

MEDICAL CANNABIDIOL AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies and enacts provisions related to medical cannabidiol.

Highlighted Provisions:

This bill:

▶ allows an individual with a qualifying illness who registers with the state electronic verification system to possess and use cannabidiol under certain circumstances;

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

- a qualified patient;
- a designated caregiver of a qualified patient; or
- an individual qualified under the Hemp Extract Registration Act;

▶ directs the Department of Commerce, Division of Occupational and Professional Licensing to issue:

• a license to operate a cannabidiol dispensary to a person that meets certain qualifications; and

• a registration card to an individual to act as an agent of a cannabidiol dispensary to an individual who meets certain qualifications;

▶ directs the Department of Agriculture and Food to issue:

• a license to operate a cannabidiol production establishment to a person that meets certain qualifications; and



- 28 • a registration card to an individual to act as an agent of a medical cannabidiol
- 29 establishment if the individual meets certain qualifications;
- 30 ▶ requires a cannabidiol dispensary to report the distribution of cannabidiol to an
- 31 individual to the Utah Controlled Substance Database;
- 32 ▶ permits a political subdivision to restrict the location of and operations of a
- 33 cannabidiol dispensary or medical cannabidiol establishment through local zoning
- 34 ordinances and business licenses;
- 35 ▶ amends the Controlled Substances Act to allow a licensed person to grow cannabis,
- 36 process cannabis, and to possess and sell cannabidiol under certain circumstances;
- 37 ▶ requires a physician who recommends cannabidiol to a patient to:
- 38 • receive training;
- 39 • report adverse events to the Department of Health; and
- 40 • limit the number of patients for whom the physician will recommend
- 41 cannabidiol;
- 42 ▶ makes the retail sale of medical cannabidiol subject to sales tax;
- 43 ▶ amends provisions related to driving with a measurable metabolite of cannabidiol;
- 44 ▶ modifies the membership of the Controlled Substances Advisory Committee;
- 45 ▶ allows a higher education institution to purchase cannabidiol, possess cannabidiol,
- 46 and give cannabidiol to a patient pursuant to a medical research study approved by
- 47 the Department of Health; and
- 48 ▶ directs the Controlled Substances Advisory Committee to recommend conditions to
- 49 include as qualifying illnesses for treatment using cannabidiol.

50 **Money Appropriated in this Bill:**

51 None

52 **Other Special Clauses:**

53 This bill provides a special effective date.

54 **Utah Code Sections Affected:**

55 AMENDS:

56 **41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333

57 **58-38a-201**, as last amended by Laws of Utah 2011, Chapter 60

58 **58-38a-203**, as last amended by Laws of Utah 2011, Chapters 12 and 340

59 **59-12-103**, as last amended by Laws of Utah 2015, Chapter 283

60 **63I-1-258**, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,

61 and 432

62 ENACTS:

63 **4-42-101**, Utah Code Annotated 1953

64 **4-42-102**, Utah Code Annotated 1953

65 **4-42-103**, Utah Code Annotated 1953

66 **4-42-104**, Utah Code Annotated 1953

67 **4-42-201**, Utah Code Annotated 1953

68 **4-42-202**, Utah Code Annotated 1953

69 **4-42-203**, Utah Code Annotated 1953

70 **4-42-204**, Utah Code Annotated 1953

71 **4-42-301**, Utah Code Annotated 1953

72 **4-42-302**, Utah Code Annotated 1953

73 **4-42-303**, Utah Code Annotated 1953

74 **4-42-401**, Utah Code Annotated 1953

75 **4-42-402**, Utah Code Annotated 1953

76 **4-42-403**, Utah Code Annotated 1953

77 **4-42-404**, Utah Code Annotated 1953

78 **4-42-501**, Utah Code Annotated 1953

79 **4-42-601**, Utah Code Annotated 1953

80 **4-42-602**, Utah Code Annotated 1953

81 **4-42-603**, Utah Code Annotated 1953

82 **4-42-701**, Utah Code Annotated 1953

83 **4-42-702**, Utah Code Annotated 1953

84 **4-42-801**, Utah Code Annotated 1953

85 **26-58-101**, Utah Code Annotated 1953

86 **26-58-102**, Utah Code Annotated 1953

87 **26-58-103**, Utah Code Annotated 1953

88 **26-58-104**, Utah Code Annotated 1953

89 **26-58-201**, Utah Code Annotated 1953

- 90 26-58-202, Utah Code Annotated 1953
- 91 26-58-203, Utah Code Annotated 1953
- 92 26-58-204, Utah Code Annotated 1953
- 93 26-58-301, Utah Code Annotated 1953
- 94 53-1-106.5, Utah Code Annotated 1953
- 95 58-37-3.6, Utah Code Annotated 1953
- 96 58-37f-204, Utah Code Annotated 1953
- 97 58-38a-203.1, Utah Code Annotated 1953
- 98 58-67-807, Utah Code Annotated 1953
- 99 58-68-807, Utah Code Annotated 1953
- 100 58-86-101, Utah Code Annotated 1953
- 101 58-86-102, Utah Code Annotated 1953
- 102 58-86-201, Utah Code Annotated 1953
- 103 58-86-202, Utah Code Annotated 1953
- 104 58-86-203, Utah Code Annotated 1953
- 105 58-86-204, Utah Code Annotated 1953
- 106 58-86-301, Utah Code Annotated 1953
- 107 58-86-302, Utah Code Annotated 1953
- 108 58-86-303, Utah Code Annotated 1953
- 109 58-86-401, Utah Code Annotated 1953
- 110 58-86-402, Utah Code Annotated 1953
- 111 58-86-403, Utah Code Annotated 1953
- 112 58-86-404, Utah Code Annotated 1953
- 113 58-86-405, Utah Code Annotated 1953
- 114 58-86-406, Utah Code Annotated 1953
- 115 58-86-501, Utah Code Annotated 1953

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

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

119 **CHAPTER 42. CANNABIDIOL PRODUCTION ESTABLISHMENT LICENSE**

120 **Part 1. General Provisions**

121 4-42-101. Title.

122 This chapter is known as "Cannabidiol Production Establishment License."

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

124 4-42-102. Definitions.

125 As used in this chapter:

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

127 (2) "Cannabidiol cultivation facility" means a person that:

128 (a) grows cannabis; or

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

130 (3) "Cannabidiol cultivation facility agent" means an owner, officer, board member,
131 employee, or volunteer of a cannabidiol cultivation facility.

132 (4) "Cannabidiol dispensary" means a person that:

133 (a) sells cannabidiol; or

134 (b) purchases or possesses cannabidiol with the intent to sell cannabidiol.

135 (5) "Cannabidiol dispensary agent" means the same as that term is defined in Section
136 [26-58-102](#).

137 (6) "Cannabidiol dispensary agent registration card" means the same as that term is
138 defined in Section [26-58-102](#).

139 (7) "Cannabidiol processing facility" means a person that:

140 (a) manufactures cannabidiol from cannabis;

141 (b) purchases or possesses cannabis with the intent to manufacture cannabidiol; or

142 (c) sells or intends to sell cannabidiol to a cannabis dispensary.

143 (8) "Cannabidiol processing facility agent" means an owner, officer, board member,
144 employee, or volunteer of a cannabidiol processing facility.

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

146 (10) "Cannabidiol production establishment" means:

147 (a) a cannabidiol cultivation facility;

148 (b) a cannabidiol processing facility; or

149 (c) an independent testing laboratory.

150 (11) "Cannabidiol production establishment agent" means:

151 (a) a cannabidiol cultivation facility agent;

152 (b) a cannabidiol processing facility agent; or

153 (c) an independent testing laboratory agent.

154 (12) "Cannabidiol production establishment agent registration card" means a
155 registration card issued by the department that authorizes an individual to be a cannabidiol
156 production establishment agent.

157 (13) "Cannabinoid profile" means the percentage of cannabidiol, by weight, that is
158 composed of the cannabinoids:

159 (a) tetrahydrocannabinol or THC;

160 (b) tetrahydrocannabinolic acid or THCa;

161 (c) cannabidiol or CBD;

162 (d) cannabinol or CBN; and

163 (e) cannabigerol or CBG.

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

165 (15) "Controlled Substances Advisory Committee" means the committee created in
166 Section [58-38a-201](#).

167 (16) "Designated caregiver" means the same as that term is defined in Section
168 [26-58-102](#).

169 (17) "Electronic verification system" means the system described in Section [26-58-202](#).

170 (18) "Independent testing laboratory" means a person that:

171 (a) conducts a chemical or other analysis of cannabidiol; or

172 (b) possesses cannabidiol with the intent to conduct a chemical or other analysis of the
173 cannabidiol.

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

175 (20) "Medical cannabidiol card" means the card issued to an individual by the
176 Department of Health under Section [26-58-201](#).

177 (21) "Medical cannabidiol establishment" means:

178 (a) an independent testing laboratory;

179 (b) an industrial hemp cultivation facility;

180 (c) a cannabidiol processing facility; or

181 (d) a cannabidiol dispensary.

182 (22) "Medical cannabidiol establishment agent" means:

183 (a) a cannabidiol production establishment agent; or

184 (b) a cannabidiol dispensary agent.

185 (23) "Medical cannabidiol establishment agent registration card" means a registration
186 card, issued under Section 26-58-407, that authorizes an individual to be a medical cannabidiol
187 establishment agent.

188 (24) "Participating entity" means:

189 (a) the Department of Public Safety;

190 (b) the Department of Agriculture and Food;

191 (c) the Department of Health; and

192 (d) the Division of Occupational and Professional Licensing within the Department of
193 Commerce.

194 (25) "Physician" means the same as that term is defined in Section 26-58-102.

195 (26) "Qualifying illness" means a condition described in Subsection 58-38a-203.1(1).
196 Section 3. Section 4-42-103 is enacted to read:

197 **4-42-103. Inventory control system.**

198 (1) A medical cannabidiol establishment shall maintain an inventory control system
199 that meets the requirements of this section.

200 (2) An inventory control system shall track cannabidiol and the cannabis from which
201 the cannabidiol is derived, in real time, from the time that a cannabis plant growing at a
202 cannabidiol cultivation facility is eight inches tall, until the cannabidiol derived from the
203 cannabis is sold by a cannabidiol dispensary.

204 (3) An inventory control system shall store, in real time, a record of the amount of
205 cannabis or cannabidiol in a medical cannabis establishment's possession.

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

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

209 (b) is tamper proof; and

210 (c) is capable of storing a video record for 180 days.

211 (5) An inventory control system shall maintain compatibility with the electronic
212 verification system.

213 (6) A medical cannabidiol establishment shall allow the participating entities to access

214 the medical cannabidiol establishment's inventory control system.

215 (7) The department shall establish compatibility standards for an inventory control
216 system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
217 Rulemaking Act.

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

219 **4-42-104. Preemption.**

220 This chapter does not preempt an ordinance enacted by a political subdivision of the
221 state regarding a cannabidiol production establishment that is more restrictive than this chapter.

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

223 **4-42-201. Cannabidiol production establishment -- License -- Renewal.**

224 (1) A person may not operate a cannabidiol production establishment without a license
225 issued by the department under this chapter.

226 (2) Subject to Subsections (4) through (6), the department shall, within 30 days after
227 receiving a complete application, issue a license to operate a cannabidiol production
228 establishment to a person that submits to the department:

229 (a) a proposed name, address, and physical location where the person will operate the
230 cannabidiol production establishment;

231 (b) evidence that the person possesses or controls a minimum of \$50,000 in liquid
232 assets for each license for which the person applies;

233 (c) for each location of a cannabidiol production establishment for which the person
234 applies, evidence that the person can obtain a business license and meet zoning requirements
235 established by a political subdivision;

236 (d) an application fee established by the department, in accordance with Section
237 63J-1-504, that is necessary to cover the department's cost to implement this chapter;

238 (e) evidence that the person can comply with the requirements in this chapter;

239 (f) evidence that the person will implement an inventory control system at the
240 cannabidiol production establishment;

241 (g) the results of a criminal background check for each proposed cannabidiol
242 production establishment agent for the cannabidiol production establishment; and

243 (h) an operation plan that complies with Section [4-42-203](#).

244 (3) If the department determines that a cannabidiol production establishment is eligible

245 for a license under this section, the department shall charge the cannabidiol establishment an
246 initial license fee in an amount determined by the department in accordance with Section
247 63J-1-504.

248 (4) The department shall require a separate license for each type of cannabidiol
249 production establishment and each location of a cannabidiol production establishment.

250 (5) Notwithstanding Subsection (4), the department may issue a cannabidiol cultivation
251 facility license and a cannabidiol processing facility license to be operated by:

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

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

254 (6) The department may not issue a license to operate an independent cannabidiol
255 testing laboratory to a person:

256 (a) that holds a license or has an ownership interest in a cannabidiol dispensary, a
257 cannabidiol processing facility, or a cannabidiol cultivation facility in the state;

258 (b) that has an owner, officer, director, or employee whose immediate family member
259 holds a license or has an ownership interest in a cannabidiol dispensary, a cannabidiol
260 processing facility, or a cannabidiol cultivation facility; or

261 (c) proposes to operate the independent testing laboratory at the same physical location
262 as a cannabidiol dispensary, a cannabidiol processing facility, or a cannabidiol cultivation
263 facility.

264 (7) The department may not issue a cannabidiol production establishment license to a
265 person that holds a license for, or has an ownership interest in, a cannabidiol dispensary.

266 (8) The department may revoke a license under this chapter if the cannabidiol
267 production establishment is not operational within one year of the issuance of the initial
268 license.

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

270 **4-42-202. Renewal.**

271 (1) Except as provided in Subsection (2), the department shall renew a person's
272 cannabidiol production establishment license every two years if, at the time of renewal:

273 (a) the person meets the requirements of Section [4-42-201](#); and

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

276 (2) (a) The department may not renew a cannabidiol production establishment's license
277 for a sixth consecutive time unless the department publishes a notice, in a newspaper of general
278 circulation for the geographic area in which the cannabidiol production establishment is
279 located, one year before the day on which the cannabidiol production establishment's license
280 expires, that includes:

281 (i) the name and location of the cannabidiol production establishment;
282 (ii) the day on which the license for the cannabidiol production establishment will
283 expire; and

284 (iii) a solicitation for cannabidiol production establishment license applicants.

285 (b) If, after the department publishes the notice described in Subsection (2)(a), the
286 department receives an application for a cannabidiol production establishment from a new
287 applicant and also receives an application for renewal from the existing cannabidiol production
288 establishment, the department shall issue the license to the applicant that the department
289 determines best meets the criteria established in Section [26-58-302](#).

290 (3) (a) If a licensed cannabidiol production establishment abandons the cannabidiol
291 production establishment's license, the department shall publish notice of an available license
292 in the same manner as described in Subsection (2)(a).

293 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,
294 Utah Administrative Rulemaking Act, for what actions by a cannabidiol production
295 establishment constitute abandonment of a cannabidiol production establishment license.

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

297 **4-42-203. Operating plan.**

298 (1) A person applying for a license to operate a cannabidiol production establishment
299 shall submit to the department, with the person's application, a proposed operation plan that
300 includes:

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

302 (b) a description of the credentials and experience of any officer, director, or owner of
303 the proposed cannabidiol production establishment;

304 (c) the cannabidiol production establishment's employee training standards;

305 (d) a security plan;

306 (e) for a cannabidiol cultivation facility, the information described in Subsection (2);

307 (f) for a cannabidiol processing facility, the information described in Subsection (3);

308 and

309 (g) for an independent cannabidiol testing lab, the information described in Subsection

310 (4).

311 (2) A cannabidiol cultivation facility's operating plan shall include the cannabidiol

312 cultivation facility's proposed cannabis cultivation practices, including the cannabidiol

313 cultivation facility's:

314 (a) pesticide and fertilizer use;

315 (b) proposed square footage under cultivation; and

316 (c) anticipated cannabidiol yield.

317 (3) A cannabidiol processing facility's operating plan shall include the cannabidiol

318 processing facility's proposed cannabidiol processing practices, including the cannabidiol

319 processing facility's:

320 (a) proposed cannabidiol extraction method;

321 (b) processing equipment; and

322 (c) other processing techniques.

323 (4) An independent cannabidiol testing laboratory's operating plan shall include the

324 independent cannabidiol testing laboratory's proposed cannabidiol and cannabidiol product

325 testing capability.

326 Section 8. Section **4-42-204** is enacted to read:

327 **4-42-204. Maximum number of licenses.**

328 (1) The department may not issue more than, at any given time:

329 (a) two cannabidiol cultivation facility licenses;

330 (b) two cannabidiol processing facility licenses; and

331 (c) two independent cannabidiol testing laboratory licenses.

332 (2) If the department receives more applications for a license to operate a given type of

333 cannabidiol production establishment than are available under Subsection (1), the department

334 shall evaluate the applicants to determine which applicant has best demonstrated:

335 (a) experience with:

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

337 (ii) operating a secure inventory control system;

- 338 (iii) complying with a regulatory environment; and
- 339 (iv) training, evaluating, and monitoring employees; and
- 340 (b) connections to the local community.

341 Section 9. Section **4-42-301** is enacted to read:

342 **Part 3. Cannabidiol Production Establishment Agents**

343 **4-42-301. Cannabidiol production establishment agent -- Registration.**

344 (1) An individual may not act as an owner, shareholder, employee, or agent of a
345 cannabidiol production establishment unless the individual is registered by the department as a
346 cannabidiol production establishment agent.

347 (2) A physician may not serve as a cannabidiol production establishment agent.

348 (3) An independent cannabidiol testing laboratory agent may not act as an agent for a
349 cannabidiol dispensary, a cannabidiol processing facility, or a cannabidiol cultivation facility.

350 (4) The department shall, within 15 business days after receiving a complete
351 application, register and issue a cannabidiol production establishment agent registration card to
352 an individual who:

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

355 (b) provides to the department:

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

357 (ii) the name and location of a licensed cannabidiol production establishment where the
358 individual seeks to act as the cannabidiol production establishment's agent; and

359 (iii) any other information required by the department by rule made in accordance with
360 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

361 (c) pays the department a fee, determined by the department in accordance with Section
362 63J-1-504, that is necessary to cover the department's cost to implement this part; and

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

365 (5) The department shall designate, for a cannabidiol production establishment agent
366 registration card the department issues under Subsection (4), whether the cannabidiol
367 production establishment agent registration card holder is authorized to act as an agent for:

368 (a) a cannabis cultivation facility;

- 369 (b) a cannabis processing facility;
- 370 (c) both a cannabis cultivation facility and a cannabis processing facility; or
- 371 (d) an independent cannabis testing laboratory.
- 372 (6) A cannabidiol production establishment agent shall complete training in
- 373 cannabidiol production that complies with minimum standards established by the department
- 374 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

375 (7) The department may revoke the cannabidiol production establishment agent
 376 registration card of an individual who:

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

379 Section 10. Section **4-42-302** is enacted to read:

380 **4-42-302. Cannabidiol production establishment agents -- Criminal background**
 381 **checks.**

382 (1) An individual applying for a cannabidiol production establishment agent
 383 registration card under this chapter shall:

- 384 (a) submit, at the time of application, a fingerprint card in a form acceptable to the
 385 department; and
- 386 (b) consent to a fingerprint background check by:
- 387 (i) the Bureau of Criminal Identification; and
- 388 (ii) the Federal Bureau of Investigation.

389 (2) The department shall request that the Department of Public Safety complete a
 390 Federal Bureau of Investigation criminal background check for each cannabidiol production
 391 establishment agent card applicant.

392 (3) The department shall revoke or refuse to issue an individual's cannabidiol
 393 production establishment agent registration card if the individual has committed an offense that
 394 is a felony under state or federal law.

395 Section 11. Section **4-42-303** is enacted to read:

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

398 (1) An individual who has a cannabidiol production establishment agent registration
 399 card shall carry the individual's cannabidiol production establishment agent registration card

400 with the individual at all times when:

401 (a) the individual is on the premises of a cannabidiol production establishment; and

402 (b) the individual is transporting cannabis between two cannabidiol production
403 establishments or cannabidiol between two medical cannabis establishments.

404 (2) If an individual handling cannabis or cannabidiol at a cannabidiol production
405 establishment, or transporting cannabis or cannabidiol, possesses the cannabis or cannabidiol in
406 compliance with Subsection (1):

407 (a) there is a rebuttable presumption that the individual possesses the cannabis or
408 cannabidiol legally; and

409 (b) a law enforcement officer does not have probable cause, based solely on the
410 individual's possession of the cannabis or cannabidiol in compliance with Subsection (1), to
411 believe that the individual is engaging in illegal activity.

412 Section 12. Section **4-42-401** is enacted to read:

413 **Part 4. General Cannabidiol Production Establishment Operating Requirements**

414 **4-42-401. Cannabidiol production establishment -- General operating**
415 **requirements.**

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

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

420 (2) Except as provided in Subsection (3), a cannabidiol production establishment shall
421 operate:

422 (a) in a facility that is accessible only by an individual with a valid cannabidiol
423 production establishment agent registration card issued under Section [4-42-301](#); and

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

425 (3) A cannabidiol production facility may allow the press, a visitor, or a contractor
426 access to the cannabidiol production establishment if:

427 (a) the cannabidiol production facility tracks and monitors the individual at all times
428 while the individual is in the cannabidiol production establishment; and

429 (b) a record of the individual's access to the cannabidiol production establishment is
430 maintained by the cannabidiol production establishment.

431 (4) A cannabidiol production establishment shall have:
 432 (a) a single, secure public entrance;
 433 (b) a security system with a backup power source that:
 434 (i) detects and records entry into the cannabidiol production establishment when the
 435 cannabidiol production establishment is closed; and
 436 (ii) provides notice of an unauthorized entry to law enforcement; and
 437 (c) a lock on any area where the cannabidiol production establishment stores cannabis
 438 or cannabidiol.

439 (5) The department shall establish structural standards for a cannabidiol production
 440 establishment by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
 441 Rulemaking Act.

442 Section 13. Section **4-42-402** is enacted to read:

443 **4-42-402. Inspections.**

444 (1) Subject to Subsection (2), the department shall inspect the records and facility of a
 445 cannabidiol production establishment in order to determine if the cannabidiol production
 446 establishment complies with the requirements of this chapter.

447 (2) The department may inspect the records and facility of a cannabidiol production
 448 establishment:

- 449 (a) as many as four times per year, scheduled or unscheduled; and
- 450 (b) if the department has reason to believe that the cannabidiol production
 451 establishment has violated the law, at any time, scheduled or unscheduled.

452 Section 14. Section **4-42-403** is enacted to read:

453 **4-42-403. Advertising.**

454 A cannabidiol production establishment may not advertise to the general public in any
 455 medium.

456 Section 15. Section **4-42-404** is enacted to read:

457 **4-42-404. Cannabis or cannabidiol transportation.**

458 (1) An individual may not transport cannabis or cannabidiol unless the individual has a
 459 valid cannabidiol production establishment registration card or valid cannabidiol dispensary
 460 registration card.

461 (2) An individual transporting cannabidiol or cannabis shall keep a transportation

462 manifest that includes:

463 (a) a bar code or identification number that links the cannabis or cannabidiol to a
464 related medical cannabidiol establishment's inventory control system;

465 (b) origin and destination information for any cannabis or cannabidiol the individual is
466 transporting; and

467 (c) a record of the departure and arrival time of the individual transporting the cannabis
468 or cannabidiol.

469 (3) In addition to the requirements in Subsections (1) and (2), the department shall
470 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
471 Rulemaking Act, requirements for transporting cannabis or cannabidiol related to safety for
472 human cannabidiol consumption.

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

474 **Part 5. Cannabidiol Cultivation Facility Operating Requirements**

475 **4-42-501. Cannabidiol cultivation facility -- Operating requirements.**

476 (1) A cannabidiol cultivation facility shall cultivate cannabis indoors.

477 (2) A cannabidiol cultivation facility shall ensure that any cannabis growing at the
478 cannabidiol cultivation facility is not visible from outside the cannabidiol cultivation facility.

479 (3) A cannabidiol cultivation facility shall use a unique identifier for:

480 (a) each batch of cannabis transferred to a cannabidiol processing facility; and

481 (b) each unique harvest of cannabis plants.

482 (4) The department may establish human safety standards, by rule made in accordance
483 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for a cannabidiol cultivation
484 facility's:

485 (a) use of pesticides;

486 (b) use of fertilizers; and

487 (c) cultivation techniques.

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

489 **Part 6. Cannabidiol Processing Facility Operating Requirements**

490 **4-42-601. Cannabidiol processing facility -- Operating requirements.**

491 A cannabidiol processing facility shall ensure that cannabidiol that the cannabidiol
492 processing facility sells or provides to a cannabidiol dispensary complies with the requirements

493 of this part.

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

495 **4-42-602. Cannabidiol -- Product requirements.**

496 (1) A cannabidiol processing facility may only produce cannabidiol in a medical
497 dosage form:

498 (a) recommended by the Controlled Substances Advisory Committee; and

499 (b) approved by the Legislature in an act signed by the governor.

500 (2) A cannabidiol processing facility may not manufacture cannabidiol by applying a
501 cannabis agent to the surface of a food product that is not produced by the cannabidiol
502 processing facility.

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

504 **4-42-603. Cannabidiol -- Labeling and packaging.**

505 (1) Cannabidiol shall have a label that:

506 (a) clearly and unambiguously states that the cannabidiol contains cannabis;

507 (b) clearly displays the cannabinoid profile of the cannabidiol;

508 (c) has a unique batch identifier that identifies the unique manufacturing process when
509 the cannabidiol was manufactured;

510 (d) has a bar code or other identifier that allows the cannabidiol to be tracked by an
511 inventory control system and the electronic verification system; and

512 (e) contains information required by the department in accordance with Subsection (3).

513 (2) A cannabidiol processing facility shall package cannabidiol in a container that:

514 (a) is tamper resistant and opaque; and

515 (b) complies with physical criteria required by the department in accordance with
516 Subsection (3).

517 (3) The department shall establish cannabidiol labeling and packaging standards by
518 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

520 **Part 7. Independent Cannabidiol Testing Laboratory Operating Requirements**

521 **4-42-701. Cannabis and cannabis product testing.**

522 (1) An independent cannabidiol testing laboratory shall, before cannabidiol is offered
523 for sale at a cannabis dispensary, test the cannabidiol as described in this section.

524 (2) An independent cannabidiol testing laboratory may not operate unless the
525 independent cannabidiol testing laboratory is capable of accurately testing cannabidiol as
526 described in this section.

527 (3) An independent testing laboratory shall determine the cannabinoid profile of
528 cannabidiol.

529 (4) An independent cannabidiol testing laboratory shall determine if cannabidiol
530 contains, in an amount that is harmful to human health:

531 (a) mold;

532 (b) fungus;

533 (c) pesticides; or

534 (d) other microbial contaminants.

535 (5) For cannabidiol that is manufactured using a process that involves extraction using
536 hydrocarbons, an independent cannabidiol testing laboratory shall test the cannabidiol for
537 residual solvents.

538 (6) The department may determine, by rule made in accordance with Title 63G,
539 Chapter 3, Utah Administrative Rulemaking Act:

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

542 (b) additional cannabidiol testing that an independent cannabidiol testing laboratory is
543 required to perform.

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

545 **4-42-702. Reporting -- Inspections.**

546 (1) An independent cannabidiol testing laboratory shall notify the department if the
547 independent cannabidiol testing laboratory determines that the results of a lab test indicate that
548 a cannabidiol batch:

549 (a) is unsafe for human consumption; or

550 (b) has a ratio of less than 10 grams of the cannabinoid cannabidiol per each one gram
551 of tetrahydrocannabinol.

552 (2) If the independent cannabidiol testing laboratory notifies the department of a
553 cannabidiol batch's test results under Subsection (1), the independent cannabidiol testing
554 laboratory may not release the cannabidiol batch to a cannabidiol dispensary until the

555 department has an opportunity to respond to the department within a period of time,
556 determined by the department.

557 (3) If the department determines that a cannabidiol batch is unsafe for human
558 consumption, the department may seize, embargo, and destroy a cannabidiol batch in
559 accordance with Section [4-42-801](#).

560 (4) The department shall establish, by rule made in accordance with Title 63G, Chapter
561 3, Utah Administrative Rulemaking Act, the amount of time that an independent cannabidiol
562 testing laboratory is required to hold a cannabidiol batch under Subsection (2).

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

564 **Part 8. Enforcement**

565 **4-42-801. Enforcement -- Fine -- Citation.**

566 (1) The department may, for a violation of the licensing provisions of this chapter by a
567 person that is a cannabidiol production establishment or a cannabidiol production
568 establishment agent:

- 569 (a) revoke the person's license;
- 570 (b) refuse to renew the person's license;
- 571 (c) assess the person an administrative penalty; or
- 572 (d) take any other appropriate administrative action.

573 (2) The department shall deposit an administrative penalty imposed under this section
574 into the General Fund as a dedicated credit to be used by the department to administer and
575 enforce this chapter.

576 (3) (a) The department may take an action described in Subsection (3)(b) if the
577 department concludes, upon inspection or investigation, that, for a person that is a cannabidiol
578 production establishment or a cannabidiol production establishment agent:

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

581 (ii) the person prepared a cannabis or cannabidiol batch in a manner, or such that the
582 batch contains a substance, that poses a threat to human health.

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

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

586 (ii) attempt to negotiate a stipulated settlement; or
 587 (iii) direct the person to appear before an adjudicative proceeding conducted under
 588 Title 63G, Chapter 4, Administrative Procedures Act.

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

591 (i) seize, embargo, or destroy a cannabis or cannabidiol batch; and
 592 (ii) direct the person to appear before an adjudicative proceeding conducted under Title
 593 63G, Chapter 4, Administrative Procedures Act.

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

596 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
 597 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
 598 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

600 (5) The department may not revoke a cannabidiol production establishment's license
 601 via a citation.

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

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

607 (a) refuse to issue or renew the person's license or cannabidiol production
 608 establishment agent registration card; or

609 (b) suspend, revoke, or place on probation the person's license or cannabidiol
 610 production establishment registration card.

611 Section 23. Section **26-58-101** is enacted to read:

CHAPTER 58. MEDICAL CANNABIDIOL ACT

Part 1. General Provisions

26-58-101. Title.

615 This chapter is known as "Medical Cannabidiol Act."

616 Section 24. Section **26-58-102** is enacted to read:

617 **26-58-102. Definitions.**618 As used in this chapter:619 (1) "Cannabidiol" means the same as that term is defined in Section 58-37-3.6.620 (2) "Cannabidiol dispensary" means the same as that term is defined in Section621 58-85-102.622 (3) "Designated caregiver" means an individual who a patient with a medical623 cannabidiol card designates as the patient's caregiver under Section 26-58-202.624 (4) "Electronic verification system" means the system described in Section 26-58-104.625 (5) "Inventory control system" means the system described in Section 4-42-103.626 (6) "Medical cannabidiol card" means the card issued to an individual by the627 Department of Health under Section 26-58-201.628 (7) "Medical cannabidiol establishment" means the same as that term is defined in629 Section 58-85-102.630 (8) "Participating entity" means:631 (a) the Department of Public Safety;632 (b) the Department of Agriculture and Food;633 (c) the Department of Health; and634 (d) the Division of Occupational and Professional Licensing within the Department of635 Health.636 (9) "Physician" means an individual who:637 (a) is licensed to practice:638 (i) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or639 (ii) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical640 Practice Act; and641 (b) complies with Section 58-67-807 or 58-68-807.642 (10) "Qualifying illness" means a condition described in Subsection 58-38a-203.1(1).643 Section 25. Section 26-58-103 is enacted to read:644 **26-58-103. Local ordinances.**645 This chapter does not prohibit a political subdivision from enacting an ordinance, which646 restricts the location of, or operating requirements of, a cannabidiol dispensary, that is more647 restrictive than this chapter.

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

649 **26-58-104. Electronic verification system.**

650 (1) The participating entities shall establish and maintain a secure, electronic
651 verification system that:

652 (a) allows an individual to:

653 (i) apply, in the presence of a physician, to the Department of Health for a medical
654 cannabidiol card; and

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

656 (b) allows a physician to electronically recommend to a patient, during a visit with the
657 patient, treatment with cannabidiol;

658 (c) issues to an individual, if the individual meets the requirements in Section
659 26-58-201, a medical cannabidiol card;

660 (d) issues to a designated caregiver, if the designated caregiver meets the requirements
661 in Section 26-58-202, a medical cannabidiol card on behalf of a named patient;

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

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

665 (ii) the quantity and type of cannabidiol purchased; and

666 (iii) any medical cannabidiol establishment associated with the cannabidiol;

667 (f) is accessible by a participating entity to the extent necessary for the participating
668 entity to carry out the functions and responsibilities given to the participating entity under this
669 chapter;

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

671 (i) during a traffic stop; or

672 (ii) after obtaining a warrant; and

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

675 (2) The Department of Agriculture and Food, the Department of Health, and the
676 Department of Public Safety:

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

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

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

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

686 Section 27. Section **26-58-201** is enacted to read:

687 **Part 2. Medical Cannabidiol Card**

688 **26-58-201. Medical cannabidiol card -- Application -- Renewal.**

689 (1) The Department of Health shall, within 15 days after an individual submits an
690 application in compliance with this section, issue a medical cannabidiol card, via the electronic
691 verification system described in Section [26-58-104](#), to an individual if the individual:

692 (a) is at least 18 years old;

693 (b) is a Utah resident;

694 (c) submits to the department, via the electronic verification system, a recommendation
695 electronically signed by a physician that indicates that the individual:

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

697 (ii) may benefit from treatment with cannabidiol;

698 (d) pays the department a fee established by the department in accordance with Section
699 [63J-1-504](#); and

700 (e) submits an application to the department, using the electronic verification system
701 that contains:

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

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

704 (2) The department shall issue a medical cannabidiol card to an individual or parent
705 who meets the requirements of Section [26-56-103](#).

706 (3) An individual who applies for a medical cannabidiol card under Subsection (1)
707 shall fill out and submit the application described in Subsection (1):

708 (a) online, in connection with the electronic verification system; and

709 (b) with a physician, during an office visit with the physician.

710 (4) A medical cannabidiol card that the department issues under Subsection (1) or (2)
711 is valid for the lesser of:

712 (a) an amount of time determined by the physician who recommends treatment with
713 cannabidiol; or

714 (b) two years.

715 (5) The department may renew an individual's medical cannabidiol card if, at the time
716 of renewal, the individual meets the requirements of Subsection (1) or (2).

717 (6) The department may revoke an individual's medical cannabidiol card if the
718 individual violates this chapter.

719 Section 28. Section **26-58-202** is enacted to read:

720 **26-58-202. Medical cannabidiol card -- Designated caregiver -- Registration --**
721 **Renewal -- Revocation.**

722 (1) An individual who holds a valid medical cannabis card under Section [26-58-201](#)
723 who a physician determines is unable to obtain cannabidiol from a cannabidiol dispensary may
724 register with the department, via the electronic verification system, up to two individuals to
725 serve as designated caregivers of the individual.

726 (2) An individual registered as a designated caregiver of a designating patient under
727 this section may:

728 (a) carry a valid medical cannabidiol card with the designating patient's name and the
729 designated caregiver's name; and

730 (b) purchase and possess cannabidiol, in accordance with this chapter, on behalf of the
731 designating patient.

732 (3) An individual may serve as a designated caregiver under Subsection (1) if the
733 individual:

734 (a) is at least 18 years old;

735 (b) is a Utah resident;

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

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

740 (e) complies with Section [26-58-203](#).

741 (4) A medical cannabidiol card is renewable for a designated caregiver, if at the time of
742 renewal:

743 (a) the individual described in Subsection (1) renews the designation of the caregiver;

744 and

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

746 (5) The department shall refuse to issue or revoke the registration of a designated
747 caregiver if the designated caregiver has committed a felony that is:

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

749 (b) a felony conviction of a state or federal law pertaining to controlled substances.

750 Section 29. Section **26-58-203** is enacted to read:

751 **26-58-203. Designated caregiver -- Criminal background check.**

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

754 (2) Each designated caregiver shall:

755 (a) submit to the department a fingerprint card in a form acceptable to the Department
756 of Health and the Department of Public Safety; and

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

758 (i) the Bureau of Criminal Identification; and

759 (ii) the Federal Bureau of Investigation.

760 (3) The Department of Public Safety shall complete a Federal Bureau of Investigation
761 criminal background check for each designated caregiver under Subsection (2) and report the
762 results of the background check to the Department of Health.

763 Section 30. Section **26-58-204** is enacted to read:

764 **26-58-204. Medical cannabidiol card -- Patient and designated caregiver**
765 **requirements -- Rebuttable presumption.**

766 (1) An individual with a valid medical cannabidiol card who possesses cannabidiol
767 outside of the individual's residence shall:

768 (a) carry, with the individual at all times, the individual's medical cannabidiol card;

769 (b) carry, with the cannabidiol or cannabidiol product, a label that identifies that the
770 cannabidiol was originally sold from a licensed cannabidiol dispensary, including the bar code
771 or identification number that links the cannabidiol to the cannabidiol dispensary's inventory

772 control system; and

773 (c) possess no more than a 30-day supply of cannabidiol as established by the
774 recommendation of a physician for the individual's treatment.

775 (2) If an individual possesses cannabidiol in accordance with Subsection (1):

776 (a) there is a rebuttable presumption that the individual possesses the cannabidiol
777 legally; and

778 (b) a law enforcement officer does not have probable cause, solely on the basis of the
779 individual's possession of the cannabidiol, to believe that the individual is engaging in illegal
780 activity.

781 (3) If a law enforcement officer stops an individual who possesses cannabidiol, the
782 individual represents to the law enforcement officer that the individual holds a valid medical
783 cannabidiol card, and the individual does not have the medical cannabidiol card in the
784 individual's possession, the law enforcement officer shall attempt to access the electronic
785 verification system to determine whether the individual holds a valid medical cannabidiol card.

786 Section 31. Section **26-58-301** is enacted to read:

787 **Part 3. Medical Cannabidiol Research License**

788 **26-58-301. Medical cannabidiol research license.**

789 (1) The department may issue a license to a higher education institution to conduct
790 medical research on cannabidiol if the higher education institution submits to the department:

791 (a) the higher education institution's research plan; and

792 (b) the name of an employee of the higher education institution who will supervise the
793 medical cannabidiol research.

794 (2) Notwithstanding the provisions of Title 58, Chapter 37, Utah Controlled
795 Substances Act, a higher education institution to which the department issues a medical
796 cannabidiol research license under this chapter may:

797 (a) purchase cannabidiol from a person licensed under Title 58, Chapter 86,

798 Cannabidiol Dispensary License;

799 (b) possess cannabidiol; or

800 (c) provide cannabidiol to a patient as part of a medical research study approved by the
801 department.

802 (3) The department shall establish rules made in accordance with Title 63G, Chapter 3,

803 Utah Administrative Rulemaking Act, that provide:

804 (a) eligibility criteria for a medical cannabidiol research license; and

805 (b) standards for an acceptable medical research study under Subsection (1)(a).

806 Section 32. Section **41-6a-517** is amended to read:

807 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
808 **body -- Penalties -- Arrest without warrant.**

809 (1) As used in this section:

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

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

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

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

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

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

819 (a) involuntarily ingested by the accused;

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

821 (c) cannabidiol recommended by a physician and the person holds a valid medical
822 cannabidiol card under Title 26, Chapter 58, Medical Cannabidiol Act; or

823 [~~e~~] (d) otherwise legally ingested.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

858 (9) The Driver License Division shall subtract from any suspension or revocation
859 period the number of days for which a license was previously suspended under Section
860 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
861 which the record of conviction is based.

862 (10) The Driver License Division shall:

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

865 committed prior to July 1, 2009; or

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

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

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

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

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

877 (b) completes a screening;

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

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

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

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

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

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

893 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
894 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
895 knowledge the person has not consumed a controlled substance not prescribed by a practitioner

896 for use by the person or unlawfully consumed alcohol during the suspension period imposed
897 under Subsection (7)(a) or (8)(a).

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

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

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

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

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

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

910 Section 33. Section 53-1-106.5 is enacted to read:

911 **53-1-106.5. Medical Cannabidiol Act -- Department duties.**

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

913 (1) enter into a memorandum of understanding with the participating entities, as that
914 term is defined in Section 26-58-102, for the purpose of providing peace officers and law
915 enforcement agencies with access to the electronic verification system as defined in Section
916 26-58-102; and

917 (2) provide standards for the training of peace officers and law enforcement agencies in
918 the use of the electronic verification system.

919 Section 34. Section 58-37-3.6 is enacted to read:

920 **58-37-3.6. Exemption for possession or use of cannabidiol to treat a qualifying**
921 **illness.**

922 (1) As used in this section:

923 (a) "Cannabidiol" means a product intended for human ingestion that:

924 (i) contains an extract or concentrate that:

925 (A) is obtained from cannabis; and

926 (B) contains at least 10 grams of the cannabinoid cannabidiol per one gram of

927 tetrahydrocannabinol content; and

928 (ii) is prepared in a medicinal dosage form that is:

929 (A) a tablet;

930 (B) a capsule;

931 (C) a concentrated oil;

932 (D) a trans-dermal preparation; or

933 (E) a sub-lingual preparation.

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

935 that has a delta-9 tetrahydrocannabinol concentration of less than 0.5% by dry weight.

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

937 (d) "Tetrahydrocannabinol" means a substance derived from cannabidiol that meets the
938 description in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

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

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

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

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

943 or offer for sale of cannabis complies with:

944 (i) Title 4, Chapter 42, Cannabidiol Production Establishment License;

945 (ii) Title 26, Chapter 58, Medical Cannabidiol Act; and

946 (iii) Title 58, Chapter 86, Cannabidiol Dispensary License;

947 (b) an individual who grows, possesses, sells, or offers to sell cannabidiol is not subject

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

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

950 or offer for sale of cannabidiol complies with:

951 (i) Title 4, Chapter 42, Cannabidiol Production Establishment License;

952 (ii) Title 26, Chapter 58, Medical Cannabidiol Act; and

953 (iii) Title 58, Chapter 86, Cannabidiol Dispensary License; and

954 (c) an individual who possesses, sells, or offers to sell cannabidiol is not subject to the

955 penalties described in this title for the possession, sale, or offer for sale of marijuana or

956 tetrahydrocannabinol drug paraphernalia to the extent that the individual's growth, possession,

957 sale, or offer for sale of cannabidiol complies with:

- 958 (i) Title 4, Chapter 42, Cannabidiol Production Establishment License;
- 959 (ii) Title 26, Chapter 58, Medical Cannabidiol Act; and
- 960 (iii) Title 58, Chapter 86, Cannabidiol Dispensary License.

961 Section 35. Section **58-37f-204** is enacted to read:

962 **58-37f-204. Controlled substance database and medical cannabidiol.**

963 (1) (a) The division shall establish a process for a cannabidiol dispensary agent to
964 submit, at a specified time during each 24-hour period, the information required by this section.

965 (b) A cannabidiol dispensary shall comply with the process established by the division
966 under Subsection (1)(a).

967 (2) A cannabidiol dispensary shall, each time the cannabidiol dispensary dispenses
968 cannabidiol to an individual with a medical cannabidiol card, submit to the division the
969 following information:

970 (a) the name of the physician who recommended the cannabidiol and the unique
971 number identifying the recommendation;

972 (b) the date of the recommendation;

973 (c) the date the cannabidiol was dispensed;

974 (d) the name of the individual with the medical cannabidiol card;

975 (e) positive identification of the individual who receives the cannabidiol, including the
976 type of identification and any identifying numbers on the identification;

977 (f) the amount of cannabidiol dispensed;

978 (g) the dosage, quantity, and frequency recommended by the physician;

979 (h) the name of the cannabidiol dispensary dispensing the cannabidiol product;

980 (i) the name of the cannabidiol dispensary agent who dispensed the cannabidiol
981 product; and

982 (j) any other information required by the division under Subsection (8).

983 (3) If an individual's medical cannabidiol record is in the controlled substance
984 database:

985 (a) the individual may obtain the record by requesting the record from the division in
986 writing; and

987 (b) the individual may request, in writing, with the individual's postal address included,
988 that the division correct any incorrect information about the individual contained in the

989 database.

990 (4) For a request described in Subsection (3), the division shall:

991 (a) grant or deny the request no later than 30 days after the day on which the division
992 receives the request; and

993 (b) notify the individual who submitted the request of the division's decision by mail
994 postmarked no later than 35 days after the day on which the division received the request.

995 (5) If the division denies a request described in Subsection (3), or does not respond to
996 the request within the time period described in Subsection (4), the individual who submitted
997 the request may, no later than 60 days after the day on which the individual's initial request is
998 postmarked, submit an appeal to the Department of Commerce.

999 (6) The division shall ensure that the database system records and maintains for
1000 reference:

1001 (a) the identity of and a form of identification for each individual who requests
1002 information from the database;

1003 (b) the information accessed by the individual described in Subsection (6)(a); and

1004 (c) the date and time the individual described in Subsection (6)(a) made the request.

1005 (7) A cannabidiol dispensary agent may access the controlled substance database in the
1006 same manner and for the same purpose as a pharmacist may access the database under
1007 Subsection [58-37f-301\(2\)\(i\)](#).

1008 (8) The division shall establish, by rule made in accordance with Title 63G, Chapter 3,
1009 Utah Administrative Rulemaking Act:

1010 (a) requirements for the form and manner of submission of information submitted to
1011 the database under this section; and

1012 (b) for the purpose of collecting health data on medical cannabidiol, additional
1013 information that a cannabidiol dispensary is required to submit to the controlled substance
1014 database.

1015 Section 36. Section **58-38a-201** is amended to read:

1016 **58-38a-201. Controlled Substances Advisory Committee.**

1017 There is created within the Division of Occupational and Professional Licensing the
1018 Controlled Substances Advisory Committee. The committee consists of:

1019 (1) the director of the Department of Health or the director's designee;

- 1020 (2) the State Medical Examiner or the examiner's designee;
- 1021 (3) the commissioner of the Department of Public Safety or the commissioner's
1022 designee;
- 1023 (4) one physician who is a member of the Physicians Licensing Board and is
1024 designated by that board;
- 1025 (5) one pharmacist who is a member of the Utah State Board of Pharmacy and is
1026 designated by that board;
- 1027 ~~[(6) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board~~
1028 ~~and is designated by that board;]~~
- 1029 ~~[(7) one physician who is currently licensed and practicing in the state, to be appointed~~
1030 ~~by the governor;]~~
- 1031 ~~[(8)]~~ (6) one psychiatrist who is currently licensed and practicing in the state, to be
1032 appointed by the governor;
- 1033 ~~[(9)]~~ (7) one individual with expertise in substance abuse addiction, to be appointed by
1034 the governor;
- 1035 ~~[(10)]~~ (8) one representative from the Statewide Association of Prosecutors, to be
1036 designated by that association;
- 1037 ~~[(11) one naturopathic physician who is currently licensed and practicing in the state,~~
1038 ~~to be appointed by the governor;]~~
- 1039 ~~[(12)]~~ (9) one advanced practice registered nurse who is currently licensed and
1040 practicing in this state, to be appointed by the governor; ~~[and]~~
- 1041 (10) two medical research professionals with expertise in controlled substances,
1042 including one medical research professional who is affiliated with a research-based higher
1043 education institution;
- 1044 (11) one representative of the Utah Chiefs of Police Association; and
- 1045 ~~[(13)]~~ (12) one member of the public, to be appointed by the governor.
- 1046 Section 37. Section **58-38a-203** is amended to read:
- 1047 **58-38a-203. Duties of the committee.**
- 1048 (1) The committee serves as a consultative and advisory body to the Legislature
1049 regarding:
- 1050 (a) the movement of a controlled substance from one schedule or list to another;

- 1051 (b) the removal of a controlled substance from any schedule or list; [~~and~~]
1052 (c) the designation of a substance as a controlled substance and the placement of the
1053 substance in a designated schedule or list[-]; and
1054 (d) the designation of a medical condition as a qualified illness for treatment using
1055 cannabidiol as described in Subsection [58-37a-203.1\(1\)](#).
- 1056 (2) On or before September 30 of each year, the committee shall submit to the Health
1057 and Human Services Interim Committee a written report:
- 1058 (a) describing any substances recommended by the committee for scheduling,
1059 rescheduling, listing, or deletion from the schedules or list by the Legislature; [~~and~~]
1060 (b) containing the report described in Subsection [58-37a-203.1\(1\)](#); and
1061 [~~(b)~~] (c) stating the reasons for the recommendation.
- 1062 (3) In advising the Legislature regarding the need to add, delete, relist, or reschedule a
1063 substance, the committee shall consider:
- 1064 (a) the actual or probable abuse of the substance, including:
1065 (i) the history and current pattern of abuse both in Utah and in other states;
1066 (ii) the scope, duration, and significance of abuse;
1067 (iii) the degree of actual or probable detriment to public health which may result from
1068 abuse of the substance; and
1069 (iv) the probable physical and social impact of widespread abuse of the substance;
- 1070 (b) the biomedical hazard of the substance, including:
1071 (i) its pharmacology, including the effects and modifiers of the effects of the substance;
1072 (ii) its toxicology, acute and chronic toxicity, interaction with other substances,
1073 whether controlled or not, and the degree to which it may cause psychological or physiological
1074 dependence; and
1075 (iii) the risk to public health and the particular susceptibility of segments of the
1076 population;
- 1077 (c) whether the substance is an immediate precursor, as defined in Section [58-37-2](#), of
1078 a substance that is currently a controlled substance;
- 1079 (d) the current state of scientific knowledge regarding the substance, including whether
1080 there is any acceptable means to safely use the substance under medical supervision;
- 1081 (e) the relationship between the use of the substance and criminal activity, including

1082 whether:

1083 (i) persons engaged in illicit trafficking of the substance are also engaged in other
1084 criminal activity;

1085 (ii) the nature and relative profitability of manufacturing or delivering the substance
1086 encourages illicit trafficking in the substance;

1087 (iii) the commission of other crimes is one of the recognized effects of abuse of the
1088 substance; and

1089 (iv) addiction to the substance relates to the commission of crimes to facilitate the
1090 continued use of the substance;

1091 (f) whether the substance has been scheduled by other states; and

1092 (g) whether the substance has any accepted medical use in treatment in the United
1093 States.

1094 (4) The committee's duties under this chapter do not include tobacco products as
1095 defined in Section 59-14-102 or alcoholic beverages as defined in Section 32B-1-102.

1096 Section 38. Section 58-38a-203.1 is enacted to read:

1097 **58-38a-203.1. Qualifying illness for treatment using medical cannabidiol --**

1098 **Committee duties -- Recommendation to Legislature.**

1099 (1) For the purposes of Title 26, Chapter 58, Medical Cannabidiol Act, the following
1100 conditions are considered a qualifying illness:

1101 (a) epilepsy;

1102 (b) nausea and vomiting during chemotherapy;

1103 (c) appetite stimulation caused by an HIV or AIDS infection;

1104 (d) muscle spasticity or a movement disorder; and

1105 (e) neuropathic pain conditions as follows:

1106 (i) complex regional pain syndrome;

1107 (ii) peripheral neuropathy caused by diabetes;

1108 (iii) post herpetic neuralgia;

1109 (iv) pain related to HIV;

1110 (v) pain related to cancer;

1111 (vi) pain occurring after and related to a stroke; and

1112 (vii) phantom limb pain.

1113 (2) On or before September 30 of each year, the committee shall:

1114 (a) review the list of conditions described in Subsection (1) to determine if, based on
1115 available medically relevant information, it is medically appropriate to add or remove a
1116 condition from the list; and

1117 (b) present the committee's recommendation to the Health and Human Services Interim
1118 Committee.

1119 Section 39. Section **58-67-807** is enacted to read:

1120 **58-67-807. Recommendation of cannabidiol -- Registration with division and**

1121 **Department of Health.**

1122 (1) A physician may recommend the use of cannabidiol to a patient in accordance with
1123 Title 26, Chapter 58, Medical Cannabidiol Act, if the physician:

1124 (a) registers with the division and the Department of Health as a physician who
1125 recommends cannabidiol; and

1126 (b) completes the training required under Subsection (3).

1127 (2) A physician who recommends cannabidiol shall:

1128 (a) recommend cannabidiol to 100 patients or fewer;

1129 (b) consult the controlled substance database before recommending cannabidiol to a
1130 patient to determine if the patient is abusing cannabidiol;

1131 (c) report, to the Department of Health in accordance with Section [26-58-206](#), an
1132 adverse event experienced by a patient related to the patient's medical cannabidiol use; and

1133 (d) report other data on cannabidiol required by Title 26, Chapter 58, Medical
1134 Cannabidiol Act.

1135 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
1136 3, Utah Administrative Rulemaking Act, training requirements for a physician that
1137 recommends cannabidiol.

1138 (b) The division shall include, in the training requirements the division establishes
1139 under Subsection (3)(a), training on using caution when recommending cannabidiol to avoid
1140 patient cannabidiol abuse.

1141 (4) It is not a breach of the applicable standard of care for a physician to recommend
1142 treatment with cannabidiol to an individual under this section and Title 26, Chapter 58,
1143 Medical Cannabidiol Act.

1144 (5) A physician who recommends treatment with cannabidiol or a cannabidiol product
1145 to an individual under this section and Title 26, Chapter 58, Medical Cannabidiol Act, may not,
1146 solely based on that recommendation, be subject to:

1147 (a) civil liability;

1148 (b) criminal liability; or

1149 (c) licensure sanctions under this chapter.

1150 Section 40. Section **58-68-807** is enacted to read:

1151 **58-68-807. Recommendation of cannabidiol -- Registration with division and**

1152 **Department of Health.**

1153 (1) A physician may recommend the use of cannabidiol to a patient in accordance with
1154 Title 26, Chapter 58, Medical Cannabidiol Act, if the physician:

1155 (a) registers with the division and the Department of Health as a physician who
1156 recommends cannabidiol; and

1157 (b) completes the training required under Subsection (3).

1158 (2) A physician who recommends cannabidiol shall:

1159 (a) recommend cannabidiol to 100 patients or fewer;

1160 (b) consult the controlled substance database before recommending cannabidiol to a
1161 patient to determine if the patient is abusing cannabidiol;

1162 (c) report, to the Department of Health in accordance with Section [26-58-206](#), an
1163 adverse event experienced by a patient related to the patient's medical cannabidiol use; and

1164 (d) report other data on cannabidiol required by Title 26, Chapter 58, Medical
1165 Cannabidiol Act.

1166 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
1167 3, Utah Administrative Rulemaking Act, training requirements for a physician that
1168 recommends cannabidiol.

1169 (b) The division shall include, in the training requirements the division establishes
1170 under Subsection (3)(a), training on using caution when recommending cannabidiol to avoid
1171 patient cannabidiol abuse.

1172 (4) It is not a breach of the applicable standard of care for a physician to recommend
1173 treatment with cannabidiol to an individual under this section and Title 26, Chapter 58,
1174 Medical Cannabidiol Act.

1175 (5) A physician who recommends treatment with cannabidiol or a cannabidiol product
1176 to an individual under this section and Title 26, Chapter 58, Medical Cannabidiol Act, may not,
1177 solely based on that recommendation, be subject to:

- 1178 (a) civil liability;
- 1179 (b) criminal liability; or
- 1180 (c) licensure sanctions under this chapter.

1181 Section 41. Section **58-86-101** is enacted to read:

1182 **CHAPTER 86. CANNABIDIOL DISPENSARY LICENSE**

1183 **Part 1. General Provisions**

1184 **58-86-101. Title.**

1185 This chapter is known as "Cannabidiol Dispensary License."

1186 Section 42. Section **58-86-102** is enacted to read:

1187 **58-86-102. Definitions.**

1188 As used in this chapter:

1189 (1) "Cannabidiol" means the same as that term is defined in Section [58-37-3.6](#).

1190 (2) "Cannabidiol cultivation facility" means the same as that term is defined in Section
1191 [4-42-102](#).

1192 (3) "Cannabidiol dispensary" means a person that:

- 1193 (a) sells cannabidiol; or
- 1194 (b) purchases or possesses cannabidiol with the intent to sell cannabidiol.

1195 (4) "Cannabidiol dispensary agent" means an owner, officer, board member, employee
1196 or volunteer of a cannabidiol dispensary.

1197 (5) "Cannabidiol dispensary agent registration card" means a registration card, issued
1198 under Section [58-85-301](#), that authorizes an individual to be a cannabidiol dispensary agent.

1199 (6) "Cannabidiol processing facility" means a person that:

- 1200 (a) manufactures cannabidiol from cannabis;
- 1201 (b) purchases or possesses cannabis with the intent to manufacture cannabidiol; or
- 1202 (c) sells or intends to sell cannabidiol to a cannabidiol dispensary.

1203 (7) "Cannabidiol production establishment" means:

- 1204 (a) an independent testing laboratory;
- 1205 (b) a cannabidiol cultivation facility; or

- 1206 (c) a cannabidiol processing facility.
- 1207 (8) "Cannabidiol production establishment agent" means the same as that term is
- 1208 defined in Section 4-42-102.
- 1209 (9) "Cannabidiol production establishment agent" means the same as that term is
- 1210 defined in Section 4-42-102.
- 1211 (10) "Cannabis" means the same as that term is defined in Section 58-37-3.6.
- 1212 (11) "Controlled Substances Advisory Committee" means the committee created in
- 1213 Section 58-38a-201.
- 1214 (12) "Designated caregiver" means an individual who a patient with a medical
- 1215 cannabidiol card designates as the patient's caregiver under Section 26-58-201.
- 1216 (13) "Electronic verification system" means the system described in Section 26-58-104.
- 1217 (14) "Independent testing laboratory" means the same as that term is defined in Section
- 1218 4-42-102.
- 1219 (15) "Inventory control system" means the system described in Section 4-42-103.
- 1220 (16) "Medical cannabidiol card" means the card issued to an individual by the
- 1221 Department of Health under Section 26-58-201.
- 1222 (17) "Medical cannabidiol establishment" means:
- 1223 (a) an independent testing laboratory;
- 1224 (b) a cannabidiol cultivation facility;
- 1225 (c) a cannabidiol processing facility; or
- 1226 (d) a cannabidiol dispensary.
- 1227 (18) "Medical cannabidiol establishment agent" means:
- 1228 (a) a cannabidiol dispensary agent; or
- 1229 (b) a cannabidiol production establishment agent.
- 1230 (19) "Participating entity" means:
- 1231 (a) the Department of Public Safety created in Section 53-1-103;
- 1232 (b) the Department of Agriculture and Food created in Section 4-2-1;
- 1233 (c) the Department of Health; and
- 1234 (d) the Division of Occupational and Professional Licensing within the Department of
- 1235 Health.
- 1236 (20) "Physician" means an individual who:

- 1237 (a) is licensed to practice:
- 1238 (i) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or
- 1239 (ii) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical
- 1240 Practice Act; and
- 1241 (b) complies with Section [58-67-807](#) or [58-68-807](#).
- 1242 (21) "Qualifying illness" means a condition described in Subsection [58-38a-203.1\(1\)](#).

1243 Section 43. Section **58-86-201** is enacted to read:

1244 **Part 2. License and Eligibility**

1245 **58-86-201. Cannabidiol dispensary -- License -- Eligibility.**

1246 (1) A person may not operate as a cannabidiol dispensary without a license from the

1247 division issued under this part.

1248 (2) Subject to the requirements of this part, the division shall, within 30 business days

1249 after receiving a complete application, issue a license to operate a cannabidiol dispensary to a

1250 person who submits to the division:

1251 (a) a proposed name, address, and physical location where the person will operate the

1252 cannabidiol dispensary;

1253 (b) evidence that the person:

1254 (i) possesses or controls a minimum of \$50,000 in liquid assets for each application

1255 submitted to the division;

1256 (ii) can comply with the operating requirements for a cannabidiol dispensary described

1257 in this chapter;

1258 (iii) will implement an inventory control system at the cannabidiol dispensary; and

1259 (iv) can obtain a business license and meet zoning requirements established by a

1260 political subdivision;

1261 (c) an application fee, in an amount determined by the division in accordance with

1262 Section [63J-1-504](#), that is necessary to cover the division's cost to implement this part;

1263 (d) an operating plan that complies with Section [58-86-203](#); and

1264 (e) the results of a criminal background check for each cannabidiol dispensary agent.

1265 (3) If the division determines that a cannabidiol dispensary is eligible for a license

1266 under this section, the division shall charge the cannabidiol dispensary an initial license fee in

1267 an amount determined by the division in accordance with Section [63J-1-504](#).

1268 (4) The division may revoke a license under this chapter if the cannabidiol dispensary
1269 is not operational within one year of the issuance of the initial license.

1270 Section 44. Section **58-86-202** is enacted to read:

1271 **58-86-202. Renewal.**

1272 (1) Except as provided in Subsection (3), the division shall renew a person's license
1273 under this part every two years if, at the time of renewal:

1274 (a) the person meets the requirements of Section [58-86-201](#); and

1275 (b) the person pays the division a license renewal fee in an amount determined by the
1276 division in accordance with Section [63J-1-504](#).

1277 (2) (a) The division may not renew a cannabidiol dispensary's license for a sixth
1278 consecutive time unless the division publishes a notice, in a newspaper of general circulation
1279 for the geographic area in which the cannabidiol dispensary is located, one year before the day
1280 on which the cannabidiol dispensary's license expires, that includes:

1281 (i) the name and location of the cannabidiol dispensary;

1282 (ii) the day on which the license for the cannabidiol dispensary will expire; and

1283 (iii) a solicitation for cannabidiol dispensary license applicants.

1284 (b) If, after the division publishes the notice described in Subsection (2)(a), the division
1285 receives an application for a cannabidiol dispensary from a new applicant and also receives an
1286 application for renewal from the existing cannabidiol dispensary, the division shall issue the
1287 license to the applicant that the division determines best meets the criteria established in
1288 Section [58-86-204](#).

1289 (3) (a) If a licensed cannabidiol dispensary abandons the cannabidiol dispensary's
1290 license, the division shall publish notice of an available license in the same manner as
1291 described in Subsection (2)(a).

1292 (b) The division may establish criteria, in accordance with Title 63G, Chapter 3, Utah
1293 Administrative Rulemaking Act, for what actions by a cannabidiol dispensary constitute
1294 abandonment of a cannabidiol dispensary license.

1295 Section 45. Section **58-86-203** is enacted to read:

1296 **58-86-203. Operating plan.**

1297 (1) A person applying for a cannabidiol dispensary license shall submit to the division
1298 a proposed operating plan for the cannabidiol dispensary.

- 1299 (2) The operating plan described in Subsection (1) shall include:
1300 (a) a description of the cannabidiol dispensary's employee training standards;
1301 (b) a security plan for the cannabidiol dispensary;
1302 (c) the time period in which the person estimates the cannabidiol dispensary will
1303 become operational; and
1304 (d) the products, and anticipated sources of the products, that a cannabidiol dispensary
1305 plans to sell.

1306 Section 46. Section **58-86-204** is enacted to read:

1307 **58-86-204. Maximum number of licenses.**

1308 (1) The division may not issue more than five cannabidiol dispensary licenses at any
1309 given time.

1310 (2) If more than one applicant for a license meets the qualifications of this chapter for a
1311 cannabidiol dispensary, the division shall evaluate the applicants to determine which applicant
1312 has best demonstrated:

- 1313 (a) experience with:
1314 (i) establishing and running a business in a related field;
1315 (ii) operating a secure inventory control system;
1316 (iii) complying with a regulatory environment; and
1317 (iv) training, evaluating, and monitoring employees; and
1318 (b) connections to the local community.

1319 Section 47. Section **58-86-301** is enacted to read:

1320 **Part 3. Cannabidiol Dispensary Agents**

1321 **58-86-301. Cannabidiol dispensary agent -- Registration.**

1322 (1) An individual may not act as an owner, shareholder, employee, or agent of a
1323 cannabidiol dispensary unless the individual is registered by the division as a cannabidiol
1324 dispensary agent.

1325 (2) A physician may not act as a cannabidiol dispensary agent.

1326 (3) The division shall, within 15 business days after receiving a complete application,
1327 register and issue a cannabidiol dispensary agent registration card to an individual who:

- 1328 (a) has not been convicted of an offense that is a felony under either state or federal
1329 law;

- 1330 (b) provides to the division:
- 1331 (i) the individual's name and address; and
- 1332 (ii) the name and location of the licensed cannabidiol dispensary where the individual
- 1333 will act as a cannabidiol dispensary agent;
- 1334 (c) pays a registration fee to the division, in an amount determined by the division in
- 1335 accordance with Section 63J-1-504, that is necessary to cover the division's cost to implement
- 1336 this chapter;
- 1337 (d) complies with the requirement for, and passes, a criminal background check
- 1338 described in Section 58-86-302; and
- 1339 (e) demonstrates to the division that the individual has completed a training program
- 1340 designated by the division under Subsection (4).
- 1341 (4) The division shall establish cannabidiol dispensary agent training requirements by
- 1342 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1343 (5) The division shall revoke the cannabidiol dispensary agent registration card of an
- 1344 individual who:
- 1345 (a) violates the requirements of this chapter; or
- 1346 (b) commits an offense that is a felony under state or federal law.
- 1347 Section 48. Section **58-86-302** is enacted to read:
- 1348 **58-86-302. Cannabidiol dispensary agents -- Criminal background checks.**
- 1349 (1) An individual applying for a cannabidiol dispensary agent registration card under
- 1350 this chapter shall:
- 1351 (a) submit to the division, at the time of application, a fingerprint card in a form
- 1352 acceptable to the division; and
- 1353 (b) consent to a fingerprint background check by:
- 1354 (i) the Utah Bureau of Criminal Identification; and
- 1355 (ii) the Federal Bureau of Investigation.
- 1356 (2) The division shall request that the Department of Public Safety complete a Federal
- 1357 Bureau of Investigation criminal background check for each cannabidiol dispensary agent card
- 1358 applicant.
- 1359 Section 49. Section **58-86-303** is enacted to read:
- 1360 **58-86-303. Cannabidiol dispensary agent registration card -- Rebuttable**

1361 **presumption.**

1362 (1) An individual who has a cannabidiol dispensary agent registration card shall carry
1363 the individual's cannabidiol dispensary agent registration card with the individual at all times
1364 when:

1365 (a) the individual is on the premises of a cannabidiol dispensary; and

1366 (b) the individual is transporting cannabis or cannabidiol between medical cannabidiol
1367 establishments.

1368 (2) If an individual handling cannabis or cannabidiol at a cannabidiol dispensary, or
1369 transporting cannabis or cannabidiol, possesses the cannabis or cannabidiol in compliance with
1370 Subsection (1):

1371 (a) there is a rebuttable presumption that the individual possesses the cannabis or
1372 cannabidiol legally; and

1373 (b) a law enforcement officer does not have probable cause to believe, based solely on
1374 the individual's possession of the cannabis or cannabidiol in compliance with Subsection (1),
1375 that the individual is engaging in illegal activity.

1376 Section 50. Section **58-86-401** is enacted to read:

1377 **Part 4. Cannabidiol Dispensary Operation Requirements**

1378 **58-86-401. Operating requirements -- General.**

1379 (1) (a) A cannabidiol dispensary shall operate in accordance with the operating plan
1380 provided to the department under Section [58-86-203](#).

1381 (b) A cannabidiol dispensary shall notify the department within 30 days of any change
1382 in the cannabidiol dispensary's operation plan.

1383 (2) Except as provided in Subsection (3), a cannabidiol dispensary shall operate:

1384 (a) in a facility that is accessible only by an individual with a valid cannabidiol
1385 dispensary agent registration card issued under Section [58-86-301](#); and

1386 (b) at the physical address provided to the department under Section [58-86-201](#).

1387 (3) A cannabidiol production facility may allow the press, a visitor, or a contractor
1388 access to the cannabidiol dispensary if:

1389 (a) the cannabidiol production facility tracks and monitors the individual at all times
1390 while the individual is in the cannabidiol dispensary; and

1391 (b) a record of the individual's access to the cannabidiol dispensary is maintained by

1392 the cannabidiol dispensary.

1393 (4) A cannabidiol dispensary may not operate without:

1394 (a) a security system with a backup power source in the event of a power outage to:

1395 (i) detect and record entry at all times the cannabidiol dispensary is closed; and

1396 (ii) provide notice of unauthorized entry to local law enforcement;

1397 (b) a lock on any entrance to the area of the cannabidiol dispensary where medical

1398 cannabis is stored; and

1399 (c) an inventory control system that complies with Section [4-42-104](#).

1400 (5) Except as provided in Subsection (6), a physician may not:

1401 (a) serve as an owner, principal, or shareholder of a cannabidiol dispensary; or

1402 (b) except online, advertise that the physician may or will recommend cannabidiol.

1403 (6) (a) A cannabidiol dispensary shall employ an individual licensed under Title 58,

1404 Chapter 17b, Pharmacy Practice Act, to act as a consultant.

1405 (b) The individual described in Subsection (6)(a) shall:

1406 (i) review the records of each individual with a medical cannabidiol card who

1407 purchases cannabidiol from the cannabidiol dispensary; and

1408 (ii) answer questions for an individual with a medical cannabidiol card.

1409 (7) A cannabidiol dispensary may not allow any individual to consume cannabidiol on

1410 the property or premises of the establishment.

1411 (8) A cannabidiol dispensary may not sell cannabidiol before January 1, 2017.

1412 Section 51. Section **58-86-402** is enacted to read:

1413 **58-86-402. Dispensing -- Amount a cannabidiol dispensary may dispense --**

1414 **Reporting -- Form of cannabis or cannabis product.**

1415 (1) A cannabidiol dispensary may only sell, subject to this chapter:

1416 (a) cannabidiol; or

1417 (b) educational materials related to the medical use of cannabidiol.

1418 (2) A cannabidiol dispensary may only sell cannabidiol to an individual with a medical

1419 cannabidiol card issued by the department.

1420 (3) A cannabidiol dispensary may not dispense on behalf of any one individual with a

1421 medical cannabidiol card, in any one 30-day period, an amount of cannabidiol that exceeds a

1422 30-day supply of the dosage recommended by the individual's physician.

1423 (4) An individual with a medical cannabidiol card may not purchase more cannabidiol
1424 than the amounts designated in Subsection (3).

1425 (5) A designated caregiver designated by any one individual with a medical
1426 cannabidiol card may not purchase, for the individual, an amount of cannabidiol that exceeds
1427 the amounts designated in Subsection (3).

1428 (6) A cannabidiol dispensary shall:

1429 (a) submit a record to the electronic verification system of each time the cannabidiol
1430 dispensary dispenses cannabidiol to an individual with a medical cannabidiol card;

1431 (b) access the electronic verification system before dispensing cannabidiol to an
1432 individual with a medical cannabis card in order to determine if the individual has exceeded the
1433 amount of cannabis or cannabis products described in Subsection (3); and

1434 (c) comply with Section [58-37f-204](#).

1435 Section 52. Section **58-86-403** is enacted to read:

1436 **58-86-403. Product quality -- Labeling -- Packaging.**

1437 (1) A cannabidiol dispensary may not sell or offer to sell cannabidiol unless:

1438 (a) the amount of cannabidiol is clearly and accurately stated on the cannabis or
1439 cannabis product packaging; and

1440 (b) the cannabidiol is sealed in a tamper resistant, resealable container with a label that
1441 includes a bar code or identification number that links the cannabidiol to the cannabidiol
1442 dispensary's inventory control system.

1443 (2) A cannabidiol dispensary may only sell cannabidiol that has been inspected by an
1444 independent testing laboratory in accordance with Section [4-42-502](#).

1445 Section 53. Section **58-86-404** is enacted to read:

1446 **58-86-404. Advertising.**

1447 (1) Except as provided in Subsection (2), a cannabidiol dispensary may not advertise in
1448 any medium.

1449 (2) A cannabidiol dispensary may advertise using a:

1450 (a) sign on the outside of the cannabidiol dispensary that includes only the cannabidiol
1451 dispensary's name and hours of operation; and

1452 (b) a website that includes information about the location of the dispensary, products
1453 and services available at the dispensary, and educational materials related to the use of

1454 cannabidiol.

1455 Section 54. Section **58-86-405** is enacted to read:

1456 **58-86-405. Inspections.**

1457 (1) The division shall inspect, in accordance with Subsection (2), a cannabidiol
1458 dispensary's facility and records in order to determine if the cannabidiol dispensary complies
1459 with the requirements of this chapter.

1460 (2) The division may inspect the records and facility of a cannabidiol dispensary:

1461 (a) as many as three scheduled times per year;

1462 (b) as many as one unscheduled time per year; and

1463 (c) if the division has reason to believe that the cannabidiol dispensary has violated the
1464 law, at any time, scheduled or unscheduled.

1465 Section 55. Section **58-86-406** is enacted to read:

1466 **58-86-406. Cannabidiol transportation.**

1467 (1) An individual may not transport cannabidiol unless the individual has a valid:

1468 (a) cannabidiol production establishment agent registration card; or

1469 (b) cannabidiol dispensary agent registration card.

1470 (2) An individual transporting cannabidiol shall keep a transportation manifest that
1471 includes:

1472 (a) a bar code or identification number that links the cannabidiol to a relevant cannabis
1473 production establishment's or cannabidiol dispensary's inventory control system;

1474 (b) origin and destination information for any cannabidiol the individual is
1475 transporting; and

1476 (c) monitors the departure and arrival time of the individual transporting the
1477 cannabidiol.

1478 (3) In addition to the requirements in Subsections (1) and (2), the Department of
1479 Agriculture and Food may establish, by rule made in accordance with Title 63G, Chapter 3,
1480 Utah Administrative Rulemaking Act, requirements for transporting cannabidiol related to
1481 human consumption safety.

1482 Section 56. Section **58-86-501** is enacted to read:

1483 **Part 5. Enforcement**

1484 **58-86-501. Enforcement -- Fine -- Citation.**

1485 (1) The division may, for a violation of this chapter by a person who is a cannabidiol
1486 dispensary or cannabidiol dispensary agent:

1487 (a) revoke the person's license;

1488 (b) refuse to renew the person's license;

1489 (c) assess the person an administrative penalty; or

1490 (d) take any other appropriate administrative action.

1491 (2) The division shall deposit an administrative penalty imposed under this section in
1492 the General Fund as a dedicated credit to be used by the division to administer and enforce this
1493 chapter.

1494 (3) The division may, for a person subject to an uncontested citation, a stipulated
1495 settlement, or a finding of a violation in an adjudicative proceeding under this section:

1496 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
1497 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
1498 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1499 (b) order the person to cease and desist from the action that creates a violation.

1500 (4) The division may not revoke a cannabidiol dispensary's license via a citation.

1501 (5) If within 20 calendar days after the day on which a division serves a citation for a
1502 violation of this chapter, the person that is the subject of the citation fails to request a hearing
1503 to contest the citation, the citation becomes the division's final order.

1504 (6) The division may, for a person who fails to comply with a citation under this
1505 section:

1506 (a) refuse to issue or renew the person's license or cannabidiol dispensary agent
1507 registration card; or

1508 (b) suspend, revoke, or place on probation the person's license or cannabidiol
1509 dispensary agent registration card.

1510 Section 57. Section **59-12-103** is amended to read:

1511 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
1512 **tax revenues.**

1513 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1514 charged for the following transactions:

1515 (a) retail sales of tangible personal property made within the state;

- 1516 (b) amounts paid for:
- 1517 (i) telecommunications service, other than mobile telecommunications service, that
- 1518 originates and terminates within the boundaries of this state;
- 1519 (ii) mobile telecommunications service that originates and terminates within the
- 1520 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 1521 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1522 (iii) an ancillary service associated with a:
- 1523 (A) telecommunications service described in Subsection (1)(b)(i); or
- 1524 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 1525 (c) sales of the following for commercial use:
- 1526 (i) gas;
- 1527 (ii) electricity;
- 1528 (iii) heat;
- 1529 (iv) coal;
- 1530 (v) fuel oil; or
- 1531 (vi) other fuels;
- 1532 (d) sales of the following for residential use:
- 1533 (i) gas;
- 1534 (ii) electricity;
- 1535 (iii) heat;
- 1536 (iv) coal;
- 1537 (v) fuel oil; or
- 1538 (vi) other fuels;
- 1539 (e) sales of prepared food;
- 1540 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
- 1541 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1542 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1543 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1544 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1545 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1546 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,

- 1547 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1548 exhibition, cultural, or athletic activity;
- 1549 (g) amounts paid or charged for services for repairs or renovations of tangible personal
1550 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 1551 (i) the tangible personal property; and
1552 (ii) parts used in the repairs or renovations of the tangible personal property described
1553 in Subsection (1)(g)(i), regardless of whether:
- 1554 (A) any parts are actually used in the repairs or renovations of that tangible personal
1555 property; or
1556 (B) the particular parts used in the repairs or renovations of that tangible personal
1557 property are exempt from a tax under this chapter;
- 1558 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1559 assisted cleaning or washing of tangible personal property;
- 1560 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1561 accommodations and services that are regularly rented for less than 30 consecutive days;
- 1562 (j) amounts paid or charged for laundry or dry cleaning services;
- 1563 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1564 this state the tangible personal property is:
- 1565 (i) stored;
1566 (ii) used; or
1567 (iii) otherwise consumed;
- 1568 (l) amounts paid or charged for tangible personal property if within this state the
1569 tangible personal property is:
- 1570 (i) stored;
1571 (ii) used; or
1572 (iii) consumed; [~~and~~]
- 1573 (m) amounts paid or charged for a sale:
- 1574 (i) (A) of a product transferred electronically; or
1575 (B) of a repair or renovation of a product transferred electronically; and
1576 (ii) regardless of whether the sale provides:
1577 (A) a right of permanent use of the product; or

1578 (B) a right to use the product that is less than a permanent use, including a right:

1579 (I) for a definite or specified length of time; and

1580 (II) that terminates upon the occurrence of a condition[-]; and

1581 (n) retail sales of cannabidiol as that term is defined in Section 58-37-3.6.

1582 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
1583 is imposed on a transaction described in Subsection (1) equal to the sum of:

1584 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1585 (A) 4.70%; and

1586 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1587 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1588 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
1589 State Sales and Use Tax Act; and

1590 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
1591 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
1592 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
1593 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1594 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1595 transaction under this chapter other than this part.

1596 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1597 on a transaction described in Subsection (1)(d) equal to the sum of:

1598 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1599 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1600 transaction under this chapter other than this part.

1601 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1602 on amounts paid or charged for food and food ingredients equal to the sum of:

1603 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
1604 a tax rate of 1.75%; and

1605 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1606 amounts paid or charged for food and food ingredients under this chapter other than this part.

1607 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
1608 tangible personal property other than food and food ingredients, a state tax and a local tax is

1609 imposed on the entire bundled transaction equal to the sum of:

1610 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1611 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1612 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State

1613 Sales and Use Tax Act, if the location of the transaction as determined under Sections

1614 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,

1615 Additional State Sales and Use Tax Act; and

1616 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State

1617 Sales and Use Tax Act, if the location of the transaction as determined under Sections

1618 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which

1619 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1620 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates

1621 described in Subsection (2)(a)(ii).

1622 (ii) If an optional computer software maintenance contract is a bundled transaction that

1623 consists of taxable and nontaxable products that are not separately itemized on an invoice or

1624 similar billing document, the purchase of the optional computer software maintenance contract

1625 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1626 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled

1627 transaction described in Subsection (2)(d)(i) or (ii):

1628 (A) if the sales price of the bundled transaction is attributable to tangible personal

1629 property, a product, or a service that is subject to taxation under this chapter and tangible

1630 personal property, a product, or service that is not subject to taxation under this chapter, the

1631 entire bundled transaction is subject to taxation under this chapter unless:

1632 (I) the seller is able to identify by reasonable and verifiable standards the tangible

1633 personal property, product, or service that is not subject to taxation under this chapter from the

1634 books and records the seller keeps in the seller's regular course of business; or

1635 (II) state or federal law provides otherwise; or

1636 (B) if the sales price of a bundled transaction is attributable to two or more items of

1637 tangible personal property, products, or services that are subject to taxation under this chapter

1638 at different rates, the entire bundled transaction is subject to taxation under this chapter at the

1639 higher tax rate unless:

1640 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1641 personal property, product, or service that is subject to taxation under this chapter at the lower
1642 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1643 (II) state or federal law provides otherwise.

1644 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
1645 seller's regular course of business includes books and records the seller keeps in the regular
1646 course of business for nontax purposes.

1647 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
1648 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
1649 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
1650 of tangible personal property, other property, a product, or a service that is not subject to
1651 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
1652 the seller, at the time of the transaction:

1653 (A) separately states the portion of the transaction that is not subject to taxation under
1654 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1655 (B) is able to identify by reasonable and verifiable standards, from the books and
1656 records the seller keeps in the seller's regular course of business, the portion of the transaction
1657 that is not subject to taxation under this chapter.

1658 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1659 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
1660 the transaction that is not subject to taxation under this chapter was not separately stated on an
1661 invoice, bill of sale, or similar document provided to the purchaser because of an error or
1662 ignorance of the law; and

1663 (B) the seller is able to identify by reasonable and verifiable standards, from the books
1664 and records the seller keeps in the seller's regular course of business, the portion of the
1665 transaction that is not subject to taxation under this chapter.

1666 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
1667 in the seller's regular course of business includes books and records the seller keeps in the
1668 regular course of business for nontax purposes.

1669 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
1670 personal property, products, or services that are subject to taxation under this chapter at

1671 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
1672 unless the seller, at the time of the transaction:

1673 (A) separately states the items subject to taxation under this chapter at each of the
1674 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1675 (B) is able to identify by reasonable and verifiable standards the tangible personal
1676 property, product, or service that is subject to taxation under this chapter at the lower tax rate
1677 from the books and records the seller keeps in the seller's regular course of business.

1678 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
1679 seller's regular course of business includes books and records the seller keeps in the regular
1680 course of business for nontax purposes.

1681 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
1682 rate imposed under the following shall take effect on the first day of a calendar quarter:

1683 (i) Subsection (2)(a)(i)(A);

1684 (ii) Subsection (2)(b)(i);

1685 (iii) Subsection (2)(c)(i); or

1686 (iv) Subsection (2)(d)(i)(A)(I).

1687 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
1688 begins on or after the effective date of the tax rate increase if the billing period for the
1689 transaction begins before the effective date of a tax rate increase imposed under:

1690 (A) Subsection (2)(a)(i)(A);

1691 (B) Subsection (2)(b)(i);

1692 (C) Subsection (2)(c)(i); or

1693 (D) Subsection (2)(d)(i)(A)(I).

1694 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
1695 statement for the billing period is rendered on or after the effective date of the repeal of the tax
1696 or the tax rate decrease imposed under:

1697 (A) Subsection (2)(a)(i)(A);

1698 (B) Subsection (2)(b)(i);

1699 (C) Subsection (2)(c)(i); or

1700 (D) Subsection (2)(d)(i)(A)(I).

1701 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is

1702 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
1703 change in a tax rate takes effect:

1704 (A) on the first day of a calendar quarter; and

1705 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

1706 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

1707 (A) Subsection (2)(a)(i)(A);

1708 (B) Subsection (2)(b)(i);

1709 (C) Subsection (2)(c)(i); or

1710 (D) Subsection (2)(d)(i)(A)(I).

1711 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

1712 the commission may by rule define the term "catalogue sale."

1713 (3) (a) The following state taxes shall be deposited into the General Fund:

1714 (i) the tax imposed by Subsection (2)(a)(i)(A);

1715 (ii) the tax imposed by Subsection (2)(b)(i);

1716 (iii) the tax imposed by Subsection (2)(c)(i); or

1717 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1718 (b) The following local taxes shall be distributed to a county, city, or town as provided

1719 in this chapter:

1720 (i) the tax imposed by Subsection (2)(a)(ii);

1721 (ii) the tax imposed by Subsection (2)(b)(ii);

1722 (iii) the tax imposed by Subsection (2)(c)(ii); and

1723 (iv) the tax imposed by Subsection (2)(d)(i)(B).

1724 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

1725 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

1726 through (g):

1727 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1728 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1729 (B) for the fiscal year; or

1730 (ii) \$17,500,000.

1731 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

1732 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

1733 Department of Natural Resources to:

1734 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
1735 protect sensitive plant and animal species; or

1736 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1737 act, to political subdivisions of the state to implement the measures described in Subsections
1738 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

1739 (ii) Money transferred to the Department of Natural Resources under Subsection
1740 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1741 person to list or attempt to have listed a species as threatened or endangered under the
1742 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1743 (iii) At the end of each fiscal year:

1744 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1745 Conservation and Development Fund created in Section 73-10-24;

1746 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1747 Program Subaccount created in Section 73-10c-5; and

1748 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1749 Program Subaccount created in Section 73-10c-5.

1750 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1751 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1752 created in Section 4-18-106.

1753 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1754 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1755 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1756 water rights.

1757 (ii) At the end of each fiscal year:

1758 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1759 Conservation and Development Fund created in Section 73-10-24;

1760 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1761 Program Subaccount created in Section 73-10c-5; and

1762 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1763 Program Subaccount created in Section 73-10c-5.

1764 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1765 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
1766 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1767 (ii) In addition to the uses allowed of the Water Resources Conservation and
1768 Development Fund under Section 73-10-24, the Water Resources Conservation and
1769 Development Fund may also be used to:

1770 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1771 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1772 quantifying surface and ground water resources and describing the hydrologic systems of an
1773 area in sufficient detail so as to enable local and state resource managers to plan for and
1774 accommodate growth in water use without jeopardizing the resource;

1775 (B) fund state required dam safety improvements; and

1776 (C) protect the state's interest in interstate water compact allocations, including the
1777 hiring of technical and legal staff.

1778 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1779 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
1780 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1781 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1782 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
1783 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1784 (i) provide for the installation and repair of collection, treatment, storage, and
1785 distribution facilities for any public water system, as defined in Section 19-4-102;

1786 (ii) develop underground sources of water, including springs and wells; and

1787 (iii) develop surface water sources.

1788 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1789 2006, the difference between the following amounts shall be expended as provided in this
1790 Subsection (5), if that difference is greater than \$1:

1791 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1792 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1793 (ii) \$17,500,000.

1794 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1795 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1796 credits; and

1797 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1798 restoration.

1799 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1800 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1801 created in Section 73-10-24.

1802 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1803 remaining difference described in Subsection (5)(a) shall be:

1804 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1805 credits; and

1806 (B) expended by the Division of Water Resources for cloud-seeding projects
1807 authorized by Title 73, Chapter 15, Modification of Weather.

1808 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1809 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1810 created in Section 73-10-24.

1811 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
1812 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1813 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1814 Division of Water Resources for:

1815 (i) preconstruction costs:

1816 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1817 26, Bear River Development Act; and

1818 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1819 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1820 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1821 Chapter 26, Bear River Development Act;

1822 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1823 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1824 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
1825 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1826 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
1827 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
1828 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1829 incurred for employing additional technical staff for the administration of water rights.

1830 (f) At the end of each fiscal year, any unexpended dedicated credits described in
1831 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
1832 Fund created in Section 73-10-24.

1833 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1834 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
1835 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
1836 the Transportation Fund created by Section 72-2-102.

1837 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
1838 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
1839 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
1840 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1841 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
1842 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
1843 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
1844 created by Section 72-2-124:

1845 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
1846 the revenues collected from the following taxes, which represents a portion of the
1847 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1848 on vehicles and vehicle-related products:

1849 (A) the tax imposed by Subsection (2)(a)(i)(A);

1850 (B) the tax imposed by Subsection (2)(b)(i);

1851 (C) the tax imposed by Subsection (2)(c)(i); and

1852 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1853 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
1854 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
1855 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
1856 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

1857 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
1858 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
1859 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
1860 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
1861 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
1862 (8)(a) equal to the product of:

1863 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
1864 previous fiscal year; and

1865 (B) the total sales and use tax revenue generated by the taxes described in Subsections
1866 (8)(a)(i)(A) through (D) in the current fiscal year.

1867 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
1868 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
1869 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
1870 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
1871 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

1872 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
1873 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
1874 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
1875 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
1876 current fiscal year under Subsection (8)(a).

1877 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
1878 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
1879 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
1880 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
1881 [72-2-124](#).

1882 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
1883 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
1884 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

1885 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
1886 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
1887 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005

1888 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
1889 transactions described in Subsection (1).

1890 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
1891 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
1892 charged for food and food ingredients, except for tax revenue generated by a bundled
1893 transaction attributable to food and food ingredients and tangible personal property other than
1894 food and food ingredients described in Subsection (2)(d).

1895 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
1896 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
1897 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
1898 .025% tax rate on the transactions described in Subsection (1) to be expended to address
1899 chokepoints in construction management.

1900 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
1901 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
1902 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
1903 and food ingredients and tangible personal property other than food and food ingredients
1904 described in Subsection (2)(d).

1905 (13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
1906 fiscal year during which the Division of Finance receives notice under Subsection
1907 63N-2-510~~(3)~~(2) that construction on a qualified hotel, as defined in Section 63N-2-502, has
1908 begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit
1909 \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel
1910 Impact Mitigation Fund, created in Section 63N-2-512.

1911 (14) Notwithstanding Subsections (4) through (13), an amount required to be expended
1912 or deposited in accordance with Subsections (4) through (13) may not include an amount the
1913 Division of Finance deposits in accordance with Section 59-12-103.2.

1914 Section 58. Section 63I-1-258 is amended to read:

1915 **63I-1-258. Repeal dates, Title 58.**

1916 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
1917 repealed July 1, 2026.

1918 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

- 1919 (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.
- 1920 (4) Section [58-37-4.3](#) is repealed July 1, 2016.
- 1921 (5) Section [58-38a-203.1](#) is repealed July 1, 2017.
- 1922 ~~[(5)]~~ (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
- 1923 2023.
- 1924 ~~[(6)]~~ (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
- 1925 Act, is repealed July 1, 2019.
- 1926 ~~[(7)]~~ (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
- 1927 2025.
- 1928 ~~[(8)]~~ (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
- 1929 repealed July 1, 2023.
- 1930 ~~[(9)]~~ (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
- 1931 2024.
- 1932 ~~[(10)]~~ (11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed
- 1933 July 1, 2026.
- 1934 ~~[(11)]~~ (12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.
- 1935 Section 59. **Effective date.**
- 1936 This bill takes effect on July 1, 2016.

Legislative Review Note
Office of Legislative Research and General Counsel