 (f) employment opportunities with the cannabis dispensary.

1402 Section 49. Section **26-58-504** is enacted to read:

1403 **26-58-504. Inspections.**

1404 (1) The department shall inspect, in accordance with Subsection (2), a cannabis  
1405 dispensary's facility and records in order to determine if the cannabis dispensary complies with  
1406 the licensing requirements of this part.

1407 (2) The department may inspect the records and facility of a cannabis dispensary ~~§~~ → [:

1408 ~~— (a) as many as three scheduled times per year;~~

1409 ~~— (b) as many as one unscheduled time per year; and~~

1410 ~~— (c) ←§ at any time, scheduled or unscheduled~~ ~~§~~ → [; ~~if the department has reason to believe~~  
1410a ~~that~~

1411 ~~the cannabis dispensary has violated the law.] . ←§~~

1412 Section 50. Section **26-58-505** is enacted to read:

1413 **26-58-505. Cannabis, cannabis product, or medical cannabis device**  
1414 **transportation.**

1415 (1) Except for an individual or designated caregiver with a medical cannabis card who  
1416 possesses cannabis or a cannabis product in accordance with Section [26-58-204](#), an individual  
1417 may only transport cannabis, a cannabis product, or a cannabis device between cannabis  
1418 production establishments or between a cannabis production establishment and a cannabis  
1419 dispensary if the individual is:

1420 (a) a registered cannabis production establishment agent; or

1421 (b) a registered cannabis dispensary agent.

1422 (2) An individual transporting cannabis, a cannabis product, or a medical cannabis  
1423 device shall possess a transportation manifest that:

1424 (a) includes a unique identifier that links the cannabis, cannabis product, or medical  
1425 cannabis device to a related inventory control system;

1426 (b) includes origin and destination information for any cannabis, cannabis product, or  
1427 medical cannabis device the individual is transporting; and

1428 (c) indicates the departure and arrival times and locations of the individual transporting  
1429 the cannabis, cannabis product, or medical cannabis device.

1430 (3) In addition to the requirements in Subsections (1) and (2), the department may  
1431 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1432 Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical  
1433 cannabis device that reflect best practices for cannabis or cannabis product transportation for  
1434 safety for human cannabis or cannabis product consumption.

1435 (4) A cannabis dispensary agent registered with the department is guilty of an  
1436 infraction if the registered cannabis dispensary agent:

1437 (a) transports cannabis, a cannabis product, or a medical cannabis device; and

1438 (b) does not possess, on the registered cannabis dispensary agent's person or in the  
1439 transport vehicle, a manifest that complies with Subsection (3).

1440 (5) A registered cannabis dispensary agent who is guilty of an infraction under  
1441 Subsection (3) is subject to a fine of no more than \$100.

1442 Section 51. Section ~~26-58-506~~ is enacted to read:

1443 ~~§→ [26-58-506. Zoning.~~

1444 ~~———— (1) A municipality or local government may not enact a zoning ordinance that prohibits~~  
1445 ~~a cannabis dispensary from operating in a location within the municipality's or local~~  
1446 ~~government's jurisdiction, on the sole basis that the cannabis dispensary is a cannabis~~  
1447 ~~dispensary.~~

1448 ~~———— (2) A municipality or local government shall allow a cannabis dispensary to operate as:~~

1449 ~~———— (a) a permitted use in an agricultural, industrial, or manufacturing zone, or in a zone~~  
1450 ~~that allows for a similar use; and~~

1451 ~~———— (b) as a conditional use in a commercial zone or in a zone that allows for a similar use.] ←§~~

1545 physical custody or sole physical custody, but allows the court and the family the widest  
 1546 discretion to choose a parenting plan that is in the best interest of the child.

1547 (6) In considering the past conduct and demonstrated moral standards of each of the  
 1548 parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent  
 1549 because of the parent's possession or consumption of ~~§~~ [cannabis;] ~~←§~~ a cannabis product  
 1549a ~~§~~ [;] ~~←§~~ or a  
 1550 medical cannabis device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

1551 Section 54. Section **41-6a-517** is amended to read:

1552 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
 1553 **body -- Penalties -- Arrest without warrant.**

1554 (1) As used in this section:

1555 (a) "Controlled substance" has the same meaning as in Section [58-37-2](#).

1556 (b) "Practitioner" has the same meaning as in Section [58-37-2](#).

1557 (c) "Prescribe" has the same meaning as in Section [58-37-2](#).

1558 (d) "Prescription" has the same meaning as in Section [58-37-2](#).

1559 (2) In cases not amounting to a violation of Section [41-6a-502](#), a person may not  
 1560 operate or be in actual physical control of a motor vehicle within this state if the person has any  
 1561 measurable controlled substance or metabolite of a controlled substance in the person's body.

1562 (3) It is an affirmative defense to prosecution under this section that the controlled  
 1563 substance was:

1564 (a) involuntarily ingested by the accused;

1565 (b) prescribed by a practitioner for use by the accused; ~~[or]~~

1566 (c) ~~§~~ [cannabis or] ~~←§~~ a cannabis product that was:

1567 (i) not causing impairment; and

1568 (ii) (A) recommended by a physician to the accused, if the accused holds a valid  
 1569 medical cannabis card under Title 26, Chapter 58, Medical Cannabis Act; or

1570 (B) ingested by the accused in another state in which the use of ~~§~~ [cannabis or] ~~←§~~ a  
 1570a cannabis

1571 product is legal under state law; or

1572 ~~[(c)]~~ (d) otherwise legally ingested.

1573 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
 1574 misdemeanor.

1575 (b) A person who violates this section is subject to conviction and sentencing under

1669 Subsections (1)(b) and (1)(c).

1670 Section 56. Section **58-37-3.6** is enacted to read:

1671 **58-37-3.6. Exemption for possession or use of cannabis to treat a qualifying**  
 1672 **illness.**

1673 (1) As used in this section:

1674 (a) (i) "Cannabis" means the plant cannabis sativa.

1675 (ii) "Cannabis" includes marijuana.

1676 (b) "Cannabis dispensary" means the same as that term is defined in Section

1677 [26-58-102.](#)

1678 (c) "Cannabis product" means a product that:

1679 (i) is intended for human ingestion; ~~§~~ → [and] ← ~~§~~

1680 (ii) contains cannabis or extracted cannabinoids, including tetrahydrocannabinol ~~§~~ → [;] and

1680a **(iii) is prepared in a medical dosage form. ← ~~§~~**

1681 (d) "Designated caregiver" means the same as that term is defined in Section

1682 [26-58-102.](#)

1683 (e) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3.](#)

1684 (f) "Marijuana" means the same as that term is defined in Section [58-37-2.](#)

1685 (g) "Medical cannabis card" means the same as that term is defined in Section

1686 [26-58-102.](#)

1687 (h) "Medical cannabis device" means a device that an individual uses to ingest lawfully

1688 sold cannabis or a lawfully sold cannabis product.

1689 (i) "Qualifying illness" means the same as that term is defined in Section [26-58-102.](#)

1690 (j) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the  
 1691 description in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\).](#)

1692 (2) Notwithstanding any other provision of this chapter:

1693 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to

1694 the penalties described in this title for the growth, possession, sale, or offer for sale of

1695 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,

1696 or offer for sale of the cannabis complies with:

1697 (i) Title 4, Chapter 42, Cannabis Production Establishment; and

1698 (ii) Title 26, Chapter 58, Medical Cannabis Act;

1699 (b) an individual who possesses, sells, or offers to sell ~~§~~ → [cannabis;] ← ~~§~~ a cannabis

1699a product ~~§~~ → [;] ← ~~§~~ or

1700 a medical cannabis device is not subject to the penalties described in this title for the  
 1701 possession, sale, or offer for sale of marijuana or tetrahydrocannabinol to the extent that the  
 1702 individual's possession, sale, or offer for sale of the ~~§~~→ [cannabis;] ←~~§~~ cannabis product  
 1702a ~~§~~→ [;] ←~~§~~ or medical  
 1703 cannabis device complies with:

1704 (i) Title 4, Chapter 42, Cannabis Production Establishment; and  
 1705 (ii) Title 26, Chapter 58, Medical Cannabis Act;  
 1706 (c) an individual who possesses, sells, or offers to sell a medical cannabis device is not  
 1707 subject to the penalties described in this title for the possession, sale, or offer for sale of  
 1708 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's  
 1709 possession, sale, or offer for sale of the medical cannabis device complies with:

1710 (i) Title 4, Chapter 42, Cannabis Production Establishment; and  
 1711 (ii) Title 26, Chapter 58, Medical Cannabis Act.  
 1712 ~~§~~→ [(iii) ~~Title 58, Chapter 86, Cannabis Dispensary License;~~] ←~~§~~  
 1713 (3) An individual with a medical cannabis card is guilty of an infraction if the  
 1714 individual ~~§~~→ [;:  
 1715 ~~—— (a) uses cannabis through a means involving combustion of cannabis flower at a~~  
 1716 ~~temperature greater than 500 degrees Fahrenheit;~~  
 1717 ~~—— (b) uses a device that is designed for cannabis combustion of cannabis flower at a~~  
 1718 ~~temperature greater than 500 degrees Fahrenheit; or~~  
 1719 ~~—— (c)~~ ←~~§~~ uses or possesses drug paraphernalia that is not a medical cannabis device.  
 1720 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a  
 1721 \$100 fine.

1722 Section 57. Section ~~58-37-3.7~~ is enacted to read:  
 1723 **58-37-3.7. Affirmative defense.**  
 1724 (1) Before the day on which the Department of Health is issuing medical cannabis  
 1725 cards and a cannabis dispensary in the state is licensed and selling ~~§~~→ [cannabis-or] ←~~§~~ a cannabis  
 1726 product, it is an affirmative defense to criminal charges against an individual for the use or  
 1727 possession of marijuana, tetrahydrocannabinol, or marijuana or tetrahydrocannabinol drug  
 1728 paraphernalia under this chapter that the individual's conduct would have been lawful after the  
 1729 individual obtains a medical cannabis card under Title 26, Chapter 58, Medical Cannabis Act.  
 1730 (2) A court shall, for charges that the court dismisses under Subsection (1), dismiss the

1731 charges without prejudice.

1732 Section 58. Section **59-12-104.7** is enacted to read:

1733 **59-12-104.7. Exemption from sales tax for medical cannabis.**

1734 (1) As used in this section:

1735 (a) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

1736 (b) "Cannabis dispensary" means the same as that term is defined in Section  
1737 26-58-102.

1738 (c) "Cannabis product" means the same as that term is defined in Section 58-37-3.6.

1739 (d) "Medical cannabis device" means the same as that term is defined in Section  
1740 58-37-3.6.

1741 (2) In addition to the exemptions described in Section 59-12-104, the sale, by a  
1742 licensed cannabis dispensary, of ~~§~~→ [cannabis;] ←~~§~~ a cannabis product ~~§~~→ [;] ←~~§~~ or a medical  
1742a cannabis device, is  
1743 not subject to the taxes imposed by this chapter.

1744 Section 59. Section **59-28-101** is enacted to read:

1745 **CHAPTER 28. MEDICAL CANNABIS TAX ACT**

1746 **59-28-101. Title.**

1747 This chapter is known as the "Medical Cannabis Tax Act."

1748 Section 60. Section **59-28-102** is enacted to read:

1749 **59-28-102. Definitions.**

1750 As used in this chapter:

1751 (1) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

1752 (2) "Cannabis dispensary" means the same as that term is defined in Section  
1753 26-58-102.

1754 (3) "Cannabis product" means the same as that term is defined in Section 58-37-3.6.

1755 (4) "Medical cannabis device" means the same as that term is defined in Section  
1756 58-37-3.6.

1757 (5) "Medical Cannabis Restricted Account" means the account created in Section  
1758 26-58-109.

1759 Section 61. Section **59-28-103** is enacted to read:

1760 **59-28-103. Imposition of tax -- Rate.**

1761 There is imposed a tax on the retail purchaser of ~~§~~→ [cannabis;] ←~~§~~ a cannabis product, or a

1762 medical cannabis device at a cannabis dispensary in the state, in an amount equal to 4.70% of  
 1763 amounts paid or charged for the ~~§~~ [cannabis,] ~~←~~ cannabis product ~~§~~ [;] ~~←~~ or medical  
 1763a cannabis device.

1764 Section 62. Section **59-28-104** is enacted to read:

1765 **59-28-104. Collection of tax.**

1766 A cannabis dispensary shall:

1767 (1) collect the tax imposed by Section [59-28-103](#) from a ~~§~~ [cannabis,] ~~←~~ cannabis  
 1767a product ~~§~~ [;] ~~←~~ or  
 1768 medical cannabis device purchaser; and

1769 (2) pay the tax collected under Subsection (1):

1770 (a) to the commission quarterly on or before the last day of the month immediately  
 1771 following the last day of the previous quarter; and

1772 (b) using a form prescribed by the commission.

1773 Section 63. Section **59-28-105** is enacted to read:

1774 **59-28-105. Deposit of tax revenue.**

1775 The commission shall deposit revenues generated by the tax imposed by this chapter  
 1776 into the Medical Cannabis Restricted Account.

1777 Section 64. Section **59-28-106** is enacted to read:

1778 **59-28-106. Records.**

1779 (1) A cannabis dispensary shall maintain any record typically deemed necessary to  
 1780 determine the amount of tax that the cannabis dispensary is required to remit to the commission  
 1781 under this chapter.

1782 (2) The commission may require a cannabis dispensary to keep any record the  
 1783 commission reasonably considers necessary to constitute sufficient evidence of the amount of  
 1784 tax the cannabis dispensary is required to remit to the commission under this chapter:

1785 (a) by notice served upon the cannabis dispensary; or

1786 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
 1787 Rulemaking Act.

1788 (3) Upon notice by the commission, a cannabis dispensary shall open the cannabis  
 1789 dispensary's records for examination by the commission.

1790 Section 65. Section **59-28-107** is enacted to read:

1791 **59-28-107. Rulemaking authority -- Enforcement not more strict than those**  
 1792 **applied to a similarly situated business.**

- 1793 (1) Except as provided in Subsection (2), the commission may make rules in
- 1794 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
- 1795 (a) implement the tax imposed by this chapter; and
- 1796 (b) enforce payment of the tax imposed by this chapter.
- 1797 (2) The commission may not make a rule that applies to a cannabis dispensary that is
- 1798 more restrictive than would apply to a similarly situated business.
- 1799 (3) The commission may not enforce this chapter against a cannabis dispensary more
- 1800 strictly than the commission would for a similarly situated business.

Section 66. Section **59-28-108** is enacted to read:

**59-28-108. Penalties and interest.**

A cannabis dispensary that fails to comply with any provision of this chapter is subject to penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

Section 67. Section **62A-4a-202.1** is amended to read:

**62A-4a-202.1. Entering home of a child -- Taking a child into protective custody -- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or emergency placement.**

(1) A peace officer or child welfare worker may not:

(a) enter the home of a child who is not under the jurisdiction of the court, remove a child from the child's home or school, or take a child into protective custody unless authorized under Subsection [78A-6-106\(2\)](#); or

(b) remove a child from the child's home or take a child into custody under this section solely on the basis of:

(i) educational neglect, truancy, or failure to comply with a court order to attend school[-]; or

(ii) the possession or use of ~~§~~ **[cannabis,]** ~~←§~~ a cannabis product ~~§~~ [;] ~~←§~~ or a medical cannabis device

in the home, if the use and possession of the ~~§~~ **[cannabis,]** ~~←§~~ cannabis product ~~§~~ [;] ~~←§~~ or medical cannabis

device is in compliance with Title 26, Chapter 58, Medical Cannabis Act.

(2) A child welfare worker within the division may take action under Subsection (1) accompanied by a peace officer, or without a peace officer when a peace officer is not reasonably available.

(3) (a) If possible, consistent with the child's safety and welfare, before taking a child



1917 and development by a parent or parents who are capable of providing that care;

1918 (e) whether the parent is incarcerated as a result of conviction of a felony, and the  
1919 sentence is of such length that the child will be deprived of a normal home for more than one  
1920 year;

1921 (f) a history of violent behavior; or

1922 (g) whether the parent has intentionally exposed the child to pornography or material  
1923 harmful to a minor, as defined in Section 76-10-1201.

1924 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent  
1925 because of the parent's possession or consumption of ~~§~~ [cannabis;] ~~←§~~ a cannabis product  
1925a ~~§~~ [;] ~~←§~~ or a  
1926 medical cannabis device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

1927 [~~3~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not  
1928 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit  
1929 parent.

1930 [~~4~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful  
1931 or unfit because of a health care decision made for a child by the child's parent unless the state  
1932 or other party to the proceeding shows, by clear and convincing evidence, that the health care  
1933 decision is not reasonable and informed.

1934 (b) Nothing in Subsection [~~4~~] (5)(a) may prohibit a parent from exercising the right to  
1935 obtain a second health care opinion.

1936 [~~5~~] (6) If a child has been placed in the custody of the division and the parent or  
1937 parents fail to comply substantially with the terms and conditions of a plan within six months  
1938 after the date on which the child was placed or the plan was commenced, whichever occurs  
1939 later, that failure to comply is evidence of failure of parental adjustment.

1940 [~~6~~] (7) The following circumstances constitute prima facie evidence of unfitness:

1941 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any  
1942 child, due to known or substantiated abuse or neglect by the parent or parents;

1943 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
1944 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
1945 child's physical, mental, or emotional health and development;

1946 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
1947 of the child;