

## SB0089S02 compared with SB0089S01

~~text~~ shows text that was in SB0089S01 but was deleted in SB0089S02.

text shows text that was not in SB0089S01 but was inserted into SB0089S02.

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Senator Evan J. Vickers proposes the following substitute bill:

### MEDICAL CANNABIDIOL AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: ~~\_\_\_\_\_~~ Brad M. Daw

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#### 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 a 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; or
  - a designated caregiver of a qualified patient;
- ▶ directs the Division of Occupational and Professional Licensing to issue:
  - a license to operate a cannabidiol dispensary to a person that meets certain

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

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

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This bill provides a special effective date.

### **Utah Code Sections Affected:**

#### AMENDS:

- 41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333
- 58-38a-201**, as last amended by Laws of Utah 2011, Chapter 60
- 58-38a-203**, as last amended by Laws of Utah 2011, Chapters 12 and 340
- 59-12-103**, as last amended by Laws of Utah 2015, Chapter 283
- 63I-1-258**, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,  
and 432

#### ENACTS:

- 4-42-101**, Utah Code Annotated 1953
- 4-42-102**, Utah Code Annotated 1953
- 4-42-103**, Utah Code Annotated 1953
- 4-42-104**, Utah Code Annotated 1953
- 4-42-201**, Utah Code Annotated 1953
- 4-42-202**, Utah Code Annotated 1953
- 4-42-203**, Utah Code Annotated 1953
- 4-42-204**, Utah Code Annotated 1953
- 4-42-301**, Utah Code Annotated 1953
- 4-42-302**, Utah Code Annotated 1953
- 4-42-303**, Utah Code Annotated 1953
- 4-42-401**, Utah Code Annotated 1953
- 4-42-402**, Utah Code Annotated 1953
- 4-42-403**, Utah Code Annotated 1953
- 4-42-404**, Utah Code Annotated 1953
- 4-42-501**, Utah Code Annotated 1953
- 4-42-601**, Utah Code Annotated 1953
- 4-42-602**, Utah Code Annotated 1953
- 4-42-603**, Utah Code Annotated 1953
- 4-42-701**, Utah Code Annotated 1953
- 4-42-702**, Utah Code Annotated 1953

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4-42-801, Utah Code Annotated 1953  
4-42-802, Utah Code Annotated 1953  
26-58-101, Utah Code Annotated 1953  
26-58-102, Utah Code Annotated 1953  
26-58-103, Utah Code Annotated 1953  
26-58-104, Utah Code Annotated 1953  
26-58-201, Utah Code Annotated 1953  
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26-58-206, Utah Code Annotated 1953  
26-58-301, Utah Code Annotated 1953  
53-1-106.5, Utah Code Annotated 1953  
58-37-3.6, Utah Code Annotated 1953  
58-37f-204, Utah Code Annotated 1953  
58-38a-203.1, Utah Code Annotated 1953  
58-67-807, Utah Code Annotated 1953  
58-68-807, Utah Code Annotated 1953  
58-86-101, Utah Code Annotated 1953  
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58-86-403, Utah Code Annotated 1953

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58-86-404, Utah Code Annotated 1953

58-86-405, Utah Code Annotated 1953

58-86-406, Utah Code Annotated 1953

58-86-501, Utah Code Annotated 1953

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

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

### CHAPTER 42. CANNABIDIOL PRODUCTION ESTABLISHMENT LICENSE

#### Part 1. General Provisions

##### 4-42-101. Title.

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

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

##### 4-42-102. Definitions.

As used in this chapter:

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

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

(a) grows cannabis; or

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

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

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

(a) sells cannabidiol; or

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

(5) "Cannabidiol dispensary agent" means the same as that term is defined in Section 58-86-102.

(6) "Cannabidiol dispensary agent registration card" means the same as that term is defined in Section 58-86-102.

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

(a) manufactures cannabidiol from cannabis;

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

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

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

(9) "Cannabidiol production establishment" means:

- (a) a cannabidiol cultivation facility;
- (b) a cannabidiol processing facility; or
- (c) an independent cannabidiol testing laboratory.

(10) "Cannabidiol production establishment agent" means:

- (a) a cannabidiol cultivation facility agent;
- (b) a cannabidiol processing facility agent; or
- (c) an independent cannabidiol testing laboratory agent.

(11) "Cannabidiol production establishment agent registration card" means a registration card issued by the department under Section 4-42-301 that:

- (a) authorizes an individual to act as a cannabidiol production establishment agent; and
- (b) designates the type of cannabidiol production establishment for which the individual is authorized to act as a cannabidiol production establishment agent.

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

- (a) tetrahydrocannabinol or THC;
- (b) tetrahydrocannabinolic acid or THCa;
- (c) cannabidiol or CBD;
- (d) cannabinol or CBN; and
- (e) cannabigerol or CBG.

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

(14) "Controlled Substances Advisory Committee" means the committee created in Section 58-38a-201.

(15) "Designated caregiver" means the same as that term is defined in Section 58-86-102.

(16) "Electronic verification system" means the system described in Section 26-58-104.

(17) "Independent ~~cannabis~~cannabidiol testing laboratory" means a person that:

- (a) conducts a chemical or other analysis of cannabidiol; or
- (b) possesses cannabidiol with the intent to conduct a chemical or other analysis of the

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cannabidiol.

(19) "Independent cannabidiol testing laboratory agent" means an owner, officer, director, board member, shareholder, agent, employee, or volunteer of an independent cannabidiol testing laboratory.

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

(~~20~~;21) "Medical cannabidiol card" means the same as that term is defined in Section 26-58-102.

~~(21) "Medical cannabidiol establishment agent" means:~~

~~(a) a cannabidiol production establishment agent; or~~

~~(b) a cannabidiol dispensary agent.~~

~~(22) "Medical cannabidiol establishment agent registration card" means a registration card, issued under Section 26-58-407, that authorizes an individual to be a medical cannabidiol establishment agent.~~

(~~23~~;22) "Physician" means the same as that term is defined in Section 26-58-102.

(~~24~~;23) "Qualifying illness" means a condition described in Subsection 58-38a-203.1(1).

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

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

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

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

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

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

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

(b) is tamper proof; and

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

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

(6) A cannabidiol production establishment or cannabis dispensary shall allow access to the cannabidiol production establishment's or cannabidiol dispensary's inventory control system by:

(a) the Department of Public Safety;

(b) the Department of Agriculture and Food;

(c) the Department of Health; and

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

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

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

### **4-42-104. Preemption.**

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

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

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

(1) A person may not ~~operate~~ **act as** a cannabidiol production establishment without a license issued by the department under this chapter.

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

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

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

(c) for each location of a cannabidiol production establishment for which the person applies, evidence that the person can obtain a business license and meet zoning requirements

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established by a political subdivision;

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

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

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

(g) an operation plan that complies with Section 4-42-203.

(3) If the department determines that a cannabidiol production establishment is eligible for a license under this section, the department shall charge the cannabidiol establishment an initial license fee in an amount determined by the department in accordance with Section 63J-1-504.

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

(5) ~~{Notwithstanding Subsection (4), the}~~ The department may issue a cannabidiol cultivation facility license and a cannabidiol processing facility license to be operated by:

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

(b) the same person at separate physical locations.

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

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

(b) that has an owner, officer, board member, volunteer, shareholder, agent, director, or employee whose immediate family member holds a license ~~for~~ or has an ownership interest in a cannabidiol dispensary, a cannabidiol processing facility, or a cannabidiol cultivation facility;

or

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

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

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

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

### **4-42-202. Renewal.**

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

(a) the person meets the requirements of Section 4-42-201; and

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

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

(i) the name and location of the cannabidiol production establishment;

(ii) the day on which the license for the cannabidiol production establishment will expire; and

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

(b) If, after the department publishes the notice described in Subsection (2)(a), the department receives an application for a cannabidiol production establishment from a new applicant and also receives an application for renewal from the existing cannabidiol production establishment, the department shall issue the license to the applicant that the department determines best meets the criteria established in Section 4-42-204.

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

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

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

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

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

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

(b) a description of the credentials and experience of any proposed cannabidiol production establishment agent;

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

(d) a security plan;

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

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

and

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

(4).

(2) A cannabidiol cultivation facility's operating plan shall include the cannabidiol cultivation facility's proposed cannabis cultivation practices, including the cannabidiol cultivation facility's:

(a) pesticide and fertilizer use;

(b) proposed square footage under cultivation; and

(c) anticipated cannabidiol yield.

(3) A cannabidiol processing facility's operating plan shall include the cannabidiol processing facility's proposed cannabidiol processing practices, including the cannabidiol processing facility's:

(a) proposed cannabidiol extraction method;

(b) processing equipment; and

(c) other processing techniques.

(4) An independent cannabidiol testing laboratory's operating plan shall include the independent cannabidiol testing laboratory's proposed cannabidiol and cannabidiol product testing capability.

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

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

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

- (a) two cannabidiol cultivation facility licenses;
- (b) two cannabidiol processing facility licenses; and
- (c) two independent cannabidiol testing laboratory licenses.

(2) If the department receives more applications for a license to operate a given type of cannabidiol production establishment than are available under Subsection (1), the department shall evaluate the applicants to determine which applicant has best demonstrated:

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

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

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

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

(1) An individual may not act as a cannabidiol production establishment agent of a cannabidiol production establishment unless the individual is registered by the department under this section.

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

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

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

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

(b) provides to the department:

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

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

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

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

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

(a) a cannabidiol cultivation facility;

(b) a cannabidiol processing facility;

(c) both a cannabidiol cultivation facility and a cannabidiol processing facility; or

(d) an independent cannabidiol testing laboratory.

(6) A cannabidiol production establishment agent shall complete training in cannabidiol production that complies with minimum standards established by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

(a) violates the requirements of this chapter; or

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

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

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

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

(a) submit to the department:

(i) a fingerprint card in a form acceptable to the Department of Public Safety; and

(ii) a signed waiver in accordance with ~~Section~~ Subsection 53-10-108(4) indicating that the individual's fingerprints are being registered in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service; and

(b) consent to a fingerprint background check by:

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(i) the Utah Bureau of Criminal Identification; and

(ii) ~~{The}~~the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints submitted under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation's Next Generation Identification system;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints submitted under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification system and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the entity only receives notifications for an individual with whom the entity maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints, in accordance with this section, a fee that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification or other authorized agency provides under this section; and

(b) remit a fee collected under Subsection (3)(a) to the Bureau of Criminal Identification.

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

**4-42-303. Cannabidiol production establishment agent registration card --**

**Rebuttable presumption.**

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

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

(b) the individual is transporting cannabis or cannabidiol between two cannabidiol production establishments or transporting cannabidiol between a cannabidiol production establishment and a cannabidiol dispensary.

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~~(2) If an individual handling cannabis or cannabidiol at~~ A cannabidiol production establishment agent registered with the department is guilty of an infraction if the registered cannabidiol production establishment agent:

(a) (i) is on the premises of a cannabidiol production establishment~~;~~ where the individual is registered as an agent; or ~~{ transporting }~~

(ii) transports cannabis or cannabidiol~~;~~ possesses the cannabis or cannabidiol in compliance with Subsection (1):

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

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

~~— (3) An individual who violates Subsection (1) is:~~

~~— (a) ; and~~

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

(3) A registered cannabidiol production establishment agent who is guilty of an infraction~~;~~ and

~~— } under Subsection (f b } 2) is subject to a \$100 fine.~~

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

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

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

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

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

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

(a) in a facility that is accessible only by an individual with a valid cannabidiol

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production establishment agent registration card issued under Section 4-42-301; and

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

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

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

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

(4) A cannabidiol production establishment shall have:

(a) a single, secure public entrance;

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

(i) detects and records entry into the cannabidiol production establishment when the cannabidiol production establishment is closed; and

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

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

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

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

### **4-42-402. Inspections.**

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

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

(a) as many as four times per year, scheduled or unscheduled; and

(b) if the department has reason to believe that the cannabidiol production establishment has violated the law, at any time, scheduled or unscheduled.

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

### **4-42-403. Advertising.**

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

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

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

(1) An individual may not transport cannabis or cannabidiol ~~between two cannabidiol production establishments, or between a cannabidiol production establishment and a cannabidiol dispensary~~ unless the individual has a valid cannabidiol production establishment agent registration card or valid cannabidiol dispensary agent registration card.

(2) An individual transporting cannabidiol or cannabis shall keep a transportation record that includes:

(a) a bar code or identification number that links the cannabis or cannabidiol to a related inventory control system;

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

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

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

(4) ~~{An individual who}~~ A cannabidiol production establishment agent registered with the department is guilty of an infraction if the registered cannabidiol production establishment agent:

(a) transports cannabis or cannabidiol~~{ without a}; and~~

(b) does not possess, on the registered cannabidiol production establishment agent's person or in the transport vehicle, a transportation record that complies with Subsection (2)~~{ is};~~

~~{a}~~5) A registered cannabidiol production establishment agent who is guilty of an infraction~~{; and~~

~~{~~ under Subsection (b)3 is subject to a \$100 fine.

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

## **SB0089S02 compared with SB0089S01**

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

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

- (1) A cannabidiol cultivation facility shall cultivate cannabis indoors.
- (2) A cannabidiol cultivation facility shall ensure that any cannabis growing at the cannabidiol cultivation facility is not visible from outside the cannabidiol cultivation facility.
- (3) A cannabidiol cultivation facility shall use a unique identifier for:
  - (a) each batch of cannabis transferred to a cannabidiol processing facility; and
  - (b) each unique harvest of cannabis plants.
- (4) The department may establish human safety standards, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for a cannabidiol cultivation facility's:
  - (a) use of pesticides;
  - (b) use of fertilizers; and
  - (c) cultivation techniques.

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

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

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

A cannabidiol processing facility shall ensure that cannabidiol that the cannabidiol processing facility sells or provides to a cannabidiol dispensary complies with the requirements of this part.

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

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

- (1) A cannabidiol processing facility may only produce cannabidiol in a medical dosage form that is:
  - (a) a tablet;
  - (b) a capsule;
  - (c) a concentrated oil;
  - (d) a trans-dermal preparation; or
  - (e) a sub-lingual preparation.
- (2) The Controlled Substances Advisory Committee may recommend that the Legislature approve the use of an additional medical dosage form.

## SB0089S02 compared with SB0089S01

(3) A cannabidiol processing facility may not manufacture cannabidiol by applying a cannabis agent to the surface of a food product.

(4) A cannabidiol processing facility may manufacture cannabidiol using cannabis or cannabidiol not produced in the state if the cannabidiol processing enters a record of the cannabis or cannabidiol into the electronic verification system.

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

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

(1) Cannabidiol shall have a label that:

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

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

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

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

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

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

(a) is tamper resistant and opaque; and

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

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

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

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

#### **4-42-701. Cannabidiol testing.**

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

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

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

## **SB0089S02 compared with SB0089S01**

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

- (a) mold;
- (b) fungus;
- (c) pesticides; or
- (d) other microbial contaminants.

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

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

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

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

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

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

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

- (a) is unsafe for human consumption; or
- (b) has a ratio of less than 10 grams of the cannabinoid cannabidiol per each one gram of tetrahydrocannabinol.

(2) If the independent cannabidiol testing laboratory notifies the department of a cannabidiol batch's test results under Subsection (1), the independent cannabidiol testing laboratory may not release the cannabidiol batch to a cannabidiol dispensary until the department has an opportunity to respond to the department within a period of time, determined by the department.

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

## **SB0089S02 compared with SB0089S01**

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

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

### **Part 8. Enforcement**

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

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

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

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

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

- (i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or
- (ii) the person prepared a cannabis or cannabidiol batch in a manner, or such that the batch contains a substance, that poses a threat to human health.

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

- (i) issue the person a citation in writing;
- (ii) attempt to negotiate a stipulated settlement; or
- (iii) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

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

## **SB0089S02 compared with SB0089S01**

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

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

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

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

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

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

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

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

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

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

~~{(8) If the department makes a final determination under this section that an individual violated a provision}~~Section 23. Section 4-42-802 is enacted to read:

### **4-42-802. Report to the Legislature.**

The department shall report, each year before November 1, to the Health and Human Services Interim Committee, on the department's administration and enforcement of this chapter~~, the individual is guilty of an infraction}~~.

Section ~~{23}~~24. Section **26-58-101** is enacted to read:

## **CHAPTER 58. MEDICAL CANNABIDIOL ACT**

### **Part 1. General Provisions**

#### **26-58-101. Title.**

This chapter is known as "Medical Cannabidiol Act."

## SB0089S02 compared with SB0089S01

Section ~~{24}~~25. Section **26-58-102** is enacted to read:

### **26-58-102. Definitions.**

As used in this chapter:

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

(2) "Cannabidiol dispensary" means the same as that term is defined in Section 58-85-102.

(3) "Designated caregiver" means an individual who a patient with a medical cannabidiol card designates as the patient's caregiver under Section 26-58-202.

(4) "Electronic verification system" means the system described in Section 26-58-104.

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

(6) "Medical cannabidiol card" means a card that is issued to an individual by the Department of Health under Section 26-58-201.

(7) "Physician" means an individual who:

(a) is licensed to practice:

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

(ii) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical

Practice Act; and

(b) complies with Section 58-67-807 or 58-68-807.

(8) "Qualifying illness" means a condition described in Subsection 58-38a-203.1(1).

Section ~~{25}~~26. Section **26-58-103** is enacted to read:

### **26-58-103. Local ordinances.**

This chapter does not prohibit a political subdivision from enacting an ordinance, which restricts the location of, or operating requirements of, a cannabidiol dispensary, that is more restrictive than this chapter.

Section ~~{26}~~27. Section **26-58-104** is enacted to read:

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

(1) The Department of Agriculture and Food, the Department of Health, the Department of Public Safety, and the Division of Occupational and Professional Licensing:

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

(b) may direct the Department of Technology Services to work with a third party

## SB0089S02 compared with SB0089S01

provider to develop and maintain the electronic verification system; and

(c) shall coordinate with the Division of Purchasing under Title 63G, Chapter 6a, Utah Procurement Code, to select a third party provider described in Subsection (~~27~~1)(b).

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

(a) allow an individual to:

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

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

(b) allow a physician to electronically recommend treatment with cannabidiol to a patient during a visit with the patient;

(c) connect an individual's medical cannabidiol card to a database, and to an inventory control system used by a cannabidiol dispensary, to track, in real time, for the individual's purchase of cannabidiol:

(i) the time and date of the purchase;

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

(iii) a cannabidiol production establishment or cannabidiol dispensary associated with the cannabidiol;

(d) provide access to an entity described in Subsection (1) to the extent necessary for the entity to carry out the functions and responsibilities given to the entity under this chapter;

(e) provide access to state or local law enforcement:

(i) during a traffic stop; or

(ii) after obtaining a warrant; and

(f) create a record each time the database is accessed that identifies the individual who accessed the database and the individual whose records were accessed.

(3) The Department of Health may release the data collected by the system under Subsection (2) for the purpose of conducting medical research, if the medical research is approved by an institutional review board associated with a university medical school.

Section ~~27~~28. Section **26-58-201** is enacted to read:

### **Part 2. Medical Cannabidiol Card**

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

(1) The department shall, within 15 days after an individual submits an application in

## SB0089S02 compared with SB0089S01

compliance with this section, issue a medical cannabidiol card, via the electronic verification system described in Section 26-58-104, to an individual if the individual:

(a) is at least 18 years old;

(b) is a Utah resident;

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

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

(ii) may benefit from treatment with cannabidiol;

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

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

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

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

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

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

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

(3) A medical cannabidiol card that the department issues under Subsection (1) ~~for (2)~~ is valid for the lesser of:

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

(b) two years.

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

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

(6) An individual shall, as a condition of receiving a medical cannabidiol card under this section, consent to participate in research on treatment with cannabidiol.

Section ~~28~~29. Section 26-58-202 is enacted to read:

**26-58-202. Medical cannabidiol card -- Designated caregiver -- Registration --**

## SB0089S02 compared with SB0089S01

### Renewal -- Revocation.

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

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

(a) carry a valid medical cannabidiol card ~~issued to the individual by the department~~ with the designating patient's name and the designated caregiver's name; and

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

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

(a) is at least 18 years old;

(b) is a Utah resident;

(c) submits an application to the department, online via the electronic verification system, that includes:

(i) the individual's name and address;

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

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

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

(e) complies with Section 26-58-203.

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

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

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

(5) The department shall ~~revoke or~~ refuse to issue ~~for revoke~~ the registration of a designated caregiver if the designated caregiver is convicted of a felony that is:

## SB0089S02 compared with SB0089S01

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

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

Section ~~{29}~~30. Section 26-58-203 is enacted to read:

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

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

(2) An individual registered as a designated caregiver shall:

(a) submit to the department:

(i) a fingerprint card in a form acceptable to the Department of Public Safety; and

(ii) a signed waiver in accordance with ~~{Section}~~Subsection 53-10-108(4) indicating that the individual's fingerprints are being registered in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service; and

(b) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) ~~{The}~~the Federal Bureau of Investigation.

(3) The Bureau of Criminal Identification shall:

(a) check the fingerprints submitted under Subsection (2) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation's Next Generation Identification system;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints submitted under Subsection (2) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification system and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the entity only receives notifications for an individual with whom the entity maintains an authorizing relationship.

(4) The department shall:

(a) assess an individual who submits fingerprints, in accordance with this section, a fee that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of

## SB0089S02 compared with SB0089S01

Criminal Identification or other authorized agency provides under this section; and

(b) remit a fee collected under Subsection (4)(a) to the Bureau of Criminal Identification.

Section ~~{30}~~31. Section **26-58-204** is enacted to read:

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

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

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

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

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

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

~~—— (a) there is a rebuttable presumption that the individual possesses the cannabidiol legally; and~~

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

~~—— (3) If a law enforcement officer stops an An individual who ~~{possesses cannabidiol; the individual represents to the law enforcement officer that the individual holds}~~ has a valid medical cannabidiol card ~~{, and the individual does not have the}~~ is guilty of an infraction if the individual:~~

~~(a) possesses cannabidiol; and~~

~~(b) (i) does not possess the individual's medical cannabidiol card ~~{in}~~ on the individual's {possession, the law enforcement officer shall attempt to access the electronic verification system to determine whether the individual holds a valid medical cannabidiol card.~~

~~—— (4) ~~person; or~~~~

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

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(3) An individual who ~~violates Subsection (1)~~ is:

~~(a)~~ guilty of an infraction~~, and~~

~~under Subsection (b)4~~ is subject to a \$100 fine.

Section 32. Section 26-58-205 is enacted to read:

**26-58-205. Insurance coverage.**

An insurance carrier, third-party administrator, or employer is not required to provide reimbursement for treatment of an individual with cannabidiol under this chapter.

Section 33. Section 26-58-206 is enacted to read:

**26-58-206. Report to the Legislature.**

The department shall, before November 1 each year, report to the Health and Human Services Interim Committee on the department's administration and enforcement of this chapter.

Section ~~31~~34. Section 26-58-301 is enacted to read:

**Part 3. Medical Cannabidiol Research License**

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

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

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

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

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

(a) purchase cannabidiol from a person licensed under Title 58, Chapter 86, Cannabidiol Dispensary License;

(b) possess cannabidiol; or

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

(3) The department shall establish rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that provide:

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

## SB0089S02 compared with SB0089S01

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

Section ~~{32}~~35. Section 41-6a-517 is amended to read:

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

(1) As used in this section:

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

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

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

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

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

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

(a) involuntarily ingested by the accused;

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

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

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

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

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

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

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

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

## **SB0089S02 compared with SB0089S01**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) The Driver License Division shall:

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

(b) deny, suspend, or revoke the operator's license of a person for the denial,

## **SB0089S02 compared with SB0089S01**

suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

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

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

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

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

(b) completes a screening;

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~33~~36. Section **53-1-106.5** is enacted to read:

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

In addition to the duties described in Section 53-1-106, the department shall provide standards for the training of peace officers and law enforcement agencies in the use of the electronic verification system as defined in Section 26-58-102.

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

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

(1) As used in this section:

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

(i) contains an extract or concentrate that:

(A) is obtained from cannabis; and

(B) contains at least 10 grams of the cannabinoid cannabidiol per one gram of tetrahydrocannabinol content;

(ii) is composed of less than 5% tetrahydrocannabinol by weight;

(iii) is composed of at least 5% of the cannabinoid cannabidiol by weight; and

(~~iii~~) iv) is prepared in a medicinal dosage form as required by Section 4-42-602.

(b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not, that has a delta-9 tetrahydrocannabinol concentration of less than 0.~~5%~~3% by dry weight.

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

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

(2) Notwithstanding any other provision of this chapter:

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

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

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

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

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

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

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

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

(c) an individual who possesses, sells, or offers to sell cannabidiol is not subject to the penalties described in this title for the possession, sale, or offer for sale of marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's growth, possession, sale, or offer for sale of cannabidiol complies with:

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

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

(iii) Title 58, Chapter 86, Cannabidiol Dispensary License.

~~{ (3) An individual who is assessed a penalty or convicted of an infraction under Title 4, Chapter 42, Cannabis Production Establishment License, or Title 26, Chapter 58, Medical Cannabidiol Act, or Title 58, Chapter 86, Cannabidiol Dispensary License is not subject to the penalties described in this chapter for:~~

~~(a) the growth, possession, sale, or offer for sale of marijuana or tetrahydrocannabinol;~~  
or

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~~(b) the possession, sale, or offer for sale of marijuana or tetrahydrocannabinol paraphernalia.~~

† Section ~~{35}~~38. Section **58-37f-204** is enacted to read:

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

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

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

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

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

(b) the date of the recommendation;

(c) the date the cannabidiol was dispensed;

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

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

(f) the amount of cannabidiol dispensed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~36~~39. Section **58-38a-201** is amended to read:

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

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

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

(2) the State Medical Examiner or the examiner's designee;

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(3) the commissioner of the Department of Public Safety or the commissioner's designee;

(4) one physician who is a member of the Physicians Licensing Board and is designated by that board;

(5) one pharmacist who is a member of the Utah State Board of Pharmacy and is designated by that board;

~~[(6) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board and is designated by that board;]~~

~~[(7) one physician who is currently licensed and practicing in the state, to be appointed by the governor;]~~

~~[(8)]~~ (6) one psychiatrist who is currently licensed and practicing in the state, to be appointed by the governor;

~~[(9)]~~ (7) one individual with expertise in substance abuse addiction, to be appointed by the governor;

~~[(10)]~~ (8) one representative from the Statewide Association of Prosecutors, to be designated by that association;

~~[(11) one naturopathic physician who is currently licensed and practicing in the state, to be appointed by the governor;]~~

~~[(12)]~~ (9) one advanced practice registered nurse who is currently licensed and practicing in this state, to be appointed by the governor; ~~[and]~~

(10) two medical research professionals with expertise in controlled substances, including one medical research professional who is affiliated with a research-based higher education institution;

(11) one representative of the Utah Chiefs of Police Association; and

~~[(13)]~~ (12) one member of the public, to be appointed by the governor.

Section ~~37~~40. Section **58-38a-203** is amended to read:

### **58-38a-203. Duties of the committee.**

(1) The committee serves as a consultative and advisory body to the Legislature regarding:

(a) the movement of a controlled substance from one schedule or list to another;

(b) the removal of a controlled substance from any schedule or list; ~~[and]~~

## SB0089S02 compared with SB0089S01

(c) the designation of a substance as a controlled substance and the placement of the substance in a designated schedule or list[.]; and

(d) the designation of a medical condition as a qualified illness for treatment using cannabidiol as described in Subsection 58-38a-203.1(1).

(2) On or before September 30 of each year, the committee shall submit to the Health and Human Services Interim Committee a written report:

(a) describing any substances recommended by the committee for scheduling, rescheduling, listing, or deletion from the schedules or list by the Legislature; ~~and~~

(b) containing the report described in Subsection 58-38a-203.1(1); and

~~(b)~~ (c) stating the reasons for the recommendation.

(3) In advising the Legislature regarding the need to add, delete, relist, or reschedule a substance, the committee shall consider:

(a) the actual or probable abuse of the substance, including:

(i) the history and current pattern of abuse both in Utah and in other states;

(ii) the scope, duration, and significance of abuse;

(iii) the degree of actual or probable detriment to public health which may result from abuse of the substance; and

(iv) the probable physical and social impact of widespread abuse of the substance;

(b) the biomedical hazard of the substance, including:

(i) its pharmacology, including the effects and modifiers of the effects of the substance;

(ii) its toxicology, acute and chronic toxicity, interaction with other substances, whether controlled or not, and the degree to which it may cause psychological or physiological dependence; and

(iii) the risk to public health and the particular susceptibility of segments of the population;

(c) whether the substance is an immediate precursor, as defined in Section 58-37-2, of a substance that is currently a controlled substance;

(d) the current state of scientific knowledge regarding the substance, including whether there is any acceptable means to safely use the substance under medical supervision;

(e) the relationship between the use of the substance and criminal activity, including whether:

## SB0089S02 compared with SB0089S01

- (i) persons engaged in illicit trafficking of the substance are also engaged in other criminal activity;
- (ii) the nature and relative profitability of manufacturing or delivering the substance encourages illicit trafficking in the substance;
- (iii) the commission of other crimes is one of the recognized effects of abuse of the substance; and
- (iv) addiction to the substance relates to the commission of crimes to facilitate the continued use of the substance;
- (f) whether the substance has been scheduled by other states; and
- (g) whether the substance has any accepted medical use in treatment in the United States.

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

Section ~~{38}~~41. Section **58-38a-203.1** is enacted to read:

### **58-38a-203.1. Qualifying illness for treatment using medical cannabidiol -- Committee duties -- Recommendation to Legislature.**

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

- (a) epilepsy;
- (b) nausea and vomiting during chemotherapy;
- (c) appetite stimulation caused by an HIV or AIDS infection;
- (d) muscle spasticity or a movement disorder; and
- (e) neuropathic pain conditions as follows:
  - (i) complex regional pain syndrome;
  - (ii) peripheral neuropathy caused by diabetes;
  - (iii) post herpetic neuralgia;
  - (iv) pain related to HIV;
  - (v) pain related to cancer;
  - (vi) pain occurring after and related to a stroke; and
  - (vii) phantom limb pain.

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

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

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

Section ~~39~~42. Section **58-67-807** is enacted to read:

### **58-67-807. Recommendation of cannabidiol -- Registration with division and Department of Health.**

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

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

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

(2) A physician who recommends cannabidiol shall:

(a) recommend cannabidiol to ~~100 patients or fewer~~no more than an amount of patients determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

(c) report an adverse event experienced by a patient related to the patient's medical cannabidiol use to the Department of Health; and

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

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

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

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

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### Medical Cannabidiol Act.

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

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

Section ~~{40}~~43. Section **58-68-807** is enacted to read:

### **58-68-807. Recommendation of cannabidiol -- Registration with division and Department of Health.**

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

- (a) registers with the division and the Department of Health as a physician who recommends cannabidiol; and
- (b) completes the training required under Subsection (3).
- (2) A physician who recommends cannabidiol shall:
  - (a) recommend cannabidiol to ~~{100 patients or fewer}~~ **no more than an amount of patients determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;**
  - (b) consult the controlled substance database before recommending cannabidiol to a patient to determine if the patient is abusing cannabidiol;
  - (c) report an adverse event experienced by a patient related to the patient's medical cannabidiol use to the Department of Health; and
  - (d) report other data on cannabidiol required by Title 26, Chapter 58, Medical Cannabidiol Act.

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

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

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

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

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

Section ~~{41}~~44. Section **58-86-101** is enacted to read:

### **CHAPTER 86. CANNABIDIOL DISPENSARY LICENSE**

#### **Part 1. General Provisions**

#### **58-86-101. Title.**

This chapter is known as "Cannabidiol Dispensary License."

Section ~~{42}~~45. Section **58-86-102** is enacted to read:

#### **58-86-102. Definitions.**

As used in this chapter:

- (1) "Cannabidiol" means the same as that term is defined in Section 58-37-3.6.
- (2) "Cannabidiol cultivation facility" means the same as that term is defined in Section 4-42-102.
- (3) "Cannabidiol dispensary" means a person that:
  - (a) sells cannabidiol; or
  - (b) purchases or possesses cannabidiol with the intent to sell cannabidiol.
- (4) "Cannabidiol dispensary agent" means an owner, officer, director, board member, shareholder, agent, employee or volunteer of a cannabidiol dispensary.
- (5) "Cannabidiol dispensary agent registration card" means a registration card, issued by the division under Section 58-85-301, that authorizes an individual to be a cannabidiol dispensary agent.
- (6) "Cannabidiol production establishment" means the same as that term is defined in Section 4-42-102.
- (7) "Cannabidiol production establishment agent" means the same as that term is

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defined in Section 4-42-102.

(8) "Cannabidiol production establishment agent registration card" means the same as that term is defined in Section 4-42-102.

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

(10) "Designated caregiver" means the same as that term is defined in Section 26-58-102.

(11) "Electronic verification system" means the system described in Section 26-58-104.

(12) "Independent cannabidiol testing laboratory" means the same as that term is defined in Section 4-42-102.

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

(14) "Medical cannabidiol card" means the same as that term is defined in Section 26-58-102.

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

Section ~~{43}~~46. Section **58-86-201** is enacted to read:

### **Part 2. License and Eligibility**

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

(1) A person may not operate as a cannabidiol dispensary without a license from the division issued under this part.

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

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

(b) evidence that the person:

(i) possesses or controls a minimum of \$50,000 in liquid assets for each application submitted to the division;

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

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

(iv) can obtain a business license and meet zoning requirements established by a political subdivision;

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(c) an application fee, in an amount determined by the division in accordance with Section 63J-1-504, that is necessary to cover the division's cost to implement this part; and

(d) an operating plan that complies with Section 58-86-203.

(3) If the division determines that a cannabidiol dispensary is eligible for a license under this section, the division shall charge the cannabidiol dispensary an initial license fee in an amount determined by the division in accordance with Section 63J-1-504.

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

Section ~~{44}~~47. Section **58-86-202** is enacted to read:

### **58-86-202. Renewal.**

(1) Except as provided in Subsection (~~{3}~~2), the division shall renew a person's license under this part every two years if, at the time of renewal:

(a) the person meets the requirements of Section 58-86-201; and

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

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

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

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

(iii) a solicitation for cannabidiol dispensary license applicants.

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

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

(b) The division may establish criteria, in accordance with Title 63G, Chapter 3, Utah

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Administrative Rulemaking Act, for what actions by a cannabidiol dispensary constitute abandonment of a cannabidiol dispensary license.

Section ~~{45}~~48. Section **58-86-203** is enacted to read:

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

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

(2) The operating plan described in Subsection (1) shall include:

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

(b) a security plan for the cannabidiol dispensary;

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

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

Section ~~{46}~~49. Section **58-86-204** is enacted to read:

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

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

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

(a) experience with:

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

(ii) operating a secure inventory control system;

(iii) complying with a regulatory environment; and

(iv) training, evaluating, and monitoring employees; and

(b) connections to the local community.

Section ~~{47}~~50. Section **58-86-301** is enacted to read:

### **Part 3. Cannabidiol Dispensary Agents**

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

(1) An individual may not act as an owner, officer, director, board member, shareholder, agent, or employee of a cannabidiol dispensary unless the individual is registered

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by the division as a cannabidiol dispensary agent.

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

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

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

(b) provides to the division:

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

(ii) the name and location of the licensed cannabidiol dispensary where the individual will act as a cannabidiol dispensary agent;

(c) pays a registration fee to the division, in an amount determined by the division in accordance with Section 63J-1-504, that is necessary to cover the division's cost to implement this chapter;

(d) complies with the requirement for, and passes, a criminal background check described in Section 58-86-302; and

(e) demonstrates to the division that the individual has completed a training program designated by the division under Subsection (4).

(4) The division shall establish cannabidiol dispensary agent training requirements by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The division shall revoke ~~or refuse to issue~~ the cannabidiol dispensary agent registration card of an individual who:

(a) violates the requirements of this chapter; or

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

Section ~~{48}~~51. Section **58-86-302** is enacted to read:

### **58-86-302. Cannabidiol dispensary agents -- Criminal background checks.**

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

(a) submit to the division:

(i) a fingerprint card in a form acceptable to the Department of Public Safety; and

(ii) a signed waiver in accordance with ~~{Section}~~Subsection 53-10-108(4) indicating that the individual's fingerprints are being registered in the Federal Bureau of Investigation's

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Next Generation Identification system's Rap Back Service; and

(b) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) ~~the~~the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints submitted under Subsection (~~2~~1) against the applicable state, regional and national criminal records databases, including the Federal Bureau of Investigation's Next Generation Identification system;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints submitted under Subsection (~~2~~1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification system and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the entity only receives notifications for an individual with whom the entity maintains an authorizing relationship.

(4) The division shall:

(a) assess an individual who submits fingerprints, in accordance with this section, a fee that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification or other authorized agency provides under this section; and

(b) remit a fee collected under Subsection (4)(a) to the Bureau of Criminal Identification.

Section ~~49~~52. Section 58-86-303 is enacted to read:

**58-86-303. Cannabidiol dispensary agent registration card -- ~~Rebuttable presumption~~Required to carry registration card.**

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

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

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(b) the individual is transporting cannabis or cannabidiol between two cannabidiol production establishments or ~~transporting cannabidiol~~ between a cannabidiol production establishment and a cannabidiol dispensary.

(2) ~~If an individual handling cannabis or~~ A cannabidiol ~~at~~ dispensary agent registered with the department is guilty of an infraction if the registered cannabidiol dispensary agent:

(a) (i) is on the premises of a cannabidiol dispensary ~~;~~ where the individual is registered as an agent; or ~~transporting~~

(ii) transports cannabis or cannabidiol ~~;~~ possesses the cannabis or cannabidiol in compliance with Subsection (1):

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

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

~~— (3) An individual who violates Subsection (1) is:~~

~~— (a) ~~;~~ and~~

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

(3) A registered cannabidiol dispensary agent who is guilty of an infraction ~~;~~ and ~~;~~ under Subsection ~~(b)3~~ is subject to a \$100 fine.

Section ~~{50}~~ 53. Section **58-86-401** is enacted to read:

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

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

(1) (a) A cannabidiol dispensary shall operate in accordance with the operating plan that the cannabidiol dispensary provides to the department under Section 58-86-203.

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

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

(a) in a facility that is accessible only by an individual with a valid cannabidiol dispensary agent registration card issued under Section 58-86-301 or by an individual with a

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medical cannabidiol card; and

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

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

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

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

(4) A cannabidiol dispensary may not operate without:

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

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

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

(b) a lock on any entrance to the area of the cannabidiol dispensary where ~~medical cannabis~~ cannabidiol is stored; and

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

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

(a) serve as a cannabidiol dispensary agent; or

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

(6) (a) A cannabidiol dispensary shall employ an individual licensed as a pharmacist under Title 58, Chapter 17b, Pharmacy Practice Act, to act as a consultant.

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

(i) review the records of each individual with a medical cannabidiol card who purchases cannabidiol from the cannabidiol dispensary; and

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

(7) A cannabidiol dispensary may not allow any individual to consume cannabidiol on the property or premises of the establishment.

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

Section ~~51~~54. Section **58-86-402** is enacted to read:

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

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

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

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(a) cannabidiol; or

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

(2) A cannabidiol dispensary may only sell cannabidiol to an individual with a medical cannabidiol card issued by the department.

(3) A cannabidiol dispensary may not dispense on behalf of any one individual with a medical cannabidiol card, in any one 30-day period, an amount of cannabidiol that exceeds a 30-day supply of the dosage recommended by the individual's physician.

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

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

(6) A cannabidiol dispensary shall:

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

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

(c) comply with Section 58-37f-204.

Section ~~{52}~~55. Section **58-86-403** is enacted to read:

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

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

(a) the amount of cannabidiol is clearly and accurately stated on the cannabidiol packaging; and

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

(2) A cannabidiol dispensary may only sell cannabidiol that has been inspected by an independent cannabidiol testing laboratory in accordance with Section ~~{4-42-502}~~4-42-701.

Section ~~{53}~~56. Section **58-86-404** is enacted to read:

### **58-86-404. Advertising.**

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

(2) A cannabidiol dispensary may advertise using a:

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

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

Section ~~{54}~~57. Section **58-86-405** is enacted to read:

### **58-86-405. Inspections.**

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

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

(a) as many as four times per year, scheduled or unscheduled; and

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

Section ~~{55}~~58. Section **58-86-406** is enacted to read:

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

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

(a) cannabidiol production establishment agent registration card; or

(b) cannabidiol dispensary agent registration card.

(2) An individual transporting cannabidiol shall keep a transportation record that includes:

(a) a bar code or identification number that links the cannabidiol to a relevant inventory control system;

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

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

(3) In addition to the requirements in Subsections (1) and (2), the Department of

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Agriculture and Food may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabidiol related to human consumption safety.

(4) ~~{An individual who}~~A cannabidiol dispensary agent registered with the department is guilty of an infraction if the registered cannabidiol dispensary agent:

(a) transports cannabis or cannabidiol~~{ without a}; and~~

(b) does not possess, on the registered cannabidiol dispensary agent's person or in the transport vehicle, a transportation record that complies with Subsection (2)~~{ is:};~~

~~{a}5) A registered cannabidiol dispensary agent who is~~ guilty of an infraction~~{; and~~

~~{ under Subsection (b)3) is~~ subject to a \$100 fine.

Section ~~{56}59. Section 58-86-501 is enacted to read:~~

### **Part 5. Enforcement**

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

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

(a) revoke the person's license;

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

(c) assess the person an administrative penalty; or

(d) take any other appropriate administrative action.

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

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

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

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

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

(5) If within 20 calendar days after the day on which a division serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing

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to contest the citation, the citation becomes the [basis of the](#) division's final order.

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

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

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

~~{ (7) If the division makes a final determination under this section that an individual violated a provision of this chapter, the individual is guilty of an infraction.~~

‡ Section ~~{57}~~60. Section **59-12-103** is amended to read:

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

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

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

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

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(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

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(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

- (i) stored;
- (ii) used; or
- (iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

- (i) stored;
- (ii) used; or
- (iii) consumed; [~~and~~]

(m) amounts paid or charged for a sale:

- (i) (A) of a product transferred electronically; or
- (B) of a repair or renovation of a product transferred electronically; and
- (ii) regardless of whether the sale provides:
  - (A) a right of permanent use of the product; or
  - (B) a right to use the product that is less than a permanent use, including a right:
    - (I) for a definite or specified length of time; and
    - (II) that terminates upon the occurrence of a condition[-]; and

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

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

- (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
  - (A) 4.70%; and

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

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

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

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

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

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

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

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

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

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

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

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

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

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

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract

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

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

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

(II) state or federal law provides otherwise.

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

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

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

(B) is able to identify by reasonable and verifiable standards, from the books and

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records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

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

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

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

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

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

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

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

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

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

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

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

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

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

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

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

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

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

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

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

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

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

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(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

- (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
  - (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
  - (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

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

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

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

(iii) At the end of each fiscal year:

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

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

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

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Program Subaccount created in Section 73-10c-5.

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

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

(ii) At the end of each fiscal year:

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

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

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

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

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

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

(B) fund state required dam safety improvements; and

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

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount

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created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

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

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

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

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

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(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created in Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in

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Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (A) the tax imposed by Subsection (2)(a)(i)(A);
- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected

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from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year under Subsection (8)(a).

(9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b), and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients

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described in Subsection (2)(d).

(13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Subsection 63N-2-510~~(3)~~(2) that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(14) Notwithstanding Subsections (4) through (13), an amount required to be expended or deposited in accordance with Subsections (4) through (13) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section ~~58~~61. Section **63I-1-258** is amended to read:

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

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

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

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

(4) Section 58-37-4.3 is repealed July 1, 2016.

(5) Section 58-38a-203.1 is repealed July 1, 2017.

~~(5)~~ (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

~~(6)~~ (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

~~(7)~~ (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

~~(8)~~ (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

~~(9)~~ (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

~~(10)~~ (11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

~~(11)~~ (12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

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Section ~~{59}~~62. **Effective date.**

This bill takes effect on July 1, 2016.