

1 **MEDICAL CANNABIS ACT**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Mark B. Madsen**

5 House Sponsor: Gage Froerer

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies and enacts provisions related to medical cannabis.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ allows an individual with a qualifying illness who registers with the Department of
13 Health to possess and use, under certain circumstances, cannabis, a cannabis
14 product, or a medical cannabis device;

15 ▶ directs the Department of Health to issue:

16 • a license to operate a cannabis dispensary to a person who meets certain
17 qualifications; and

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

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

23 • a cannabis cultivation facility;
24 • a cannabis processing facility; or
25 • an independent cannabis testing laboratory;

26 ▶ directs the Department of Agriculture and Food to issue, to an individual who meets
27 certain qualifications, a registration card to act as an agent of a cannabis production



28 establishment;

29 ▶ directs the Department of Health to issue a medical cannabis card to an individual

30 who meets the requirements of:

31 • a qualified patient;

32 • a parent or guardian of a minor who is a qualified patient; or

33 • a designated caregiver of a qualified patient;

34 ▶ allows a licensed cannabis dispensary to possess cannabis, a cannabis product, or a

35 medical cannabis device, and to sell the cannabis, cannabis product, or medical

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

37 ▶ allows a licensed cannabis cultivation facility to grow cannabis, possess cannabis,

38 and sell the cannabis to a licensed cannabis processing facility or a licensed

39 cannabis dispensary;

40 ▶ allows a licensed cannabis processing facility to possess cannabis, process cannabis

41 into a cannabis product, and sell the cannabis product to a licensed cannabis

42 dispensary;

43 ▶ allows a licensed independent cannabis testing laboratory to possess cannabis or a

44 cannabis product for the purpose of testing the cannabis or cannabis product for

45 content and safety;

46 ▶ preempts an ordinance enacted by a political subdivision that is not essentially

47 identical to state medical cannabis law;

48 ▶ provides that a licensed cannabis production establishment may operate, in a

49 political subdivision:

50 • as a conditional use in a commercial zone or similar zone; and

51 • as a permitted use in an industrial zone or similar zone;

52 ▶ provides that a licensed cannabis dispensary may operate, in a political subdivision,

53 as a permitted use in a commercial, industrial, or similar zone;

54 ▶ allows an individual driving with a measurable metabolite of cannabis to assert, as

55 an affirmative defense, that the individual used the cannabis pursuant to Utah law or

56 the law of another state;

57 ▶ prohibits a court from discriminating against a parent in a child custody case based

58 on the parent's lawful possession or use of medical cannabis;

59 ▶ prohibits a peace officer or child welfare worker from removing a child from an
60 individual's home on the basis of the individual's lawful possession or use of
61 cannabis;

62 ▶ prohibits a state employer from discriminating against a public employee because of
63 the employee's lawful use of cannabis, a cannabis product, or a medical cannabis
64 device;

65 ▶ imposes a tax on the sale of cannabis, a cannabis product, or a medical cannabis
66 device at a cannabis dispensary;

67 ▶ exempts from sales and use tax the sale of cannabis, a cannabis product, or a
68 medical cannabis device by a cannabis dispensary;

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

- 70 • proceeds of the medical cannabis tax;
- 71 • medical cannabis card application fees;
- 72 • cannabis dispensary application and licensing fees;
- 73 • cannabis production establishment application and licensing fees; and
- 74 • fines collected for violations of state medical cannabis law; and

75 ▶ repeals, after state medical cannabis regulation is implemented, the Hemp Extract
76 Regulation Act.

77 **Money Appropriated in this Bill:**

78 None

79 **Other Special Clauses:**

80 This bill provides a special effective date.

81 **Utah Code Sections Affected:**

82 AMENDS:

83 10-9a-104, as last amended by Laws of Utah 2013, Chapter 309

84 17-27a-104, as last amended by Laws of Utah 2013, Chapter 309

85 30-3-10, as last amended by Laws of Utah 2014, Chapter 409

86 41-6a-517, as last amended by Laws of Utah 2013, Chapter 333

87 62A-4a-202.1, as last amended by Laws of Utah 2012, Chapters 221 and 293

88 63I-1-226, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258

89 63I-1-258, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,

90 and 432

91 **78A-6-508**, as last amended by Laws of Utah 2014, Chapter 409

92 ENACTS:

93 **4-42-101**, Utah Code Annotated 1953

94 **4-42-102**, Utah Code Annotated 1953

95 **4-42-103**, Utah Code Annotated 1953

96 **4-42-104**, Utah Code Annotated 1953

97 **4-42-105**, Utah Code Annotated 1953

98 **4-42-201**, Utah Code Annotated 1953

99 **4-42-202**, Utah Code Annotated 1953

100 **4-42-203**, Utah Code Annotated 1953

101 **4-42-204**, Utah Code Annotated 1953

102 **4-42-205**, Utah Code Annotated 1953

103 **4-42-206**, Utah Code Annotated 1953

104 **4-42-207**, Utah Code Annotated 1953

105 **4-42-208**, Utah Code Annotated 1953

106 **4-42-209**, Utah Code Annotated 1953

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

108 **4-42-401**, Utah Code Annotated 1953

109 **4-42-402**, Utah Code Annotated 1953

110 **4-42-403**, Utah Code Annotated 1953

111 **4-42-501**, Utah Code Annotated 1953

112 **4-42-502**, Utah Code Annotated 1953

113 **4-42-503**, Utah Code Annotated 1953

114 **4-42-601**, Utah Code Annotated 1953

115 **26-58-101**, Utah Code Annotated 1953

116 **26-58-102**, Utah Code Annotated 1953

117 **26-58-103**, Utah Code Annotated 1953

118 **26-58-104**, Utah Code Annotated 1953

119 **26-58-201**, Utah Code Annotated 1953

120 **26-58-202**, Utah Code Annotated 1953

- 121 [26-58-203](#), Utah Code Annotated 1953
- 122 [26-58-204](#), Utah Code Annotated 1953
- 123 [26-58-205](#), Utah Code Annotated 1953
- 124 [26-58-206](#), Utah Code Annotated 1953
- 125 [26-58-207](#), Utah Code Annotated 1953
- 126 [26-58-208](#), Utah Code Annotated 1953
- 127 [26-58-209](#), Utah Code Annotated 1953
- 128 [26-58-301](#), Utah Code Annotated 1953
- 129 [26-58-302](#), Utah Code Annotated 1953
- 130 [26-58-303](#), Utah Code Annotated 1953
- 131 [26-58-304](#), Utah Code Annotated 1953
- 132 [26-58-305](#), Utah Code Annotated 1953
- 133 [26-58-401](#), Utah Code Annotated 1953
- 134 [26-58-402](#), Utah Code Annotated 1953
- 135 [26-58-403](#), Utah Code Annotated 1953
- 136 [26-58-404](#), Utah Code Annotated 1953
- 137 [26-58-405](#), Utah Code Annotated 1953
- 138 [26-58-406](#), Utah Code Annotated 1953
- 139 [26-58-407](#), Utah Code Annotated 1953
- 140 [26-58-501](#), Utah Code Annotated 1953
- 141 [53-1-106.5](#), Utah Code Annotated 1953
- 142 [58-37-3.6](#), Utah Code Annotated 1953
- 143 [59-12-104.7](#), Utah Code Annotated 1953
- 144 [59-28-101](#), Utah Code Annotated 1953
- 145 [59-28-102](#), Utah Code Annotated 1953
- 146 [59-28-103](#), Utah Code Annotated 1953
- 147 [59-28-104](#), Utah Code Annotated 1953
- 148 [59-28-105](#), Utah Code Annotated 1953
- 149 [59-28-106](#), Utah Code Annotated 1953
- 150 [59-28-107](#), Utah Code Annotated 1953
- 151 [59-28-108](#), Utah Code Annotated 1953

152 [63F-1-104.5](#), Utah Code Annotated 1953



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

155 Section 1. Section **4-42-101** is enacted to read:

156 **CHAPTER 42. CANNABIS PRODUCTION ESTABLISHMENTS**

157 **Part 1. General Provisions**

158 **4-42-101. Title.**

159 (1) This chapter is known as "Cannabis Production Establishments."

160 (2) This part is known as "General Provisions."

161 Section 2. Section **4-42-102** is enacted to read:

162 **4-42-102. Definitions.**

163 As used in this chapter:

164 (1) "Cannabinoid profile" means the percentage of cannabis or a cannabis product, by
165 weight, that is composed of the cannabinoids:

166 (a) Tetrahydrocannabinol or THC;

167 (b) Tetrahydrocannabinolic acid or THCa;

168 (c) Cannabidiol or CBD;

169 (d) Cannabinol or CBN; and

170 (e) Cannabigerol or CBG.

171 (2) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

172 (3) "Cannabis cultivation facility" means a person that:

173 (a) grows cannabis; or

174 (b) possesses cannabis with the intent to grow cannabis.

175 (4) "Cannabis cultivation facility agent" means an individual who is an owner, officer,
176 board member, employee, or volunteer of a cannabis cultivation facility.

177 (5) "Cannabis cultivation facility registration card" means a registration card, issued by
178 the department under Section [4-42-202](#), that authorizes an individual to act as a cannabis
179 cultivation facility agent.

180 (6) "Cannabis dispensary" means the same as that term is defined in Section
181 [26-58-102](#).

182 (7) "Cannabis processing facility" means a person that:

- 183 (a) manufactures a cannabis product from unprocessed cannabis;
- 184 (b) purchases or possesses cannabis with the intent to manufacture a cannabis product;
- 185 or
- 186 (c) sells or intends to sell a cannabis product to a cannabis dispensary.
- 187 (8) "Cannabis product" means the same as that term is defined in Section [58-37-3.6](#).
- 188 (9) "Cannabis production establishment" means:
 - 189 (a) an independent testing laboratory;
 - 190 (b) a cannabis cultivation facility; or
 - 191 (c) a cannabis processing facility.
- 192 (10) "Cannabis production establishment agent" means an owner, officer, employee, or
- 193 volunteer of a cannabis production establishment.
- 194 (11) "Cannabis production establishment agent registration card" means a registration
- 195 card that authorizes an individual to act as a cannabis production establishment agent.
- 196 (12) "Electronic verification system" means the system described in Section [26-58-202](#).
- 197 (13) "Independent testing laboratory" means a person that:
 - 198 (a) conducts a chemical or other analysis of cannabis or a cannabis product; or
 - 199 (b) possesses cannabis or a cannabis product with the intent to conduct a chemical or
 - 200 other analysis of the cannabis or cannabis product.
- 201 (14) "Inventory control system" means the system described in Section [4-42-104](#).
- 202 (15) "Medical cannabis card" means the same as that term is defined in Section
- 203 [26-58-201](#).
- 204 (16) "Medical cannabis establishment" means:
 - 205 (a) an independent testing laboratory;
 - 206 (b) a cannabis cultivation facility;
 - 207 (c) a cannabis processing facility; or
 - 208 (d) a cannabis dispensary.
- 209 (17) "Medical Cannabis Restricted Account" means the account created in Section
- 210 [26-58-104](#).
- 211 (18) "Participating entity" means:
 - 212 (a) the Department of Health;
 - 213 (b) the Department of Agriculture and Food;

214 (c) the Department of Public Safety; and

215 (d) the Department of Technology Services.

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

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

218 **4-42-103. Duties -- Coordination with participating entities.**

219 (1) The department shall administer and enforce the licensing of a cannabis production
220 establishment in accordance with this chapter.

221 (2) The department shall coordinate with the participating entities to:

222 (a) enforce state law related to medical cannabis; and

223 (b) develop, or participate in the development of, an electronic verification system and
224 an inventory control system.

225 Section 4. Section **4-42-104** is enacted to read:

226 **4-42-104. Inventory control system.**

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

229 (2) An inventory control system shall track cannabis in real time from the point that a
230 cannabis plant is eight inches tall until the cannabis is sold, in the form of unprocessed
231 cannabis or a cannabis product, to an individual with a medical cannabis card.

232 (3) An inventory control system installed in a medical cannabis establishment shall
233 include a video recording system that:

234 (a) tracks all handling and processing of cannabis or a cannabis product in the medical
235 cannabis establishment;

236 (b) is tamper proof;

237 (c) stores in real time a record of the amount of cannabis or cannabis products in the
238 medical cannabis establishment's possession; and

239 (d) is capable of storing a video record for 45 days.

240 (4) An inventory control system installed in a medical cannabis establishment shall
241 maintain compatibility with:

242 (a) the electronic verification system described in Section 26-58-202; and

243 (b) an inventory control system installed in another medical cannabis establishment.

244 (5) A cannabis production establishment shall allow access to an inventory control

245 system by the participating entities.

246 (6) 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 5. Section **4-42-105** is enacted to read:

250 **4-42-105. Preemption.**

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

253 Section 6. Section **4-42-201** is enacted to read:

254 **Part 2. Cannabis Production Establishments**

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

256 (1) A person may not operate a cannabis production establishment without a license
257 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) evidence that the person possesses or controls a minimum of \$250,000 in liquid
264 assets for each type of license for which the person applies;

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

267 (d) an application fee established by the department in accordance with Section
268 63J-1-504, that is necessary to cover the department's cost to implement this chapter;

269 (e) evidence that the person can comply with the requirements:

270 (i) in this part;

271 (ii) for a cannabis cultivation facility, in Part 3, Cannabis Cultivation Facilities;

272 (iii) for a cannabis processing facility, in Part 4, Cannabis Processing Facilities; and

273 (iv) for an independent cannabis testing laboratory, in Part 5, Independent Cannabis
274 Testing Laboratories;

275 (f) evidence that the person will implement an inventory control system at the cannabis

276 production establishment; and

277 (g) the results of a criminal background check for each proposed cannabis production
278 establishment agent for the cannabis production establishment.

279 (3) A person applying for a license to operate a cannabis production facility shall
280 submit to the department, with the person's application, a proposed operation plan that
281 includes:

282 (a) a description of the physical characteristics of the proposed facility;

283 (b) a description of the credentials and experience of any officer, director, or owner of
284 the proposed cannabis production establishment;

285 (c) the cannabis production facility's employee training standards;

286 (d) a security plan;

287 (e) for a cannabis cultivation facility:

288 (i) evidence that the cannabis cultivation facility has entered into a preliminary
289 agreement with a licensed cannabis processing facility or a licensed cannabis dispensary in the
290 state for the purchase of the cannabis cultivation facility's output; and

291 (ii) the cannabis cultivation facility's proposed cannabis cultivation practices, including
292 the cannabis cultivation facility's:

293 (A) pesticide use;

294 (B) proposed square footage under cultivation; and

295 (C) anticipated cannabis yield;

296 (f) for a cannabis processing facility:

297 (i) evidence that the cannabis production facility has entered into a preliminary
298 agreement with a licensed cannabis dispensary in the state for the purchase of the cannabis
299 processing facility's output; and

300 (ii) the cannabis processing facility's proposed cannabis processing practices, including
301 the cannabis processing facility's:

302 (A) proposed cannabis extraction method;

303 (B) processing equipment; and

304 (C) other processing techniques; and

305 (g) for an independent cannabis testing laboratory, the independent cannabis testing
306 laboratory's proposed cannabis and cannabis product testing capability.

307 (4) If the department determines that a cannabis production establishment is eligible for
308 a license under this section, the department shall:

309 (a) before January 1, 2017, charge the cannabis production establishment an initial
310 license fee of \$25,000; and

311 (b) on or after January 1, 2017, charge the cannabis establishment an initial license fee
312 in an amount determined by the department in accordance with Section [63J-1-504](#).

313 (5) Except as provided in Subsection (6)(b), the department shall, for a cannabis
314 production establishment to which the department issues a license, designate whether the
315 license authorizes the cannabis production establishment to operate as:

316 (a) a cannabis cultivation facility;

317 (b) a cannabis processing facility; or

318 (c) an independent cannabis testing laboratory.

319 (6) The department shall require a separate license for each type of cannabis production
320 establishment and each location of a cannabis production establishment.

321 (7) Notwithstanding Subsection (6), the department may issue a cannabis cultivation
322 facility license and a cannabis processing facility license to be operated by:

323 (a) the same person at the same physical location; or

324 (b) the same person at separate physical locations.

325 (8) The department may not issue a license to operate an independent cannabis testing
326 laboratory to a person:

327 (a) that holds a license or has an ownership interest in a cannabis dispensary, a
328 cannabis processing facility, or a cannabis cultivation facility in the state;

329 (b) that has an owner, officer, director, or employee whose immediate family member
330 holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing
331 facility, or a cannabis cultivation facility; or

332 (c) proposes to operate the independent testing laboratory at the same physical location
333 as a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

334 (9) The department shall renew a person's license under this chapter every two years if,
335 at the time of renewal, the person meets the requirements of Subsection (2).

336 (10) The department shall charge a cannabis production establishment that the
337 department determines is eligible for license renewal a license renewal fee in an amount

338 determined by the department in accordance with Section [63J-1-504](#).

339 Section 7. Section **4-42-202** is enacted to read:

340 **4-42-202. Cannabis production establishment agent -- Registration.**

341 (1) An individual may not act as an owner, shareholder, employee, or agent of a
342 cannabis production establishment unless the individual is registered by the department as a
343 cannabis production establishment agent.

344 (2) The department shall, within 15 business days after receiving a complete
345 application, register and issue a cannabis production establishment agent registration card to an
346 individual who:

347 (a) has not been convicted of an offense that is a felony under either state or federal
348 law;

349 (b) provides to the department:

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

351 (ii) the name and location of a licensed cannabis production establishment where the
352 individual seeks to act as the cannabis production establishment's agent;

353 (c) pays the department a fee, determined by the department in accordance with Section
354 [63J-1-504](#), that is necessary to cover the department's cost to implement this part; and

355 (d) complies with the requirement for and passes a criminal background check
356 described in Section [26-58-408](#).

357 (3) The department shall designate, for a cannabis production establishment agent
358 registration card the department issues under Subsection (2), whether the cannabis production
359 establishment agent registration card holder is authorized to act as an agent for:

360 (a) a cannabis cultivation facility;

361 (b) a cannabis processing facility;

362 (c) both a cannabis cultivation facility and a cannabis processing facility; or

363 (d) an independent cannabis testing laboratory.

364 (4) A cannabis production establishment agent shall comply with a certification
365 standard designated by the department by rule made in accordance with Title 63G, Chapter 3,
366 Utah Administrative Rulemaking Act.

367 (5) The department may revoke the cannabis production establishment agent
368 registration card of an individual who:

- 369 (a) violates the requirements of this chapter; or
- 370 (b) commits an offense that is a felony under state or federal law.

371 Section 8. Section **4-42-203** is enacted to read:

372 **4-42-203. Cannabis production establishment agents -- Criminal background**
373 **checks.**

374 (1) An individual applying for a cannabis production establishment agent registration
375 card under this chapter shall:

376 (a) submit, at the time of application, a fingerprint card in a form acceptable to the
377 department; and

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

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

380 (ii) the Federal Bureau of Investigation.

381 (2) The department shall request that the Department of Public Safety complete a
382 Federal Bureau of Investigation criminal background check for each cannabis production
383 establishment agent card applicant.

384 (3) The department may revoke or refuse to issue an individual's cannabis production
385 establishment agent registration card if the individual has committed an offense that is a felony
386 under state or federal law.

387 Section 9. Section **4-42-204** is enacted to read:

388 **4-42-204. Cannabis production establishment agent registration card --**
389 **Rebuttable presumption.**

390 (1) An individual who has a cannabis production establishment agent registration card
391 shall carry the individual's cannabis production establishment agent registration card with the
392 individual at all times when:

393 (a) the individual is on the premises of a cannabis production establishment; and

394 (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis
395 device between two medical cannabis establishments.

396 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis
397 device at a cannabis production establishment, or transporting cannabis, a cannabis product, or
398 a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis
399 device in compliance with Subsection (1):

400 (a) there is a rebuttable presumption that the individual possesses the cannabis,
401 cannabis product, or medical cannabis device legally; and

402 (b) a law enforcement officer does not have probable cause, based solely on the
403 individual's possession of the cannabis, cannabis product, or medical cannabis device in
404 compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

405 Section 10. Section **4-42-205** is enacted to read:

406 **4-42-205. Operating requirements -- General -- Physician may not be a cannabis**
407 **production establishment agent.**

408 (1) A cannabis production establishment shall have:

409 (a) a single, secure public entrance;

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

411 (i) detects and records entry into the cannabis production establishment when the
412 cannabis production establishment is closed; and

413 (ii) provides notice of an unauthorized entry to law enforcement; and

414 (c) a lock on any area where the cannabis production establishment stores cannabis or a
415 cannabis product.

416 (2) (a) A cannabis production establishment shall follow the operation plan submitted
417 to the department at the time of licensing under Section [4-42-201](#).

418 (b) A cannabis production establishment shall notify the department within 30 days of
419 any change in the cannabis production establishment's operation plan.

420 (3) A physician may not serve as a cannabis production establishment agent.

421 Section 11. Section **4-42-206** is enacted to read:

422 **4-42-206. Zoning.**

423 (1) A municipality or local government may not enact a zoning ordinance that prohibits
424 a cannabis production establishment from operating in a location within the municipality's or
425 local government's jurisdiction, on the sole basis that the cannabis production establishment is
426 a cannabis production establishment.

427 (2) A municipality or local government shall allow a cannabis production
428 establishment to operate as a permitted use in an agricultural, industrial, or manufacturing
429 zone, or a comparable zone.

430 Section 12. Section **4-42-207** is enacted to read:

431 **4-42-207. Inspections.**

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

435 (2) The department may inspect the records and facility of a cannabis production
436 establishment:

437 (a) as many as three scheduled times per year;

438 (b) as many as one unscheduled time per year; and

439 (c) if the department has reason to believe that the cannabis production establishment
440 has violated the law, at any time, scheduled or unscheduled.

441 Section 13. Section **4-42-208** is enacted to read:

442 **4-42-208. Advertising.**

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

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

447 Section 14. Section **4-42-209** is enacted to read:

448 **4-42-209. Cannabis, cannabis product, or medical cannabis device transportation.**

449 (1) An individual may not transport cannabis, a cannabis product, or a medical
450 cannabis device unless the individual has a valid cannabis production establishment
451 registration card or valid cannabis dispensary registration card.

452 (2) An individual transporting cannabis, a cannabis product, or a medical cannabis
453 device shall keep a transportation record that includes:

454 (a) a bar code or identification number that links the cannabis, cannabis product, or
455 medical cannabis device to a relevant medical cannabis establishment's inventory control
456 system;

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

459 (c) a record of the departure and arrival time of the individual transporting the
460 cannabis, cannabis product, or medical cannabis device.

461 (3) In addition to the requirements in Subsections (1) and (2), the department may

462 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
463 Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical
464 cannabis device that are related to human consumption safety.

465 Section 15. Section **4-42-301** is enacted to read:

466 **Part 3. Cannabis Cultivation Facilities**

467 **4-42-301. Cannabis cultivation facility -- Operating requirements.**

468 (1) Except as provided in Subsection (4), a cannabis cultivation facility shall cultivate
469 cannabis only:

470 (a) in a facility that is accessible only by an individual with a valid cannabis production
471 establishment agent registration card issued under Section [4-42-202](#); and

472 (b) at the physical address provided to the department under Section [4-42-201](#).

473 (2) A cannabis cultivation facility shall ensure that any cannabis growing at the
474 cannabis cultivation facility is not visible from street level outside the cannabis cultivation
475 facility.

476 (3) A cannabis cultivation facility shall use a unique identifier for:

477 (a) each batch of cannabis transferred to a cannabis dispensary, a cannabis processing
478 facility, or an independent cannabis testing laboratory; and

479 (b) any particular harvest of cannabis plants.

480 (4) A cannabis cultivation facility may allow the press, a visitor, or a contractor access
481 to the cannabis cultivation facility if:

482 (a) the cannabis cultivation facility tracks and monitors the individual at all times while
483 the individual is in the cannabis cultivation facility; and

484 (b) a record of the individual's access to the cannabis cultivation facility is maintained
485 by the cannabis cultivation facility.

486 (5) For the purpose of ensuring that the cannabis that a cultivation facility cultivates is
487 safe for human use, the department may establish standards, by rule made in accordance with
488 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for a cannabis cultivation
489 facility's:

490 (a) use of pesticides;

491 (b) use of fertilizers; and

492 (c) cultivation techniques.

493 Section 16. Section 4-42-401 is enacted to read:

494 **Part 4. Cannabis Processing Facilities**

495 **4-42-401. Cannabis processing facility -- Operating requirements -- Facility.**

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

499 (2) Except as provided in Subsection (3), a cannabis processing facility shall produce a
500 cannabis product:

501 (a) in an enclosed, locked facility that is accessible only by an individual with a valid
502 cannabis production establishment agent registration card issued under Section 4-42-202; and

503 (b) at the physical address the cannabis processing facility provided the department at
504 the time of registration or renewal.

505 (3) A cannabis processing facility may allow the press, a visitor, or a contractor access
506 to the cannabis processing facility if the cannabis processing facility:

507 (a) tracks and monitors the individual at all times while the individual is in the
508 cannabis processing facility; and

509 (b) maintains a record of the individual's access to the cannabis processing facility.

510 Section 17. Section 4-42-402 is enacted to read:

511 **4-42-402. Cannabis product -- Labeling and packaging.**

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

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

514 (b) clearly displays:

515 (i) the cannabinoid profile of the cannabis product; and

516 (ii) the total amount of cannabinoids by weight in the cannabis product;

517 (c) has a unique batch identifier that identifies the date and particular manufacturing
518 process when the cannabis product was manufactured; and

519 (d) has a bar code or other identifier that allows the cannabis product to be tracked by
520 an inventory control system and the electronic verification system.

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

522 (a) is tamper resistant;

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

524 (c) is opaque; and

525 (d) complies with the child-resistant effectiveness standards contained in 16 C.F.R.

526 Sec. 1700.15 and related sections.

527 Section 18. Section **4-42-403** is enacted to read:

528 **4-42-403. Cannabis product -- Product quality.**

529 (1) (a) A cannabis processing facility may not produce a cannabis product in a physical
530 form that is appealing to children.

531 (b) The Department of Health may determine, by rule made in accordance with Title
532 63G, Chapter 3, Utah Administrative Rulemaking Act, physical criteria for a cannabis product
533 to comply with Subsection (1)(a).

534 (2) A cannabis processing facility may not manufacture a cannabis product by applying
535 a cannabis agent to the surface of a food product that is not produced by the cannabis
536 processing facility.

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

539 (4) (a) Subject to Subsection (4)(b), the department shall establish, by rule made in
540 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, additional
541 product quality standards for a cannabis product that are consistent with rules for products for
542 human consumption issued by the United States Food and Drug Administration.

543 (b) The department may establish a rule under Subsection (4)(a) that is not consistent
544 with rules issued by the United States Food and Drug Administration to the extent necessary to
545 adapt the United States Food and Drug Administration rules to the specific characteristics of
546 cannabis or a cannabis product.

547 Section 19. Section **4-42-501** is enacted to read:

548 **Part 5. Independent Cannabis Testing Laboratories**

549 **4-42-501. Independent cannabis testing laboratory -- Operating requirements --**
550 **Facility.**

551 (1) Except as provided in Subsection (2), an independent cannabis testing laboratory
552 shall operate:

553 (a) in an enclosed, locked facility that is accessible only by an individual with a valid
554 cannabis production establishment agent registration card issued under Section [4-42-201](#); and

555 (b) at the physical address the independent cannabis testing laboratory provided the
556 department at the time of registration or renewal.

557 (2) An independent cannabis testing laboratory agent may not act as an agent for a
558 cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

559 (3) An independent cannabis testing laboratory may allow the press, a visitor, or a
560 contractor access to the facility if:

561 (a) the facility tracks and monitors the individual at all times while the individual is in
562 the facility; and

563 (b) a record of the individual's access to the facility is maintained by the facility.

564 Section 20. Section **4-42-502** is enacted to read:

565 **4-42-502. Cannabis and cannabis product testing.**

566 (1) An independent cannabis testing laboratory shall, before cannabis or a cannabis
567 product is offered for sale at a cannabis dispensary, test the cannabis or cannabis product as
568 described in this section.

569 (2) An independent testing laboratory shall determine the cannabinoid profile of
570 cannabis or a cannabis product.

571 (3) An independent cannabis testing laboratory shall determine if cannabis or a
572 cannabis product contains, in an amount that is harmful to human health:

573 (a) mold;

574 (b) fungus;

575 (c) pesticides; or

576 (d) other microbial contaminants.

577 (4) For a cannabis product that is manufactured using a process that involves extraction
578 using hydrocarbons, an independent cannabis testing laboratory shall test the cannabis product
579 for residual solvents.

580 (5) An independent cannabis testing laboratory may not operate unless the independent
581 cannabis testing laboratory is capable of accurately testing cannabis or a cannabis product as
582 described in this section.

583 (6) The department may determine, by rule made in accordance with Title 63G,
584 Chapter 3, Utah Administrative Rulemaking Act, the amount of substances described in
585 Subsection (3) and the amount of residual solvents that are safe for human consumption.

586 Section 21. Section **4-42-503** is enacted to read:

587 **4-42-503. Reporting -- Inspections.**

588 (1) If an independent testing laboratory determines that the results of a lab test indicate
589 that a cannabis or cannabis product batch may be unsafe for human consumption:

590 (a) the independent testing laboratory shall report the results and the cannabis or
591 cannabis product batch to the department; and

592 (b) provide the department with a period of time, designated by the department, by rule
593 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
594 respond to the lab test results before the independent cannabis testing laboratory releases the
595 cannabis or cannabis product batch to a cannabis dispensary or cannabis production
596 establishment.

597 (2) If the department determines, under Subsection (1)(b), that a cannabis or cannabis
598 product prepared by a cannabis production establishment is unsafe for human consumption, the
599 department may seize, embargo, and destroy a cannabis or cannabis product batch in
600 accordance with Section [4-42-601](#).

601 Section 22. Section **4-42-601** is enacted to read:

602 **Part 6. Enforcement**

603 **4-42-601. Enforcement -- Fine -- Citation.**

604 (1) The department may, for a violation of this chapter by a person that is a cannabis
605 production establishment or a cannabis production establishment agent for a violation of the
606 licensing provisions of this chapter:

- 607 (a) revoke the person's license;
- 608 (b) refuse to renew the person's license;
- 609 (c) assess the person an administrative penalty; or
- 610 (d) take any other appropriate administrative action.

611 (2) The department shall deposit an administrative penalty imposed under this section
612 in the Medical Cannabis Restricted Account.

613 (3) (a) The department may take an action described in Subsection (3)(b) if the
614 department concludes, upon inspection or investigation, that, for a person that is a cannabis
615 production establishment or a cannabis production establishment agent:

- 616 (i) the person has violated the provisions of this chapter, a rule made under this

617 chapter, or an order issued under this chapter; or

618 (ii) the person prepared a cannabis or cannabis product batch in a manner, or such that
619 the batch contains a substance, that poses a threat to human health.

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

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

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

624 (iii) direct the person to appear before an adjudicative proceeding conducted under

625 Title 63G, Chapter 4, Administrative Procedures Act.

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

628 (i) seize, embargo, or destroy a cannabis or cannabis product batch; and

629 (ii) direct the person to appear before an adjudicative proceeding conducted under Title
630 63G, Chapter 4, Administrative Procedures Act.

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

633 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
634 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
635 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

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

639 (6) If within 20 calendar days after the day on which a department serves a citation for
640 a violation of this chapter, the person that is the subject of the citation fails to request a hearing
641 to contest the citation, the citation becomes the department's final order.

642 (7) The department may, for a person who fails to comply with a citation under this
643 section:

644 (a) refuse to issue or renew the person's license or cannabis production establishment
645 agent registration card; or

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

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

649 **10-9a-104. Stricter requirements.**

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

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

- 654 (a) Section 4-42-206;
- 655 [~~(a)~~] (b) Section 10-9a-305; [~~and~~]
- 656 [~~(b)~~] (c) Section 10-9a-514[:]; and
- 657 (d) Section 26-58-406.

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

659 **17-27a-104. Stricter requirements.**

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

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

- 664 (a) Section 4-42-206;
- 665 [~~(a)~~] (b) Section 17-27a-305; [~~and~~]
- 666 [~~(b)~~] (c) Section 17-27a-513[:]; and
- 667 (d) Section 26-58-406.

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

669 **CHAPTER 58. MEDICAL CANNABIS ACT**

670 **Part 1. General Provisions**

671 **26-58-101. Title.**

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

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

674 **26-58-102. Definitions.**

675 As used in this chapter:

676 (1) "Cannabinoid profile" means the percentage of cannabis or a cannabis product, by
677 weight, that is composed of the cannabinoids:

- 678 (a) Tetrahydrocannabinol or THC;

- 679 **(b) Tetrahydrocannabinolic acid or THCa;**
680 **(c) Cannabidiol or CBD;**
681 **(d) Cannabinol or CBN; and**
682 **(e) Cannabigerol or CBG.**
683 **(2) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).**
684 **(3) "Cannabis cultivation facility" means the same as that term is defined in Section**
685 **[4-42-102](#).**
686 **(4) "Cannabis dispensary" means a person that:**
687 **(a) sells cannabis, a cannabis product, or a medical cannabis device; or**
688 **(b) purchases or possesses cannabis, a cannabis product, or a medical cannabis device,**
689 **with the intent to sell the cannabis, cannabis product, or medical cannabis device.**
690 **(5) "Cannabis dispensary agent" means an owner, officer, board member, employee, or**
691 **volunteer of a cannabis dispensary.**
692 **(6) "Cannabis dispensary agent registration card" means a registration card, issued**
693 **under Section [26-58-304](#), that authorizes an individual to be a cannabis dispensary agent.**
694 **(7) "Cannabis processing facility" means the same as that term is defined in Section**
695 **[4-42-102](#).**
696 **(8) "Cannabis product" means the same as that term is defined in Section [58-37-3.6](#).**
697 **(9) "Cannabis production establishment agent" means the same as that term is defined**
698 **in Section [4-42-102](#).**
699 **(10) "Cannabis production establishment agent registration card" means the same as**
700 **that term is defined in Section [4-42-102](#).**
701 **(11) "Designated caregiver" means an individual:**
702 **(a) whom a patient with a medical cannabis card designates as the patient's caregiver**
703 **under Section [26-58-201](#); and**
704 **(b) who obtains a medical cannabis card as a designated caregiver.**
705 **(12) "Electronic verification system" means the system described in Section [26-58-202](#).**
706 **(13) "Independent testing laboratory" means the same as that term is defined in Section**
707 **[4-42-102](#).**
708 **(14) "Inventory control system" means the system described in Section [4-42-104](#).**
709 **(15) "Medical cannabis card" means an official document or card, issued by the**

710 Department of Health under Section 26-58-201, that is connected to an electronic verification
711 system.

712 (16) "Medical cannabis device" means the same as that term is defined in Subsection
713 58-37-3.6(1)(b).

714 (17) "Medical cannabis establishment" means:

715 (a) an independent testing laboratory;

716 (b) a cannabis cultivation facility;

717 (c) a cannabis processing facility; or

718 (d) a cannabis dispensary.

719 (18) "Medical Cannabis Restricted Account" means the account created in Section
720 26-58-104.

721 (19) "Participating entity" means:

722 (a) the Department of Public Safety;

723 (b) the Department of Agriculture and Food;

724 (c) the Department of Health; and

725 (d) the Department of Technology Services.

726 (20) "Physician" means an individual who is qualified to recommend cannabis under
727 Section 26-58-207.

728 (21) "Qualifying illness" means a condition described in Section 26-58-208.

729 Section 27. Section **26-58-103** is enacted to read:

730 **26-58-103. Preemption.**

731 This chapter preempts any ordinance enacted by a political subdivision of the state that
732 regulates a cannabis dispensary.

733 Section 28. Section **26-58-104** is enacted to read:

734 **26-58-104. Medical Cannabis Restricted Account -- Creation.**

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

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

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

740 (b) money deposited into the account by the Department of Agriculture and Food under

741 Section 4-42-601;

742 (c) money deposited into the account by the department under Section 26-58-501;

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

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

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

746 (4) The money in the account may only be used to fund the state regulation of medical
747 cannabis, including implementing:

748 (a) Title 4, Chapter 42, Cannabis Production Establishments;

749 (b) Title 26, Chapter 58, Medical Cannabis Act; and

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

751 Section 29. Section **26-58-201** is enacted to read:

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

753 **26-58-201. Medical cannabis card -- Application -- Fees -- Database.**

754 (1) The Department of Health shall, no earlier than December 1, 2016, and within 15
755 days after an individual submits an application in compliance with this section, issue a medical
756 cannabis card, via the electronic verification system described in Section 26-58-202, to an
757 individual if the individual:

758 (a) is at least 18 years old;

759 (b) is a Utah resident;

760 (c) submits to the Department of Health, via the electronic verification system, a
761 recommendation electronically signed by a physician that indicates that the individual:

762 (i) suffers from a qualifying illness, including the type of qualifying illness; and

763 (ii) may benefit from treatment with cannabis or a cannabis product;

764 (d) pays the Department of Health a fee established by the department in accordance
765 with Section 63J-1-504; and

766 (e) submits an application to the Department of Health, using the electronic verification
767 system that contains:

768 (i) the individual's name, gender, age, and address; and

769 (ii) a copy of the individual's valid photo identification.

770 (2) The Department of Health shall, no earlier than December 1, 2016, and within 15
771 days after an individual submits an application in compliance with this Subsection (2), issue a

772 medical cannabis card, via the electronic verification system, to an individual who is the parent
773 or legal guardian of a minor if the individual:

774 (a) is at least 18 years old;
775 (b) is a Utah resident;
776 (c) provides the Department of Health, via the electronic verification system, with a
777 recommendation electronically signed by a physician that indicates that the minor:

778 (i) suffers from a qualifying illness, including:
779 (A) the type of qualifying illness; and
780 (B) the age, name, and gender of the minor with the qualifying illness; and
781 (ii) may benefit from treatment with cannabis or a cannabis product;
782 (d) pays the department a fee established by the department in accordance with Section
783 63J-1-504; and

784 (e) submits an application to the Department of Health, using the electronic verification
785 system, that contains:

786 (i) the parent's or legal guardian's name and address; and
787 (ii) a copy of the parent's or legal guardian's valid photo identification.
788 (3) An individual who applies for a medical cannabis card under Subsection (1) or (2)
789 shall fill out and submit the application described in Subsection (1) or (2):

790 (a) online, in connection with the electronic verification system; and
791 (b) with a physician, during an office visit with the physician.
792 (4) (a) An individual who holds a valid medical cannabis card under Subsection (1)
793 who a physician determines is unable to obtain cannabis or a cannabis product from a cannabis
794 dispensary may register with the Department of Health, via the electronic verification system,
795 up to two individuals to serve as designated caregivers of the individual.

796 (b) An individual may serve as a designated caregiver under Subsection (4)(a) if the
797 individual:

798 (i) is at least 18 years old;
799 (ii) is a Utah resident;
800 (iii) applies online with the Department of Health through the electronic verification
801 system for a medical cannabis card as a designated caregiver;
802 (iv) pays to the Department of Health a fee, established by the department in

803 accordance with Section 63J-1-504, plus the cost of a criminal background check; and

804 (v) meets the requirements of Section 26-58-205.

805 (5) A medical cannabis card the department issues under Subsection (1), (2), or (4) is:

806 (a) valid for the lesser of:

807 (i) an amount of time determined by the physician who recommends treatment with
808 cannabis or a cannabis product under Subsection (1) or (2); or

809 (ii) two years; and

810 (b) (i) renewable if, at the time of renewal the individual with the medical cannabis
811 card meets the requirements of Subsection (1) or (2); and

812 (ii) renewable for a designated caregiver, if at the time of renewal, the individual
813 described in Subsection (5)(b)(i) renews the designation of the caregiver.

814 (6) The Department of Health may revoke an individual's medical cannabis card if the
815 individual violates this chapter.

816 Section 30. Section **26-58-202** is enacted to read:

817 **26-58-202. Electronic verification system -- Department of Technology Services.**

818 (1) In accordance with Section 63F-1-104.5, the participating entities shall establish
819 and maintain a secure electronic verification system that:

820 (a) allows an individual, under Subsection 26-58-201(1), or an individual who is the
821 parent or legal guardian of a minor under Subsection 26-58-201(2), to:

822 (i) apply, in the presence of a physician, to the Department of Health for a medical
823 cannabis card; and

824 (ii) designate up to two caregivers for the patient;

825 (b) allows a physician to electronically recommend, during a visit with a patient,
826 treatment with cannabis or a cannabis product for the patient;

827 (c) issues to an individual, if the individual meets the requirements in Section
828 26-58-201, a medical cannabis card;

829 (d) issues to a designated caregiver, if the designated caregiver meets the requirements
830 in Section 26-58-205, a medical cannabis card on behalf of a named patient;

831 (e) connects with an inventory control system used by a cannabis dispensary to track, in
832 real time, for the purchase of cannabis or a cannabis product by a medical cannabis card holder:

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

834 (ii) the quantity and type of cannabis or a cannabis product purchased; and
 835 (iii) any medical cannabis establishment associated with the cannabis or cannabis
 836 product;

837 (f) is accessible by the participating entity to the extent necessary for the participating
 838 entity to carry out the functions and responsibilities given to the participating entity under this
 839 chapter;

840 (g) is accessible by state or local law enforcement:

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

843 (ii) after obtaining a warrant; and

844 (h) creates a record each time the database is accessed that identifies the individual
 845 who accessed the database and the individual whose records were accessed.

846 (2) The Department of Agriculture and Food, the Department of Health, and the
 847 Department of Public Safety:

848 (a) shall enter into a memorandum of understanding in order to determine the function
 849 and operation of the electronic verification system;

850 (b) may direct the Department of Technology Services to work with a third party
 851 provider to develop and maintain the electronic verification system; and

852 (c) shall coordinate with the Division of Purchasing under Title 63G, Chapter 6a, Utah
 853 Procurement Code, to select a third party provider described in Subsection (2)(b).

854 (3) The Department of Health may release the data collected by the system under
 855 Subsection (1) for the purpose of conducting medical research if the medical research is
 856 approved by an institutional review board associated with a university medical school.

857 Section 31. Section **26-58-203** is enacted to read:

858 **26-58-203. Standard of care -- Medical practitioners not liable -- No private right**
 859 **of action.**

860 (1) It is not a breach of the applicable standard of care for a physician to recommend
 861 treatment with cannabis or a cannabis product to an individual under this chapter.

862 (2) A physician who recommends treatment with cannabis or a cannabis product to an
 863 individual in accordance with this chapter may not, based on the recommendation, be subject
 864 to:

- 865 (a) civil liability;
 - 866 (b) criminal liability; or
 - 867 (c) licensure sanctions under:
 - 868 (i) Title 58, Chapter 67, Utah Medical Practice Act; or
 - 869 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
- 870 Section 32. Section **26-58-204** is enacted to read:

871 **26-58-204. Medical cannabis card -- Patient and designated caregiver**
872 **requirements -- Rebuttable presumption.**

873 (1) An individual who has a medical cannabis card issued by the Department of Health
874 under Section [26-58-201](#) and who possesses cannabis or a cannabis product outside of the
875 individual's residence shall:

- 876 (a) carry, with the individual at all times, the individual's medical cannabis card; and
- 877 (b) carry, with the cannabis or cannabis product, a label that identifies that the cannabis
878 or cannabis product was originally sold from a dispensary licensed under Section [26-58-301](#),
879 including the bar code or identification number that links the cannabis or cannabis product to
880 the dispensary's inventory control system.

881 (2) (a) If an individual possesses cannabis or a cannabis product in compliance with
882 Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis
883 product:

- 884 (i) there is a rebuttable presumption that the individual possesses the cannabis,
885 cannabis product, or medical cannabis device legally; and
- 886 (ii) a law enforcement officer does not have probable cause, based solely on the
887 individual's possession of the cannabis, cannabis product, or medical cannabis device, to
888 believe that the individual is engaging in illegal activity.

889 (b) (i) If a law enforcement officer stops an individual who possesses cannabis, a
890 cannabis product, or a medical cannabis device, and the individual represents to the law
891 enforcement officer that the individual holds a valid medical cannabis card, but the individual
892 does not have the medical cannabis card in the individual's possession at the time of the stop by
893 the law enforcement officer, the law enforcement officer shall attempt to access the electronic
894 verification system to determine whether the individual holds a valid medical cannabis card.

- 895 (ii) If the law enforcement officer is able to verify that the individual holds a valid

896 medical cannabis card, the law enforcement officer:

897 (A) may not arrest or take the individual into custody for the sole reason that the
898 individual is in possession of cannabis, a cannabis product, or a medical cannabis device;

899 (B) may not seize the cannabis, cannabis product, or medical cannabis device; and

900 (C) may only issue a citation to the individual for an infraction for not carrying the
901 medical cannabis card in accordance with Subsection (1)(a).

902 Section 33. Section **26-58-205** is enacted to read:

903 **26-58-205. Designated caregiver -- Criminal background check.**

904 (1) An individual registered as a designated caregiver under Subsection [26-58-201](#)(4):

905 (a) may:

906 (i) carry a valid medical cannabis card with the patient's name and the designated
907 caregiver's name; and

908 (ii) purchase and possess, in accordance with this chapter, cannabis, a cannabis
909 product, or a medical cannabis device on behalf of the patient whose name appears on the
910 designated caregiver's medical cannabis card; and

911 (b) shall submit to a criminal background check in accordance with Subsection (2).

912 (2) Each designated caregiver shall:

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

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

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

917 (ii) the Federal Bureau of Investigation.

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

921 (4) (a) The Department of Health shall issue a card to a designated caregiver within 15
922 business days after the designated caregiver passes the criminal background check under
923 Subsection (2). The card issued to a designated caregiver shall include the name of the
924 caregiver and the name of the patient for whom the caregiver is designated.

925 (b) The Department of Health may revoke or refuse to issue the registration of a
926 designated caregiver if the designated caregiver has committed a felony that is:

- 927 (i) a crime of violence involving the use of force or violence against another person; or
928 (ii) a felony conviction of a state or federal law pertaining to controlled substances.

929 Section 34. Section **26-58-206** is enacted to read:

930 **26-58-206. Compassionate Use Board.**

931 (1) The Department of Health shall establish a Compassionate Use Board consisting
932 of:

933 (a) four physicians who are knowledgeable about the medical use of cannabis and
934 certified by the appropriate American board in one of the following specialties:

- 935 (i) neurology;
936 (ii) pain medicine and pain management;
937 (iii) medical oncology;
938 (iv) psychiatry;
939 (v) infectious disease;
940 (vi) internal medicine and pediatrics; and
941 (vii) gastroenterology; and

942 (b) the director of the Department of Health or the director's designee.

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

945 (3) (a) Two of the members of the board first appointed shall serve for a term of three
946 years and two of the members of the board first appointed shall serve for a term of four years.

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

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

950 (d) The director of the Department of Health or the director's designee shall serve as
951 the chair of the board.

952 (4) A quorum of the Compassionate Use Board shall consist of three members.

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

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

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

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

958 [63A-3-107](#).

959 (6) The Compassionate Use Board shall:

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

963 (i) the individual and the individual's physician appear before the board and offer, in
964 the board's discretion, satisfactory evidence that the individual suffers from a condition that:

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

966 (B) is intractable; and

967 (C) is not responsive to other treatments; and

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

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

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

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

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

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

981 (e) evaluate physician appeals under Subsection [26-58-207\(5\)](#); and

982 (f) perform other duties related to the medical use of cannabis upon the request of the
983 director of the Department of Health.

984 (7) The department shall review any compassionate use approved by the board under
985 this section to determine if the board properly exercised the board's discretion under this
986 section.

987 (8) If the department determines the board properly approved an individual for a
988 compassionate use under this section, the department shall issue the individual approval to

989 obtain a medical cannabis card in accordance with this chapter.

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

993 (10) The Compassionate Use Board shall, before November 1 of each year,
994 recommend to the Health and Human Services Interim Committee:

995 (a) a condition to designate as a qualifying illness under Section 26-58-208; or

996 (b) a condition to remove as a qualifying illness under Section 26-58-208.

997 Section 35. Section 26-58-207 is enacted to read:

998 **26-58-207. Physician qualification.**

999 (1) For the purposes of this section, a physician means an individual who is licensed to
1000 practice:

1001 (a) medicine under Title 58, Chapter 67, Utah Medical Practice Act; or

1002 (b) osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical
1003 Practice Act.

1004 (2) A physician may recommend cannabis if the physician:

1005 (a) completes the training requirements described in Subsection (3); and

1006 (b) except as described in Subsection (4), recommends cannabis to no more than 20%
1007 of the physician's patients at any given time.

1008 (3) A physician shall complete, before recommending cannabis to a patient, a training
1009 program in cannabis recommendation best practices that is approved by the department, by rule
1010 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1011 (4) A physician may recommend cannabis to greater than 20% of the physician's
1012 patients if the physician:

1013 (a) is certified, by the appropriate American medical board, in one of the following
1014 specialties:

1015 (i) anesthesiology;

1016 (ii) gastroenterology;

1017 (iii) neurology;

1018 (iv) oncology;

1019 (v) pain and palliative care;

- 1020 (vi) physiatry; or
- 1021 (vii) psychiatry;
- 1022 (b) appears before the Compassionate Use Board described in Section 26-58-206; and
- 1023 (c) demonstrates, to the satisfaction of the board and with the department's approval,

1024 that:

- 1025 (i) the physician's practice has unique characteristics that warrant allowing the
- 1026 physician to recommend cannabis to greater than 20% of the physician's patients; and
- 1027 (ii) the physician has established expertise in medical cannabis.

1028 Section 36. Section **26-58-208** is enacted to read:

1029 **26-58-208. Qualifying illness.**

1030 (1) For the purposes of this chapter, the following conditions are considered a

1031 qualifying illness:

- 1032 (a) acquired immune deficiency syndrome or an autoimmune disorder;
- 1033 (b) Alzheimer's disease;
- 1034 (c) amyotrophic lateral sclerosis;
- 1035 (d) cancer, cachexia, or a similar condition with symptoms that include physical
- 1036 wasting, nausea, or malnutrition associated with chronic disease;
- 1037 (e) Crohn's disease or a similar gastrointestinal disorder;
- 1038 (f) epilepsy or a similar condition that causes debilitating seizures;
- 1039 (g) multiple sclerosis or a similar condition that causes persistent and debilitating
- 1040 muscle spasms;
- 1041 (h) post-traumatic stress disorder related to military service; and
- 1042 (i) chronic pain in an individual, if a physician determines that the individual is at risk
- 1043 of becoming chemically dependent on, or overdosing on, opiate-based pain medication.

1044 (2) In addition to the conditions described in Subsection (1), a condition approved

1045 under Section 26-58-206, in an individual, on a case-by-case basis, is considered a qualifying

1046 illness for the purposes of this chapter.

1047 Section 37. Section **26-58-209** is enacted to read:

1048 **26-58-209. Nondiscrimination against public employees for use of cannabis, a**

1049 **cannabis product, or a medical cannabis device.**

1050 (1) As used in this section:

1051 (a) "Discriminate in matters of compensation" means the same as that term is defined
1052 in Section 34A-5-106.

1053 (b) "Public employee" means an individual who is employed by a public employer.

1054 (c) "Public employer" means the following entities:

1055 (i) a department, division, board, council, committee, institution, office, bureau, or
1056 other similar administrative unit of state government;

1057 (ii) a municipality;

1058 (iii) a county;

1059 (iv) a school district; or

1060 (v) an institution of higher education as described in Section 53B-2-101.

1061 (2) A public employer may not do the following to an individual because the individual
1062 uses cannabis, a cannabis product, or a medical cannabis device in accordance with this
1063 chapter:

1064 (a) refuse to hire or promote the individual;

1065 (b) discharge, demote, or terminate the individual;

1066 (c) retaliate against or harass the individual; or

1067 (d) discriminate against the individual in matters of compensation or in terms,
1068 privileges, and conditions of employment.

1069 Section 38. Section **26-58-301** is enacted to read:

1070 **Part 3. Cannabis Dispensary License**

1071 **26-58-301. Cannabis dispensary -- License -- Eligibility.**

1072 (1) A person may not operate as a cannabis dispensary without a license from the
1073 department issued under this part.

1074 (2) Subject to the requirements of this part, the department shall, within 30 business
1075 days after receiving a complete application, issue a license to operate a cannabis dispensary to a
1076 person who submits to the department:

1077 (a) a proposed name, address, and physical location where the person will operate the
1078 cannabis dispensary;

1079 (b) evidence that the person:

1080 (i) possesses or controls a minimum of \$500,000 in liquid assets for each application
1081 submitted to the department;

1082 (ii) can comply with the operating requirements for a cannabis dispensary described in
1083 this chapter; and

1084 (iii) will implement an inventory control system at the cannabis dispensary;

1085 (c) a complete application for a business license;

1086 (d) an application fee, in an amount determined by the department in accordance with
1087 Section [63J-1-504](#), that is necessary to cover the department's cost to implement this part;

1088 (e) an operational plan that complies with Subsection (3); and

1089 (f) the results of a criminal background check for each cannabis dispensary agent.

1090 (3) A person applying for a cannabis dispensary license shall submit to the department
1091 a proposed operation plan for the cannabis dispensary that includes:

1092 (a) a description of the cannabis dispensary's employee training standards;

1093 (b) a security plan for the cannabis dispensary;

1094 (c) the time period in which the person estimates the cannabis dispensary will become
1095 operational; and

1096 (d) the products, and anticipated sources of the products, that a cannabis dispensary
1097 plans to sell.

1098 (4) If the department determines that a cannabis dispensary is eligible for a license
1099 under this section, the department shall:

1100 (a) before January 1, 2017, charge the cannabis dispensary an initial license fee of
1101 \$25,000; and

1102 (b) on or after January 1, 2017, charge the cannabis dispensary an initial license fee in
1103 an amount determined by the department in accordance with Section [63J-1-504](#).

1104 (5) Except as provided in Subsection (6), the department shall renew a person's license
1105 under this part every two years if, at the time of renewal:

1106 (a) the person meets the requirements of Subsection (1); and

1107 (b) the person pays the department a license renewal fee in an amount determined by
1108 the department in accordance with Section [63J-1-504](#).

1109 (6) (a) The department may not renew a cannabis dispensary's license for a sixth
1110 consecutive time unless the department publishes a notice, in a newspaper of general
1111 circulation for the geographic area in which the cannabis dispensary is located, one year before
1112 the day on which the cannabis dispensary's license expires, that includes:

- 1113 (i) the name and location of the cannabis dispensary;
- 1114 (ii) the day on which the license for the cannabis dispensary will expire; and
- 1115 (iii) a solicitation for cannabis dispensary license applicants.

1116 (b) If, after the department publishes the notice described in Subsection (6)(a), the
 1117 department receives an application for a cannabis dispensary from a new applicant and also
 1118 receives an application for renewal from the existing cannabis dispensary, the department shall
 1119 issue the license to the applicant that the department determines best meets the criteria
 1120 established in Section 26-58-302.

1121 (7) (a) If a licensed cannabis dispensary abandons the cannabis dispensary's license, the
 1122 department shall publish notice of an available license in the same manner as described in
 1123 Subsection (6)(a).

1124 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,
 1125 Utah Administrative Rulemaking Act, for what actions by a cannabis dispensary constitute
 1126 abandonment of a cannabis dispensary license.

1127 (8) The department may revoke a license under this part if the cannabis dispensary is
 1128 not operational within one year of the issuance of the initial license.

1129 (9) The department shall deposit the proceeds of a fee imposed by this section in the
 1130 Medical Cannabis Restricted Account.

1131 (10) The department shall begin accepting applications under this part no later than
 1132 December 1, 2016.

1133 Section 39. Section **26-58-302** is enacted to read:

1134 **26-58-302. Maximum number of licenses.**

1135 (1) The department may not issue more than the greater of, in each county in the state:

1136 (a) one cannabis dispensary license; or

1137 (b) an amount of cannabis dispensary licenses equal to the number of residents in the
 1138 county divided by 200,000, rounded up to the nearest greater whole number.

1139 (2) If more than one applicant for a license in a geographic area meets the
 1140 qualifications of this chapter for a cannabis dispensary, the department shall evaluate the
 1141 applicants to determine which applicant has best demonstrated:

1142 (a) experience with:

1143 (i) establishing and running a business in a related field;

- 1144 (ii) operating a secure inventory control system;
- 1145 (iii) complying with a regulatory environment; and
- 1146 (iv) training, evaluating, and monitoring employees;
- 1147 (b) connections to the local community; and
- 1148 (c) the extent to which the applicant can reduce the cost of cannabis or cannabis
- 1149 products to a patient.

1150 Section 40. Section **26-58-303** is enacted to read:

1151 **26-58-303. Cannabis dispensary agent -- Registration card.**

1152 (1) An individual may not act as a cannabis dispensary agent of a cannabis dispensary

1153 unless the individual is registered by the department as a cannabis dispensary agent.

1154 (2) The department shall, within 15 days after receiving a complete application,

1155 register and issue a cannabis dispensary agent registration card to an individual who:

1156 (a) has not been convicted of an offense that is a felony under either state or federal

1157 law;

1158 (b) provides to the department:

1159 (i) the individual's name and address; and

1160 (ii) the name and location of the licensed cannabis dispensary where the individual

1161 seeks to act as the cannabis dispensary agent;

1162 (c) pays a fee to the department, in an amount determined by the department in

1163 accordance with Section [63J-1-504](#), that is necessary to cover the department's cost to

1164 implement this part; and

1165 (d) complies with the requirement for and passes a criminal background check

1166 described in Section [26-58-304](#).

1167 (3) A cannabis dispensary agent shall comply with a certification standard designated

1168 by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1169 Rulemaking Act.

1170 (4) The department may revoke the cannabis dispensary agent registration card of an

1171 individual who:

1172 (a) violates the requirements of this chapter; or

1173 (b) is convicted of an offense that is a felony under state or federal law.

1174 Section 41. Section **26-58-304** is enacted to read:

1175 **26-58-304. Cannabis dispensary agents -- Criminal background checks.**

1176 (1) An individual applying for a cannabis dispensary agent registration card under this
1177 chapter shall:

1178 (a) submit, at the time of application, a fingerprint card in a form acceptable to the
1179 department; and

1180 (b) consent to a fingerprint background check by:

1181 (i) the Utah Bureau of Criminal Identification; and

1182 (ii) the Federal Bureau of Investigation.

1183 (2) The department shall request that the Department of Public Safety complete a
1184 Federal Bureau of Investigation criminal background check for each cannabis dispensary agent
1185 registration card applicant.

1186 (3) The department may revoke or refuse to issue an individual's cannabis dispensary
1187 agent registration card if the individual has committed an offense that is a felony under state or
1188 federal law.

1189 Section 42. Section **26-58-305** is enacted to read:

1190 **26-58-305. Cannabis dispensary agent registration card -- Rebuttable**
1191 **presumption.**

1192 (1) An individual who has a cannabis dispensary agent registration card shall carry the
1193 individual's cannabis dispensary agent registration card with the individual at all times when:

1194 (a) the individual is on the premises of a cannabis dispensary; and

1195 (b) transporting cannabis, a cannabis product, or a medical cannabis device between
1196 two medical cannabis establishments.

1197 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis
1198 device at a cannabis dispensary, or transporting cannabis, a cannabis product, or a medical
1199 cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in
1200 compliance with Subsection (1):

1201 (a) there is a rebuttable presumption that the individual possesses the cannabis,
1202 cannabis product, or medical cannabis device legally; and

1203 (b) a law enforcement officer does not have probable cause to believe that the
1204 individual is engaging in illegal activity, based solely on the individual's possession of the
1205 cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1).

1206 Section 43. Section **26-58-401** is enacted to read:

1207 **Part 4. Cannabis Dispensary Operation**

1208 **26-58-401. Operating requirements -- General.**

1209 (1) A cannabis dispensary shall have a single, secure, public entrance.

1210 (2) A cannabis dispensary may sell cannabis, a cannabis product, or a medical cannabis
1211 device only in a secure area where only an individual with a medical cannabis card may enter.

1212 (3) A cannabis dispensary may not operate without:

1213 (a) a security system with a backup power source in the event of a power outage to:

1214 (i) detect and record entry at all times the cannabis dispensary is closed; and

1215 (ii) provide notice to local law enforcement of unauthorized entry;

1216 (b) a lock on any entrance to the part of the cannabis dispensary where medical
1217 cannabis is stored; and

1218 (c) an inventory control system that complies with Section [4-42-104](#).

1219 (4) A physician may not:

1220 (a) serve as an owner, principal, or shareholder of a cannabis dispensary; or

1221 (b) except online, advertise that the physician may or will recommend cannabis or a
1222 cannabis product.

1223 (5) A cannabis dispensary shall post the limit on the purchase of cannabis, as described
1224 in Subsection [26-58-402](#)(3), clearly and conspicuously in the cannabis dispensary.

1225 (6) A cannabis dispensary may not allow any individual to consume cannabis on the
1226 property or premises of the establishment.

1227 (7) A cannabis dispensary may not sell cannabis, a cannabis product, or a medical
1228 cannabis device before January 1, 2017.

1229 Section 44. Section **26-58-402** is enacted to read:

1230 **26-58-402. Dispensing -- Amount a cannabis dispensary may dispense --**
1231 **Reporting -- Form of cannabis or cannabis product.**

1232 (1) A cannabis dispensary may only sell, subject to this chapter:

1233 (a) cannabis;

1234 (b) a cannabis product;

1235 (c) a medical cannabis device; or

1236 (d) educational materials related to the medical use of cannabis.

1237 (2) A cannabis dispensary may only sell cannabis, a cannabis product, or a medical
1238 cannabis device to an individual with a medical cannabis card issued by the department.

1239 (3) A cannabis dispensary may not dispense on behalf of any one individual with a
1240 medical cannabis card, in any one 30-day period:

1241 (a) an amount of unprocessed cannabis that exceeds two ounces by weight; or

1242 (b) an amount of cannabis products that contains, in total, greater than 10 grams of
1243 cannabinoids by weight.

1244 (4) An individual with a medical cannabis card may not purchase more cannabis or
1245 cannabis products than the amounts designated in Subsection (3).

1246 (5) A designated caregiver designated by any one individual with a medical cannabis
1247 card may not purchase, for the individual, an amount of cannabis or cannabis products that
1248 exceeds the amounts designated in Subsection (3).

1249 (6) A cannabis dispensary shall:

1250 (a) submit a record, to the electronic verification system, of each time the cannabis
1251 dispensary dispenses cannabis or a cannabis product to an individual with a medical cannabis
1252 card; and

1253 (b) access the electronic verification system before dispensing cannabis or a cannabis
1254 product to an individual with a medical cannabis card in order to determine if the individual
1255 has exceeded the amount of cannabis or cannabis products described in Subsection (3).

1256 (7) (a) Except as provided in Subsection (7)(b), a cannabis dispensary may not sell a
1257 medical cannabis device that is constructed or produced to resemble a cigarette.

1258 (b) A cannabis dispensary may sell a medical cannabis device that creates a vapor that
1259 delivers cannabis to an individual's respiratory system.

1260 (8) A cannabis dispensary may give to an individual with a medical cannabis card, for
1261 free, any product the cannabis dispensary is allowed to sell under Subsection (1).

1262 Section 45. Section **26-58-403** is enacted to read:

1263 **26-58-403. Product quality -- Labeling -- Packaging.**

1264 (1) A cannabis dispensary may not sell or offer to sell cannabis or a cannabis product
1265 unless:

1266 (a) the cannabinoid profile in the cannabis or cannabis product is clearly and accurately
1267 stated on the cannabis or cannabis product packaging; and

1268 (b) the cannabis or cannabis product is sealed in a tamper resistant, resealable container
1269 with a label that includes a bar code or identification number that links the cannabis or
1270 cannabis product to the cannabis dispensary's inventory control system.

1271 (2) A cannabis dispensary may only sell cannabis or a cannabis product that has been
1272 inspected by an independent testing laboratory in accordance with Section [4-42-502](#).

1273 Section 46. Section **26-58-404** is enacted to read:

1274 **26-58-404. Advertising.**

1275 (1) Except as provided in Subsection (2), a cannabis dispensary may not advertise in
1276 any medium.

1277 (2) A cannabis dispensary may only advertise using:

1278 (a) signage on the outside of the cannabis dispensary that includes only:

1279 (i) the cannabis dispensary's name and hours of operation; and

1280 (ii) a green cross; and

1281 (b) a website that includes information about the location of the dispensary, products
1282 and services available at the dispensary, and educational materials related to the use of
1283 cannabis.

1284 Section 47. Section **26-58-405** is enacted to read:

1285 **26-58-405. Inspections.**

1286 (1) The department shall inspect, in accordance with Subsection (2), a cannabis
1287 dispensary's facility and records in order to determine if the cannabis dispensary complies with
1288 the licensing requirements of this part.

1289 (2) The department may inspect the records and facility of a cannabis dispensary:

1290 (a) as many as three scheduled times per year;

1291 (b) as many as one unscheduled time per year; and

1292 (c) if the department has reason to believe that the cannabis dispensary has violated the
1293 law, at any time, scheduled or unscheduled.

1294 Section 48. Section **26-58-406** is enacted to read:

1295 **26-58-406. Zoning.**

1296 (1) Except as provided in Subsection (2), a municipality or local government may not
1297 enact a zoning ordinance that prohibits a cannabis dispensary from operating in a location
1298 within the municipality's or local government's jurisdiction, on the basis that the cannabis

1299 dispensary is a cannabis dispensary.

1300 (2) (a) A municipality or local government may not prohibit a cannabis dispensary
1301 from operating, as a permitted use, in an agricultural, industrial, or commercial zone, or in a
1302 zone with similar characteristics to an agricultural, industrial, or commercial zone.

1303 (b) A municipality may prohibit a cannabis dispensary from operating in a zone not
1304 described in Subsection (2)(a).

1305 Section 49. Section **26-58-407** is enacted to read:

1306 **26-58-407. Cannabis, cannabis product, or medical cannabis device**
1307 **transportation.**

1308 (1) An individual may not transport cannabis, a cannabis product, or a medical
1309 cannabis device unless the individual has a valid cannabis production establishment
1310 registration card or valid cannabis dispensary registration card.

1311 (2) An individual transporting cannabis, a cannabis product, or a medical cannabis
1312 device shall keep a transportation record that includes:

1313 (a) a bar code or identification number that links the cannabis, cannabis product, or
1314 medical cannabis device to a relevant medical cannabis establishment's inventory control
1315 system;

1316 (b) origin and destination information for any cannabis, cannabis product, or medical
1317 cannabis device the individual is transporting; and

1318 (c) a record of the departure and arrival time of the individual transporting the
1319 cannabis, cannabis product, or medical cannabis device.

1320 (3) In addition to the requirements in Subsections (1) and (2), the Department of
1321 Agriculture and Food may establish, by rule made in accordance with Title 63G, Chapter 3,
1322 Utah Administrative Rulemaking Act, requirements for transporting cannabis, a cannabis
1323 product, or a medical cannabis device that are related to human consumption safety.

1324 Section 50. Section **26-58-501** is enacted to read:

1325 **Part 5. Enforcement**

1326 **26-58-501. Enforcement -- Fine -- Citation.**

1327 (1) The department may, for a violation of this chapter by a person who is a cannabis
1328 dispensary or cannabis dispensary agent:

1329 (a) revoke the person's license;

- 1330 (b) refuse to renew the person's license;
- 1331 (c) assess the person an administrative penalty; or
- 1332 (d) take any other appropriate administrative action.
- 1333 (2) The department shall deposit an administrative penalty imposed under this section
- 1334 into the Medical Cannabis Restricted Account.
- 1335 (3) The department may, for a person subject to an uncontested citation, a stipulated
- 1336 settlement, or a finding of a violation in an adjudicative proceeding under this section:
- 1337 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
- 1338 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
- 1339 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 1340 (b) order the person to cease and desist from the action that creates a violation.
- 1341 (4) The department may not revoke a cannabis dispensary's license via a citation.
- 1342 (5) If, within 20 calendar days after the day on which the department issues a citation
- 1343 for a violation of this chapter, the person that is the subject of the citation fails to request a
- 1344 hearing to contest the citation, the citation becomes the department's final order.
- 1345 (6) The department may, for a person who fails to comply with a citation under this
- 1346 section:
- 1347 (a) refuse to issue or renew the person's license or cannabis dispensary agent
- 1348 registration card; or
- 1349 (b) suspend, revoke, or place on probation the person's license or cannabis dispensary
- 1350 agent registration card.

1351 Section 51. Section **30-3-10** is amended to read:

1352 **30-3-10. Custody of children in case of separation or divorce -- Custody**
1353 **consideration.**

1354 (1) If a husband and wife having minor children are separated, or their marriage is
1355 declared void or dissolved, the court shall make an order for the future care and custody of the
1356 minor children as it considers appropriate.

1357 (a) In determining any form of custody, including a change in custody, the court shall
1358 consider the best interests of the child without preference for either the mother or father solely
1359 because of the biological sex of the parent and, among other factors the court finds relevant, the
1360 following:

- 1361 (i) the past conduct and demonstrated moral standards of each of the parties;
1362 (ii) which parent is most likely to act in the best interest of the child, including
1363 allowing the child frequent and continuing contact with the noncustodial parent;
1364 (iii) the extent of bonding between the parent and child, meaning the depth, quality,
1365 and nature of the relationship between a parent and child;
1366 (iv) whether the parent has intentionally exposed the child to pornography or material
1367 harmful to a minor, as defined in Section 76-10-1201; and
1368 (v) those factors outlined in Section 30-3-10.2.
- 1369 (b) There shall be a rebuttable presumption that joint legal custody, as defined in
1370 Section 30-3-10.1, is in the best interest of the child, except in cases where there is:
- 1371 (i) domestic violence in the home or in the presence of the child;
1372 (ii) special physical or mental needs of a parent or child, making joint legal custody
1373 unreasonable;
1374 (iii) physical distance between the residences of the parents, making joint decision
1375 making impractical in certain circumstances; or
1376 (iv) any other factor the court considers relevant including those listed in this section
1377 and Section 30-3-10.2.
- 1378 (c) The person who desires joint legal custody shall file a proposed parenting plan in
1379 accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may
1380 be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of
1381 the child.
- 1382 (d) The children may not be required by either party to testify unless the trier of fact
1383 determines that extenuating circumstances exist that would necessitate the testimony of the
1384 children be heard and there is no other reasonable method to present their testimony.
- 1385 (e) The court may inquire of the children and take into consideration the children's
1386 desires regarding future custody or parent-time schedules, but the expressed desires are not
1387 controlling and the court may determine the children's custody or parent-time otherwise. The
1388 desires of a child 14 years of age or older shall be given added weight, but is not the single
1389 controlling factor.
- 1390 (f) If interviews with the children are conducted by the court pursuant to Subsection
1391 (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be

1392 obtained but is not necessary if the court finds that an interview with the children is the only
1393 method to ascertain the child's desires regarding custody.

1394 (2) In awarding custody, the court shall consider, among other factors the court finds
1395 relevant, which parent is most likely to act in the best interests of the child, including allowing
1396 the child frequent and continuing contact with the noncustodial parent as the court finds
1397 appropriate.

1398 (3) If the court finds that one parent does not desire custody of the child, the court shall
1399 take that evidence into consideration in determining whether to award custody to the other
1400 parent.

1401 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a
1402 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
1403 whether a substantial change has occurred for the purpose of modifying an award of custody.

1404 (b) If a court takes a parent's disability into account in awarding custody or determining
1405 whether a substantial change has occurred for the purpose of modifying an award of custody,
1406 the parent with a disability may rebut any evidence, presumption, or inference arising from the
1407 disability by showing that:

1408 (i) the disability does not significantly or substantially inhibit the parent's ability to
1409 provide for the physical and emotional needs of the child at issue; or

1410 (ii) the parent with a disability has sufficient human, monetary, or other resources
1411 available to supplement the parent's ability to provide for the physical and emotional needs of
1412 the child at issue.

1413 (c) Nothing in this section may be construed to apply to adoption proceedings under
1414 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

1415 (5) This section establishes neither a preference nor a presumption for or against joint
1416 physical custody or sole physical custody, but allows the court and the family the widest
1417 discretion to choose a parenting plan that is in the best interest of the child.

1418 (6) In considering the past conduct and demonstrated moral standards of each of the
1419 parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent
1420 because of the parent's possession or consumption of cannabis, a cannabis product, or a
1421 medical cannabis device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

1422 Section 52. Section **41-6a-517** is amended to read:

1423 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
1424 **body -- Penalties -- Arrest without warrant.**

1425 (1) As used in this section:

1426 (a) "Controlled substance" has the same meaning as in Section 58-37-2.

1427 (b) "Practitioner" has the same meaning as in Section 58-37-2.

1428 (c) "Prescribe" has the same meaning as in Section 58-37-2.

1429 (d) "Prescription" has the same meaning as in Section 58-37-2.

1430 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
1431 operate or be in actual physical control of a motor vehicle within this state if the person has any
1432 measurable controlled substance or metabolite of a controlled substance in the person's body.

1433 (3) It is an affirmative defense to prosecution under this section that the controlled
1434 substance was:

1435 (a) involuntarily ingested by the accused;

1436 (b) prescribed by a practitioner for use by the accused; [~~or~~]

1437 (c) cannabis or a cannabis product that was:

1438 (i) recommended by a physician to the accused, if the accused holds a valid medical
1439 cannabis card under Title 26, Chapter 58, Medical Cannabis Act; or

1440 (ii) ingested by the accused in another state in which the use of cannabis or a cannabis
1441 product is legal under state law; or

1442 [~~(c)~~] (d) otherwise legally ingested.

1443 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
1444 misdemeanor.

1445 (b) A person who violates this section is subject to conviction and sentencing under
1446 both this section and any applicable offense under Section 58-37-8.

1447 (5) A peace officer may, without a warrant, arrest a person for a violation of this
1448 section when the officer has probable cause to believe the violation has occurred, although not
1449 in the officer's presence, and if the officer has probable cause to believe that the violation was
1450 committed by the person.

1451 (6) The Driver License Division shall, if the person is 21 years of age or older on the
1452 date of arrest:

1453 (a) suspend, for a period of 120 days, the driver license of a person convicted under

1454 Subsection (2) of an offense committed on or after July 1, 2009; or

1455 (b) revoke, for a period of two years, the driver license of a person if:

1456 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1457 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

1458 and within a period of 10 years after the date of the prior violation.

1459 (7) The Driver License Division shall, if the person is 19 years of age or older but

1460 under 21 years of age on the date of arrest:

1461 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is

1462 longer, the driver license of a person convicted under Subsection (2) of an offense committed

1463 on or after July 1, 2011; or

1464 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is

1465 longer, the driver license of a person if:

1466 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1467 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

1468 and within a period of 10 years after the date of the prior violation.

1469 (8) The Driver License Division shall, if the person is under 19 years of age on the date

1470 of arrest:

1471 (a) suspend, until the person is 21 years of age, the driver license of a person convicted

1472 under Subsection (2) of an offense committed on or after July 1, 2009; or

1473 (b) revoke, until the person is 21 years of age, the driver license of a person if:

1474 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1475 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

1476 and within a period of 10 years after the date of the prior violation.

1477 (9) The Driver License Division shall subtract from any suspension or revocation

1478 period the number of days for which a license was previously suspended under Section

1479 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon

1480 which the record of conviction is based.

1481 (10) The Driver License Division shall:

1482 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in

1483 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was

1484 committed prior to July 1, 2009; or

1485 (b) deny, suspend, or revoke the operator's license of a person for the denial,
1486 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:
1487 (i) the person was 20 years of age or older but under 21 years of age at the time of
1488 arrest; and
1489 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
1490 July 1, 2009, and prior to July 1, 2011.
1491 (11) A court that reported a conviction of a violation of this section for a violation that
1492 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
1493 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
1494 if the person:
1495 (a) completes at least six months of the license suspension;
1496 (b) completes a screening;
1497 (c) completes an assessment, if it is found appropriate by a screening under Subsection
1498 (11)(b);
1499 (d) completes substance abuse treatment if it is found appropriate by the assessment
1500 under Subsection (11)(c);
1501 (e) completes an educational series if substance abuse treatment is not required by the
1502 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;
1503 (f) has not been convicted of a violation of any motor vehicle law in which the person
1504 was involved as the operator of the vehicle during the suspension period imposed under
1505 Subsection (7)(a) or (8)(a);
1506 (g) has complied with all the terms of the person's probation or all orders of the court if
1507 not ordered to probation; and
1508 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
1509 person has not consumed a controlled substance not prescribed by a practitioner for use by the
1510 person or unlawfully consumed alcohol during the suspension period imposed under
1511 Subsection (7)(a) or (8)(a); or
1512 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
1513 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
1514 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
1515 for use by the person or unlawfully consumed alcohol during the suspension period imposed

1516 under Subsection (7)(a) or (8)(a).

1517 (12) If the court shortens a person's license suspension period in accordance with the
1518 requirements of Subsection (11), the court shall forward the order shortening the person's
1519 license suspension period prior to the completion of the suspension period imposed under
1520 Subsection (7)(a) or (8)(a) to the Driver License Division.

1521 (13) (a) The court shall notify the Driver License Division if a person fails to:

1522 (i) complete all court ordered screening and assessment, educational series, and
1523 substance abuse treatment; or

1524 (ii) pay all fines and fees, including fees for restitution and treatment costs.

1525 (b) Upon receiving the notification, the division shall suspend the person's driving
1526 privilege in accordance with Subsections 53-3-221(2) and (3).

1527 (14) The court shall order supervised probation in accordance with Section 41-6a-507
1528 for a person convicted under Subsection (2).

1529 Section 53. Section 53-1-106.5 is enacted to read:

1530 **53-1-106.5. Medical Cannabis Act -- Department duties.**

1531 (1) In addition to the duties described in Section 53-1-106, the department shall:

1532 (a) enter into a memorandum of understanding with the participating entities, as that
1533 term is defined in Section 26-58-102, for the purpose of providing peace officers and law
1534 enforcement agencies with access to the electronic verification system as described in Section
1535 26-58-202;

1536 (b) provide standards for training peace officers and law enforcement agencies in the
1537 use of the electronic verification system; and

1538 (c) collaborate with the Department of Health and the Department of Agriculture and
1539 Food to provide standards for training peace officers and law enforcement agencies in medical
1540 cannabis.

1541 (2) The department may not allow a law enforcement official to access the electronic
1542 verification system unless the law enforcement official has completed the training described in
1543 Subsections (1)(b) and (1)(c).

1544 Section 54. Section 58-37-3.6 is enacted to read:

1545 **58-37-3.6. Exemption for possession or use of cannabis to treat a qualifying**
1546 **illness.**

- 1547 (1) As used in this section:
- 1548 (a) "Cannabis" means marijuana.
- 1549 (b) "Cannabis dispensary" means the same as that term is defined in Section
- 1550 26-58-102.
- 1551 (c) "Cannabis product" means a product that:
- 1552 (i) is intended for human ingestion; and
- 1553 (ii) contains cannabis or tetrahydrocannabinol.
- 1554 (d) "Designated caregiver" means the same as that term is defined in Section
- 1555 26-58-102.
- 1556 (e) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
- 1557 (f) "Marijuana" means the same as that term is defined in Section 58-37-2.
- 1558 (g) "Medical cannabis card" means an official document or card, issued by the
- 1559 Department of Health under Section 26-58-201, that is connected to the electronic verification
- 1560 system described in Section 26-58-202.
- 1561 (h) "Medical cannabis device" means a device, except for a device that facilitates
- 1562 cannabis combustion, that is used to aid an individual in ingesting cannabis or a cannabis
- 1563 product.
- 1564 (i) "Medical cannabis establishment" means the same as that term is defined in Section
- 1565 26-58-102.
- 1566 (j) "Qualifying illness" means the same as that term is defined in Section 26-58-102.
- 1567 (k) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the
- 1568 description in Subsection 58-37-4(2)(a)(iii)(AA).
- 1569 (2) Notwithstanding any other provision of this chapter, except as described in
- 1570 Subsection (7), an individual who possesses or uses cannabis, a cannabis product, or a medical
- 1571 cannabis device is not subject to, for the possession or use of the cannabis, cannabis product, or
- 1572 medical cannabis device, the penalties described in this title for possession or use of marijuana,
- 1573 tetrahydrocannabinol, or drug paraphernalia, if the individual holds a valid medical cannabis
- 1574 card.
- 1575 (3) Notwithstanding any other provision of this chapter, except as described in
- 1576 Subsection (7), an individual who possesses cannabis, a cannabis product, or a medical
- 1577 cannabis device, or who distributes cannabis, a cannabis product, or a medical cannabis device

1578 to a patient, is not subject to, for the possession or distribution of the cannabis, cannabis
1579 product, or medical cannabis device, the penalties described in this title for possession or
1580 distribution of marijuana, tetrahydrocannabinol, or drug paraphernalia, if the individual:

1581 (a) for a patient who is a minor, is the patient or the patient's parent or guardian and
1582 holds a valid medical cannabis card;

1583 (b) for a patient that is 18 years of age or older, is the patient who holds a valid medical
1584 cannabis card; or

1585 (c) for a patient who is 18 years of age or older, is the patient's designated caregiver
1586 and holds a valid medical cannabis card that names the patient and the designated caregiver.

1587 (4) Notwithstanding any other provision of this chapter, except as described in
1588 Subsection (7), a person who possesses, sells, or offers to sell cannabis, a cannabis product, or
1589 a medical cannabis device is not subject to, for the possession, sale, or offer for sale of
1590 cannabis, the cannabis product, or the medical cannabis device, the penalties described in this
1591 title for the possession, sale, or offering for sale of marijuana, tetrahydrocannabinol, or drug
1592 paraphernalia if the person:

1593 (a) produces, sells, or offers to sell the cannabis, cannabis product, or medical cannabis
1594 device for the end purpose of providing the cannabis, cannabis product, or medical cannabis
1595 device to a patient with a qualifying illness;

1596 (b) is licensed under Title 26, Chapter 58, Medical Cannabis Act, or Title 4, Chapter
1597 42, Cannabis Production Establishments; and

1598 (c) complies with the operating requirements for:

1599 (i) a cannabis dispensary under Title 26, Chapter 58, Part 3, Cannabis Dispensary
1600 License; or

1601 (ii) a cannabis production establishment under Title 4, Chapter 42, Cannabis
1602 Production Establishments.

1603 (5) Notwithstanding any other provision of this chapter, a person who grows, sells, or
1604 offers to sell cannabis is not subject to, for the growth or sale of the cannabis, the penalties
1605 described in this title for the growth or sale of marijuana, if the person:

1606 (a) grows, sells, or offers to sell the cannabis only for the purpose of selling the
1607 cannabis to a licensed medical cannabis establishment or a licensed medical cannabis
1608 dispensary, for the end purpose of providing the cannabis to a patient with a qualifying illness;

1609 (b) is licensed under Title 26, Chapter 58, Medical Cannabis Act, or Title 4, Chapter
1610 42, Cannabis Production Establishments; and

1611 (c) complies with the operating requirements for:

1612 (i) a cannabis dispensary under Title 26, Chapter 58, Part 3, Cannabis Dispensary
1613 License; or

1614 (ii) a cannabis production establishment under Title 4, Chapter 42, Cannabis
1615 Production Establishments.

1616 (6) Notwithstanding any other provision of this chapter, except as described in
1617 Subsection (7), an individual who grows cannabis, or possesses, sells, or offers to sell cannabis,
1618 a cannabis product, or a medical cannabis device, is not subject to, for the growth of cannabis,
1619 or for the possession, sale, or offer for sale of cannabis, the cannabis product, or the medical
1620 cannabis device, the penalties described in this title for the growth, possession, sale, or offering
1621 for sale of marijuana, tetrahydrocannabinol, or drug paraphernalia if the individual:

1622 (a) grows, possesses, sells, or offers to sell the cannabis as an agent of:

1623 (i) a cannabis dispensary that is licensed under Title 26, Chapter 58, Part 3, Cannabis
1624 Dispensary License; or

1625 (ii) a cannabis production establishment that is licensed under Title 4, Chapter 42,
1626 Cannabis Production Establishments;

1627 (b) is the holder of a valid:

1628 (i) cannabis production establishment agent registration card; or

1629 (ii) cannabis dispensary agent registration card; and

1630 (c) complies with administrative rules related to a cannabis production establishment
1631 agent or a cannabis dispensary agent.

1632 (7) An individual is not exempt from the penalties described in Subsections (2) through
1633 (6) if the individual:

1634 (a) uses cannabis through a means involving cannabis combustion at a temperature
1635 greater than 500 degrees Fahrenheit;

1636 (b) uses or possesses a medical cannabis device that facilitates the use of cannabis
1637 through cannabis combustion; or

1638 (c) uses or possesses drug paraphernalia that is not a medical cannabis device used to
1639 ingest the medical cannabis.

1640 Section 55. Section **59-12-104.7** is enacted to read:

1641 **59-12-104.7. Exemption from sales tax for medical cannabis.**

1642 (1) As used in this section:

1643 (a) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

1644 (b) "Cannabis dispensary" means the same as that term is defined in Section
1645 [26-58-102](#).

1646 (c) "Cannabis product" means the same as that term is defined in Section [26-58-306](#).

1647 (d) "Medical cannabis device" means the same as that term is defined in Section
1648 [58-37-3.6](#).

1649 (2) In addition to the exemptions described in Section [59-12-104](#), the sale, by a
1650 licensed cannabis dispensary, of cannabis, a cannabis product, or a medical cannabis device, is
1651 not subject to the taxes imposed by this chapter.

1652 Section 56. Section **59-28-101** is enacted to read:

1653 **CHAPTER 28. MEDICAL CANNABIS TAX ACT**

1654 **59-28-101. Title.**

1655 This chapter is known as the "Medical Cannabis Tax Act."

1656 Section 57. Section **59-28-102** is enacted to read:

1657 **59-28-102. Definitions.**

1658 As used in this chapter:

1659 (1) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

1660 (2) "Cannabis dispensary" means the same as that term is defined in Section
1661 [26-58-102](#).

1662 (3) "Cannabis product" means the same as that term is defined in Section [26-58-306](#).

1663 (4) "Medical cannabis device" means the same as that term is defined in Section
1664 [58-37-3.6](#).

1665 (5) "Medical Cannabis Restricted Account" means the account created in Section
1666 [26-58-104](#).

1667 Section 58. Section **59-28-103** is enacted to read:

1668 **59-28-103. Imposition of tax -- Rate.**

1669 There is imposed a tax on the retail purchaser of cannabis, a cannabis product, or a
1670 medical cannabis device at a cannabis dispensary in the state, in an amount equal to 4.70% of

1671 amounts paid or charged for the cannabis, cannabis product, or medical cannabis device.

1672 Section 59. Section **59-28-104** is enacted to read:

1673 **59-28-104. Collection of tax.**

1674 A cannabis dispensary shall:

1675 (1) collect the tax imposed by Section [59-28-103](#) from a cannabis, cannabis product, or
1676 medical cannabis device purchaser; and

1677 (2) pay the tax collected under Subsection (1):

1678 (a) to the commission quarterly on or before the last day of the month immediately
1679 following the last day of the previous quarter; and

1680 (b) using a form prescribed by the commission.

1681 Section 60. Section **59-28-105** is enacted to read:

1682 **59-28-105. Deposit of tax revenue.**

1683 The commission shall deposit revenues generated by the tax imposed by this chapter
1684 into the Medical Cannabis Restricted Account.

1685 Section 61. Section **59-28-106** is enacted to read:

1686 **59-28-106. Records.**

1687 (1) A cannabis dispensary shall maintain any record necessary to determine the amount
1688 of tax that the cannabis dispensary is required to remit to the commission under this chapter.

1689 (2) The commission may require a cannabis dispensary to keep any record the
1690 commission considers sufficient evidence of the amount of tax the cannabis dispensary is
1691 required to remit to the commission under this chapter:

1692 (a) by notice served upon the cannabis dispensary; or

1693 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1694 Rulemaking Act.

1695 (3) Upon notice by the commission, a cannabis dispensary shall open the cannabis
1696 dispensary's records for examination by the commission.

1697 Section 62. Section **59-28-107** is enacted to read:

1698 **59-28-107. Rulemaking authority.**

1699 The commission may make rules in accordance with Title 63G, Chapter 3, Utah
1700 Administrative Rulemaking Act, to implement and enforce this chapter.

1701 Section 63. Section **59-28-108** is enacted to read:

1702 **59-28-108. Penalties and interest.**

1703 A cannabis dispensary that fails to comply with any provision of this chapter is subject
1704 to penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

1705 Section 64. Section **62A-4a-202.1** is amended to read:

1706 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
1707 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
1708 **emergency placement.**

1709 (1) A peace officer or child welfare worker may not:

1710 (a) enter the home of a child who is not under the jurisdiction of the court, remove a
1711 child from the child's home or school, or take a child into protective custody unless authorized
1712 under Subsection [78A-6-106\(2\)](#); or

1713 (b) remove a child from the child's home or take a child into custody under this section
1714 solely on the basis of:

1715 (i) educational neglect, truancy, or failure to comply with a court order to attend
1716 school[-]; or

1717 (ii) the possession or use of cannabis or a cannabis product in the home, if the use and
1718 possession of the cannabis or cannabis product is in compliance with Title 26, Chapter 58,
1719 Medical Cannabis Act.

1720 (2) A child welfare worker within the division may take action under Subsection (1)
1721 accompanied by a peace officer, or without a peace officer when a peace officer is not
1722 reasonably available.

1723 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
1724 into protective custody, the child welfare worker shall also determine whether there are
1725 services available that, if provided to a parent or guardian of the child, would eliminate the
1726 need to remove the child from the custody of the child's parent or guardian.

1727 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
1728 utilized.

1729 (c) In determining whether the services described in Subsection (3)(a) are reasonably
1730 available, and in making reasonable efforts to provide those services, the child's health, safety,
1731 and welfare shall be the child welfare worker's paramount concern.

1732 (4) (a) A child removed or taken into custody under this section may not be placed or

1733 kept in a secure detention facility pending court proceedings unless the child is detainable
1734 based on guidelines promulgated by the Division of Juvenile Justice Services.

1735 (b) A child removed from the custody of the child's parent or guardian but who does
1736 not require physical restriction shall be given temporary care in:

1737 (i) a shelter facility; or

1738 (ii) an emergency placement in accordance with Section 62A-4a-209.

1739 (c) When making a placement under Subsection (4)(b), the Division of Child and
1740 Family Services shall give priority to a placement with a noncustodial parent, relative, or
1741 friend, in accordance with Section 62A-4a-209.

1742 (d) If the child is not placed with a noncustodial parent, a relative, or a designated
1743 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor
1744 explaining why a different placement was in the child's best interest.

1745 (5) When a child is removed from the child's home or school or taken into protective
1746 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

1747 (a) the parent's rights under this part, including the right to be present and participate in
1748 any court proceeding relating to the child's case;

1749 (b) that it may be in the parent's best interest to contact an attorney and that, if the
1750 parent cannot afford an attorney, the court will appoint one;

1751 (c) the name and contact information of a division employee the parent may contact
1752 with questions;

1753 (d) resources that are available to the parent, including:

1754 (i) mental health resources;

1755 (ii) substance abuse resources; and

1756 (iii) parenting classes; and

1757 (e) any other information considered relevant by the division.

1758 (6) The pamphlet or flier described in Subsection (5) shall be:

1759 (a) evaluated periodically for its effectiveness at conveying necessary information and
1760 revised accordingly;

1761 (b) written in simple, easy-to-understand language; and

1762 (c) available in English and other languages as the division determines to be
1763 appropriate and necessary.

1764 Section 65. Section **63F-1-104.5** is enacted to read:

1765 **63F-1-104.5. Medical Cannabis Act -- Duties of department.**

1766 In addition to the duties and purposes of the department in Section [63F-1-104](#), the
1767 department shall:

1768 (1) enter into a memorandum of understanding with participating entities, as that term
1769 is defined in Section [26-58-102](#), for the purposes described in Section [26-58-202](#); and

1770 (2) coordinate the development and maintenance of the databases described in Section
1771 [26-58-202](#).

1772 Section 66. Section **63I-1-226** is amended to read:

1773 **63I-1-226. Repeal dates, Title 26.**

1774 (1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
1775 1, 2025.

1776 (2) Section [26-10-11](#) is repealed July 1, 2020.

1777 (3) Section [26-21-23](#), Licensing of non-Medicaid nursing care facility beds, is repealed
1778 July 1, 2018.

1779 (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

1780 (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

1781 (6) Section [26-38-2.5](#) is repealed July 1, 2017.

1782 (7) Section [26-38-2.6](#) is repealed July 1, 2017.

1783 (8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed [~~July 1, 2016~~]
1784 January 1, 2017.

1785 Section 67. Section **63I-1-258** is amended to read:

1786 **63I-1-258. Repeal dates, Title 58.**

1787 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
1788 repealed July 1, 2026.

1789 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

1790 (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

1791 (4) Section [58-37-4.3](#) is repealed [~~July 1, 2016~~] January 1, 2017.

1792 (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

1793 (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is
1794 repealed July 1, 2019.

1795 (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

1796 (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July
1797 1, 2023.

1798 (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

1799 (10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1,
1800 2026.

1801 (11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

1802 Section 68. Section **78A-6-508** is amended to read:

1803 **78A-6-508. Evidence of grounds for termination.**

1804 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
1805 evidence of abandonment that the parent or parents:

1806 (a) although having legal custody of the child, have surrendered physical custody of the
1807 child, and for a period of six months following the surrender have not manifested to the child
1808 or to the person having the physical custody of the child a firm intention to resume physical
1809 custody or to make arrangements for the care of the child;

1810 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
1811 months;

1812 (c) failed to have shown the normal interest of a natural parent, without just cause; or

1813 (d) have abandoned an infant, as described in Subsection [78A-6-316\(1\)](#).

1814 (2) In determining whether a parent or parents are unfit or have neglected a child the
1815 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

1816 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
1817 parent unable to care for the immediate and continuing physical or emotional needs of the child
1818 for extended periods of time;

1819 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
1820 nature;

1821 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
1822 dangerous drugs that render the parent unable to care for the child;

1823 (d) repeated or continuous failure to provide the child with adequate food, clothing,
1824 shelter, education, or other care necessary for the child's physical, mental, and emotional health
1825 and development by a parent or parents who are capable of providing that care;

1826 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
1827 sentence is of such length that the child will be deprived of a normal home for more than one
1828 year;

1829 (f) a history of violent behavior; or

1830 (g) whether the parent has intentionally exposed the child to pornography or material
1831 harmful to a minor, as defined in Section 76-10-1201.

1832 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent
1833 because of the parent's possession or consumption of cannabis, a cannabis product, or a
1834 medical cannabis device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

1835 [~~(3)~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not
1836 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit
1837 parent.

1838 [~~(4)~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful
1839 or unfit because of a health care decision made for a child by the child's parent unless the state
1840 or other party to the proceeding shows, by clear and convincing evidence, that the health care
1841 decision is not reasonable and informed.

1842 (b) Nothing in Subsection [~~(4)~~] (5)(a) may prohibit a parent from exercising the right to
1843 obtain a second health care opinion.

1844 [~~(5)~~] (6) If a child has been placed in the custody of the division and the parent or
1845 parents fail to comply substantially with the terms and conditions of a plan within six months
1846 after the date on which the child was placed or the plan was commenced, whichever occurs
1847 later, that failure to comply is evidence of failure of parental adjustment.

1848 [~~(6)~~] (7) The following circumstances constitute prima facie evidence of unfitness:

1849 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
1850 child, due to known or substantiated abuse or neglect by the parent or parents;

1851 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
1852 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
1853 child's physical, mental, or emotional health and development;

1854 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
1855 of the child;

1856 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to

1857 commit murder or manslaughter of a child or child abuse homicide; or
1858 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
1859 of the child, without legal justification.

1860 Section 69. **Effective date.**

1861 This bill takes effect on July 1, 2016.

Legislative Review Note
Office of Legislative Research and General Counsel