

Representative Gage Froerer proposes the following substitute bill:

MEDICAL CANNABIS ACT

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: Gage Froerer

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, 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 a cannabis product or a medical
41 cannabis device, and to sell the cannabis product or medical cannabis device to an
42 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;
- 45 ▶ allows a licensed cannabis processing facility to possess cannabis, process cannabis
46 into a cannabis product, and sell the cannabis product to a licensed cannabis
47 dispensary;
- 48 ▶ allows a licensed independent cannabis testing laboratory to possess cannabis or a
49 cannabis product for the purpose of testing the cannabis or cannabis product for
50 content and safety;
- 51 ▶ allows an individual driving with a measurable metabolite of cannabis to assert, as
52 an affirmative defense, that the individual used the cannabis pursuant to Utah law or
53 the law of another state;
- 54 ▶ prohibits a court from discriminating against a parent in a child custody case based
55 on the parent's lawful possession or use of a cannabis product;
- 56 ▶ prohibits a peace officer or child welfare worker from removing a child from an

57 individual's home on the basis of the individual's lawful possession or use of a cannabis
58 product;

59 ▶ imposes a tax on the sale of a cannabis product or a medical cannabis device at a
60 cannabis dispensary;

61 ▶ exempts from sales and use tax the sale of a cannabis product or a medical cannabis
62 device by a cannabis dispensary;

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

- 64 • proceeds of the medical cannabis tax;
- 65 • medical cannabis card application fees;
- 66 • cannabis dispensary application and licensing fees;
- 67 • cannabis production establishment application and licensing fees; and
- 68 • fines collected for violations of state medical cannabis law; and

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

71 **Money Appropriated in this Bill:**

72 None

73 **Other Special Clauses:**

74 This bill provides a special effective date.

75 **Utah Code Sections Affected:**

76 AMENDS:

77 **30-3-10**, as last amended by Laws of Utah 2014, Chapter 409

78 **41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333

79 **62A-4a-202.1**, as last amended by Laws of Utah 2012, Chapters 221 and 293

80 **63I-1-226**, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258

81 **63I-1-258**, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,

82 and 432

83 **78A-6-508**, as last amended by Laws of Utah 2014, Chapter 409

84 ENACTS:

85 **4-42-101**, Utah Code Annotated 1953

86 **4-42-102**, Utah Code Annotated 1953

87 **4-42-103**, Utah Code Annotated 1953

- 88 **4-42-201**, Utah Code Annotated 1953
- 89 **4-42-202**, Utah Code Annotated 1953
- 90 **4-42-203**, Utah Code Annotated 1953
- 91 **4-42-301**, Utah Code Annotated 1953
- 92 **4-42-302**, Utah Code Annotated 1953
- 93 **4-42-303**, Utah Code Annotated 1953
- 94 **4-42-401**, Utah Code Annotated 1953
- 95 **4-42-402**, Utah Code Annotated 1953
- 96 **4-42-403**, Utah Code Annotated 1953
- 97 **4-42-404**, Utah Code Annotated 1953
- 98 **4-42-501**, Utah Code Annotated 1953
- 99 **4-42-601**, Utah Code Annotated 1953
- 100 **4-42-602**, Utah Code Annotated 1953
- 101 **4-42-603**, Utah Code Annotated 1953
- 102 **4-42-701**, Utah Code Annotated 1953
- 103 **4-42-702**, Utah Code Annotated 1953
- 104 **4-42-801**, Utah Code Annotated 1953
- 105 **26-58-101**, Utah Code Annotated 1953
- 106 **26-58-102**, Utah Code Annotated 1953
- 107 **26-58-103**, Utah Code Annotated 1953
- 108 **26-58-104**, Utah Code Annotated 1953
- 109 **26-58-105**, Utah Code Annotated 1953
- 110 **26-58-106**, Utah Code Annotated 1953
- 111 **26-58-107**, Utah Code Annotated 1953
- 112 **26-58-108**, Utah Code Annotated 1953
- 113 **26-58-201**, Utah Code Annotated 1953
- 114 **26-58-202**, Utah Code Annotated 1953
- 115 **26-58-203**, Utah Code Annotated 1953
- 116 **26-58-204**, Utah Code Annotated 1953
- 117 **26-58-301**, Utah Code Annotated 1953
- 118 **26-58-302**, Utah Code Annotated 1953

- 119 **26-58-303**, Utah Code Annotated 1953
- 120 **26-58-304**, Utah Code Annotated 1953
- 121 **26-58-401**, Utah Code Annotated 1953
- 122 **26-58-402**, Utah Code Annotated 1953
- 123 **26-58-403**, Utah Code Annotated 1953
- 124 **26-58-501**, Utah Code Annotated 1953
- 125 **26-58-502**, Utah Code Annotated 1953
- 126 **26-58-503**, Utah Code Annotated 1953
- 127 **26-58-504**, Utah Code Annotated 1953
- 128 **26-58-505**, Utah Code Annotated 1953
- 129 **26-58-601**, Utah Code Annotated 1953
- 130 **53-1-106.5**, Utah Code Annotated 1953
- 131 **58-37-3.6**, Utah Code Annotated 1953
- 132 **58-37-3.7**, Utah Code Annotated 1953
- 133 **59-12-104.7**, Utah Code Annotated 1953
- 134 **59-28-101**, Utah Code Annotated 1953
- 135 **59-28-102**, Utah Code Annotated 1953
- 136 **59-28-103**, Utah Code Annotated 1953
- 137 **59-28-104**, Utah Code Annotated 1953
- 138 **59-28-105**, Utah Code Annotated 1953
- 139 **59-28-106**, Utah Code Annotated 1953
- 140 **59-28-107**, Utah Code Annotated 1953
- 141 **59-28-108**, Utah Code Annotated 1953



142
143 *Be it enacted by the Legislature of the state of Utah:*

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

145 **CHAPTER 42. CANNABIS PRODUCTION ESTABLISHMENTS**

146 **Part 1. General Provisions**

147 **4-42-101. Title.**

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

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

150 **4-42-102. Definitions.**

151 As used in this chapter:

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

154 (a) Tetrahydrocannabinol or THC;

155 (b) Tetrahydrocannabinolic acid or THCa;

156 (c) Cannabidiol or CBD;

157 (d) Cannabinol or CBN; and

158 (e) Cannabigerol or CBG.

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

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

161 (a) grows cannabis; or

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

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

165 (5) "Cannabis dispensary" means the same as that term is defined in Section
166 [26-58-102](#).

167 (6) "Cannabis dispensary agent" means the same as that term is defined in Section
168 [26-58-102](#).

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

170 (a) manufactures a cannabis product from unprocessed cannabis;

171 (b) purchases or possesses cannabis with the intent to manufacture a cannabis product;

172 or

173 (c) sells or intends to sell a cannabis product to a cannabis dispensary.

174 (8) "Cannabis processing facility agent" means an individual who is an owner, officer,
175 director, board member, employee, or volunteer of a cannabis processing facility.

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

177 (10) "Cannabis production establishment" means:

178 (a) a cannabis cultivation facility;

179 (b) a cannabis processing facility; or

180 (c) an independent cannabis testing laboratory;

181 (11) "Cannabis production establishment agent" means:

182 (a) a cannabis cultivation facility agent;

183 (b) a cannabis processing facility agent; or

184 (c) an independent cannabis testing laboratory agent.

185 (12) "Cannabis production establishment agent registration card" means a registration
186 card, issued by the department, that:

187 (a) authorizes an individual to act as a cannabis production establishment agent; and

188 (b) designates the type of cannabis production establishment for which an individual is
189 authorized to act as an agent.

190 (13) "Independent cannabis testing laboratory" means a person that:

191 (a) conducts a chemical or other analysis of cannabis or a cannabis product; or

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

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

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

198 (16) "Medical cannabis card" means the same as that term is defined in Section
199 [26-58-102](#).

200 (17) "Medical Cannabis Restricted Account" means the account created in Section
201 [26-58-108](#).

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

203 (19) "State electronic verification system" means the system described in Section
204 [26-58-103](#).

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

206 **4-42-103. Inventory control system.**

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

209 (2) An inventory control system shall track cannabis, using a unique identifier, in real
210 time, from the point that a cannabis plant is eight inches tall, and has a root ball, until the
211 cannabis is sold, in the form of a cannabis product, to an individual with a medical cannabis

212 card.

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

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

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

219 (b) is tamper proof;

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

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

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

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

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

230 **Part 2. Cannabis Production Establishment**

231 **4-42-201. Cannabis production establishment -- License.**

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

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

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

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

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

242 (d) for each location of a cannabis production establishment for which the person

243 applies, a complete application for a local business license;

244 (e) an application fee:

245 (i) before January 1, 2017, of \$5,000; and

246 (ii) after January 1, 2017, in an amount established by the department in accordance

247 with Section 63J-1-504, that is necessary to cover the department's cost to implement this

248 chapter; and

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

250 establishment agent for the cannabis production establishment.

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

253 (a) before January 1, 2018, charge the cannabis production establishment an initial

254 license fee of \$65,000; and

255 (b) on or after January 1, 2018, charge the cannabis establishment an initial license fee

256 in an amount determined by the department in accordance with Section 63J-1-504.

257 (4) The department shall require a separate application license and a separate license

258 application fee under Subsection (3) for each type of cannabis production establishment and

259 each location of a cannabis production establishment.

260 (5) The department may issue any combination of a cannabis cultivation facility

261 license, a cannabis processing facility license, and a cannabis dispensary license to a person to

262 operate:

263 (a) at the same physical location; or

264 (b) at separate physical locations.

265 (6) The department may not issue a license to operate an independent cannabis testing

266 laboratory to a person:

267 (a) that holds a license or has an ownership interest in a cannabis dispensary, a

268 cannabis processing facility, or a cannabis cultivation facility in the state;

269 (b) that has an owner, officer, director, or employee whose immediate family member

270 holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing

271 facility, or a cannabis cultivation facility; or

272 (c) proposes to operate the independent cannabis testing laboratory at the same physical

273 location as a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation

274 facility.

275 Section 5. Section **4-42-202** is enacted to read:

276 **4-42-202. Renewal.**

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

279 (2) The department shall charge a cannabis production establishment that the
280 department determines is eligible for license renewal a license renewal fee in an amount
281 determined by the department in accordance with Section 63J-1-504.

282 Section 6. Section **4-42-203** is enacted to read:

283 **4-42-203. Operating plan.**

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

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

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

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

292 and

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

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

295 (d) a security plan;

296 (e) a banking and financial services plan;

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

300 (g) a cannabis or cannabis product disposal plan;

301 (h) for a cannabis cultivation facility, the information described in Subsection (2);

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

303 (j) for an independent cannabis testing laboratory, the information described in

304 Subsection (4).

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

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

309 (b) the cannabis cultivation facility's intended cannabis cultivation practices, including
310 the cannabis cultivation facility's intended:

311 (i) pesticide use;

312 (ii) fertilizer use;

313 (iii) square footage under cultivation; and

314 (iv) anticipated cannabis yield.

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

316 (a) evidence that the cannabis processing facility has entered into a preliminary
317 agreement:

318 (i) with a cannabis cultivation facility in the state to purchase unprocessed cannabis
319 input; and

320 (ii) with a cannabis dispensary in the state to purchase the cannabis processing facility's
321 output;

322 (b) the cannabis processing facility's intended cannabis processing practices, including
323 the cannabis processing facility's intended:

324 (i) offered variety of cannabis product;

325 (ii) cannabinoid extraction method;

326 (iii) cannabinoid extraction equipment;

327 (iv) processing equipment;

328 (v) processing techniques; and

329 (vi) sanitation and food safety procedures;

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

331 (a) evidence that the independent cannabis testing laboratory agreement with a
332 cannabis production establishment to provide testing services; and

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

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

335 (ii) cannabis and cannabis product testing equipment.

336 (5) The department may require, by rule in accordance with Title 63G, Chapter 3, Utah
337 Administrative Rulemaking Act, additional operating standards for a cannabis production
338 establishment's operating plan that are related to safety for human cannabis product
339 consumption.

340 Section 7. Section **4-42-301** is enacted to read:

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

342 **4-42-301. Cannabis production establishment agent -- Registration.**

343 (1) In order to act as a cannabis production establishment agent, an individual shall
344 register with the department as a cannabis production establishment agent.

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

346 (3) An independent cannabis testing laboratory agent may not act as an agent for a
347 cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

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

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

353 (b) provides to the department:

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

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

357 (c) pays the department a fee:

358 (i) before January 1, 2018, of \$250; and

359 (ii) on or after January 1, 2018, in an amount determined by the department in
360 accordance with Section [63J-1-504](#), that is necessary to cover the department's cost to
361 implement this part; and

362 (d) complies with the requirement for and passes a criminal background check
363 described in Section [4-42-302](#).

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

367 (6) A cannabis production establishment agent shall comply with a certification
368 standard developed by the department or with a third party certification standard approved by
369 the department.

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

371 (a) Utah medical cannabis law;

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

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

375 (d) for an independent cannabis testing laboratory agent, cannabis testing best
376 practices.

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

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

380 (b) is convicted of an offense, that is a felony under state or federal law, that involves a
381 drug or violent crime.

382 Section 8. Section **4-42-302** is enacted to read:

383 **4-42-302. Cannabis production establishment agent -- Criminal background**
384 **checks.**

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

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

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

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

391 (ii) the Federal Bureau of Investigation.

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

395 Section 9. Section **4-42-303** is enacted to read:

396 **4-42-303. Cannabis production establishment agent registration card --**
397 **Rebuttable presumption.**

398 (1) A cannabis production establishment agent who is registered with the department
399 under Section 4-42-301 shall carry the individual's cannabis production establishment agent
400 registration card with the individual at all times when:

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

403 (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis
404 device between two cannabis production establishments or between a cannabis production
405 establishment and a cannabis dispensary.

406 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis
407 device at a cannabis production establishment, or transporting cannabis, a cannabis product, or
408 a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis
409 device in compliance with Subsection (1):

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

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

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

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

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

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

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

424 Section 10. Section 4-42-401 is enacted to read:

425 **Part 4. General Cannabis Production Establishment Operating Requirements**

426 **4-42-401. Cannabis production establishment -- General operating requirements.**

427 (1) (a) A cannabis production establishment shall operate in accordance with the
428 operating plan provided to the department under Section 4-42-203.

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

431 (2) A cannabis production establishment shall operate:

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

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

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

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

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

442 (4) A cannabis production establishment shall operate in a facility that has:

443 (a) no exterior signage that indicates the type of business;

444 (b) a single, secure public entrance;

445 (c) a security system with a backup power source that:

446 (i) detects and records entry into the cannabis production establishment during business
447 hours; and

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

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

452 (5) A cannabis production establishment may not operate:

453 (a) within 600 feet of a community location, as defined in Section [32B-1-102](#), that is
454 not a public or private school; or

455 (b) within 1000 feet of a public or private school.

456 Section 11. Section ~~4-42-402~~ is enacted to read:

457 **4-42-402. Inspections.**

458 (1) Subject to Subsection (2), the department shall inspect the records and facility of a
459 cannabis production establishment in order to determine if the cannabis production

460 establishment complies with the licensing requirements of this chapter.

461 (2) The department may inspect the records and facility of a cannabis production
462 establishment at any time, scheduled or unscheduled.

463 Section 12. Section **4-42-403** is enacted to read:

464 **4-42-403. Advertising.**

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

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

469 Section 13. Section **4-42-404** is enacted to read:

470 **4-42-404. Cannabis, cannabis product, or medical cannabis device transportation.**

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

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

477 (b) a registered cannabis dispensary agent.

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

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

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

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

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

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

493 (a) transports cannabis, a cannabis product, or a medical cannabis device; and
494 (b) does not possess, on the registered cannabis production establishment agent's

495 person or in the transport vehicle, a manifest that complies with Subsection (3).

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

498 Section 14. Section **4-42-501** is enacted to read:

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

500 **4-42-501. Cannabis cultivation facility -- Operating requirements.**

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

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

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

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

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

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

513 (5) The department may determine standards, by rule made in accordance with Title
514 63, Chapter 3, Utah Administrative Rulemaking Act, for a cannabis cultivation facility's
515 pesticide use.

516 Section 15. Section **4-42-601** is enacted to read:

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

518 **4-42-601. Cannabis processing facility -- Operating requirements -- General.**

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

522 (2) If a cannabis processing facility extracts cannabinoids from cannabis using a
523 hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a
524 blast hood.

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

528 Section 16. Section 4-42-602 is enacted to read:

529 **4-42-602. Cannabis product -- Labeling and packaging.**

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

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

532 (b) clearly displays:

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

534 (ii) the cannabinoid profile of the cannabis product; and

535 (iii) the number of doses, and the milligrams in each dose, in the cannabis product;

536 (c) has a unique batch identifier that is connected to the cannabis processing facility's
537 inventory control system.

538 (d) identifies the cannabinoid extraction method that the cannabis processing facility
539 used to create the cannabis product;

540 (e) if the cannabis processing facility used a hydrocarbon extraction process to create
541 the cannabis product, a certification that the product contains a level of residual solvents that is
542 safe for human consumption;

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

544 (i) intended to appeal to children; or

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

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

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

548 (a) is tamper evident;

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

550 (c) is opaque; and

551 (d) complies with child-resistant special packaging standards described in 16 C.F.R.

552 Sec. 1700.15 that apply to a controlled drug as described in 16 C.F.R. Sec. 1700.14.

553 Section 17. Section **4-42-603** is enacted to read:

554 **4-42-603. Cannabis product -- Product quality.**

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

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

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

559 (2) A cannabis processing facility may not manufacture a cannabis product by applying
560 a cannabis agent only to the surface of a pre-manufactured food product that is not produced by
561 the cannabis processing facility.

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

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

568 Section 18. Section **4-42-701** is enacted to read:

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

570 **4-42-701. Cannabis and cannabis product testing.**

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

574 (2) An independent cannabis testing laboratory shall determine the cannabinoid profile
575 of a cannabis product.

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

578 (a) mold;

579 (b) fungus;

580 (c) pesticides; or

581 (d) microbial contaminants.

582 (4) For a cannabis product that is manufactured using a process that involves extraction
583 using hydrocarbons, an independent cannabis testing laboratory shall test the cannabis product

584 for an unhealthy level of a residual solvent.

585 (5) The department may determine, by rule made in accordance with Title 63G,
586 Chapter 3, Utah Administrative Rulemaking Act:

587 (a) the amount of substances described in Subsection (4) and the amount of residual
588 solvents that are safe for human consumption;

589 (b) additional cannabis or cannabidiol testing that an independent cannabidiol testing
590 laboratory is required to perform; and

591 (c) minimum standards for an independent cannabidiol testing laboratory's testing
592 methods and procedures.

593 (6) The State Chemistry Lab may possess cannabis or a cannabis product for the
594 purpose of a department test under Subsection (5).

595 (7) An independent cannabis testing laboratory shall test any cannabis that the
596 independent cannabis testing laboratory receives from a cannabis cultivation facility using
597 carbon stable isotope testing to determine:

598 (a) the origin of the cannabis;

599 (b) the conditions under which the cannabis was grown; and

600 (c) any other information about the cannabis required by the department, by rule made
601 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that can be
602 determined using carbon stable isotope testing.

603 Section 19. Section **4-42-702** is enacted to read:

604 **4-42-702. Reporting -- Inspections -- Seizure by the department.**

605 (1) If an independent cannabis testing laboratory determines that the results of a lab test
606 indicate that a cannabis product batch may be unsafe for human consumption or, using a carbon
607 stable isotope test, that the cannabis was not cultivated in accordance with this chapter:

608 (a) the independent cannabis testing laboratory shall report the results and the cannabis
609 product batch simultaneously to:

610 (i) the department; and

611 (ii) the cannabis production establishment that prepared the cannabis product batch;

612 (b) retain possession of the cannabis product batch for one week in order to investigate
613 the cause of the defective or non-complying batch and to make a determination; and

614 (c) allow the cannabis production establishment that prepared the cannabis product

615 batch to appeal the determination described in Subsection (1)(b), and, if necessary following
616 the appeal, allow the independent cannabis testing laboratory to retest the cannabis product
617 batch.

618 (2) If, under Subsection (1)(b), the department determines, following an appeal, that a
619 cannabis product prepared by a cannabis production establishment is unsafe for human
620 consumption or was not cultivated in accordance with this chapter, the department may seize,
621 embargo, or destroy a cannabis product batch.

622 Section 20. Section **4-42-801** is enacted to read:

623 **Part 8. Enforcement**

624 **4-42-801. Enforcement -- Fine -- Citation.**

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

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

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

630 (c) assess the person an administrative penalty.

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

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

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

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

640 (iii) the person possessed or used a cannabis batch that was not cultivated in
641 accordance with this chapter.

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

644 (i) issue the person a written citation;

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

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

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

650 (i) seize, embargo, or destroy the cannabis or cannabis product batch as described in
651 Subsection 4-42-702(2); and

652 (ii) direct the person to appear before an adjudicative proceeding conducted under Title
653 63G, Chapter 4, Administrative Procedures Act.

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

656 (a) assess the person a fine, established in accordance with Section 63J-1-504, of up to
657 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
658 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

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

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

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

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

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

673 Section 21. Section 26-58-101 is enacted to read:

674 **CHAPTER 58. MEDICAL CANNABIS ACT**

675 **Part 1. General Provisions**

676 **26-58-101. Title.**

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

678 Section 22. Section **26-58-102** is enacted to read:

679 **26-58-102. Definitions.**

680 As used in this chapter:

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

683 (a) Tetrahydrocannabinol or THC;

684 (b) Tetrahydrocannabinolic acid or THCa;

685 (c) Cannabidiol or CBD;

686 (d) Cannabinol or CBN; and

687 (e) Cannabigerol or CBG.

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

689 (3) "Cannabis cultivation facility" means the same as that term is defined in Section
690 [4-42-102](#).

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

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

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

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

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

699 (7) "Cannabis processing facility" means the same as that term is defined in Section
700 [4-42-102](#).

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

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

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

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

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

708 and

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

710 (12) "Independent cannabis testing laboratory" means the same as that term is defined
711 in Section [4-42-102](#).

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

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

716 (15) "Medical cannabis device" means the same as that term is defined in Section
717 [58-37-3.6\(1\)\(b\)](#).

718 (16) "Medical Cannabis Restricted Account" means the account created in Section
719 [26-58-108](#).

720 (17) "Participating entity" means:

721 (a) the Department of Agriculture and Food;

722 (b) the Department of Health; and

723 (c) the Department of Technology Services.

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

726 (19) "Qualifying illness" means a condition described in Section [26-58-104](#).

727 (20) "State electronic verification system" means the system described in Section
728 [26-58-103](#).

729 Section 23. Section **26-58-103** is enacted to read:

730 **26-58-103. State electronic verification system.**

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

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

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

- 739 (c) select a third party provided described in Subsection (1)(b); and
740 (d) take the actions described in Subsections (1)(a), (b), and (c) according to the
741 following schedule:
- 742 (i) no later than 75 days after the effective date of the bill, enter into the memorandum
743 of understanding described in Subsection (1)(a);
- 744 (ii) no later than 60 days after taking the action described in Subsection (1)(d)(i), issue
745 the request for proposals for a third party provider described in Subsection (1)(b);
- 746 (iii) 30 days after taking the action described in Subsection (1)(d)(ii), close bidding for
747 the request for proposals;
- 748 (iv) 90 days after taking the action described in Subsection (1)(d)(iii), select a third
749 party provider;
- 750 (v) 300 days after taking the action described in Subsection (1)(d)(iv), require the third
751 party provider to have a working prototype of a state electronic verification system and begin
752 training state employees on the state electronic verification system;
- 753 (vi) 90 days after taking the action described in Subsection (1)(d)(v), require the third
754 party provider to successfully integrate any cannabis production establishment or cannabis
755 dispensary licensee's inventory control system into the state electronic verification system; and
- 756 (vii) 30 days after taking the action described in Subsection (1)(d)(vi), require the state
757 electronic verification system and any associated system or process to be fully operational.
- 758 (2) The electronic verification system described in Subsection (1) shall:
- 759 (a) allow an individual, with the individual's physician in the physician's office, to
760 apply for a medical cannabis card;
- 761 (b) allow a physician to:
- 762 (i) electronically recommend, during a visit with a patient, treatment with a cannabis
763 product for the patient;
- 764 (ii) see, on a screen where the physician inputs a recommendation, simultaneously
765 while the physician inputs the recommendation, the patient's cannabis dispensing history; and
- 766 (iii) access data about the physician's patient stored in the state electronic verification
767 system via an electronic or mobile platform that allows for:
- 768 (A) a patient to voluntarily submit outcome information and ask questions;
769 (B) a physician to respond to the patient and use the patient-submitted information for

770 the purpose of quality improvement; and
771 (C) patient cannabis dispensing data to be automatically displayed when a physician
772 accesses the Controlled Substance Database;
773 (c) issue a medical cannabis card to an individual if the individual meets the
774 requirements described in Section [26-58-201](#);
775 (d) issue to a designated caregiver, if the designated caregiver meets the requirements
776 in Section [26-58-202](#), a medical cannabis card on behalf of a named patient;
777 (e) connect with an inventory control system used by each cannabis dispensary and
778 cannabis production establishment to track, in real time, for the purchase of a cannabis product
779 by a medical cannabis card holder:
780 (i) the time and date of the purchase;
781 (ii) the quantity and type of a cannabis product purchased; and
782 (iii) any cannabis production establishment or cannabis dispensary that cultivated,
783 processed, tested, or sold the cannabis product;
784 (f) provide access to the Department of Health and the Department of Agriculture and
785 Food to the extent necessary to carry out the Department of Health's and the Department of
786 Agriculture and Food's functions and responsibilities under:
787 (i) this chapter; and
788 (ii) Title 4, Chapter 42, Cannabis Production Establishment;
789 (g) provide access to state or local law enforcement:
790 (i) during a traffic stop for the purpose of determining if the individual subject to the
791 traffic stop is complying with state medical cannabis law; or
792 (ii) after obtaining a warrant;
793 (h) create a record each time a person accesses the database that identifies the person
794 who accesses the database and the individual whose records are accessed; and
795 (i) transmit an individual's cannabis product purchase history to the controlled
796 substance database created in Section [58-37f-203](#).
797 (3) The Department of Health may release de-identified data collected by the system
798 under Subsection (2) for the purpose of conducting medical research.
799 Section 24. Section **26-58-104** is enacted to read:
800 **26-58-104. Qualifying illness.**

- 801 (1) For the purposes of this chapter, the following conditions are considered a
802 qualifying illness:
- 803 (a) HIV, acquired immune deficiency syndrome or an autoimmune disorder;
 - 804 (b) Alzheimer's disease;
 - 805 (c) amyotrophic lateral sclerosis;
 - 806 (d) cancer, cachexia, or such condition manifest by physical wasting, nausea, or
807 malnutrition associated with chronic disease;
 - 808 (e) Crohn's disease or a similar gastrointestinal disorder;
 - 809 (f) epilepsy or a similar condition that causes debilitating seizures;
 - 810 (g) multiple sclerosis or a similar condition that causes persistent and debilitating
811 muscle spasms;
 - 812 (h) post-traumatic stress disorder related to military service; and
 - 813 (i) chronic pain in an individual, if:
 - 814 (A) a physician determines that the individual is at greater risk of becoming addicted
815 to, chemically dependent on, or overdosing on, opiate-based pain medication; or
 - 816 (B) a physician determines that the individual is allergic to opiates, or is otherwise
817 medically unable to use opiates.
- 818 (2) In addition to the conditions described in Subsection (1), a condition approved
819 under Section 26-58-105, in an individual, on a case-by-case basis, is considered a qualifying
820 illness for the purposes of this chapter.
- 821 Section 25. Section **26-58-105** is enacted to read:
- 822 **26-58-105. Compassionate Use Board.**
- 823 (1) The department shall establish a Compassionate Use Board consisting of:
- 824 (a) five physicians who are knowledgeable about the medical use of cannabis and
825 certified in one of the following specialties:
 - 826 (i) neurology;
 - 827 (ii) pain medicine and pain management;
 - 828 (iii) medical oncology;
 - 829 (iv) psychiatry;
 - 830 (v) infectious disease;
 - 831 (vi) internal medicine; and

- 832 (vii) pediatrics;
833 (b) the director of the Department of Health or the director's designee as a non-voting
834 member; and
835 (c) two medical research professionals with expertise in cannabinoids or a qualifying
836 illness, including one medical research professional who is affiliated with a research-based
837 higher education institution.
838 (2) The department shall appoint at least one member of the board who has a specialty
839 in addiction medicine.
840 (3) (a) Four of the members of the board first appointed shall serve for a term of three
841 years and three of the members of the board first appointed shall serve for a term of four years.
842 (b) After the first members' terms expire, members of the board shall serve for a term
843 of four years and shall be eligible for reappointment.
844 (c) Any member of the board may serve until a successor is appointed.
845 (d) The director of the Department of Health or the director's designee shall serve as
846 the nonvoting chair of the board.
847 (4) A quorum of the Compassionate Use Board shall consist of five members.
848 (5) A member of the board may not receive compensation or benefits for the member's
849 service, but may receive per diem and travel expenses in accordance with:
850 (a) Section [63A-3-106](#);
851 (b) Section [63A-3-107](#); and
852 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
853 [63A-3-107](#).
854 (6) The Compassionate Use Board shall:
855 (a) review and recommend to the department approval for an individual who is not
856 otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for
857 compassionate use if:
858 (i) the individual and the individual's physician appear before the board and offer, in
859 the board's discretion, satisfactory evidence that the individual suffers from a condition:
860 (A) that substantially impairs the individual's quality of life;
861 (B) that is intractable;
862 (C) that is not responsive to other treatments; and

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

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

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

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

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

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

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

878 (e) evaluate physician variances under Subsection [26-58-106\(5\)](#).

879 (7) The department shall review any compassionate use recommended by the board
880 under this section to confirm if the board properly exercised the board's discretion under this
881 section.

882 (8) If the department determines the board properly approved an individual for a
883 compassionate use under this section, the department shall issue the individual a provisional
884 medical cannabis card in accordance with this chapter that is valid for one year.

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

888 (10) The Compassionate Use Board shall, before November 1 of each year,
889 recommend to the Legislature:

890 (a) a condition to designate as a qualifying illness under Section [26-58-104](#); or

891 (b) a condition to remove as a qualifying illness under Section [26-58-104](#).

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

893 **26-58-106. Physician qualification.**

894 (1) For the purposes of this section, a physician means an individual who is licensed to
895 practice:
896 (a) medicine under Title 58, Chapter 67, Utah Medical Practice Act; or
897 (b) osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical
898 Practice Act.
899 (2) A physician may recommend cannabis if the physician:
900 (a) completes the training requirements described in Subsection (3); and
901 (b) except as described in Subsection (4), recommends cannabis to no more than 250 of
902 the physician's patients at any given time.
903 (3) (a) A physician shall complete, before recommending cannabis to a patient, a
904 training program in cannabis recommendation best practices that is approved by the
905 department, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
906 Rulemaking Act.
907 (b) The department shall issue an endorsement to a physician that completes the
908 training program described in Subsection (3)(a)
909 (c) The endorsement described in Subsection (3)(b) entitles a physician to use a
910 medical cannabis endorsement image developed by the department on the physician's website.
911 (4) A physician may recommend cannabis to greater than 20% of the physician's
912 patients if the physician:
913 (a) is certified in one of the following specialties:
914 (i) anesthesiology;
915 (ii) gastroenterology;
916 (iii) neurology;
917 (iv) oncology;
918 (v) pain and palliative care;
919 (vi) physiatry;
920 (vii) psychiatry; or
921 (viii) addiction medicine;
922 (b) appears before the Compassionate Use Board described in Section [26-58-105](#); and
923 (c) demonstrates, to the satisfaction of the board and with the department's approval,
924 that:

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

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

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

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

932 (i) a green cross;

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

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

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

936 (v) scientific studies regarding cannabis use; and

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

938 Section 27. Section **26-58-107** is enacted to read:

939 **26-58-107. Standard of care -- Medical practitioners not liable -- No private right**
940 **of action -- Insurance coverage.**

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

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

946 (a) civil liability;

947 (b) criminal liability; or

948 (c) licensure sanctions under:

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

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

951 (3) An insurance carrier, third-party administrator, or employer is not required to
952 provide reimbursement for a cannabis product or a medical cannabis device, under this chapter.

953 Section 28. Section **26-58-108** is enacted to read:

954 **26-58-108. Medical Cannabis Restricted Account -- Creation.**

955 (1) There is created in the General Fund a restricted account known as the "Medical

956 Cannabis Restricted Account."

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

958 (a) money deposited by the State Tax Commission under Title 59, Chapter 28, Medical

959 Cannabis Tax;

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

961 Section 4-42-801;

962 (c) money deposited into the account by the department under Section 26-58-601;

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

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

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

966 (4) The money in the account may only be used to fund, upon appropriation:

967 (a) the state licensing and regulation cost of the state medical cannabis program

968 established in:

969 (i) Title 26, Chapter 58, Medical Cannabis Act;

970 (ii) Title 4, Chapter 42, Cannabis Production Establishments; and

971 (iii) Title 59, Chapter 28, Medical Cannabis Tax Act; and

972 (b) the cost to the attorney general for investigation and enforcement related to medical
973 cannabis.

974 (5) At the end of fiscal year 2018, the director of the Division of Finance shall transfer
975 into the General Fund from the Medical Cannabis Restricted Account an amount equal to the
976 General Fund appropriation in fiscal year 2016 and fiscal year 2017 to implement the
977 provisions of this bill.

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

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

980 **26-58-201. Medical cannabis card -- Application -- Fees -- Database.**

981 (1) The department shall issue a medical cannabis card, via the electronic verification
982 system, to an individual who complies with this section no later than 45 days after the day on
983 which the individual submits a complete application.

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

985 (a) is at least 18 years old;

986 (b) is a Utah resident; and

- 987 (c) recommended by the individual's physician under Subsection (5).
- 988 (3) An individual who is the parent or legal guardian of a minor is eligible for a
- 989 medical cannabis card if:
- 990 (a) the individual is at least 18 years old;
- 991 (b) the individual is a Utah resident; and
- 992 (c) recommended by the minor's physician under Subsection (5).
- 993 (4) An individual who is eligible for a medical cannabis card under Subsection (2) or
- 994 (3) shall submit an application for a medical cannabis card to the department:
- 995 (a) with the recommending physician, in the recommending physician's office;
- 996 (b) via an electronic application connected to the electronic verification system;
- 997 (c) that includes:
- 998 (i) the individual's name, gender, age, address, and for the purpose of being notified
- 999 about a recall or a research study, the individual's contact information; and
- 1000 (ii) a copy of the individual's valid photo identification;
- 1001 (5) A physician who recommends treatment with medical cannabis to an individual or
- 1002 minor shall:
- 1003 (a) input in the physician's diagnosis that the individual suffers from a qualifying
- 1004 illness:
- 1005 (i) the type of qualifying illness; and
- 1006 (ii) a recommendation that the individual try a cannabis product; and
- 1007 (b) look up the individual in the controlled substance database created in Section
- 1008 [58-37f-201](#) to check for potential interactions or warning signs.
- 1009 (6) A medical cannabis card the department issues under this section is valid for the
- 1010 lesser of:
- 1011 (a) an amount of time determined by the physician who recommends treatment with a
- 1012 cannabis product under Subsection (5); or
- 1013 (b) two years.
- 1014 (7) An individual may not ingest cannabis or a cannabis product:
- 1015 (a) in public view; or
- 1016 (b) while the individual operates a motor vehicle.
- 1017 (8) The department may revoke an individual's medical cannabis card if the individual

1018 violates this chapter.

1019 (9) The department may establish procedures, by rule in accordance with Title 63G,
1020 Chapter 3, Utah Administrative Rulemaking Act, to implement the medical cannabis card
1021 application and issuance provisions of this Section.

1022 (10) (a) A person may submit, to the department, a request to conduct a medical
1023 research study using medical cannabis cardholder data contained in the electronic verification
1024 system.

1025 (b) The department shall review a request submitted under Subsection (10)(a) to
1026 determine if the medical research study is valid.

1027 (c) If the department determines that a medical research study is valid under Subsection
1028 (10)(b), the department shall notify a relevant medical cannabis cardholder asking for the
1029 medical cannabis cardholder's participation in the study.

1030 (d) The department may release, for the purposes of a study, information about a
1031 medical cannabis cardholder who consents to participation under Subsection (10)(c).

1032 (e) The department may establish standards for a medical research study's validity, by
1033 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1034 Section 30. Section **26-58-202** is enacted to read:

1035 **26-58-202. Medical cannabis card --- Designated caregiver -- Registration --**
1036 **Renewal -- Revocation.**

1037 (1) An individual may designate up to two individuals to serve as designated caregivers
1038 of the individual if:

1039 (a) the individual has a valid medical cannabis card under Section [26-58-201](#); and

1040 (b) a physician determines that, due to physical impossibility or undue hardship, the
1041 individual is unable to obtain a cannabis product from a cannabis dispensary.

1042 (2) An individual registered as a designated caregiver under this section may:

1043 (a) carry a valid medical cannabis card with the designated caregiver's name for the
1044 purpose of transporting cannabis or a cannabis product to a designating patient or assisting a
1045 designating patient in administering the cannabis product; and

1046 (b) purchase and possess, in accordance with this chapter, a cannabis product or a
1047 medical cannabis device on behalf of the designating patient.

1048 (3) The department shall register an individual designated as a caregiver under

1049 Subsection (1) if the individual:

1050 (a) is at least 18 years old;

1051 (b) is a Utah resident;

1052 (c) applies online, with the department, through the electronic verification system, for a

1053 medical cannabis card as a designated caregiver;

1054 (d) pays, to the department, a fee established by the department in accordance with

1055 Section 63J-1-504, plus the cost of a criminal background check;

1056 (e) complies with Section 26-58-205; and

1057 (f) completes a training program for designated caregivers established by the

1058 department that includes an endorsement that the individual understands state law for

1059 caregivers.

1060 (4) The department shall issue, to an individual who registers under this section, a

1061 medical cannabis card that:

1062 (a) is connected to the electronic verification system; and

1063 (b) includes the individual's name.

1064 (5) A medical cannabis card is renewable for a designated caregiver if, at the time of

1065 renewal:

1066 (a) an individual with a medical cannabis card described in Subsection (1) renews the
1067 caregiver's designation; and

1068 (b) the designated caregiver meets the requirements of Subsection (3).

1069 (6) A designated caregiver may charge an individual to act as the individual's

1070 designated caregiver.

1071 (7) The Department of Health may revoke an individual's medical cannabis card if the

1072 individual:

1073 (a) violates this chapter; or

1074 (b) is convicted of a felony that is:

1075 (i) a crime of involving the use of force or violence against another person; or

1076 (ii) a felony conviction of a state or federal law pertaining to controlled substances.

1077 Section 31. Section 26-58-203 is enacted to read:

1078 **26-58-203. Designated caregiver -- Criminal background check.**

1079 (1) An individual registered as a designated caregiver under Section 26-58-202 shall

1080 submit to a criminal background check in accordance with Subsection (2).
1081 (2) Each designated caregiver shall:
1082 (a) submit, to the department, a fingerprint card in a form acceptable to the department
1083 and the Department of Public Safety; and
1084 (b) consent to a fingerprint background check by:
1085 (i) the Utah Bureau of Criminal Identification; and
1086 (ii) the Federal Bureau of Investigation.
1087 (3) The Department of Public Safety shall complete a Federal Bureau of Investigation
1088 Criminal Background Check for each designated caregiver under Subsection (2) and report the
1089 results of the background check to the department.

1090 Section 32. Section **26-58-204** is enacted to read:

1091 **26-58-204. Medical cannabis card -- Patient and designated caregiver**
1092 **requirements -- Rebuttable presumption.**

1093 (1) An individual who has a medical cannabis card and who possesses a cannabis
1094 product outside of the individual's residence shall:
1095 (a) carry, with the individual at all times, the individual's medical cannabis card; and
1096 (b) carry, with the cannabis product, a label that identifies that the cannabis product
1097 was originally sold from a department licensed cannabis dispensary, including the bar code or
1098 identification number that links the cannabis or cannabis product to the dispensary's inventory
1099 control system.
1100 (2) If an individual possesses a cannabis product in compliance with Subsection (1), or
1101 a medical cannabis device that corresponds with the cannabis product:
1102 (a) there is a rebuttable presumption that the individual possesses the cannabis product
1103 or medical cannabis device legally; and
1104 (b) a law enforcement officer does not have probable cause, based solely on the
1105 individual's possession of the cannabis product or medical cannabis device, to believe that the
1106 individual is engaging in illegal activity.
1107 (3) (a) If a law enforcement officer stops an individual who possesses a cannabis
1108 product or a medical cannabis device, and the individual represents to the law enforcement
1109 officer that the individual holds a valid medical cannabis card, but the individual does not have
1110 the medical cannabis card in the individual's possession at the time of the stop by the law

1111 enforcement officer, the law enforcement officer shall attempt to access the state electronic
1112 verification system to determine the individual's identity and whether the individual holds a
1113 valid medical cannabis card.

1114 (b) If the law enforcement officer is able to verify the identity of the individual
1115 described in Subsection (3)(a), and that the individual holds a valid medical cannabis card, the
1116 law enforcement officer:

1117 (i) may not arrest or take the individual into custody for the sole reason that the
1118 individual is in possession of a cannabis product or a medical cannabis device; and

1119 (ii) may not seize the cannabis product or medical cannabis device.

1120 (4) An individual who has a valid medical cannabis card is guilty of an infraction if the
1121 individual:

1122 (a) possesses a cannabis product or a medical cannabis device; and

1123 (b) (i) does not possess the individual's medical cannabis card on the individual's
1124 person; or

1125 (ii) does not possess a label that complies with Subsection (1)(b).

1126 (5) (a) Except as described in Subsection (5)(b), an individual who has a valid medical
1127 cannabis card is guilty of an infraction if the individual uses a cannabis product or a medical
1128 cannabis device in public view.

1129 (b) An individual may use a cannabis product or a medical cannabis device in public
1130 view in the event of a medical emergency.

1131 (6) An individual who is guilty of an infraction under Subsection (4) or (5) is subject to
1132 a \$100 fine.

1133 Section 33. Section **26-58-301** is enacted to read:

1134 **Part 3. Cannabis Dispensary License**

1135 **26-58-301. Cannabis dispensary -- License -- Eligibility.**

1136 (1) In order to operate as a cannabis dispensary, a person shall obtain a license from the
1137 department issued under this part.

1138 (2) Subject to the requirements of this part, the department shall, within 30 business
1139 days after receiving a complete application, issue a license to operate a cannabis dispensary to a
1140 person who submits to the department:

1141 (a) a proposed name and address of the cannabis dispensary;

1142 (b) evidence that the person:
1143 (i) possesses or controls a minimum of \$500,000 in liquid assets for each application
1144 submitted to the department; and
1145 (ii) can comply with the operating requirements for a cannabis dispensary described in
1146 this chapter;
1147 (c) a complete application for a local business license;
1148 (d) an application fee:
1149 (i) before January 1, 2018, of \$5,000; and
1150 (ii) after January 1, 2018, in an amount determined by the department in accordance
1151 with Section 63J-1-504, that is necessary to cover the department's cost to implement this part;
1152 (e) an operating plan that complies with Section 26-58-303; and
1153 (f) the results of a criminal background check for each cannabis dispensary agent.
1154 (3) If the department determines that a cannabis dispensary is eligible for a license
1155 under this section, the department shall:
1156 (a) before January 1, 2018, charge the cannabis dispensary an initial license fee of
1157 \$65,000; and
1158 (b) on or after January 1, 2018, charge the cannabis dispensary an initial license fee in
1159 an amount determined by the department in accordance with Section 63J-1-504.
1160 (4) The department shall require a separate license and a separate license fee under
1161 Subsection (3) for each location of a cannabis dispensary.
1162 (5) The department may revoke a license under this part if the cannabis dispensary is
1163 not operating within one year of the issuance of the initial license.
1164 (6) The department shall deposit the proceeds of a fee imposed by this section in the
1165 Medical Cannabis Restricted Account.
1166 Section 34. Section **26-58-302** is enacted to read:
1167 **26-58-302. Renewal.**
1168 (1) Except as provided in Subsection (3), the department shall renew a person's license
1169 under this part every two years if, at the time of renewal:
1170 (a) the person meets the requirements of Section 26-58-301; and
1171 (b) the person pays the department a license renewal fee in an amount determined by
1172 the department in accordance with Section 63J-1-504.

1173 (2) (a) The department may not renew a cannabis dispensary's license for a sixth
1174 consecutive time unless the department publishes a notice, in a newspaper of general
1175 circulation for the geographic area in which the cannabis dispensary is located, one year before
1176 the day on which the cannabis dispensary's license expires, that includes:

- 1177 (i) the name and location of the cannabis dispensary;
1178 (ii) the day on which the license for the cannabis dispensary will expire; and
1179 (iii) a solicitation for cannabis dispensary license applicants.

1180 (b) If, after the department publishes the notice described in Subsection (2)(a), the
1181 department receives an application for a cannabis dispensary from a new applicant and also
1182 receives an application for renewal from the existing cannabis dispensary, the department shall
1183 issue the license to the applicant that the department determines best meets the criteria
1184 established in Section [26-58-304](#).

1185 (3) (a) If a licensed cannabis dispensary abandons the cannabis dispensary's license or
1186 has the cannabis dispensary license revoked, the department shall publish notice of an available
1187 license in the same manner as described in Subsection (2)(a).

1188 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,
1189 Utah Administrative Rulemaking Act, for what actions by a cannabis dispensary constitute
1190 abandonment of a cannabis dispensary license.

1191 Section 35. Section **26-58-303** is enacted to read:

1192 **26-58-303. Operating plan.**

1193 (1) A person applying for a cannabis dispensary license shall submit to the department
1194 a proposed operation plan for the cannabis dispensary that complies with this section.

1195 (2) A cannabis dispensary's operating plan shall include:

1196 (a) a description of the physical characteristics of the proposed facility, including a
1197 floor plan and architectural elevations that indicate compliance with the requirements of this
1198 chapter;

1199 (b) a description of the credentials and experience of:

1200 (i) each officer, director, or owner of the proposed cannabis dispensary; and

1201 (ii) any highly skilled or experienced prospective employee;

1202 (c) the cannabis dispensary's employee training standards;

1203 (d) a security plan;

- 1204 (e) a banking plan;
- 1205 (f) a description of the cannabis dispensary's inventory control system, including a plan
- 1206 to make the inventory control system compatible with the state electronic verification system;
- 1207 and
- 1208 (g) that the cannabis processing facility has entered into a preliminary agreement with a
- 1209 cannabis processing facility in the state to purchase a cannabis product that the cannabis
- 1210 dispensary intends to sell.

1211 (3) The department may require, by rule in accordance with Title 63G, Chapter 3, Utah

1212 Administrative Rulemaking Act, additional operating standards for a cannabis production

1213 establishment's operating plan that are related to safety for human cannabis product

1214 consumption.

1215 Section 36. Section **26-58-304** is enacted to read:

1216 **26-58-304. Maximum number of licenses.**

1217 (1) The department may not issue more than the greater of, in each county in the state:

- 1218 (a) one cannabis dispensary license; or
- 1219 (b) an amount of cannabis dispensary licenses equal to the number of residents in the
- 1220 county divided by 200,000, rounded up to the nearest greater whole number.

1221 (2) If more than one applicant for a license in a geographic area meets the

1222 qualifications of this chapter for a cannabis dispensary, the department shall evaluate the

1223 applicants, and award the license to the applicant that best demonstrates:

- 1224 (a) experience with:
 - 1225 (i) establishing and running a similar cannabis based business;
 - 1226 (ii) operating a secure inventory control system;
 - 1227 (iii) complying with a regulatory environment; and
 - 1228 (iv) training, evaluating, and monitoring employees;
- 1229 (b) connections to the local community;
- 1230 (c) the extent to which the applicant can reduce the cost of cannabis products to a
- 1231 patient; and
- 1232 (d) the extent to which the applicant's business plan reflects cannabis industry best
- 1233 practices.

1234 (3) The department may conduct a face-to-face interview with an applicant for a

1235 license that the department evaluates under Subsection (2).

1236 Section 37. Section **26-58-401** is enacted to read:

1237 **Part 4. Cannabis Dispensary Agents**

1238 **26-58-401. Cannabis dispensary agent -- Registration card.**

1239 (1) An individual may only act as a cannabis dispensary agent of a cannabis dispensary
1240 if the individual is registered by the department as a cannabis dispensary agent.

1241 (2) A physician may not act as a cannabis dispensary agent.

1242 (3) The department shall, within 30 days after receiving a complete application,
1243 register and issue a cannabis dispensary agent registration card to an individual who:

1244 (a) provides to the department:

1245 (i) the individual's name and address; and

1246 (ii) the name and location of the licensed cannabis dispensary where the individual
1247 seeks to act as the cannabis dispensary agent;

1248 (b) pays a fee to the department:

1249 (i) before January 1, 2018, of \$250; and

1250 (ii) on or after January 1, 2018, in an amount determined by the department in
1251 accordance with Section [63J-1-504](#), that is necessary to cover the department's cost to
1252 implement this part; and

1253 (c) complies with Section [26-58-402](#).

1254 (4) A cannabis dispensary agent shall comply with a certification standard developed
1255 by the department, or a third party certification standard approved by the department.

1256 (5) The certification standard described in Subsection (4) shall address:

1257 (a) Utah medical cannabis law;

1258 (b) cannabis dispensary best practices; and

1259 (c) resources available to help patients.

1260 (6) The department may revoke or refuse to issue the cannabis dispensary agent
1261 registration card of an individual who:

1262 (a) violates the requirements of this chapter; or

1263 (b) is convicted of a felony under state or federal law that involves a drug or violent
1264 crime that is a felony under state or federal law.

1265 Section 38. Section **26-58-402** is enacted to read:

1266 **26-58-402. Cannabis dispensary agents -- Criminal background checks.**

1267 (1) An individual applying for a cannabis dispensary agent registration card under this
1268 chapter shall:

1269 (a) submit, at the time of application, a fingerprint card in a form acceptable to the
1270 department; and

1271 (b) consent to a fingerprint background check by:

1272 (i) the Utah Bureau of Criminal Identification; and

1273 (ii) the Federal Bureau of Investigation.

1274 (2) The department shall request that the Department of Public Safety complete a
1275 Federal Bureau of Investigation criminal background check for each cannabis dispensary agent
1276 registration card applicant.

1277 (3) The department may revoke or refuse to issue an individual's cannabis dispensary
1278 agent registration card if the individual has been convicted of an offense that is a felony under
1279 state or federal law that is related to drugs or a violent crime.

1280 Section 39. Section **26-58-403** is enacted to read:

1281 **26-58-403. Cannabis dispensary agent registration card -- Rebuttable**
1282 **presumption.**

1283 (1) An individual who has a cannabis dispensary agent registration card shall carry the
1284 individual's cannabis dispensary agent registration card with the individual at all times when:

1285 (a) the individual is on the premises of a cannabis dispensary; and

1286 (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis
1287 device between two cannabis production establishments or between a cannabis production
1288 establishment and a cannabis dispensary.

1289 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis
1290 device at a cannabis dispensary, or transporting cannabis, a cannabis product, or a medical
1291 cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in
1292 compliance with Subsection (1):

1293 (a) there is a rebuttable presumption that the individual possesses the cannabis,
1294 cannabis product, or medical cannabis device legally; and

1295 (b) a law enforcement officer does not have probable cause to believe that the
1296 individual is engaging in illegal activity, based solely on the individual's possession of the

1297 cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1).

1298 (3) A cannabis dispensary agent registered with the department is guilty of an

1299 infraction if the registered cannabis dispensary agent:

1300 (a) (i) is on the premises of a cannabis dispensary where the individual is registered as

1301 an agent; or

1302 (ii) transports cannabis, a cannabis product, or a medical cannabis device; and

1303 (b) does not possess, on the registered cannabis dispensary agent's person, a valid

1304 cannabis dispensary agent registration card.

1305 (4) A registered cannabis dispensary agent who is guilty of an infraction under

1306 Subsection (3) is subject to a fine of no more than \$100.

1307 Section 40. Section **26-58-501** is enacted to read:

1308 **Part 5. Cannabis Dispensary Operation**

1309 **26-58-501. Operating requirements -- General.**

1310 (1) (a) A cannabis dispensary shall operate in accordance with the operating plan

1311 provided to the department under Section [26-58-303](#).

1312 (b) A cannabis dispensary shall notify the department no longer than 30 days after a

1313 change in the cannabis dispensary's operating plan.

1314 (2) A cannabis dispensary shall operate:

1315 (a) except as provided in Subsection (3), in a facility that is accessible only by an

1316 individual with a valid cannabis dispensary agent registration card issued under Section

1317 [26-58-401](#) or a medical cannabis card issued under Section [26-58-201](#); and

1318 (b) at the physical address provided to the department under Section [26-58-301](#).

1319 (3) A cannabis dispensary may allow an individual who is a visitor, a contractor, or a

1320 member of the press to access the cannabis dispensary if the cannabis dispensary:

1321 (a) tracks and monitors the individual at all times while the individual is at the

1322 cannabis dispensary; and

1323 (b) maintains a record of the individual's access.

1324 (4) A cannabis dispensary shall operate in a facility that has:

1325 (a) a single, secure public entrance with a checkpoint;

1326 (b) a security system with a backup power source that:

1327 (i) detects and records entry into the cannabis dispensary during business hours; and

1328 (ii) provides notice of an unauthorized entry to law enforcement when the cannabis
1329 dispensary is closed; and

1330 (c) a reinforced and locked area where the cannabis dispensary stores cannabis or a
1331 cannabis product.

1332 (5) A cannabis dispensary shall post, clearly and conspicuously in the cannabis
1333 dispensary, the limit on the purchase of cannabis described in Subsection [26-58-502\(3\)](#),

1334 (6) A cannabis dispensary may not allow any individual to consume cannabis on the
1335 property or premises of the establishment.

1336 (7) A cannabis dispensary may not, on an interior or exterior space, display or offer
1337 anything that glorifies or trivializes cannabis or that promotes a recreational cannabis lifestyle.

1338 (8) A cannabis dispensary shall:

1339 (a) have a clinical, medical appearance; and

1340 (b) require any employee to wear a white lab coat.

1341 (9) A cannabis dispensary may not operate:

1342 (a) within 600 feet of a community location, as defined in Section [32B-1-102](#), that is
1343 not a public or private school; or

1344 (b) within 1000 feet of a public or private school.

1345 Section 41. Section **26-58-502** is enacted to read:

1346 **26-58-502. Dispensing -- Amount a cannabis dispensary may dispense --**

1347 **Reporting -- Form of cannabis or cannabis product.**

1348 (1) A cannabis dispensary may only sell, subject to this chapter:

1349 (a) a cannabis product;

1350 (b) a medical cannabis device; or

1351 (c) educational materials related to the medical use of cannabis.

1352 (2) A cannabis dispensary may only sell a cannabis product or a medical cannabis
1353 device to an individual with a medical cannabis card issued by the department.

1354 (3) A cannabis dispensary may not dispense on behalf of any one individual with a
1355 medical cannabis card, in any one 30-day period an amount of cannabis products that contains,
1356 in total, greater than 10 grams of cannabinoids by weight.

1357 (4) An individual with a medical cannabis card may not purchase more cannabis
1358 products than the amount designated in Subsection (3).

1359 (5) A designated caregiver designated by any individual with a medical cannabis card
1360 may not purchase, for the individual, an amount of cannabis products that exceeds the amount
1361 designated in Subsection (3).

1362 (6) A cannabis dispensary shall:

1363 (a) access the electronic verification system before dispensing a cannabis product to an
1364 individual with a medical cannabis card in order to determine if the individual has already met
1365 the maximum amount of cannabis products described in Subsection (3); and

1366 (b) submit a record to the electronic verification system each time the cannabis
1367 dispensary dispenses a cannabis product to an individual with a medical cannabis card.

1368 (7) (a) Except as provided in Subsection (7)(b), a cannabis dispensary may not sell a
1369 cannabis product that is intentionally designed or fabricated to resemble a cigarette, or made to
1370 resemble or be mistaken for a cigarette.

1371 (b) A cannabis dispensary may sell a cannabis product with a thin, cylindrical
1372 configuration that warms a cannabis product into a vapor that is ingested into an individual's
1373 respiratory system.

1374 (8) A cannabis dispensary may not sell a medical cannabis device that produces a vapor
1375 with an odor or flavor.

1376 (9) A cannabis dispensary may give to an individual with a medical cannabis card, at
1377 no cost, a product that the cannabis dispensary may sell under Subsection (1).

1378 Section 42. Section **26-58-503** is enacted to read:

1379 **26-58-503. Advertising and signage.**

1380 (1) Except as provided in Subsections (2) and (3) a cannabis dispensary may not
1381 advertise in any medium.

1382 (2) A cannabis dispensary may display signage on the outside of the cannabis
1383 dispensary that includes only:

1384 (a) the cannabis dispensary's name and hours of operation; and

1385 (b) a green cross.

1386 (3) A cannabis dispensary may maintain a website that includes information about:

1387 (a) the location and hours of the cannabis dispensary;

1388 (b) the products and services available at the cannabis dispensary;

1389 (c) personnel affiliated with the cannabis dispensary;

- 1390 (d) best practices that the cannabis dispensary upholds;
- 1391 (e) educational materials related to the medical use of cannabis; and
- 1392 (f) employment opportunities with the cannabis dispensary.

1393 Section 43. Section **26-58-504** is enacted to read:

1394 **26-58-504. Inspections.**

1395 (1) The department shall inspect, in accordance with Subsection (2), a cannabis
1396 dispensary's facility and records in order to determine if the cannabis dispensary complies with
1397 the licensing requirements of this part.

1398 (2) The department may inspect the records and facility of a cannabis dispensary at any
1399 time, scheduled or unscheduled.

1400 Section 44. Section **26-58-505** is enacted to read:

1401 **26-58-505. Cannabis, cannabis product, or medical cannabis device**
1402 **transportation.**

1403 (1) Except for an individual or designated caregiver with a medical cannabis card who
1404 possesses cannabis or a cannabis product in accordance with Section [26-58-204](#), an individual
1405 may only transport cannabis, a cannabis product, or a cannabis device between cannabis
1406 production establishments or between a cannabis production establishment and a cannabis
1407 dispensary if the individual is:

- 1408 (a) a registered cannabis production establishment agent; or
- 1409 (b) a registered cannabis dispensary agent.

1410 (2) An individual transporting cannabis, a cannabis product, or a medical cannabis
1411 device shall possess a transportation manifest that:

1412 (a) includes a unique identifier that links the cannabis, cannabis product, or medical
1413 cannabis device to a related inventory control system;

1414 (b) includes origin and destination information for any cannabis, cannabis product, or
1415 medical cannabis device the individual is transporting; and

1416 (c) indicates the departure and arrival times and locations of the individual transporting
1417 the cannabis, cannabis product, or medical cannabis device.

1418 (3) In addition to the requirements in Subsections (1) and (2), the department may
1419 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1420 Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical

1421 cannabis device that reflect best practices for cannabis or cannabis product transportation for
1422 safety for human cannabis or cannabis product consumption.

1423 (4) A cannabis dispensary agent registered with the department is guilty of an
1424 infraction if the registered cannabis dispensary agent:

1425 (a) transports cannabis, a cannabis product, or a medical cannabis device; and

1426 (b) does not possess, on the registered cannabis dispensary agent's person or in the
1427 transport vehicle, a manifest that complies with Subsection (3).

1428 (5) A registered cannabis dispensary agent who is guilty of an infraction under
1429 Subsection (3) is subject to a fine of no more than \$100.

1430 Section 45. Section **26-58-601** is enacted to read:

1431 **Part 6. Enforcement**

1432 **26-58-601. Enforcement -- Fine -- Citation.**

1433 (1) The department may, for a violation of this chapter by a person who is a cannabis
1434 dispensary or cannabis dispensary agent:

1435 (a) revoke the person's cannabis dispensary license or cannabis dispensary agent
1436 registration card;

1437 (b) refuse to renew the person's license or registration; or

1438 (c) assess the person an administrative penalty.

1439 (2) The department shall deposit an administrative penalty imposed under this section
1440 into the Medical Cannabis Restricted Account.

1441 (3) The department may, for a person subject to an uncontested citation, a stipulated
1442 settlement, or a finding of a violation in an adjudicative proceeding under this section:

1443 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
1444 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
1445 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1446 (b) order the person to cease and desist from, and cure, the action that creates a
1447 violation.

1448 (4) The department may not revoke a cannabis dispensary's license via a citation.

1449 (5) If, within 20 calendar days after the day on which the department issues a citation
1450 for a violation of this chapter, the person that is the subject of the citation fails to request a
1451 hearing to contest the citation, the citation becomes the basis of the department's final order.

1452 (6) The department may, for a person who fails to cure the violation for which a
1453 citation under this section:

1454 (a) refuse to issue or renew the person's license or cannabis dispensary agent
1455 registration card; or

1456 (b) suspend, revoke, or place on probation the person's license or cannabis dispensary
1457 agent registration card.

1458 Section 46. Section **30-3-10** is amended to read:

1459 **30-3-10. Custody of children in case of separation or divorce -- Custody**
1460 **consideration.**

1461 (1) If a husband and wife having minor children are separated, or their marriage is
1462 declared void or dissolved, the court shall make an order for the future care and custody of the
1463 minor children as it considers appropriate.

1464 (a) In determining any form of custody, including a change in custody, the court shall
1465 consider the best interests of the child without preference for either the mother or father solely
1466 because of the biological sex of the parent and, among other factors the court finds relevant, the
1467 following:

1468 (i) the past conduct and demonstrated moral standards of each of the parties;

1469 (ii) which parent is most likely to act in the best interest of the child, including
1470 allowing the child frequent and continuing contact with the noncustodial parent;

1471 (iii) the extent of bonding between the parent and child, meaning the depth, quality,
1472 and nature of the relationship between a parent and child;

1473 (iv) whether the parent has intentionally exposed the child to pornography or material
1474 harmful to a minor, as defined in Section [76-10-1201](#); and

1475 (v) those factors outlined in Section [30-3-10.2](#).

1476 (b) There shall be a rebuttable presumption that joint legal custody, as defined in
1477 Section [30-3-10.1](#), is in the best interest of the child, except in cases where there is:

1478 (i) domestic violence in the home or in the presence of the child;

1479 (ii) special physical or mental needs of a parent or child, making joint legal custody
1480 unreasonable;

1481 (iii) physical distance between the residences of the parents, making joint decision
1482 making impractical in certain circumstances; or

1483 (iv) any other factor the court considers relevant including those listed in this section
1484 and Section 30-3-10.2.

1485 (c) The person who desires joint legal custody shall file a proposed parenting plan in
1486 accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may
1487 be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of
1488 the child.

1489 (d) The children may not be required by either party to testify unless the trier of fact
1490 determines that extenuating circumstances exist that would necessitate the testimony of the
1491 children be heard and there is no other reasonable method to present their testimony.

1492 (e) The court may inquire of the children and take into consideration the children's
1493 desires regarding future custody or parent-time schedules, but the expressed desires are not
1494 controlling and the court may determine the children's custody or parent-time otherwise. The
1495 desires of a child 14 years of age or older shall be given added weight, but is not the single
1496 controlling factor.

1497 (f) If interviews with the children are conducted by the court pursuant to Subsection
1498 (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be
1499 obtained but is not necessary if the court finds that an interview with the children is the only
1500 method to ascertain the child's desires regarding custody.

1501 (2) In awarding custody, the court shall consider, among other factors the court finds
1502 relevant, which parent is most likely to act in the best interests of the child, including allowing
1503 the child frequent and continuing contact with the noncustodial parent as the court finds
1504 appropriate.

1505 (3) If the court finds that one parent does not desire custody of the child, the court shall
1506 take that evidence into consideration in determining whether to award custody to the other
1507 parent.

1508 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a
1509 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
1510 whether a substantial change has occurred for the purpose of modifying an award of custody.

1511 (b) If a court takes a parent's disability into account in awarding custody or determining
1512 whether a substantial change has occurred for the purpose of modifying an award of custody,
1513 the parent with a disability may rebut any evidence, presumption, or inference arising from the

1514 disability by showing that:

1515 (i) the disability does not significantly or substantially inhibit the parent's ability to
1516 provide for the physical and emotional needs of the child at issue; or

1517 (ii) the parent with a disability has sufficient human, monetary, or other resources
1518 available to supplement the parent's ability to provide for the physical and emotional needs of
1519 the child at issue.

1520 (c) Nothing in this section may be construed to apply to adoption proceedings under
1521 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

1522 (5) This section establishes neither a preference nor a presumption for or against joint
1523 physical custody or sole physical custody, but allows the court and the family the widest
1524 discretion to choose a parenting plan that is in the best interest of the child.

1525 (6) In considering the past conduct and demonstrated moral standards of each of the
1526 parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent
1527 because of the parent's possession or consumption of a cannabis product or a medical cannabis
1528 device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

1529 Section 47. Section **41-6a-517** is amended to read:

1530 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
1531 **body -- Penalties -- Arrest without warrant.**

1532 (1) As used in this section:

1533 (a) "Controlled substance" has the same meaning as in Section [58-37-2](#).

1534 (b) "Practitioner" has the same meaning as in Section [58-37-2](#).

1535 (c) "Prescribe" has the same meaning as in Section [58-37-2](#).

1536 (d) "Prescription" has the same meaning as in Section [58-37-2](#).

1537 (2) In cases not amounting to a violation of Section [41-6a-502](#), a person may not
1538 operate or be in actual physical control of a motor vehicle within this state if the person has any
1539 measurable controlled substance or metabolite of a controlled substance in the person's body.

1540 (3) It is an affirmative defense to prosecution under this section that the controlled
1541 substance was:

1542 (a) involuntarily ingested by the accused;

1543 (b) prescribed by a practitioner for use by the accused; ~~[or]~~

1544 (c) a cannabis product that was:

1545 (i) not causing impairment; and
1546 (ii) (A) recommended by a physician to the accused, if the accused holds a valid
1547 medical cannabis card under Title 26, Chapter 58, Medical Cannabis Act; or
1548 (B) ingested by the accused in another state in which the use of a cannabis product is
1549 legal under state law; or
1550 ~~(c)~~ (d) otherwise legally ingested.
1551 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
1552 misdemeanor.
1553 (b) A person who violates this section is subject to conviction and sentencing under
1554 both this section and any applicable offense under Section 58-37-8.
1555 (5) A peace officer may, without a warrant, arrest a person for a violation of this
1556 section when the officer has probable cause to believe the violation has occurred, although not
1557 in the officer's presence, and if the officer has probable cause to believe that the violation was
1558 committed by the person.
1559 (6) The Driver License Division shall, if the person is 21 years of age or older on the
1560 date of arrest:
1561 (a) suspend, for a period of 120 days, the driver license of a person convicted under
1562 Subsection (2) of an offense committed on or after July 1, 2009; or
1563 (b) revoke, for a period of two years, the driver license of a person if:
1564 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
1565 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
1566 and within a period of 10 years after the date of the prior violation.
1567 (7) The Driver License Division shall, if the person is 19 years of age or older but
1568 under 21 years of age on the date of arrest:
1569 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
1570 longer, the driver license of a person convicted under Subsection (2) of an offense committed
1571 on or after July 1, 2011; or
1572 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
1573 longer, the driver license of a person if:
1574 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
1575 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

1576 and within a period of 10 years after the date of the prior violation.

1577 (8) The Driver License Division shall, if the person is under 19 years of age on the date
1578 of arrest:

1579 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
1580 under Subsection (2) of an offense committed on or after July 1, 2009; or

1581 (b) revoke, until the person is 21 years of age, the driver license of a person if:

1582 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1583 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

1584 and within a period of 10 years after the date of the prior violation.

1585 (9) The Driver License Division shall subtract from any suspension or revocation
1586 period the number of days for which a license was previously suspended under Section
1587 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
1588 which the record of conviction is based.

1589 (10) The Driver License Division shall:

1590 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
1591 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
1592 committed prior to July 1, 2009; or

1593 (b) deny, suspend, or revoke the operator's license of a person for the denial,
1594 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

1595 (i) the person was 20 years of age or older but under 21 years of age at the time of
1596 arrest; and

1597 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
1598 July 1, 2009, and prior to July 1, 2011.

1599 (11) A court that reported a conviction of a violation of this section for a violation that
1600 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
1601 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
1602 if the person:

1603 (a) completes at least six months of the license suspension;

1604 (b) completes a screening;

1605 (c) completes an assessment, if it is found appropriate by a screening under Subsection

1606 (11)(b);

1607 (d) completes substance abuse treatment if it is found appropriate by the assessment
1608 under Subsection (11)(c);

1609 (e) completes an educational series if substance abuse treatment is not required by the
1610 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

1611 (f) has not been convicted of a violation of any motor vehicle law in which the person
1612 was involved as the operator of the vehicle during the suspension period imposed under
1613 Subsection (7)(a) or (8)(a);

1614 (g) has complied with all the terms of the person's probation or all orders of the court if
1615 not ordered to probation; and

1616 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
1617 person has not consumed a controlled substance not prescribed by a practitioner for use by the
1618 person or unlawfully consumed alcohol during the suspension period imposed under
1619 Subsection (7)(a) or (8)(a); or

1620 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
1621 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
1622 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
1623 for use by the person or unlawfully consumed alcohol during the suspension period imposed
1624 under Subsection (7)(a) or (8)(a).

1625 (12) If the court shortens a person's license suspension period in accordance with the
1626 requirements of Subsection (11), the court shall forward the order shortening the person's
1627 license suspension period prior to the completion of the suspension period imposed under
1628 Subsection (7)(a) or (8)(a) to the Driver License Division.

1629 (13) (a) The court shall notify the Driver License Division if a person fails to:

1630 (i) complete all court ordered screening and assessment, educational series, and
1631 substance abuse treatment; or

1632 (ii) pay all fines and fees, including fees for restitution and treatment costs.

1633 (b) Upon receiving the notification, the division shall suspend the person's driving
1634 privilege in accordance with Subsections 53-3-221(2) and (3).

1635 (14) The court shall order supervised probation in accordance with Section 41-6a-507
1636 for a person convicted under Subsection (2).

1637 Section 48. Section 53-1-106.5 is enacted to read:

1638 **53-1-106.5. Medical Cannabis Act -- Department duties.**

1639 (1) In addition to the duties described in Section [53-1-106](#), the department shall:

1640 (a) develop standards for training peace officers and law enforcement agencies in state
1641 medical cannabis law and the use of the state electronic verification system; and

1642 (b) collaborate with the Department of Health and the Department of Agriculture and
1643 Food to provide a curriculum for training peace officers and law enforcement agencies in
1644 medical cannabis.

1645 (2) The department may not allow a law enforcement official to access the electronic
1646 verification system unless the law enforcement official has completed the training described in
1647 Subsections (1)(b) and (1)(c).

1648 Section 49. Section **58-37-3.6** is enacted to read:

1649 **58-37-3.6. Exemption for possession or use of cannabis to treat a qualifying**
1650 **illness.**

1651 (1) As used in this section:

1652 (a) (i) "Cannabis" means the plant cannabis sativa.

1653 (ii) "Cannabis" includes marijuana.

1654 (b) "Cannabis dispensary" means the same as that term is defined in Section
1655 [26-58-102](#).

1656 (c) "Cannabis product" means a product that:

1657 (i) is intended for human ingestion;

1658 (ii) contains cannabinoids extracted out of a whole cannabis plant; and

1659 (iii) is separated into doses with an identified amount of total cannabinoids and
1660 cannabinoid profile per dose.

1661 (d) "Designated caregiver" means the same as that term is defined in Section
1662 [26-58-102](#).

1663 (e) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).

1664 (f) "Marijuana" means the same as that term is defined in Section [58-37-2](#).

1665 (g) "Medical cannabis card" means the same as that term is defined in Section
1666 [26-58-102](#).

1667 (h) "Medical cannabis device" means a device that:

1668 (i) an individual uses to ingest a lawfully sold cannabis product; and

- 1669 (ii) measures the amount of cannabinoids ingested.
- 1670 (i) "Qualifying illness" means the same as that term is defined in Section 26-58-102.
- 1671 (j) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the
- 1672 description in Subsection 58-37-4(2)(a)(iii)(AA).
- 1673 (2) Notwithstanding any other provision of this chapter:
- 1674 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to
- 1675 the penalties described in this title for the growth, possession, sale, or offer for sale of
- 1676 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,
- 1677 or offer for sale of the cannabis complies with:
- 1678 (i) Title 4, Chapter 42, Cannabis Production Establishment; and
- 1679 (ii) Title 26, Chapter 58, Medical Cannabis Act;
- 1680 (b) an individual who possesses, sells, or offers to sell a cannabis product or a medical
- 1681 cannabis device is not subject to the penalties described in this title for the possession, sale, or
- 1682 offer for sale of marijuana or tetrahydrocannabinol to the extent that the individual's
- 1683 possession, sale, or offer for sale of the cannabis product or medical cannabis device complies
- 1684 with:
- 1685 (i) Title 4, Chapter 42, Cannabis Production Establishment; and
- 1686 (ii) Title 26, Chapter 58, Medical Cannabis Act;
- 1687 (c) an individual who possesses, sells, or offers to sell a medical cannabis device is not
- 1688 subject to the penalties described in this title for the possession, sale, or offer for sale of
- 1689 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's
- 1690 possession, sale, or offer for sale of the medical cannabis device complies with:
- 1691 (i) Title 4, Chapter 42, Cannabis Production Establishment; and
- 1692 (ii) Title 26, Chapter 58, Medical Cannabis Act.
- 1693 (3) An individual with a medical cannabis card is guilty of an infraction if the
- 1694 individual uses or possesses drug paraphernalia that is not a medical cannabis device.
- 1695 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a
- 1696 \$100 fine.
- 1697 Section 50. Section **58-37-3.7** is enacted to read:
- 1698 **58-37-3.7. Affirmative defense.**
- 1699 (1) Before the day on which the Department of Health is issuing medical cannabis

1700 cards and a cannabis dispensary in the state is licensed and selling a cannabis product, it is an
1701 affirmative defense to criminal charges against an individual for the use or possession of
1702 marijuana, tetrahydrocannabinol, or marijuana or tetrahydrocannabinol drug paraphernalia
1703 under this chapter that the individual's conduct would have been lawful after the individual
1704 obtains a medical cannabis card under Title 26, Chapter 58, Medical Cannabis Act.

1705 (2) A court shall, for charges that the court dismisses under Subsection (1), dismiss the
1706 charges without prejudice.

1707 Section 51. Section **59-12-104.7** is enacted to read:

1708 **59-12-104.7. Exemption from sales tax for medical cannabis.**

1709 (1) As used in this section:

1710 (a) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

1711 (b) "Cannabis dispensary" means the same as that term is defined in Section
1712 [26-58-102](#).

1713 (c) "Cannabis product" means the same as that term is defined in Section [58-37-3.6](#).

1714 (d) "Medical cannabis device" means the same as that term is defined in Section
1715 [58-37-3.6](#).

1716 (2) In addition to the exemptions described in Section [59-12-104](#), the sale, by a
1717 licensed cannabis dispensary, of a cannabis product or a medical cannabis device, is not subject
1718 to the taxes imposed by this chapter.

1719 Section 52. Section **59-28-101** is enacted to read:

1720 **CHAPTER 28. MEDICAL CANNABIS TAX ACT**

1721 **59-28-101. Title.**

1722 This chapter is known as the "Medical Cannabis Tax Act."

1723 Section 53. Section **59-28-102** is enacted to read:

1724 **59-28-102. Definitions.**

1725 As used in this chapter:

1726 (1) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

1727 (2) "Cannabis dispensary" means the same as that term is defined in Section
1728 [26-58-102](#).

1729 (3) "Cannabis product" means the same as that term is defined in Section [58-37-3.6](#).

1730 (4) "Medical cannabis device" means the same as that term is defined in Section

1731 [58-37-3.6.](#)

1732 (5) "Medical Cannabis Restricted Account" means the account created in Section

1733 [26-58-108.](#)

1734 Section 54. Section **59-28-103** is enacted to read:

1735 **59-28-103. Imposition of tax -- Rate.**

1736 There is imposed a tax on the retail purchaser of a cannabis product, or a medical
1737 cannabis device at a cannabis dispensary in the state, in an amount equal to 4.70% of amounts
1738 paid or charged for the cannabis product or medical cannabis device.

1739 Section 55. Section **59-28-104** is enacted to read:

1740 **59-28-104. Collection of tax.**

1741 A cannabis dispensary shall:

1742 (1) collect the tax imposed by Section [59-28-103](#) from a cannabis product or medical
1743 cannabis device purchaser; and

1744 (2) pay the tax collected under Subsection (1):

1745 (a) to the commission quarterly on or before the last day of the month immediately
1746 following the last day of the previous quarter; and

1747 (b) using a form prescribed by the commission.

1748 Section 56. Section **59-28-105** is enacted to read:

1749 **59-28-105. Deposit of tax revenue.**

1750 The commission shall deposit revenues generated by the tax imposed by this chapter
1751 into the Medical Cannabis Restricted Account.

1752 Section 57. Section **59-28-106** is enacted to read:

1753 **59-28-106. Records.**

1754 (1) A cannabis dispensary shall maintain any record typically deemed necessary to
1755 determine the amount of tax that the cannabis dispensary is required to remit to the commission
1756 under this chapter.

1757 (2) The commission may require a cannabis dispensary to keep any record the
1758 commission reasonably considers necessary to constitute sufficient evidence of the amount of
1759 tax the cannabis dispensary is required to remit to the commission under this chapter:

1760 (a) by notice served upon the cannabis dispensary; or

1761 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

1762 Rulemaking Act.

1763 (3) Upon notice by the commission, a cannabis dispensary shall open the cannabis
1764 dispensary's records for examination by the commission.

1765 Section 58. Section **59-28-107** is enacted to read:

1766 **59-28-107. Rulemaking authority -- Enforcement not more strict than those**
1767 **applied to a similarly situated business.**

1768 (1) Except as provided in Subsection (2), the commission may make rules in
1769 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

1770 (a) implement the tax imposed by this chapter; and

1771 (b) enforce payment of the tax imposed by this chapter.

1772 (2) The commission may not make a rule that applies to a cannabis dispensary that is
1773 more restrictive than would apply to a similarly situated business.

1774 (3) The commission may not enforce this chapter against a cannabis dispensary more
1775 strictly than the commission would for a similarly situated business.

1776 Section 59. Section **59-28-108** is enacted to read:

1777 **59-28-108. Penalties and interest.**

1778 A cannabis dispensary that fails to comply with any provision of this chapter is subject
1779 to penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

1780 Section 60. Section **62A-4a-202.1** is amended to read:

1781 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
1782 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
1783 **emergency placement.**

1784 (1) A peace officer or child welfare worker may not:

1785 (a) enter the home of a child who is not under the jurisdiction of the court, remove a
1786 child from the child's home or school, or take a child into protective custody unless authorized
1787 under Subsection [78A-6-106\(2\)](#); or

1788 (b) remove a child from the child's home or take a child into custody under this section
1789 solely on the basis of:

1790 (i) educational neglect, truancy, or failure to comply with a court order to attend
1791 school[-]; or

1792 (ii) the possession or use of a cannabis product or a medical cannabis device in the

1793 home, if the use and possession of the cannabis product or medical cannabis device is in
1794 compliance with Title 26, Chapter 58, Medical Cannabis Act.

1795 (2) A child welfare worker within the division may take action under Subsection (1)
1796 accompanied by a peace officer, or without a peace officer when a peace officer is not
1797 reasonably available.

1798 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
1799 into protective custody, the child welfare worker shall also determine whether there are
1800 services available that, if provided to a parent or guardian of the child, would eliminate the
1801 need to remove the child from the custody of the child's parent or guardian.

1802 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
1803 utilized.

1804 (c) In determining whether the services described in Subsection (3)(a) are reasonably
1805 available, and in making reasonable efforts to provide those services, the child's health, safety,
1806 and welfare shall be the child welfare worker's paramount concern.

1807 (4) (a) A child removed or taken into custody under this section may not be placed or
1808 kept in a secure detention facility pending court proceedings unless the child is detainable
1809 based on guidelines promulgated by the Division of Juvenile Justice Services.

1810 (b) A child removed from the custody of the child's parent or guardian but who does
1811 not require physical restriction shall be given temporary care in:

1812 (i) a shelter facility; or

1813 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

1814 (c) When making a placement under Subsection (4)(b), the Division of Child and
1815 Family Services shall give priority to a placement with a noncustodial parent, relative, or
1816 friend, in accordance with Section [62A-4a-209](#).

1817 (d) If the child is not placed with a noncustodial parent, a relative, or a designated
1818 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor
1819 explaining why a different placement was in the child's best interest.

1820 (5) When a child is removed from the child's home or school or taken into protective
1821 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

1822 (a) the parent's rights under this part, including the right to be present and participate in
1823 any court proceeding relating to the child's case;

1824 (b) that it may be in the parent's best interest to contact an attorney and that, if the
1825 parent cannot afford an attorney, the court will appoint one;

1826 (c) the name and contact information of a division employee the parent may contact
1827 with questions;

1828 (d) resources that are available to the parent, including:

1829 (i) mental health resources;

1830 (ii) substance abuse resources; and

1831 (iii) parenting classes; and

1832 (e) any other information considered relevant by the division.

1833 (6) The pamphlet or flier described in Subsection (5) shall be:

1834 (a) evaluated periodically for its effectiveness at conveying necessary information and
1835 revised accordingly;

1836 (b) written in simple, easy-to-understand language; and

1837 (c) available in English and other languages as the division determines to be
1838 appropriate and necessary.

1839 Section 61. Section **63I-1-226** is amended to read:

1840 **63I-1-226. Repeal dates, Title 26.**

1841 (1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
1842 1, 2025.

1843 (2) Section **26-10-11** is repealed July 1, 2020.

1844 (3) Section **26-21-23**, Licensing of non-Medicaid nursing care facility beds, is repealed
1845 July 1, 2018.

1846 (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

1847 (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

1848 (6) Section **26-38-2.5** is repealed July 1, 2017.

1849 (7) Section **26-38-2.6** is repealed July 1, 2017.

1850 (8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed [~~July 1, 2016~~]
1851 June 1, 2018.

1852 Section 62. Section **63I-1-258** is amended to read:

1853 **63I-1-258. Repeal dates, Title 58.**

1854 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is

1855 repealed July 1, 2026.

1856 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

1857 (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

1858 (4) Section [58-37-4.3](#) is repealed [~~July 1, 2016~~] January 1, 2017.

1859 (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

1860 (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is
1861 repealed July 1, 2019.

1862 (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

1863 (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July
1864 1, 2023.

1865 (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

1866 (10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1,
1867 2026.

1868 (11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

1869 Section 63. Section **78A-6-508** is amended to read:

1870 **78A-6-508. Evidence of grounds for termination.**

1871 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
1872 evidence of abandonment that the parent or parents:

1873 (a) although having legal custody of the child, have surrendered physical custody of the
1874 child, and for a period of six months following the surrender have not manifested to the child
1875 or to the person having the physical custody of the child a firm intention to resume physical
1876 custody or to make arrangements for the care of the child;

1877 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
1878 months;

1879 (c) failed to have shown the normal interest of a natural parent, without just cause; or

1880 (d) have abandoned an infant, as described in Subsection [78A-6-316\(1\)](#).

1881 (2) In determining whether a parent or parents are unfit or have neglected a child the
1882 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

1883 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
1884 parent unable to care for the immediate and continuing physical or emotional needs of the child
1885 for extended periods of time;

1886 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
1887 nature;

1888 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
1889 dangerous drugs that render the parent unable to care for the child;

1890 (d) repeated or continuous failure to provide the child with adequate food, clothing,
1891 shelter, education, or other care necessary for the child's physical, mental, and emotional health
1892 and development by a parent or parents who are capable of providing that care;

1893 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
1894 sentence is of such length that the child will be deprived of a normal home for more than one
1895 year;

1896 (f) a history of violent behavior; or

1897 (g) whether the parent has intentionally exposed the child to pornography or material
1898 harmful to a minor, as defined in Section 76-10-1201.

1899 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent
1900 because of the parent's possession or consumption of a cannabis product or a medical cannabis
1901 device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

1902 [~~3~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not
1903 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit
1904 parent.

1905 [~~4~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful
1906 or unfit because of a health care decision made for a child by the child's parent unless the state
1907 or other party to the proceeding shows, by clear and convincing evidence, that the health care
1908 decision is not reasonable and informed.

1909 (b) Nothing in Subsection [~~4~~] (5)(a) may prohibit a parent from exercising the right to
1910 obtain a second health care opinion.

1911 [~~5~~] (6) If a child has been placed in the custody of the division and the parent or
1912 parents fail to comply substantially with the terms and conditions of a plan within six months
1913 after the date on which the child was placed or the plan was commenced, whichever occurs
1914 later, that failure to comply is evidence of failure of parental adjustment.

1915 [~~6~~] (7) The following circumstances constitute prima facie evidence of unfitness:

1916 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any

1917 child, due to known or substantiated abuse or neglect by the parent or parents;

1918 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
1919 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
1920 child's physical, mental, or emotional health and development;

1921 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
1922 of the child;

1923 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
1924 commit murder or manslaughter of a child or child abuse homicide; or

1925 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
1926 of the child, without legal justification.

1927 Section 64. **Effective date.**

1928 This bill takes effect on July 1, 2016.