

**Senator Mark B. Madsen** proposes the following substitute bill:

**MEDICAL CANNABIS ACT**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark B. Madsen**

House Sponsor: Gage Froerer

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**LONG TITLE**

**General Description:**

This bill modifies and enacts provisions related to medical cannabis.

**Highlighted Provisions:**

This bill:

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

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

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

and

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

▶ directs the Department of Health to issue:

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

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



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

28 including:

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

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

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

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

40           ▶ allows a licensed cannabis dispensary to possess cannabis, a cannabis product, or a  
41 medical cannabis device, and to sell the cannabis, cannabis product, or medical  
42 cannabis device to an individual with a medical cannabis card;

43           ▶ allows a licensed cannabis cultivation facility to grow cannabis, possess cannabis,  
44 and sell the cannabis to a licensed cannabis processing facility or a licensed  
45 cannabis dispensary;

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

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

52           ▶ preempts an ordinance enacted by a political subdivision regarding a medical  
53 cannabis establishment;

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

- 56           • a permitted use in an industrial, manufacturing, agriculture, or similar zone; and

- 57           • as a conditional use in a commercial or similar zone;
- 58 :       ▶ provides that a licensed cannabis production establishment may operate in a
- 59 political subdivision:
- 60           • as a permitted use in an industrial, manufacturing, agriculture, or similar zone;
- 61       ▶ allows an individual driving with a measurable metabolite of cannabis to assert, as
- 62 an affirmative defense, that the individual used the cannabis pursuant to Utah law or
- 63 the law of another state;
- 64       ▶ prohibits a court from discriminating against a parent in a child custody case based
- 65 on the parent's lawful possession or use of medical cannabis;
- 66       ▶ prohibits a peace officer or child welfare worker from removing a child from an
- 67 individual's home on the basis of the individual's lawful possession or use of
- 68 cannabis;
- 69       ▶ prohibits a state or political subdivision employer from discriminating against a
- 70 public employee because of the employee's lawful possession of or use of cannabis,
- 71 a cannabis product, or a medical cannabis device.
- 72       ▶ imposes a tax on the sale of cannabis, a cannabis product, or a medical cannabis
- 73 device at a cannabis dispensary;
- 74       ▶ exempts from sales and use tax the sale of cannabis, a cannabis product, or a
- 75 medical cannabis device by a cannabis dispensary;
- 76       ▶ creates the Medical Cannabis Restricted Account, consisting of:
- 77           • proceeds of the medical cannabis tax;
- 78           • medical cannabis card application fees;
- 79           • cannabis dispensary application and licensing fees;
- 80           • cannabis production establishment application and licensing fees; and
- 81           • fines collected for violations of state medical cannabis law; and
- 82       ▶ repeals and replaces, after state medical cannabis regulation is implemented, the
- 83 Hemp Extract Regulation Act.

84 **Money Appropriated in this Bill:**

85       None

86 **Other Special Clauses:**

87       This bill provides a special effective date.

88 **Utah Code Sections Affected:**

89 AMENDS:

- 90 **10-9a-104**, as last amended by Laws of Utah 2013, Chapter 309
- 91 **17-27a-104**, as last amended by Laws of Utah 2013, Chapter 309
- 92 **30-3-10**, as last amended by Laws of Utah 2014, Chapter 409
- 93 **41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333
- 94 **62A-4a-202.1**, as last amended by Laws of Utah 2012, Chapters 221 and 293
- 95 **63I-1-226**, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258
- 96 **63I-1-258**, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,
- 97 and 432
- 98 **78A-6-508**, as last amended by Laws of Utah 2014, Chapter 409

99 ENACTS:

- 100 **4-42-101**, Utah Code Annotated 1953
- 101 **4-42-102**, Utah Code Annotated 1953
- 102 **4-42-103**, Utah Code Annotated 1953
- 103 **4-42-104**, Utah Code Annotated 1953
- 104 **4-42-201**, Utah Code Annotated 1953
- 105 **4-42-202**, Utah Code Annotated 1953
- 106 **4-42-203**, Utah Code Annotated 1953
- 107 **4-42-301**, Utah Code Annotated 1953
- 108 **4-42-302**, Utah Code Annotated 1953
- 109 **4-42-303**, Utah Code Annotated 1953
- 110 **4-42-401**, Utah Code Annotated 1953
- 111 **4-42-402**, Utah Code Annotated 1953
- 112 **4-42-403**, Utah Code Annotated 1953
- 113 **4-42-404**, Utah Code Annotated 1953
- 114 **4-42-405**, Utah Code Annotated 1953
- 115 **4-42-501**, Utah Code Annotated 1953
- 116 **4-42-601**, Utah Code Annotated 1953
- 117 **4-42-602**, Utah Code Annotated 1953
- 118 **4-42-603**, Utah Code Annotated 1953

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

- 150 [53-1-106.5](#), Utah Code Annotated 1953
- 151 [58-37-3.6](#), Utah Code Annotated 1953
- 152 [58-37-3.7](#), Utah Code Annotated 1953
- 153 [59-12-104.7](#), Utah Code Annotated 1953
- 154 [59-28-101](#), Utah Code Annotated 1953
- 155 [59-28-102](#), Utah Code Annotated 1953
- 156 [59-28-103](#), Utah Code Annotated 1953
- 157 [59-28-104](#), Utah Code Annotated 1953
- 158 [59-28-105](#), Utah Code Annotated 1953
- 159 [59-28-106](#), Utah Code Annotated 1953
- 160 [59-28-107](#), Utah Code Annotated 1953
- 161 [59-28-108](#), Utah Code Annotated 1953

162

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

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

**CHAPTER 42. CANNABIS PRODUCTION ESTABLISHMENTS**

**Part 1. General Provisions**

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

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

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

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

169 As used in this chapter:

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

- 172 (a) Tetrahydrocannabinol or THC;
- 173 (b) Tetrahydrocannabinolic acid or THCa;
- 174 (c) Cannabidiol or CBD;
- 175 (d) Cannabinol or CBN; and
- 176 (e) Cannabigerol or CBG.

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

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

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- 181           (a) grows cannabis; or
- 182           (b) possesses cannabis with the intent to grow cannabis.
- 183           (4) "Cannabis cultivation facility agent" means an individual who is an owner, officer,
- 184 director, board member, employee, or volunteer of a cannabis cultivation facility.
- 185           (5) "Cannabis dispensary" means the same as that term is defined in Section
- 186 [26-58-102.](#)
- 187           (6) "Cannabis dispensary agent" means the same as that term is defined in Section
- 188 [26-58-102.](#)
- 189           (7) "Cannabis processing facility" means a person that:
- 190           (a) manufactures a cannabis product from unprocessed cannabis;
- 191           (b) purchases or possesses cannabis with the intent to manufacture a cannabis product;
- 192 or
- 193           (c) sells or intends to sell a cannabis product to a cannabis dispensary.
- 194           (8) "Cannabis processing facility agent" means an individual who is an owner, officer,
- 195 director, board member, employee, or volunteer of a cannabis processing facility.
- 196           (9) "Cannabis product" means the same as that term is defined in Section [58-37-3.6.](#)
- 197           (10) "Cannabis production establishment" means:
- 198           (a) a cannabis cultivation facility;
- 199           (b) a cannabis processing facility; or
- 200           (c) an independent cannabis testing laboratory;
- 201           (11) "Cannabis production establishment agent" means:
- 202           (a) a cannabis cultivation facility agent;
- 203           (b) a cannabis processing facility agent; or
- 204           (c) an independent cannabis testing laboratory agent.
- 205           (12) "Cannabis production establishment agent registration card" means a registration
- 206 card, issued by the department, that:
- 207           (a) authorizes an individual to act as a cannabis production establishment agent; and
- 208           (b) designates the type of cannabis production establishment for which an individual is
- 209 authorized to act as an agent.
- 210           (13) "Independent cannabis testing laboratory" means a person that:
- 211           (a) conducts a chemical or other analysis of cannabis or a cannabis product; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

239 (b) is tamper proof;

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

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



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

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

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

250 **4-42-104. Preemption.**

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

253 Section 5. Section **4-42-201** is enacted to read:

254 **Part 2. Cannabis Production Establishment**

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

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

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

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

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

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

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

268 (e) an application fee:

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

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

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

274 establishment agent for the cannabis production establishment.

275 (3) If the department determines that a cannabis production establishment is eligible for  
276 a license under this section, the department shall:

277 (a) before January 1, 2017, charge the cannabis production establishment an initial  
278 license fee of \$50,000; and

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

281 (4) The department shall require a separate application license and a separate license  
282 application fee under Subsection (3) for each type of cannabis production establishment and  
283 each location of a cannabis production establishment.

284 (5) The department may issue any combination of a cannabis cultivation facility  
285 license, a cannabis processing facility license, and a cannabis dispensary license to a person to  
286 operate:

287 (a) at the same physical location; or

288 (b) at separate physical locations.

289 (6) The department may not issue a license to operate an independent cannabis testing  
290 laboratory to a person:

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

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

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

299 Section 6. Section **4-42-202** is enacted to read:

300 **4-42-202. Renewal.**

301 (1) The department shall renew a person's license issued under Section [4-42-201](#) every  
302 two years, if, at the time of renewal, the person meets the requirements of Section [4-42-201](#).

303 (2) The department shall charge a cannabis production establishment that the  
304 department determines is eligible for license renewal a license renewal fee in an amount

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

306 Section 7. Section **4-42-203** is enacted to read:

307 **4-42-203. Operating plan.**

308 (1) A person applying for a license to operate a cannabis production facility shall  
309 submit to the department, with the person's application, a proposed operation plan that  
310 includes:

311 (a) drawings of the physical characteristics of the proposed facility, including a site  
312 plan, floor plan and architectural elevations which indicate compliance with the requirements  
313 of this chapter;

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

315 (i) each officer, director, or owner of the proposed cannabis production establishment;

316 and

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

318 (c) the cannabis production establishment's employee training standards;

319 (d) a security plan;

320 (e) a banking and financial services plan;

321 (f) a description of the cannabis production establishment's inventory control system,  
322 including a plan to make the inventory control system compatible with the state electronic  
323 verification system;

324 (g) for a cannabis cultivation facility, the information described in Subsection (2);

325 (h) for a cannabis processing facility, the information described in Subsection (3); and

326 (i) for an independent cannabis testing laboratory, the information described in  
327 Subsection (4).

328 (2) A cannabis cultivation facility's operating plan shall include:

329 (a) evidence that the cannabis cultivation facility has entered into a preliminary  
330 agreement with a cannabis processing facility or a cannabis dispensary in the state to purchase  
331 the cannabis cultivation facility's output; and

332 (b) the cannabis cultivation facility's intended cannabis cultivation practices, including  
333 the cannabis cultivation facility's intended:

334 (i) pesticide use;

335 (ii) fertilizer use;

336 (iii) square footage under cultivation; and

337 (iv) anticipated cannabis yield.

338 (3) A cannabis processing facility's operating plan shall include:

339 (a) evidence that the cannabis processing facility has entered into a preliminary

340 agreement:

341 (i) with a cannabis cultivation facility in the state to purchase unprocessed cannabis

342 input; and

343 (ii) with a cannabis dispensary in the state to purchase the cannabis processing facility's

344 output;

345 (b) the cannabis processing facility's intended cannabis processing practices, including

346 the cannabis processing facility's intended:

347 (i) offered variety of cannabis product;

348 (ii) cannabinoid extraction method;

349 (iii) cannabinoid extraction equipment;

350 (iv) processing equipment;

351 (v) processing techniques; and

352 (vi) sanitation and food safety procedures;

353 (4) An independent cannabis testing laboratory's operating plan shall include:

354 (a) evidence that the independent cannabis testing laboratory agreement with a

355 cannabis production establishment to provide testing services; and

356 (b) the independent cannabis testing laboratory's intended:

357 (i) cannabis and cannabis product testing capability; and

358 (ii) cannabis and cannabis product testing equipment.

359 Section 8. Section **4-42-301** is enacted to read:

360 **Part 3. Cannabis Production Establishment Agents**

361 **4-42-301. Cannabis production establishment agent -- Registration.**

362 (1) In order to act as a cannabis production establishment agent, an individual shall

363 register with the department as a cannabis production establishment agent.

364 (2) A physician may not serve as a cannabis production establishment agent.

365 (3) An independent cannabis testing laboratory agent may not act as an agent for a

366 cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

367 (4) The department shall, within 30 business days after receiving a complete  
368 application, register and issue a cannabis production establishment agent registration card to an  
369 individual who:

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

372 (b) provides to the department:

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

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

376 (c) pays the department a fee:

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

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

381 (d) complies with the requirement for and passes a criminal background check  
382 described in Section 4-42-302.

383 (5) The department shall designate, on an individual's cannabis production  
384 establishment agent registration card the name and type of any cannabis production  
385 establishment where the individual is registered as an agent.

386 (6) A cannabis production establishment agent shall comply with a certification  
387 standard developed by the department or with a third party certification standard approved by  
388 the department.

389 (7) The certification standard described in Subsection (6) shall address:

390 (a) Utah medical cannabis law;

391 (b) for a cannabis cultivation facility agent, cannabis cultivation best practices;

392 (c) for a cannabis processing facility agent, cannabis processing, food safety, and  
393 sanitation best practices; and

394 (d) for an independent cannabis testing laboratory agent, cannabis testing best  
395 practices.

396 (8) The department may revoke or refuse to issue a cannabis production establishment  
397 agent registration card of an individual who:

- 398 (a) violates the requirements of this chapter; or
- 399 (b) is convicted of an offense, that is a felony under state or federal law, that involves a
- 400 drug or violent crime.

401 Section 9. Section **4-42-302** is enacted to read:

402 **4-42-302. Cannabis production establishment agent -- Criminal background**  
403 **checks.**

404 (1) An individual that applies for registration as a cannabis production establishment  
405 agent under Section [4-42-301](#) shall:

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

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

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

410 (ii) the Federal Bureau of Investigation.

411 (2) The department shall request that the Department of Public Safety complete a  
412 Federal Bureau of Investigation criminal background check for the individual described in  
413 Subsection (1).

414 Section 10. Section **4-42-303** is enacted to read:

415 **4-42-303. Cannabis production establishment agent registration card --**  
416 **Rebuttable presumption.**

417 (1) A cannabis production establishment agent who is registered with the department  
418 under Section [4-42-301](#) shall carry the individual's cannabis production establishment agent  
419 registration card with the individual at all times when:

420 (a) the individual is on the premises of the cannabis production establishment where  
421 the individual is a cannabis production establishment agent; and

422 (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis  
423 device between two cannabis production establishments or between a cannabis production  
424 establishment and a cannabis dispensary.

425 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis  
426 device at a cannabis production establishment, or transporting cannabis, a cannabis product, or  
427 a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis  
428 device in compliance with Subsection (1):

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

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

434 (3) A cannabis production establishment agent registered with the department is guilty  
435 of an infraction if the registered cannabis production establishment agent:

436 (a) (i) is on the premises of a cannabis production establishment where the individual is  
437 registered as an agent; or

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

439 (b) does not possess, on the registered cannabis production establishment agent's  
440 person, a valid cannabis production establishment agent registration card.

441 (4) A registered cannabis production establishment agent who is guilty of an infraction  
442 under Subsection (3) is subject to a fine of no more than \$100.

443 Section 11. Section **4-42-401** is enacted to read:

444 **Part 4. General Cannabis Production Establishment Operating Requirements**  
445 **4-42-401. Cannabis production establishment -- General operating requirements.**

446 (1) (a) A cannabis production establishment shall operate in accordance with the  
447 operating plan provided to the department under Section [4-42-203](#).

448 (b) A cannabis production establishment shall notify the department no longer than 30  
449 days after a change in the cannabis production establishment's operating plan.

450 (2) A cannabis production establishment shall operate:

451 (a) except as provided in Subsection (3), in a facility with a controlled entrance that is  
452 accessible only by an individual with a valid cannabis production establishment agent  
453 registration card issued under Section [4-42-301](#); and

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

455 (3) A cannabis production establishment may allow an individual who is a visitor, a  
456 contractor, or a member of the press to access the cannabis production establishment if the  
457 cannabis production establishment:

458 (a) ensures that the individual is accompanied by a cannabis production establishment  
459 agent at all times while the individual is at the cannabis production establishment; and

- 460 (b) maintains a record of the individual's access.
- 461 (4) A cannabis production establishment shall operate in a facility that has:
- 462 (a) no exterior signage that indicates the type of business;
- 463 (b) a single, secure public entrance;
- 464 (c) a security system with a backup power source that:
- 465 (i) detects and records entry into the cannabis production establishment during business
- 466 hours; and
- 467 (ii) provides notice of an unauthorized entry to law enforcement when the cannabis
- 468 production establishment is closed; and
- 469 (d) a locked and reinforced area where the cannabis production establishment stores
- 470 cannabis or a cannabis product.

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

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

473 (1) Subject to Subsection (2), the department shall inspect the records and facility of a

474 cannabis production establishment in order to determine if the cannabis production

475 establishment complies with the licensing requirements of this chapter.

476 (2) The department may inspect the records and facility of a cannabis production

477 establishment:

- 478 (a) up to three scheduled times per year;
- 479 (b) up to as one unscheduled time per year; and
- 480 (c) if the department has reason to believe that the cannabis production establishment
- 481 has violated the law, at any time, scheduled or unscheduled.

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

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

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

485 medium.

486 (2) Notwithstanding Subsection (1), a cannabis production establishment may advertise

487 employment opportunities at the cannabis production facility.

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

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

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



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

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

496 (b) a registered cannabis dispensary agent.

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

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

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

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

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

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

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

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

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

517 Section 15. Section ~~4-42-405~~ is enacted to read:

518 **4-42-405. Zoning.**

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

522 a cannabis production establishment.

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

526 Section 16. Section **4-42-501** is enacted to read:

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

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

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

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

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

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

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

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

541 Section 17. Section **4-42-601** is enacted to read:

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

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

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

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

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

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

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

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

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

557 (b) clearly displays:

558 (i) the total amount of cannabinoids by weight in the cannabis product; and

559 (ii) the cannabinoid profile of the cannabis product;

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

561 inventory control system.

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

563 used to create the cannabis product;

564 (e) if the cannabis processing facility used a hydrocarbon extraction process to create  
565 the cannabis product, a certification that the product contains a level of residual solvents that is

566 safe for human consumption;

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

568 (i) intended to appeal to children; or

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

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

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

572 (a) is tamper evident;

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

574 (c) is opaque; and

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

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

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

578 (1) A cannabis processing facility may not produce a cannabis product in a physical  
579 form that:

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

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

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

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

584 the cannabis processing facility.

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

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

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

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

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

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

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

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

601 (a) mold;

602 (b) fungus;

603 (c) pesticides; or

604 (d) microbial contaminants.

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

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

611 (a) a substance described in Subsection (3); and

612 (b) a residual solvent.

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

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

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

617 (a) the independent cannabis testing laboratory shall report the results and the cannabis  
618 or cannabis product batch simultaneously to:

619 (i) the department; and

620 (ii) the cannabis production establishment that prepared the cannabis or cannabis  
621 product batch;

622 (b) retain possession of the cannabis or cannabis product batch for one week in order to  
623 investigate the cause of the defective batch and to make a determination; and

624 (c) allow the cannabis production establishment that prepared the cannabis or cannabis  
625 product batch to appeal the determination described in Subsection (1)(b), and, if necessary  
626 following the appeal, allow the independent cannabis testing laboratory to retest the cannabis or  
627 cannabis product batch.

628 (2) If, under Subsection (1)(b), the department determines, following an appeal, that a  
629 cannabis or cannabis product prepared by a cannabis production establishment is unsafe for  
630 human consumption, the department may seize, embargo, or destroy a cannabis or cannabis  
631 product batch.

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

633 **Part 8. Enforcement**

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

635 (1) For a violation of the licensing provisions of this chapter by a person that is a  
636 cannabis production establishment or a cannabis production establishment agent:

637 (a) revoke the person's cannabis production establishment license or cannabis  
638 production establishment agent registration card;

639 (b) refuse to renew the person's license or registration; or

640 (c) assess the person an administrative penalty.

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

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

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

648 (ii) the person produced cannabis or a cannabis product batch that a test shows contains  
649 a contaminant described in Section [4-42-701](#).

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

652 (i) issue the person a written citation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

687 (a) Section 4-42-405;

688 [~~(a)~~] (b) Section 10-9a-305; [~~and~~]

689 [~~(b)~~] (c) Section 10-9a-514[?]; and

690 (d) Section 26-58-506.

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

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

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

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

697 (a) Section 4-42-405;

698 [~~(a)~~] (b) Section 17-27a-305; [~~and~~]

699 [~~(b)~~] (c) Section 17-27a-513[?]; and

700 (d) Section 26-58-506.

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

702 **CHAPTER 58. MEDICAL CANNABIS ACT**

703 **Part 1. General Provisions**

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

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

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

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

708 As used in this chapter:

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

711 (a) Tetrahydrocannabinol or THC;

712 (b) Tetrahydrocannabinolic acid or THCa;

713 (c) Cannabidiol or CBD;

714 (d) Cannabinol or CBN; and

715 (e) Cannabigerol or CBG.

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

717 (3) "Cannabis cultivation facility" means the same as that term is defined in Section  
718 [4-42-102](#).

719 (4) "Cannabis dispensary" means a person that:

720 (a) sells cannabis, a cannabis product, or a medical cannabis device; or

721 (b) purchases or possesses cannabis, a cannabis product, or a medical cannabis device,  
722 with the intent to sell the cannabis, cannabis product, or medical cannabis device.

723 (5) "Cannabis dispensary agent" means an owner, officer, director, board member, or  
724 employee of, or a volunteer at, a cannabis dispensary.

725 (6) "Cannabis dispensary agent registration card" means a registration card, issued by  
726 the department, that identifies an individual as a cannabis dispensary agent.

727 (7) "Cannabis processing facility" means the same as that term is defined in Section  
728 [4-42-102](#).

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

730 (9) "Cannabis production establishment agent" means the same as that term is defined  
731 in Section [4-42-102](#).

732 (10) "Cannabis production establishment agent registration card" means the same as  
733 that term is defined in Section [4-42-102](#).

734 (11) "Designated caregiver" means an individual:

735 (a) whom a patient with a medical cannabis card designates as the patient's caregiver;  
736 and

737 (b) registers with the department under Section [26-58-202](#).

738 (12) "Independent cannabis testing laboratory" means the same as that term is defined



739 in Section [4-42-102](#).

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

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

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

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

748 (17) "Participating entity" means:

749 (a) the Department of Agriculture and Food;

750 (b) the Department of Health; and

751 (c) the Department of Technology Services.

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

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

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

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

758 **26-58-103. Preemption.**

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

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

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

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

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

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

770 Services; and

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

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

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

774 apply for a medical cannabis card;

775 (b) allow a physician to:

776 (i) electronically recommend, during a visit with a patient, treatment with cannabis or a

777 cannabis product for the patient; and

778 (ii) see, on a screen where the physician inputs a recommendation, simultaneously

779 while the physician inputs the recommendation, the patient's cannabis dispensing history;

780 (c) issue a medical cannabis card to an individual if the individual meets the

781 requirements described in Section [26-58-201](#);

782 (d) issue to a designated caregiver, if the designated caregiver meets the requirements

783 in Section [26-58-202](#), a medical cannabis card on behalf of a named patient;

784 (e) connect with an inventory control system used by each cannabis dispensary and

785 cannabis production establishment to track, in real time, for the purchase of cannabis or a

786 cannabis product by a medical cannabis card holder:

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

788 (ii) the quantity and type of cannabis or a cannabis product purchased; and

789 (iii) any cannabis production establishment or cannabis dispensary that cultivated,

790 processed, tested, or sold the cannabis or cannabis product;

791 (f) provide access to the Department of Health and the Department of Agriculture and

792 Food to the extent necessary to carry out the Department of Health's and the Department of

793 Agriculture and Food's functions and responsibilities under:

794 (i) this chapter; and

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

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

797 (i) during a traffic stop for the purpose of determining if the individual subject to the

798 traffic stop is complying with state medical cannabis law; or

799 (ii) after obtaining a warrant;

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

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

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

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

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

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

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

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

811 (b) Alzheimer's disease;

812 (c) amyotrophic lateral sclerosis;

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

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

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

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

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

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

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

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

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

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

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

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

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

832 certified in one of the following specialties:

833 (i) neurology;

834 (ii) pain medicine and pain management;

835 (iii) medical oncology;

836 (iv) psychiatry;

837 (v) infectious disease;

838 (vi) internal medicine; and

839 (vii) pediatrics; and

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

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

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

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

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

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

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

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

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

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

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

858 (6) The Compassionate Use Board shall:

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

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

863 the board's discretion, satisfactory evidence that the individual suffers from a condition:  
864 (A) that substantially impairs the individual's quality of life;  
865 (B) that is intractable;  
866 (C) that is not responsive to other treatments; and  
867 (D) for which it is reasonably likely the condition will respond to treatment with  
868 cannabis.  
869 (ii) the board determines it is in the best interest of the patient to allow the  
870 compassionate use of medical cannabis;  
871 (b) meet to receive or review compassionate use petitions:  
872 (i) quarterly, unless no petitions are pending; or  
873 (ii) as often as necessary if there are more petitions than the board can receive or  
874 review during the board's regular schedule;  
875 (c) report before November 1 of each year, to the Legislature's Health and Human  
876 Services Interim Committee, the number of compassionate use approvals the board issued  
877 during the past year and the types of conditions for which the board approved compassionate  
878 use; and  
879 (d) evaluate whether the number of cannabis dispensaries in a geographic area meets  
880 the needs for a geographic area and recommend to the Legislature whether the number of  
881 cannabis dispensaries should be increased in a geographic area;  
882 (e) evaluate physician variances under Subsection [26-58-107\(5\)](#).  
883 (6) The department shall review any compassionate use recommended by the board  
884 under this section to confirm if the board properly exercised the board's discretion under this  
885 section.  
886 (7) If the department determines the board properly approved an individual for a  
887 compassionate use under this section, the department shall issue the individual a medical  
888 cannabis card in accordance with this chapter.  
889 (8) Any individually identifiable health information contained in a petition received  
890 under this section shall be a protected record in accordance with Title 63G, Chapter 2,  
891 Government Records Access and Management Act.  
892 (9) The Compassionate Use Board shall, before November 1 of each year, recommend  
893 to the Legislature:

894 (a) a condition to designate as a qualifying illness under Section 26-58-105; or

895 (b) a condition to remove as a qualifying illness under Section 26-58-105.

896 Section 31. Section **26-58-107** is enacted to read:

897 **26-58-107. Physician qualification.**

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

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

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

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

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

905 (b) except as described in Subsection (4), recommends cannabis to no more than 250 of  
906 the physician's patients at any given time.

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

911 (b) The department shall issue an endorsement to a physician that completes the  
912 training program described in Subsection (3)(a)

913 (c) The endorsement described in Subsection (3)(b) entitles a physician to use a  
914 medical cannabis endorsement image developed by the department on the physician's website.

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

917 (a) is certified in one of the following specialties:

918 (i) anesthesiology;

919 (ii) gastroenterology;

920 (iii) neurology;

921 (iv) oncology;

922 (v) pain and palliative care;

923 (vi) physiatry;

924 (vii) psychiatry; or

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

928 that:

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

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

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

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

936 (i) a green cross;

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

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

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

940 (v) scientific studies regarding cannabis use; and

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

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

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

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

947 (2) A physician who recommends treatment with cannabis or a cannabis product to an  
 948 individual in accordance with this chapter may not, based solely on the reason that the  
 949 recommendation is for cannabis or a cannabis product, be subject to:

950 (a) civil liability;

951 (b) criminal liability; or

952 (c) licensure sanctions under:

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

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

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

956 provide reimbursement for cannabis, a cannabis product, or a medical cannabis device, under  
957 this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

976 Section 34. Section **26-58-110** is enacted to read:

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

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

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

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



Part 2. Medical Cannabis Card Registration

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

(1) The department shall:

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

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

- (a) is at least 18 years old;
- (b) is a Utah resident; and
- (c) recommended by the individual's physician under Subsection (5).

(3) An individual who is the parent or legal guardian of a minor is eligible for a medical cannabis card if:

- (a) the individual is at least 18 years old;
- (b) the individual is a Utah resident; and
- (c) recommended by the minor's physician under Subsection (5).

(4) An individual who is eligible for a medical cannabis card under Subsection (2) or (3) shall submit an application for a medical cannabis card to the department:

- (a) with the recommending physician, in the recommending physician's office;
- (b) via an electronic application connected to the electronic verification system;
- (c) that includes:

(i) the individual's name, gender, age, address, and for the purpose of being notified about a recall or a research study, the individual's contact information; and

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

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

- (a) input in the physician's diagnosis that the individual suffers from a qualifying illness:
- (i) the type of qualifying illness; and
- (ii) a recommendation that the individual try cannabis or a cannabis product; and

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

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

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

1024 (b) two years.

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

1026 (a) in public view; or

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

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

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

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

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

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

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

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

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

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

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

1049 of the individual if:

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

1051 (b) a physician determines that, due to physical impossibility or undue hardship, the  
1052 individual is unable to obtain cannabis or a cannabis product from a cannabis dispensary.

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

1054 (a) carry a valid medical cannabis card with the designated caregiver's name for the  
1055 purpose of transporting cannabis or a cannabis product to a designating patient or assisting a  
1056 designating patient in administering the cannabis or cannabis product; and

1057 (b) purchase and possess, in accordance with this chapter, cannabis, a cannabis  
1058 product, or a medical cannabis device on behalf of the designating patient.

1059 (3) The department shall register an individual designated as a caregiver under  
1060 Subsection (1) if the individual:

1061 (a) is at least 18 years old;

1062 (b) is a Utah resident;

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

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

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

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

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

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

1074 (b) includes the individual's name.

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

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

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

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

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

1084 (a) violates this chapter; or

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

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

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

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

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

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

1092 (2) Each designated caregiver shall:

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

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

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

1097 (ii) the Federal Bureau of Investigation.

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

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

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

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

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

1107 (b) carry, with the cannabis or cannabis product, a label that identifies that the cannabis  
1108 or cannabis product was originally sold from a department licensed cannabis dispensary,  
1109 including the bar code or identification number that links the cannabis or cannabis product to  
1110 the dispensary's inventory control system.

1111 (2) If an individual possesses cannabis or a cannabis product in compliance with  
1112 Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis  
1113 product:

1114 (a) there is a rebuttable presumption that the individual possesses the cannabis,  
1115 cannabis product, or medical cannabis device legally; and

1116 (b) a law enforcement officer does not have probable cause, based solely on the  
1117 individual's possession of the cannabis, cannabis product, or medical cannabis device, to  
1118 believe that the individual is engaging in illegal activity.

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

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

1129 (i) may not arrest or take the individual into custody for the sole reason that the  
1130 individual is in possession of cannabis, a cannabis product, or a medical cannabis device; and

1131 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

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

1134 (a) possesses cannabis, a cannabis product, or a medical cannabis device; and

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

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

1138 (5) (a) Except as described in Subsection (5)(b), an individual who has a valid medical  
1139 cannabis card is guilty of an infraction if the individual uses cannabis, a cannabis product, or a  
1140 medical cannabis device in public view.

1141 (b) An individual may use cannabis, a cannabis product, or a medical cannabis device

1142 in public view in the event of a medical emergency.

1143 (6) An individual who is guilty of an infraction under Subsection (4) or (5) is subject to  
1144 a \$100 fine.

1145 Section 39. Section **26-58-301** is enacted to read:

1146 **Part 3. Cannabis Dispensary License**

1147 **26-58-301. Cannabis dispensary -- License -- Eligibility.**

1148 (1) In order to operate as a cannabis dispensary, a person shall obtain a license from the  
1149 department issued under this part.

1150 (2) Subject to the requirements of this part, the department shall, within 30 business  
1151 days after receiving a complete application, issue a license to operate a cannabis dispensary to a  
1152 person who submits to the department:

1153 (a) a proposed name and address of the cannabis dispensary;

1154 (b) evidence that the person:

1155 (i) possesses or controls a minimum of \$500,000 in liquid assets for each application  
1156 submitted to the department; and

1157 (ii) can comply with the operating requirements for a cannabis dispensary described in  
1158 this chapter;

1159 (c) a complete application for a local business license;

1160 (d) an application fee:

1161 (i) before January 1, 2017, of \$2,500; and

1162 (ii) after January 1, 2017, in an amount determined by the department in accordance  
1163 with Section [63J-1-504](#), that is necessary to cover the department's cost to implement this part;

1164 (e) an operating plan that complies with Section [26-58-303](#); and

1165 (f) the results of a criminal background check for each cannabis dispensary agent.

1166 (3) If the department determines that a cannabis dispensary is eligible for a license  
1167 under this section, the department shall:

1168 (a) before January 1, 2017, charge the cannabis dispensary an initial license fee of  
1169 \$50,000; and

1170 (b) on or after January 1, 2017, charge the cannabis dispensary an initial license fee in  
1171 an amount determined by the department in accordance with Section [63J-1-504](#).

1172 (4) The department shall require a separate license and a separate license fee under

1173 Subsection (3) for each location of a cannabis dispensary.

1174 (5) The department may revoke a license under this part if the cannabis dispensary is  
1175 not operating within one year of the issuance of the initial license.

1176 (6) The department shall deposit the proceeds of a fee imposed by this section in the  
1177 Medical Cannabis Restricted Account.

1178 Section 40. Section **26-58-302** is enacted to read:

1179 **26-58-302. Renewal.**

1180 (1) Except as provided in Subsection (3), the department shall renew a person's license  
1181 under this part every two years if, at the time of renewal:

1182 (a) the person meets the requirements of Section [26-58-301](#); and

1183 (b) the person pays the department a license renewal fee in an amount determined by  
1184 the department in accordance with Section [63J-1-504](#).

1185 (2) (a) The department may not renew a cannabis dispensary's license for a sixth  
1186 consecutive time unless the department publishes a notice, in a newspaper of general  
1187 circulation for the geographic area in which the cannabis dispensary is located, one year before  
1188 the day on which the cannabis dispensary's license expires, that includes:

1189 (i) the name and location of the cannabis dispensary;

1190 (ii) the day on which the license for the cannabis dispensary will expire; and

1191 (iii) a solicitation for cannabis dispensary license applicants.

1192 (b) If, after the department publishes the notice described in Subsection (2)(a), the  
1193 department receives an application for a cannabis dispensary from a new applicant and also  
1194 receives an application for renewal from the existing cannabis dispensary, the department shall  
1195 issue the license to the applicant that the department determines best meets the criteria  
1196 established in Section [26-58-304](#).

1197 (3) (a) If a licensed cannabis dispensary abandons the cannabis dispensary's license or  
1198 has the cannabis dispensary license revoked, the department shall publish notice of an available  
1199 license in the same manner as described in Subsection (2)(a).

1200 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,  
1201 Utah Administrative Rulemaking Act, for what actions by a cannabis dispensary constitute  
1202 abandonment of a cannabis dispensary license.

1203 Section 41. Section **26-58-303** is enacted to read:

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

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

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

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

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

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

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

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

1215 (d) a security plan;

1216 (e) a banking plan;

1217 (f) a description of the cannabis dispensary's inventory control system, including a plan  
1218 to make the inventory control system compatible with the state electronic verification system;  
1219 and

1220 (g) that the cannabis processing facility has entered into a preliminary agreement to  
1221 purchase with a cannabis cultivation facility in the state or a cannabis processing facility in the  
1222 state to purchase the cannabis or a cannabis product that the cannabis dispensary intends to sell.

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

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

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

1226 (a) one cannabis dispensary license; or

1227 (b) an amount of cannabis dispensary licenses equal to the number of residents in the  
1228 county divided by 200,000, rounded up to the nearest greater whole number.

1229 (2) If more than one applicant for a license in a geographic area meets the  
1230 qualifications of this chapter for a cannabis dispensary, the department shall evaluate the  
1231 applicants, and award the license to the applicant that best demonstrates:

1232 (a) experience with:

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

1234 (ii) operating a secure inventory control system;



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

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

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

1245 **Part 4. Cannabis Dispensary Agents**

1246 **26-58-401. Cannabis dispensary agent -- Registration card.**

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

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

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

1252 (a) provides to the department:

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

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

1256 (b) pays a fee to the department:

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

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

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

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

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

1265 (a) Utah medical cannabis law;

1266 (b) cannabis dispensary best practices; and  
1267 (c) resources available to help patients.  
1268 (6) The department may revoke or refuse to issue the cannabis dispensary agent  
1269 registration card of an individual who:

1270 (a) violates the requirements of this chapter; or  
1271 (b) is convicted of a felony under state or federal law that involves a drug or violent  
1272 crime that is a felony under state or federal law.

1273 Section 44. Section **26-58-402** is enacted to read:

1274 **26-58-402. Cannabis dispensary agents -- Criminal background checks.**

1275 (1) An individual applying for a cannabis dispensary agent registration card under this  
1276 chapter shall:

1277 (a) submit, at the time of application, a fingerprint card in a form acceptable to the  
1278 department; and

1279 (b) consent to a fingerprint background check by:

1280 (i) the Utah Bureau of Criminal Identification; and

1281 (ii) the Federal Bureau of Investigation.

1282 (2) The department shall request that the Department of Public Safety complete a  
1283 Federal Bureau of Investigation criminal background check for each cannabis dispensary agent  
1284 registration card applicant.

1285 (3) The department may revoke or refuse to issue an individual's cannabis dispensary  
1286 agent registration card if the individual has been convicted of an offense that is a felony under  
1287 state or federal law that is related to drugs or a violent crime.

1288 Section 45. Section **26-58-403** is enacted to read:

1289 **26-58-403. Cannabis dispensary agent registration card -- Rebuttable**  
1290 **presumption.**

1291 (1) An individual who has a cannabis dispensary agent registration card shall carry the  
1292 individual's cannabis dispensary agent registration card with the individual at all times when:

1293 (a) the individual is on the premises of a cannabis dispensary; and

1294 (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis  
1295 device between two cannabis production establishments or between a cannabis production  
1296 establishment and a cannabis dispensary.

1297 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis  
1298 device at a cannabis dispensary, or transporting cannabis, a cannabis product, or a medical  
1299 cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in  
1300 compliance with Subsection (1):

1301 (a) there is a rebuttable presumption that the individual possesses the cannabis,  
1302 cannabis product, or medical cannabis device legally; and

1303 (b) a law enforcement officer does not have probable cause to believe that the  
1304 individual is engaging in illegal activity, based solely on the individual's possession of the  
1305 cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1).

1306 (3) A cannabis dispensary agent registered with the department is guilty of an  
1307 infraction if the registered cannabis dispensary agent:

1308 (a) (i) is on the premises of a cannabis dispensary where the individual is registered as  
1309 an agent; or

1310 (ii) transports cannabis, a cannabis product, or a medical cannabis device; and

1311 (b) does not possess, on the registered cannabis dispensary agent's person, a valid  
1312 cannabis dispensary agent registration card.

1313 (4) A registered cannabis dispensary agent who is guilty of an infraction under  
1314 Subsection (3) is subject to a fine of no more than \$100.

1315 Section 46. Section **26-58-501** is enacted to read:

1316 **Part 5. Cannabis Dispensary Operation**

1317 **26-58-501. Operating requirements -- General.**

1318 (1) (a) A cannabis dispensary shall operate in accordance with the operating plan  
1319 provided to the department under Section [26-58-303](#).

1320 (b) A cannabis dispensary shall notify the department no longer than 30 days after a  
1321 change in the cannabis dispensary's operating plan.

1322 (2) A cannabis dispensary shall operate:

1323 (a) except as provided in Subsection (3), in a facility that is accessible only by an  
1324 individual with a valid cannabis dispensary agent registration card issued under Section  
1325 [26-58-401](#) or a medical cannabis card issued under Section [26-58-201](#); and

1326 (b) at the physical address provided to the department under Section [26-58-301](#).

1327 (3) A cannabis dispensary may allow an individual who is a visitor, a contractor, or a

- 1328 member of the press to access the cannabis dispensary if the cannabis dispensary:
- 1329 (a) tracks and monitors the individual at all times while the individual is at the
- 1330 cannabis dispensary; and
- 1331 (b) maintains a record of the individual's access.
- 1332 (4) A cannabis dispensary shall operate in a facility that has:
- 1333 (a) a single, secure public entrance with a checkpoint;
- 1334 (b) a security system with a backup power source that:
- 1335 (i) detects and records entry into the cannabis dispensary during business hours; and
- 1336 (ii) provides notice of an unauthorized entry to law enforcement when the cannabis
- 1337 dispensary is closed; and
- 1338 (c) a reinforced and locked area where the cannabis dispensary stores cannabis or a
- 1339 cannabis product.
- 1340 (5) A cannabis dispensary shall post, clearly and conspicuously in the cannabis
- 1341 dispensary, the limit on the purchase of cannabis described in Subsection [26-58-502\(3\)](#),
- 1342 (6) A cannabis dispensary may not allow any individual to consume cannabis on the
- 1343 property or premises of the establishment.
- 1344 (7) A cannabis dispensary may not, on an interior or exterior space, display or offer
- 1345 anything that glorifies or trivializes cannabis or that promotes a recreational cannabis lifestyle.
- 1346 (8) A cannabis dispensary shall:
- 1347 (a) have a clinical, medical appearance; and
- 1348 (b) require any employee to wear a white lab coat.
- 1349 Section 47. Section **26-58-502** is enacted to read:
- 1350 **26-58-502. Dispensing -- Amount a cannabis dispensary may dispense --**
- 1351 **Reporting -- Form of cannabis or cannabis product.**
- 1352 (1) A cannabis dispensary may only sell, subject to this chapter:
- 1353 (a) cannabis;
- 1354 (b) a cannabis product;
- 1355 (c) a medical cannabis device; or
- 1356 (d) educational materials related to the medical use of cannabis.
- 1357 (2) A cannabis dispensary may only sell cannabis, a cannabis product, or a medical
- 1358 cannabis device to an individual with a medical cannabis card issued by the department.

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

1361 (a) an amount of unprocessed cannabis flower that exceeds 60 grams by weight; or

1362 (b) an amount of cannabis products that contains, in total, greater than 10 grams of  
1363 cannabinoids by weight.

1364 (4) An individual with a medical cannabis card may not purchase more cannabis or  
1365 cannabis products than the amounts designated in Subsection (3).

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

1369 (6) A cannabis dispensary shall:

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

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

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

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

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

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

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

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

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

1390 advertise in any medium.

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

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

1394 (b) a green cross.

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

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

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

1398 (c) personnel affiliated with the cannabis dispensary;

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

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

1401 (f) employment opportunities with the cannabis dispensary.

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

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

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

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

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

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

1410 (c) at any time, scheduled or unscheduled, if the department has reason to believe that  
1411 the cannabis dispensary has violated the law.

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

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

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

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

- 1421 (b) a registered cannabis dispensary agent.
- 1422 (2) An individual transporting cannabis, a cannabis product, or a medical cannabis
- 1423 device shall possess a transportation manifest that:
- 1424 (a) includes a unique identifier that links the cannabis, cannabis product, or medical
- 1425 cannabis device to a related inventory control system;
- 1426 (b) includes origin and destination information for any cannabis, cannabis product, or
- 1427 medical cannabis device the individual is transporting; and
- 1428 (c) indicates the departure and arrival times and locations of the individual transporting
- 1429 the cannabis, cannabis product, or medical cannabis device.
- 1430 (3) In addition to the requirements in Subsections (1) and (2), the department may
- 1431 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1432 Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical
- 1433 cannabis device that reflect best practices for cannabis or cannabis product transportation for
- 1434 safety for human cannabis or cannabis product consumption.
- 1435 (4) A cannabis dispensary agent registered with the department is guilty of an
- 1436 infraction if the registered cannabis dispensary agent:
- 1437 (a) transports cannabis, a cannabis product, or a medical cannabis device; and
- 1438 (b) does not possess, on the registered cannabis dispensary agent's person or in the
- 1439 transport vehicle, a manifest that complies with Subsection (3).
- 1440 (5) A registered cannabis dispensary agent who is guilty of an infraction under
- 1441 Subsection (3) is subject to a fine of no more than \$100.
- 1442 Section 51. Section **26-58-506** is enacted to read:
- 1443 **26-58-506. Zoning.**
- 1444 (1) A municipality or local government may not enact a zoning ordinance that prohibits
- 1445 a cannabis dispensary from operating in a location within the municipality's or local
- 1446 government's jurisdiction, on the sole basis that the cannabis dispensary is a cannabis
- 1447 dispensary.
- 1448 (2) A municipality or local government shall allow a cannabis dispensary to operate as:
- 1449 (a) a permitted use in an agricultural, industrial, or manufacturing zone, or in a zone
- 1450 that allows for a similar use; and
- 1451 (b) as a conditional use in a commercial zone or in a zone that allows for a similar use.

1452 Section 52. Section **26-58-601** is enacted to read:

1453 **Part 6. Enforcement**

1454 **26-58-601. Enforcement -- Fine -- Citation.**

1455 (1) The department may, for a violation of this chapter by a person who is a cannabis  
1456 dispensary or cannabis dispensary agent:

1457 (a) revoke the person's cannabis dispensary license or cannabis dispensary agent  
1458 registration card;

1459 (b) refuse to renew the person's license or registration; or

1460 (c) assess the person an administrative penalty.

1461 (2) The department shall deposit an administrative penalty imposed under this section  
1462 into the Medical Cannabis Restricted Account.

1463 (3) The department may, for a person subject to an uncontested citation, a stipulated  
1464 settlement, or a finding of a violation in an adjudicative proceeding under this section:

1465 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to  
1466 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance  
1467 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1468 (b) order the person to cease and desist from, and cure, the action that creates a  
1469 violation.

1470 (4) The department may not revoke a cannabis dispensary's license via a citation.

1471 (5) If, within 20 calendar days after the day on which the department issues a citation  
1472 for a violation of this chapter, the person that is the subject of the citation fails to request a  
1473 hearing to contest the citation, the citation becomes the basis of the department's final order.

1474 (6) The department may, for a person who fails to cure the violation for which a  
1475 citation under this section:

1476 (a) refuse to issue or renew the person's license or cannabis dispensary agent  
1477 registration card; or

1478 (b) suspend, revoke, or place on probation the person's license or cannabis dispensary  
1479 agent registration card.

1480 Section 53. Section **30-3-10** is amended to read:

1481 **30-3-10. Custody of children in case of separation or divorce -- Custody**  
1482 **consideration.**



1483 (1) If a husband and wife having minor children are separated, or their marriage is  
1484 declared void or dissolved, the court shall make an order for the future care and custody of the  
1485 minor children as it considers appropriate.

1486 (a) In determining any form of custody, including a change in custody, the court shall  
1487 consider the best interests of the child without preference for either the mother or father solely  
1488 because of the biological sex of the parent and, among other factors the court finds relevant, the  
1489 following:

1490 (i) the past conduct and demonstrated moral standards of each of the parties;

1491 (ii) which parent is most likely to act in the best interest of the child, including  
1492 allowing the child frequent and continuing contact with the noncustodial parent;

1493 (iii) the extent of bonding between the parent and child, meaning the depth, quality,  
1494 and nature of the relationship between a parent and child;

1495 (iv) whether the parent has intentionally exposed the child to pornography or material  
1496 harmful to a minor, as defined in Section 76-10-1201; and

1497 (v) those factors outlined in Section 30-3-10.2.

1498 (b) There shall be a rebuttable presumption that joint legal custody, as defined in  
1499 Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

1500 (i) domestic violence in the home or in the presence of the child;

1501 (ii) special physical or mental needs of a parent or child, making joint legal custody  
1502 unreasonable;

1503 (iii) physical distance between the residences of the parents, making joint decision  
1504 making impractical in certain circumstances; or

1505 (iv) any other factor the court considers relevant including those listed in this section  
1506 and Section 30-3-10.2.

1507 (c) The person who desires joint legal custody shall file a proposed parenting plan in  
1508 accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may  
1509 be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of  
1510 the child.

1511 (d) The children may not be required by either party to testify unless the trier of fact  
1512 determines that extenuating circumstances exist that would necessitate the testimony of the  
1513 children be heard and there is no other reasonable method to present their testimony.

1514 (e) The court may inquire of the children and take into consideration the children's  
1515 desires regarding future custody or parent-time schedules, but the expressed desires are not  
1516 controlling and the court may determine the children's custody or parent-time otherwise. The  
1517 desires of a child 14 years of age or older shall be given added weight, but is not the single  
1518 controlling factor.

1519 (f) If interviews with the children are conducted by the court pursuant to Subsection  
1520 (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be  
1521 obtained but is not necessary if the court finds that an interview with the children is the only  
1522 method to ascertain the child's desires regarding custody.

1523 (2) In awarding custody, the court shall consider, among other factors the court finds  
1524 relevant, which parent is most likely to act in the best interests of the child, including allowing  
1525 the child frequent and continuing contact with the noncustodial parent as the court finds  
1526 appropriate.

1527 (3) If the court finds that one parent does not desire custody of the child, the court shall  
1528 take that evidence into consideration in determining whether to award custody to the other  
1529 parent.

1530 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a  
1531 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining  
1532 whether a substantial change has occurred for the purpose of modifying an award of custody.

1533 (b) If a court takes a parent's disability into account in awarding custody or determining  
1534 whether a substantial change has occurred for the purpose of modifying an award of custody,  
1535 the parent with a disability may rebut any evidence, presumption, or inference arising from the  
1536 disability by showing that:

1537 (i) the disability does not significantly or substantially inhibit the parent's ability to  
1538 provide for the physical and emotional needs of the child at issue; or

1539 (ii) the parent with a disability has sufficient human, monetary, or other resources  
1540 available to supplement the parent's ability to provide for the physical and emotional needs of  
1541 the child at issue.

1542 (c) Nothing in this section may be construed to apply to adoption proceedings under  
1543 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

1544 (5) This section establishes neither a preference nor a presumption for or against joint

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

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

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

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

1554 (1) As used in this section:

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

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

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

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

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

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

1564 (a) involuntarily ingested by the accused;

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

1566 (c) cannabis or a cannabis product that was:

1567 (i) not causing impairment; and

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

1570 (B) ingested by the accused in another state in which the use of cannabis or a cannabis  
1571 product is legal under state law; or

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

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

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

1576 both this section and any applicable offense under Section 58-37-8.

1577 (5) A peace officer may, without a warrant, arrest a person for a violation of this  
1578 section when the officer has probable cause to believe the violation has occurred, although not  
1579 in the officer's presence, and if the officer has probable cause to believe that the violation was  
1580 committed by the person.

1581 (6) The Driver License Division shall, if the person is 21 years of age or older on the  
1582 date of arrest:

1583 (a) suspend, for a period of 120 days, the driver license of a person convicted under  
1584 Subsection (2) of an offense committed on or after July 1, 2009; or

1585 (b) revoke, for a period of two years, the driver license of a person if:

1586 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1587 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
1588 and within a period of 10 years after the date of the prior violation.

1589 (7) The Driver License Division shall, if the person is 19 years of age or older but  
1590 under 21 years of age on the date of arrest:

1591 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is  
1592 longer, the driver license of a person convicted under Subsection (2) of an offense committed  
1593 on or after July 1, 2011; or

1594 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is  
1595 longer, the driver license of a person if:

1596 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1597 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
1598 and within a period of 10 years after the date of the prior violation.

1599 (8) The Driver License Division shall, if the person is under 19 years of age on the date  
1600 of arrest:

1601 (a) suspend, until the person is 21 years of age, the driver license of a person convicted  
1602 under Subsection (2) of an offense committed on or after July 1, 2009; or

1603 (b) revoke, until the person is 21 years of age, the driver license of a person if:

1604 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1605 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
1606 and within a period of 10 years after the date of the prior violation.

1607 (9) The Driver License Division shall subtract from any suspension or revocation  
1608 period the number of days for which a license was previously suspended under Section  
1609 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
1610 which the record of conviction is based.

1611 (10) The Driver License Division shall:

1612 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in  
1613 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was  
1614 committed prior to July 1, 2009; or

1615 (b) deny, suspend, or revoke the operator's license of a person for the denial,  
1616 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

1617 (i) the person was 20 years of age or older but under 21 years of age at the time of  
1618 arrest; and

1619 (ii) the conviction under Subsection (2) is for an offense that was committed on or after  
1620 July 1, 2009, and prior to July 1, 2011.

1621 (11) A court that reported a conviction of a violation of this section for a violation that  
1622 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension  
1623 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period  
1624 if the person:

1625 (a) completes at least six months of the license suspension;

1626 (b) completes a screening;

1627 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
1628 (11)(b);

1629 (d) completes substance abuse treatment if it is found appropriate by the assessment  
1630 under Subsection (11)(c);

1631 (e) completes an educational series if substance abuse treatment is not required by the  
1632 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

1633 (f) has not been convicted of a violation of any motor vehicle law in which the person  
1634 was involved as the operator of the vehicle during the suspension period imposed under  
1635 Subsection (7)(a) or (8)(a);

1636 (g) has complied with all the terms of the person's probation or all orders of the court if  
1637 not ordered to probation; and

1638 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the  
1639 person has not consumed a controlled substance not prescribed by a practitioner for use by the  
1640 person or unlawfully consumed alcohol during the suspension period imposed under  
1641 Subsection (7)(a) or (8)(a); or

1642 (ii) is under 18 years of age and has the person's parent or legal guardian provide an  
1643 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's  
1644 knowledge the person has not consumed a controlled substance not prescribed by a practitioner  
1645 for use by the person or unlawfully consumed alcohol during the suspension period imposed  
1646 under Subsection (7)(a) or (8)(a).

1647 (12) If the court shortens a person's license suspension period in accordance with the  
1648 requirements of Subsection (11), the court shall forward the order shortening the person's  
1649 license suspension period prior to the completion of the suspension period imposed under  
1650 Subsection (7)(a) or (8)(a) to the Driver License Division.

1651 (13) (a) The court shall notify the Driver License Division if a person fails to:

1652 (i) complete all court ordered screening and assessment, educational series, and  
1653 substance abuse treatment; or

1654 (ii) pay all fines and fees, including fees for restitution and treatment costs.

1655 (b) Upon receiving the notification, the division shall suspend the person's driving  
1656 privilege in accordance with Subsections 53-3-221(2) and (3).

1657 (14) The court shall order supervised probation in accordance with Section 41-6a-507  
1658 for a person convicted under Subsection (2).

1659 Section 55. Section 53-1-106.5 is enacted to read:

1660 **53-1-106.5. Medical Cannabis Act -- Department duties.**

1661 (1) In addition to the duties described in Section 53-1-106, the department shall:

1662 (a) develop standards for training peace officers and law enforcement agencies in state  
1663 medical cannabis law and the use of the state electronic verification system; and

1664 (b) collaborate with the Department of Health and the Department of Agriculture and  
1665 Food to provide a curriculum for training peace officers and law enforcement agencies in  
1666 medical cannabis.

1667 (2) The department may not allow a law enforcement official to access the electronic  
1668 verification system unless the law enforcement official has completed the training described in

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

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

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

1673 (1) As used in this section:

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

1675 (ii) "Cannabis" includes marijuana.

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

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

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

1679 (i) is intended for human ingestion; and

1680 (ii) contains cannabis or extracted cannabinoids, including tetrahydrocannabinol.

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

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

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

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

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

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

1687 (h) "Medical cannabis device" means a device that an individual uses to ingest lawfully  
1688 sold cannabis or a lawfully sold cannabis product.

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

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

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

1693 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to  
1694 the penalties described in this title for the growth, possession, sale, or offer for sale of  
1695 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,  
1696 or offer for sale of the cannabis complies with:

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

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

1699 (b) an individual who possesses, sells, or offers to sell cannabis, a cannabis product, or

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

1704 (i) Title 4, Chapter 42, Cannabis Production Establishment; and

1705 (ii) Title 26, Chapter 58, Medical Cannabis Act;

1706 (c) an individual who possesses, sells, or offers to sell a medical cannabis device is not  
1707 subject to the penalties described in this title for the possession, sale, or offer for sale of  
1708 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's  
1709 possession, sale, or offer for sale of the medical cannabis device complies with:

1710 (i) Title 4, Chapter 42, Cannabis Production Establishment; and

1711 (ii) Title 26, Chapter 58, Medical Cannabis Act.

1712 (iii) Title 58, Chapter 86, Cannabis Dispensary License.

1713 (3) An individual with a medical cannabis card is guilty of an infraction if the  
1714 individual:

1715 (a) uses cannabis through a means involving combustion of cannabis flower at a  
1716 temperature greater than 500 degrees Fahrenheit;

1717 (b) uses a device that is designed for cannabis combustion of cannabis flower at a  
1718 temperature greater than 500 degrees Fahrenheit; or

1719 (c) uses or possesses drug paraphernalia that is not a medical cannabis device.

1720 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a  
1721 \$100 fine.

1722 Section 57. Section **58-37-3.7** is enacted to read:

1723 **58-37-3.7. Affirmative defense.**

1724 (1) Before the day on which the Department of Health is issuing medical cannabis  
1725 cards and a cannabis dispensary in the state is licensed and selling cannabis or a cannabis  
1726 product, it is an affirmative defense to criminal charges against an individual for the use or  
1727 possession of marijuana, tetrahydrocannabinol, or marijuana or tetrahydrocannabinol drug  
1728 paraphernalia under this chapter that the individual's conduct would have been lawful after the  
1729 individual obtains a medical cannabis card under Title 26, Chapter 58, Medical Cannabis Act.

1730 (2) A court shall, for charges that the court dismisses under Subsection (1), dismiss the



1731 charges without prejudice.

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

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

1734 (1) As used in this section:

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

1736 (b) "Cannabis dispensary" means the same as that term is defined in Section

1737 [26-58-102](#).

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

1739 (d) "Medical cannabis device" means the same as that term is defined in Section

1740 [58-37-3.6](#).

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

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

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

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

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

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

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

1750 As used in this chapter:

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

1752 (2) "Cannabis dispensary" means the same as that term is defined in Section

1753 [26-58-102](#).

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

1755 (4) "Medical cannabis device" means the same as that term is defined in Section

1756 [58-37-3.6](#).

1757 (5) "Medical Cannabis Restricted Account" means the account created in Section

1758 [26-58-109](#).

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

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

1761 There is imposed a tax on the retail purchaser of cannabis, a cannabis product, or a

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

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

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

1766 A cannabis dispensary shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1793 (1) Except as provided in Subsection (2), the commission may make rules in  
1794 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

1795 (a) implement the tax imposed by this chapter; and

1796 (b) enforce payment of the tax imposed by this chapter.

1797 (2) The commission may not make a rule that applies to a cannabis dispensary that is  
1798 more restrictive than would apply to a similarly situated business.

1799 (3) The commission may not enforce this chapter against a cannabis dispensary more  
1800 strictly than the commission would for a similarly situated business.

1801 Section 66. Section **59-28-108** is enacted to read:

1802 **59-28-108. Penalties and interest.**

1803 A cannabis dispensary that fails to comply with any provision of this chapter is subject  
1804 to penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

1805 Section 67. Section **62A-4a-202.1** is amended to read:

1806 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**  
1807 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**  
1808 **emergency placement.**

1809 (1) A peace officer or child welfare worker may not:

1810 (a) enter the home of a child who is not under the jurisdiction of the court, remove a  
1811 child from the child's home or school, or take a child into protective custody unless authorized  
1812 under Subsection [78A-6-106\(2\)](#); or

1813 (b) remove a child from the child's home or take a child into custody under this section  
1814 solely on the basis of:

1815 (i) educational neglect, truancy, or failure to comply with a court order to attend  
1816 school[-]; or

1817 (ii) the possession or use of cannabis, a cannabis product, or a medical cannabis device  
1818 in the home, if the use and possession of the cannabis, cannabis product, or medical cannabis  
1819 device is in compliance with Title 26, Chapter 58, Medical Cannabis Act.

1820 (2) A child welfare worker within the division may take action under Subsection (1)  
1821 accompanied by a peace officer, or without a peace officer when a peace officer is not  
1822 reasonably available.

1823 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child

1824 into protective custody, the child welfare worker shall also determine whether there are  
1825 services available that, if provided to a parent or guardian of the child, would eliminate the  
1826 need to remove the child from the custody of the child's parent or guardian.

1827 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be  
1828 utilized.

1829 (c) In determining whether the services described in Subsection (3)(a) are reasonably  
1830 available, and in making reasonable efforts to provide those services, the child's health, safety,  
1831 and welfare shall be the child welfare worker's paramount concern.

1832 (4) (a) A child removed or taken into custody under this section may not be placed or  
1833 kept in a secure detention facility pending court proceedings unless the child is detainable  
1834 based on guidelines promulgated by the Division of Juvenile Justice Services.

1835 (b) A child removed from the custody of the child's parent or guardian but who does  
1836 not require physical restriction shall be given temporary care in:

1837 (i) a shelter facility; or

1838 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

1839 (c) When making a placement under Subsection (4)(b), the Division of Child and  
1840 Family Services shall give priority to a placement with a noncustodial parent, relative, or  
1841 friend, in accordance with Section [62A-4a-209](#).

1842 (d) If the child is not placed with a noncustodial parent, a relative, or a designated  
1843 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor  
1844 explaining why a different placement was in the child's best interest.

1845 (5) When a child is removed from the child's home or school or taken into protective  
1846 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

1847 (a) the parent's rights under this part, including the right to be present and participate in  
1848 any court proceeding relating to the child's case;

1849 (b) that it may be in the parent's best interest to contact an attorney and that, if the  
1850 parent cannot afford an attorney, the court will appoint one;

1851 (c) the name and contact information of a division employee the parent may contact  
1852 with questions;

1853 (d) resources that are available to the parent, including:

1854 (i) mental health resources;

- 1855 (ii) substance abuse resources; and  
1856 (iii) parenting classes; and  
1857 (e) any other information considered relevant by the division.  
1858 (6) The pamphlet or flier described in Subsection (5) shall be:  
1859 (a) evaluated periodically for its effectiveness at conveying necessary information and  
1860 revised accordingly;  
1861 (b) written in simple, easy-to-understand language; and  
1862 (c) available in English and other languages as the division determines to be  
1863 appropriate and necessary.

1864 Section 68. Section **63I-1-226** is amended to read:

1865 **63I-1-226. Repeal dates, Title 26.**

- 1866 (1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July  
1867 1, 2025.  
1868 (2) Section **26-10-11** is repealed July 1, 2020.  
1869 (3) Section **26-21-23**, Licensing of non-Medicaid nursing care facility beds, is repealed  
1870 July 1, 2018.  
1871 (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.  
1872 (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.  
1873 (6) Section **26-38-2.5** is repealed July 1, 2017.  
1874 (7) Section **26-38-2.6** is repealed July 1, 2017.  
1875 (8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed [~~July 1, 2016~~]  
1876 January 1, 2017.

1877 Section 69. Section **63I-1-258** is amended to read:

1878 **63I-1-258. Repeal dates, Title 58.**

- 1879 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is  
1880 repealed July 1, 2026.  
1881 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.  
1882 (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.  
1883 (4) Section **58-37-4.3** is repealed [~~July 1, 2016~~] January 1, 2017.  
1884 (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.  
1885 (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is

1886 repealed July 1, 2019.

1887 (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

1888 (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July  
1889 1, 2023.

1890 (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

1891 (10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1,  
1892 2026.

1893 (11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

1894 Section 70. Section **78A-6-508** is amended to read:

1895 **78A-6-508. Evidence of grounds for termination.**

1896 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
1897 evidence of abandonment that the parent or parents:

1898 (a) although having legal custody of the child, have surrendered physical custody of the  
1899 child, and for a period of six months following the surrender have not manifested to the child  
1900 or to the person having the physical custody of the child a firm intention to resume physical  
1901 custody or to make arrangements for the care of the child;

1902 (b) have failed to communicate with the child by mail, telephone, or otherwise for six  
1903 months;

1904 (c) failed to have shown the normal interest of a natural parent, without just cause; or

1905 (d) have abandoned an infant, as described in Subsection [78A-6-316\(1\)](#).

1906 (2) In determining whether a parent or parents are unfit or have neglected a child the  
1907 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

1908 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the  
1909 parent unable to care for the immediate and continuing physical or emotional needs of the child  
1910 for extended periods of time;

1911 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive  
1912 nature;

1913 (c) habitual or excessive use of intoxicating liquors, controlled substances, or  
1914 dangerous drugs that render the parent unable to care for the child;

1915 (d) repeated or continuous failure to provide the child with adequate food, clothing,  
1916 shelter, education, or other care necessary for the child's physical, mental, and emotional health

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

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

1921 (f) a history of violent behavior; or

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

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

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

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

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

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

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

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

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

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

1948           (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
1949 commit murder or manslaughter of a child or child abuse homicide; or

1950           (e) the parent intentionally, knowingly, or recklessly causes the death of another parent  
1951 of the child, without legal justification.

1952           Section 71. **Effective date.**

1953           This bill takes effect on July 1, 2016.