

SB0089S05 compared with SB0089S04

~~{deleted text}~~ shows text that was in SB0089S04 but was deleted in SB0089S05.

inserted text shows text that was not in SB0089S04 but was inserted into SB0089S05.

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Representative ~~{Brad}~~Robert M. ~~{Daw}~~Spendlove proposes the following substitute bill:

~~{MEDICAL CANNABIDIOL}~~CANNABIS-BASED MEDICINE

AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Brad M. Daw

LONG TITLE

General Description:

This bill modifies and enacts provisions related to medical

~~{cannabidiol}~~cannabis-based medicine.

Highlighted Provisions:

This bill:

- ▶ allows an individual with a qualifying illness who registers with a state electronic verification system to possess and use ~~{cannabidiol}~~cannabis-based medicine under certain circumstances;
- ▶ directs the Department of Health to issue a medical ~~{cannabidiol}~~cannabis card to an individual who meets the requirements of:

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- 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}~~CBM dispensary to a person that meets certain qualifications; and
 - a registration card to an individual to act as an agent of a ~~{cannabidiol}~~CBM dispensary to an individual who meets certain qualifications;
- ▶ directs the Department of Agriculture and Food to issue:
 - a license to operate a ~~{cannabidiol}~~cannabis 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}~~cannabis-based medicine establishment if the individual meets certain qualifications;
- ▶ directs the Department of Financial Institutions to issue a license to a person to operate a ~~{cannabidiol}~~cannabis payment processor;
- ▶ requires a ~~{cannabidiol}~~CBM dispensary to report the distribution of ~~{cannabidiol}~~cannabis-based medicine to an individual to the Utah Controlled Substance Database;
- ▶ permits a political subdivision to restrict the location of and operations of a ~~{cannabidiol}~~CBM dispensary or medical ~~{cannabidiol}~~cannabis-based medicine 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}~~cannabis-based medicine under certain circumstances;
- ▶ requires a physician who recommends ~~{cannabidiol}~~cannabis-based medicine 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}~~cannabis-based medicine;
- ▶ ~~{makes}~~imposes a tax on the retail sale of medical ~~{cannabidiol}~~subject to sales

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~~tax~~ cannabis-based medicine;

- ▶ amends provisions related to driving with a measurable metabolite of ~~cannabidiol~~ cannabis-based medicine;
- ▶ creates the Medical Cannabis Restricted Account;
- ▶ modifies the membership of the Controlled Substances Advisory Committee;
- ▶ allows a higher education institution to purchase ~~cannabidiol~~ cannabis-based medicine, possess ~~cannabidiol~~ cannabis-based medicine, and give ~~cannabidiol~~ cannabis-based medicine 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~~

~~cannabis-based medicine~~;

- ▶ prohibits a court from discriminating against a parent in a child custody case based on the parent's legal use of cannabis-based medicine; and
- ▶ prohibits a peace officer or child welfare worker from removing a child from an individual's home on the basis of the individual's lawful use of cannabis-based medicine.

Money Appropriated in this Bill:

None

Other Special Clauses:

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}~~ **62A-4a-202.1**, as last amended by Laws of Utah ~~{2015}~~ 2012, ~~{Chapter 283}~~ Chapters 221 and 293

63I-1-258, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367, and 432

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

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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

4-42-205, 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

~~4-42-604, Utah Code Annotated 1953~~

4-42-701, Utah Code Annotated 1953

4-42-702, Utah Code Annotated 1953

4-42-801, Utah Code Annotated 1953

4-42-802, Utah Code Annotated 1953

4-42-803, Utah Code Annotated 1953

7-26-101, Utah Code Annotated 1953

7-26-102, Utah Code Annotated 1953

7-26-201, Utah Code Annotated 1953

7-26-202, Utah Code Annotated 1953

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7-26-203, Utah Code Annotated 1953
7-26-301, Utah Code Annotated 1953
7-26-401, Utah Code Annotated 1953
7-26-402, 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
26-58-105, Utah Code Annotated 1953
26-58-201, Utah Code Annotated 1953
26-58-202, Utah Code Annotated 1953
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26-58-205, Utah Code Annotated 1953
26-58-206, Utah Code Annotated 1953
26-58-207, Utah Code Annotated 1953
26-58-301, Utah Code Annotated 1953
26-58-401, 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
58-86-102, Utah Code Annotated 1953
58-86-201, Utah Code Annotated 1953
58-86-202, Utah Code Annotated 1953
58-86-203, Utah Code Annotated 1953
58-86-204, Utah Code Annotated 1953
58-86-205, Utah Code Annotated 1953

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58-86-301, Utah Code Annotated 1953

58-86-302, Utah Code Annotated 1953

58-86-303, Utah Code Annotated 1953

58-86-401, Utah Code Annotated 1953

58-86-402, Utah Code Annotated 1953

58-86-403, Utah Code Annotated 1953

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

58-86-502, Utah Code Annotated 1953

59-12-104.7, Utah Code Annotated 1953

59-28-101, Utah Code Annotated 1953

59-28-102, Utah Code Annotated 1953

59-28-103, Utah Code Annotated 1953

59-28-104, Utah Code Annotated 1953

59-28-105, Utah Code Annotated 1953

59-28-106, Utah Code Annotated 1953

59-28-107, Utah Code Annotated 1953

59-28-108, Utah Code Annotated 1953

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

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

**CHAPTER 42. ~~{CANNABIDIOL}~~CANNABIS PRODUCTION ESTABLISHMENT
LICENSE**

Part 1. General Provisions

4-42-101. Title.

This chapter is known as "~~{Cannabidiol}~~Cannabis Production Establishment License."

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

4-42-102. Definitions.

As used in this chapter:

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(1) "~~{Cannabidiol}~~Cannabis-based medicine" means the same as that term is defined in Section 58-37-3.6.

(2) "~~{Cannabidiol}~~Cannabis cultivation facility" means a person that:

(a) grows cannabis; or

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

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

(4) "~~{Cannabidiol}~~Cannabis-based medicine dispensary" or "CBM dispensary" means a person that:

(a) sells ~~{cannabidiol}~~cannabis-based medicine; or

(b) purchases or possesses ~~{cannabidiol}~~cannabis-based medicine with the intent to sell ~~{cannabidiol}~~cannabis-based medicine.

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

~~———~~ (6) "~~{Cannabidiol}~~Cannabis-based medicine dispensary agent~~{ registration card}~~" or "CBM dispensary agent" means the same as that term is defined in Section 58-86-102.

(6) "Cannabis-based medicine dispensary agent registration card" or "CBM dispensary agent registration card" means the same as that term is defined in Section 58-86-102.

(7) "~~{Cannabidiol}~~Cannabis payment processor" means the same as that term is defined in Section 7-26-102.

(8) "~~{Cannabidiol}~~Cannabis processing facility" means a person that:

(a) manufactures ~~{cannabidiol}~~cannabis-based medicine from cannabis;

(b) purchases or possesses cannabis with the intent to manufacture ~~{cannabidiol}~~cannabis-based medicine; or

(c) sells or intends to sell ~~{cannabidiol}~~cannabis-based medicine to a cannabis dispensary.

(9) "~~{Cannabidiol}~~Cannabis processing facility agent" means an owner, officer, director, board member, shareholder, agent, employee, or volunteer of a ~~{cannabidiol}~~cannabis processing facility.

(10) "~~{Cannabidiol}~~Cannabis production establishment" means:

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- (a) a ~~ƒcannabidiolƒ~~cannabis cultivation facility;
 - (b) a ~~ƒcannabidiolƒ~~cannabis processing facility; or
 - (c) an independent ~~ƒcannabidiolƒ~~cannabis testing laboratory.
- (11) "~~ƒCannabidiolƒ~~Cannabis production establishment agent" means:
- (a) a ~~ƒcannabidiolƒ~~cannabis cultivation facility agent;
 - (b) a ~~ƒcannabidiolƒ~~cannabis processing facility agent; or
 - (c) an independent ~~ƒcannabidiolƒ~~cannabis testing laboratory agent.
- (12) "~~ƒCannabidiolƒ~~Cannabis 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 ~~ƒcannabidiolƒ~~cannabis production establishment agent; and
 - (b) designates the type of ~~ƒcannabidiolƒ~~cannabis production establishment for which the individual is authorized to act as a ~~ƒcannabidiolƒ~~cannabis production establishment agent.
- (13) "Cannabinoid profile" means the percentage of ~~ƒcannabidiolƒ~~cannabis-based medicine, by weight, that is composed of the cannabinoids:
- (a) tetrahydrocannabinol or THC;
 - (b) tetrahydocannabinolic acid or THCa;
 - (c) cannabidiol or CBD;
 - (d) cannabinol or CBN; and
 - (e) cannabigerol or CBG.
- (14) "Cannabis" means the same as that term is defined in Section 58-37-3.6.
- (15) "Controlled Substances Advisory Committee" means the committee created in Section 58-38a-201.
- (16) "Designated caregiver" means the same as that term is defined in Section 58-86-102.
- (17) "Electronic verification system" means the system described in Section 26-58-104.
- (18) "Independent ~~ƒcannabidiolƒ~~cannabis testing laboratory" means a person that:
- (a) conducts a chemical or other analysis of ~~ƒcannabidiolƒ~~cannabis-based medicine; or
 - (b) possesses ~~ƒcannabidiolƒ~~cannabis-based medicine with the intent to conduct a chemical or other analysis of the ~~ƒcannabidiolƒ~~cannabis-based medicine.
- (19) "Independent ~~ƒcannabidiolƒ~~cannabis testing laboratory agent" means an owner,

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officer, director, board member, shareholder, agent, employee, or volunteer of an independent ~~{}cannabidiol{}cannabis~~ testing laboratory.

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

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

~~(22) "Medical Cannabis Restricted Account" means the account created in Section 26-58-105.~~

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

~~(24)~~(24) "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) The electronic verification system shall include, for each ~~{}cannabidiol{}cannabis~~ production establishment and ~~{}cannabidiol{}CBM~~ dispensary, an inventory control system that meets the requirements of this section.

(2) An inventory control system shall track ~~{}cannabidiol{}cannabis-based medicine~~ and the cannabis from which the ~~{}cannabidiol{}cannabis-based medicine~~ is derived, in real time, from the time that a cannabis plant is first planted as a seed or clone until the ~~{}cannabidiol{}cannabis-based medicine~~ derived from the cannabis is sold by a ~~{}cannabidiol{}CBM~~ dispensary.

(3) An inventory control system shall store, in real time, a record of the amount of cannabis or ~~{}cannabidiol{}cannabis-based medicine~~ in a ~~{}cannabidiol{}cannabis~~ production establishment's or ~~{}cannabidiol{}CBM~~ 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{}cannabis~~ production establishment or ~~{}cannabidiol{}CBM~~ dispensary;

(b) is tamper proof; and

(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) An inventory control system shall allow access by:

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- (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.

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 ~~fcannabidiol}~~cannabis production establishment that is more restrictive than this chapter.

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

4-42-201. ~~fCannabidiol}~~ Cannabis production establishment -- License -- Renewal.

(1) A person may not act as a ~~fcannabidiol}~~cannabis 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 ~~fcannabidiol}~~cannabis production establishment to a person that submits to the department:

(a) a proposed name, address, and physical location where the person will operate the ~~fcannabidiol}~~cannabis production establishment;

(b) a bond as required by Section 4-42-205, for each license for which the person applies;

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

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

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(3) If the department determines that a ~~{}cannabidiol~~cannabis production establishment is eligible for a license under this section, the department shall charge the ~~{}cannabidiol~~cannabis-based medicine 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~~cannabis production establishment and each location of a ~~{}cannabidiol~~cannabis production establishment.

(5) The department may issue a ~~{}cannabidiol~~cannabis cultivation facility license and a ~~{}cannabidiol~~cannabis 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~~cannabis testing laboratory to a person:

(a) that holds a license for or has an ownership interest in a ~~{}cannabidiol~~CBM dispensary, a ~~{}cannabidiol~~cannabis processing facility, or a ~~{}cannabidiol~~cannabis 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~~CBM dispensary, a ~~{}cannabidiol~~cannabis processing facility, or a ~~{}cannabidiol~~cannabis cultivation facility; or

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

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

(8) The department may revoke a license under this chapter if the ~~{}cannabidiol~~cannabis 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.

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(1) Except as provided in Subsection (2), the department shall renew a person's ~~{}cannabidiol~~cannabis 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~~cannabis 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~~cannabis production establishment is located, one year before the day on which the ~~{}cannabidiol~~cannabis production establishment's license expires, that includes:

(i) the name and location of the ~~{}cannabidiol~~cannabis production establishment;

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

(iii) a solicitation for ~~{}cannabidiol~~cannabis 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~~cannabis production establishment from a new applicant and also receives an application for renewal from the existing ~~{}cannabidiol~~cannabis 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~~cannabis production establishment abandons the ~~{}cannabidiol~~cannabis 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~~cannabis production establishment constitute abandonment of a ~~{}cannabidiol~~cannabis production establishment license.

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

4-42-203. Operating plan.

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(1) A person applying for a license to act as a ~~{}cannabidiol~~cannabis production establishment shall submit to the department, with the person's application, a proposed 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~~cannabis production establishment agent;

(c) the ~~{}cannabidiol~~cannabis production establishment's employee training standards;

(d) a security plan;

(e) a plan to process payments through a ~~{}cannabidiol~~cannabis payment processor licensed under Section 7-26-201.

(f) for a ~~{}cannabidiol~~cannabis cultivation facility, the information described in Subsection (2);

(g) for a ~~{}cannabidiol~~cannabis processing facility, the information described in Subsection (3); and

(h) for an independent ~~{}cannabidiol~~cannabis-based medicine testing lab, the information described in Subsection (4).

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

(a) pesticide and fertilizer use;

(b) proposed square footage under cultivation; and

(c) anticipated ~~{}cannabidiol~~cannabis-based medicine yield.

(3) A ~~{}cannabidiol~~cannabis processing facility's operating plan shall include the ~~{}cannabidiol~~cannabis processing facility's proposed ~~{}cannabidiol~~cannabis-based medicine processing practices, including the ~~{}cannabidiol~~cannabis processing facility's:

(a) proposed ~~{}cannabidiol~~cannabinoid extraction method;

(b) processing equipment; and

(c) other processing techniques.

(4) An independent ~~{}cannabidiol~~cannabis testing laboratory's operating plan shall include the independent ~~{}cannabidiol~~cannabis testing laboratory's proposed ~~{}cannabidiol~~cannabis-based medicine and ~~{}cannabidiol~~cannabis-based medicine product

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testing capability.

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

4-42-204. Maximum number of licenses.

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

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

(2) If the department receives more applications for a license to operate a given type of ~~{cannabidiol}~~cannabis 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;

(b) connections to the local community; and

(c) that the applicant will keep the cost of the applicant's products or services low.

Section 9. Section 4-42-205 is enacted to read:

4-42-205. Bond for a ~~{cannabidiol}~~cannabis production establishment license.

(1) A ~~{cannabidiol}~~cannabis production establishment licensed under Section 4-42-201 shall post a cash bond or surety bond, payable to the department, in an amount equal to:

- (a) for a ~~{cannabidiol}~~cannabis cultivation facility, \$2,000,000;
- (b) for a ~~{cannabidiol}~~cannabis processing facility, \$1,000,000; and
- (c) for an independent ~~{cannabidiol}~~cannabis testing laboratory, \$75,000.

(2) A ~~{cannabidiol}~~cannabis production establishment licensed under Section 4-42-201 shall maintain the bond described in Subsection (1) for as long as the ~~{cannabidiol}~~cannabis production establishment continues to operate.

(3) The department shall require a bond a ~~{cannabidiol}~~cannabis production establishment posts under this section to be:

- (a) in a form approved by the attorney general; and

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(b) conditioned upon the ~~{}cannabidiol{}cannabis~~ production establishment's compliance with this chapter.

(4) If a bond described in Subsection (1) is canceled due to a ~~{}cannabidiol{}cannabis~~ production establishment's negligence, the department may assess the ~~{}cannabidiol{}cannabis~~ production establishment a \$300 reinstatement fee.

(5) A ~~{}cannabidiol{}cannabis~~ production establishment may not withdraw any part of a bond posted under Subsection (1):

(a) during the period when the ~~{}cannabidiol{}cannabis~~ production establishment's license is in effect; or

(b) while a license revocation proceeding is pending against the ~~{}cannabidiol{}cannabis~~ production establishment.

(6) A ~~{}cannabidiol{}cannabis~~ production establishment forfeits a bond posted under Subsection (1) if the ~~{}cannabidiol{}cannabis~~ production establishment's license is revoked.

(7) The department may, without revoking a license, make a claim against a bond posted by a ~~{}cannabidiol{}cannabis~~ production establishment under Subsection (1) for money the ~~{}cannabidiol{}cannabis~~ production establishment owes the department under this chapter.

Section 10. Section 4-42-301 is enacted to read:

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4-42-301. ~~{}Cannabidiol{}Cannabis~~ production establishment agent --

Registration.

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

(2) A physician may not serve as a ~~{}cannabidiol{}cannabis~~ production establishment agent.

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

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

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(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}~~cannabis production establishment where the individual seeks to act as the ~~{cannabidiol}~~cannabis production establishment's agent; and

(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}~~cannabis production establishment agent registration card the department issues under Subsection (4), whether the ~~{cannabidiol}~~cannabis production establishment agent registration card holder is authorized to act as an agent for:

(a) a ~~{cannabidiol}~~cannabis cultivation facility;

(b) a ~~{cannabidiol}~~cannabis processing facility;

(c) both a ~~{cannabidiol}~~cannabis cultivation facility and a ~~{cannabidiol}~~cannabis processing facility; or

(d) an independent ~~{cannabidiol}~~cannabis testing laboratory.

(6) A ~~{cannabidiol}~~cannabis production establishment agent shall complete training in ~~{cannabidiol}~~cannabis-based medicine 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}~~cannabis 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 11. Section **4-42-302** is enacted to read:

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

(1) An individual applying for a ~~f cannabidiol~~ **cannabis** 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 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 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.

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Section 12. Section 4-42-303 is enacted to read:

4-42-303. ~~{Cannabidiol}~~ Cannabis production establishment agent registration card -- Rebuttable presumption.

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

(a) the individual is on the premises of a ~~{cannabidiol}~~cannabis production establishment; and

(b) the individual is transporting cannabis or ~~{cannabidiol}~~cannabis-based medicine between two ~~{cannabidiol}~~cannabis production establishments or transporting ~~{cannabidiol}~~cannabis-based medicine between a ~~{cannabidiol}~~cannabis production establishment and a ~~{cannabidiol}~~CBM dispensary.

(2) A ~~{cannabidiol}~~cannabis production establishment agent registered with the department is guilty of an infraction if the registered ~~{cannabidiol}~~cannabis production establishment agent:

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

(ii) transports cannabis or ~~{cannabidiol}~~cannabis-based medicine; and

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

(3) A registered ~~{cannabidiol}~~cannabis production establishment agent who is guilty of an infraction under Subsection (2) is subject to a \$100 fine.

Section 13. Section 4-42-401 is enacted to read:

Part 4. General ~~{Cannabidiol}~~ Cannabis Production Establishment Operating Requirements

4-42-401. ~~{Cannabidiol}~~ Cannabis production establishment -- General operating requirements.

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

(b) A ~~{cannabidiol}~~cannabis production establishment shall notify the department

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within 30 days of any change in the ~~{}cannabidiol~~cannabis production establishment's operation plan.

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

(a) in a facility that is accessible only by an individual with a valid ~~{}cannabidiol~~cannabis 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~~cannabis-based medicine production facility may allow the press, a visitor, or a contractor access to the ~~{}cannabidiol~~cannabis production establishment if:

(a) the ~~{}cannabidiol~~cannabis-based medicine production facility tracks and monitors the individual at all times while the individual is in the ~~{}cannabidiol~~cannabis production establishment; and

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

(4) A ~~{}cannabidiol~~cannabis 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~~cannabis production establishment when the ~~{}cannabidiol~~cannabis 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~~cannabis production establishment stores cannabis or ~~{}cannabidiol~~cannabis-based medicine.

(5) A ~~{}cannabidiol~~cannabis production establishment may only transmit or accept payments for ~~{}cannabidiol~~cannabis-based medicine using a ~~{}cannabidiol~~cannabis payment processor licensed under Section 7-26-201.

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

Section 14. Section 4-42-402 is enacted to read:

4-42-402. Inspections.

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

(2) The department may inspect the records and facility of a ~~{}cannabidiol{}cannabis~~ 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{}cannabis~~ production establishment has violated the law, at any time, scheduled or unscheduled.

Section 15. Section **4-42-403** is enacted to read:

4-42-403. Advertising.

A ~~{}cannabidiol{}cannabis~~ production establishment may not advertise to the general public in any medium.

Section 16. Section **4-42-404** is enacted to read:

4-42-404. Cannabis or ~~{}cannabidiol{}cannabis-based medicine~~ transportation.

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

(2) An individual transporting ~~{}cannabidiol{}cannabis-based medicine~~ or cannabis shall keep a transportation record that includes:

(a) a bar code or identification number that links the cannabis or ~~{}cannabidiol{}cannabis-based medicine~~ to a related inventory control system;

(b) origin and destination information for any cannabis or ~~{}cannabidiol{}cannabis-based medicine~~ the individual is transporting; and

(c) a record of the departure and arrival time of the individual transporting the cannabis or ~~{}cannabidiol{}cannabis-based medicine~~.

(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{}cannabis-based~~

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medicine related to safety for human ~~}{cannabidiol}~~cannabis-based medicine consumption.

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

(a) transports cannabis or ~~}{cannabidiol}~~cannabis-based medicine; and

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

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

Section 17. Section 4-42-501 is enacted to read:

Part 5. ~~}{Cannabidiol}~~Cannabis Cultivation Facility Operating Requirements

4-42-501. ~~}{Cannabidiol}~~Cannabis cultivation facility -- Operating requirements.

(1) As used in this section, "low-THC cannabis" means cannabis that has a delta-9 tetrahydrocannabinol concentration of less than 0.3% by dry weight.

~~(1)2~~ A ~~}{cannabidiol}~~cannabis cultivation facility shall cultivate cannabis indoors, in a facility equipped with a carbon filtration system for air output.

~~(2)3~~ A ~~}{cannabidiol}~~cannabis cultivation facility shall ensure that any cannabis growing at the ~~}{cannabidiol}~~cannabis cultivation facility is not visible from outside the ~~}{cannabidiol}~~cannabis cultivation facility.

~~(3)4~~ A ~~}{cannabidiol}~~cannabis cultivation facility shall use a unique identifier for:

(a) each batch of cannabis transferred to a ~~}{cannabidiol}~~cannabis processing facility;

and

(b) each unique harvest of cannabis plants.

(5) If a cannabis cultivation facility cultivates cannabis other than low-THC cannabis, the cannabis cultivation facility shall cultivate the cannabis and low-THC cannabis in separate spaces with a physical barrier between the spaces.

~~(4)6~~ The department may establish human safety standards, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for a ~~}{cannabidiol}~~cannabis cultivation facility's:

(a) use of pesticides;

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- (b) use of fertilizers; and
- (c) cultivation techniques.

Section 18. Section **4-42-601** is enacted to read:

Part 6. ~~{Cannabidiol}~~Cannabis Processing Facility Operating Requirements

4-42-601. ~~{Cannabidiol}~~ Cannabis processing facility -- Operating requirements.

- (1) A ~~{cannabidiol}~~cannabis processing facility shall ensure that ~~{cannabidiol}~~cannabis-based medicine that the ~~{cannabidiol}~~cannabis processing facility sells or provides to a ~~{cannabidiol}~~CBM dispensary complies with the requirements of this part.
- (2) A ~~{cannabidiol}~~cannabis processing facility shall operate in a facility with a carbon filtration system for air output.

Section 19. Section **4-42-602** is enacted to read:

4-42-602. ~~{Cannabidiol}~~ Cannabis-based medicine -- Product requirements.

- (1) A ~~{cannabidiol}~~cannabis processing facility may only produce ~~{cannabidiol}~~cannabis-based medicine 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.
- (3) A ~~{cannabidiol}~~cannabis processing facility may not manufacture ~~{cannabidiol}~~cannabis-based medicine by applying a cannabis agent to the surface of a food product.

Section 20. Section **4-42-603** is enacted to read:

4-42-603. ~~{Cannabidiol}~~ Cannabis-based medicine -- Labeling and packaging.

- (1) ~~{Cannabidiol}~~Cannabis-based medicine shall have a label that:
 - (a) clearly and unambiguously states that the ~~{cannabidiol}~~cannabis-based medicine contains cannabis;
 - (b) clearly displays the cannabinoid profile of the ~~{cannabidiol}~~cannabis-based medicine;

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(c) has a unique batch identifier that identifies the unique manufacturing process when the ~~{cannabidiol}~~cannabis-based medicine was manufactured;

(d) has a bar code or other identifier that allows the ~~{cannabidiol}~~cannabis-based medicine 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}~~cannabis processing facility shall package ~~{cannabidiol}~~cannabis-based medicine 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}~~cannabis-based medicine labeling and packaging standards by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 21. Section ~~{4-42-604}~~4-42-701 is enacted to read:

~~{4-42-604. Importation -- Federal approval.~~

~~(1) Except as provided in Subsection (2), a cannabidiol processing facility may only process cannabidiol using cannabis grown in the state.~~

~~(2) A cannabidiol processing facility may process cannabidiol using cannabis grown out of state, or using cannabidiol produced out of state, if the cannabidiol processing facility imports the out of state cannabis or cannabidiol in compliance with Subsection (3).~~

~~(3) A cannabidiol processing facility may import from a person cannabis or cannabidiol grown out of state if:~~

~~(a) the importation occurs under an agreement between the cannabidiol processing facility, the person that grew or produced the cannabis or cannabidiol;~~

~~(b) the person and the cannabidiol processing facility certifies that the facility where the person grew or produced the cannabis or cannabidiol complies with the operating and product quality requirements of this chapter;~~

~~(c) before using the cannabis or cannabidiol, an independent cannabidiol testing laboratory licensed in the state tests the cannabis or cannabidiol:~~

~~(i) to determine if the cannabis or cannabidiol complies with this chapter; and~~

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- ~~(ii) to determine the origin of the cannabis or cannabidiol using the carbon stable isotope testing method described in Subsection 4-41-701(5); and~~
~~(d) the federal Drug Enforcement Administration:~~
~~(i) certifies that the cannabidiol processing facility and the person complied with this chapter;~~
~~and~~
~~(ii) (A) approves the transfer under federal law; or~~
~~(B) approves the transfer under a waiver of federal law.~~
~~Section 22. Section 4-42-701 is enacted to read:~~

~~†~~Part 7. Independent ~~{cannabidiol}~~**Cannabis** Testing Laboratory Operating Requirements

~~4-42-701.~~ ~~{cannabidiol}~~ **Cannabis and cannabis-based medicine** testing.

- (1) An independent ~~{cannabidiol}~~**cannabis** testing laboratory shall, before ~~{cannabidiol}~~**cannabis-based medicine** is offered for sale at a ~~{cannabidiol}~~**CBM** dispensary, test the ~~{cannabidiol}~~**cannabis-based medicine** as described in this section.
- (2) An independent ~~{cannabidiol}~~**cannabis** testing laboratory may not operate unless the independent ~~{cannabidiol}~~**cannabis** testing laboratory is capable of accurately testing ~~{cannabidiol}~~**cannabis-based medicine** as described in this section.
- (3) An independent testing laboratory shall determine the cannabinoid profile of ~~{cannabidiol}~~**cannabis-based medicine**.
- (4) An independent ~~{cannabidiol}~~**cannabis** testing laboratory shall determine if ~~{cannabidiol}~~**cannabis-based medicine** contains, in an amount that is harmful to human health:
- (a) mold;
 - (b) fungus;
 - (c) pesticides; or
 - (d) other microbial contaminants.
- (5) For ~~{cannabidiol}~~**cannabis-based medicine** that is manufactured using a process that involves extraction using hydrocarbons, an independent ~~{cannabidiol}~~**cannabis** testing laboratory shall test the ~~{cannabidiol}~~**cannabis-based medicine** for residual solvents.
- (6) An independent ~~{cannabidiol}~~**cannabis** testing laboratory shall test any cannabis that the independent ~~{cannabidiol}~~**cannabis** testing laboratory receives from a ~~{cannabidiol}~~**cannabis** cultivation facility using carbon stable isotope testing to determine:

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- (a) the origin of the cannabis;
- (b) the conditions under which the cannabis was grown; and
- (c) any other information required by the department under Subsection (7) about the cannabis that can be determined using stable isotope testing.

(7) 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;
- (b) additional cannabis or ~~{cannabidiol}~~cannabis-based medicine testing that an independent ~~{cannabidiol}~~cannabis testing laboratory is required to perform; and
- (c) minimum standards for an independent ~~{cannabidiol}~~cannabis testing laboratory's testing methods and procedures.

Section ~~{23}~~22. Section **4-42-702** is enacted to read:

4-42-702. Reporting -- Inspections.

(1) An independent ~~{cannabidiol}~~cannabis testing laboratory shall notify the department if the independent ~~{cannabidiol}~~cannabis testing laboratory determines that the results of a lab test indicate that a ~~{cannabidiol}~~cannabis-based medicine batch:

- (a) is unsafe for human consumption; ~~or~~
- (b) has a ratio of less than 10 grams of the cannabinoid ~~{cannabidiol}~~cannabis-based medicine per each one gram of tetrahydrocannabinol; ~~or~~
- ~~(c) using a carbon stable isotope test, was not cultivated in accordance with this chapter.~~

~~};~~

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

(3) If the department determines that a ~~{cannabidiol}~~cannabis-based medicine batch is unsafe for human consumption ~~{or non-complying}~~, the department may seize, embargo, and

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destroy a ~~{}cannabidiol{}~~cannabis-based medicine batch in accordance with Section 4-42-801.

(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{}~~cannabis testing laboratory is required to hold a ~~{}cannabidiol{}~~cannabis-based medicine batch under Subsection (2).

(5) The department may conduct a test to:

(a) to determine the accuracy of an independent ~~{}cannabidiol{}~~cannabis testing laboratory's:

(i) ~~{}cannabidiol{}~~cannabis-based medicine test results; or

(ii) analytical method; or

(b) validate an independent ~~{}cannabidiol{}~~cannabis testing laboratory's testing methods.

Section ~~{24}~~23. 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{}~~cannabis production establishment or a ~~{}cannabidiol{}~~cannabis 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{}~~cannabis production establishment or a ~~{}cannabidiol{}~~cannabis 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{}~~cannabis-based medicine batch in a

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manner, or such that the batch contains a substance, that poses a threat to human health ~~}; or};~~

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

}; (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:

(i) seize, embargo, or destroy a cannabis or ~~{cannabidiol};~~cannabis-based medicine 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};~~cannabis 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};~~cannabis production establishment agent registration card; or

(b) suspend, revoke, or place on probation the person's license or

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~~{cannabidiol}~~cannabis production establishment agent registration card.

Section ~~{25}~~24. 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.

Section 25. Section 4-42-803 is enacted to read:

4-42-803. Fees -- Deposit into Medical Cannabis Restricted Account.

The department shall deposit fees the department collects under this chapter in the Medical Cannabis Restricted Account.

Section 26. Section 7-26-101 is enacted to read:

CHAPTER 26. ~~{CANNABIDIOL}~~CANNABIS PAYMENT PROCESSOR

Part 1. General Provisions

7-26-101. Title.

This chapter is known as "~~{Cannabidiol}~~Cannabis Payment Processor."

Section 27. Section 7-26-102 is enacted to read:

7-26-102. Definitions.

As used in this chapter:

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

(2) "~~{Cannabidiol}~~Cannabis-based medicine" means the same as that term is defined in Section 58-37-3.6.

(3) "~~{Cannabidiol}~~Cannabis cultivation facility" means the same as that term is defined in Section 4-42-102.

(4) "~~{Cannabidiol}~~Cannabis payment processor" means a person that facilitates payment:

(a) without using cash;

(b) electronically, in connection with the state electronic verification system;

(c) (i) by a ~~{cannabidiol}~~cannabis production establishment:

(A) for cannabis, from a ~~{cannabidiol}~~cannabis processing facility to a ~~{cannabidiol}~~cannabis cultivation facility;

(B) for ~~{cannabidiol}~~cannabis-based medicine testing, from a ~~{cannabidiol}~~cannabis

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processing facility to an independent ~~{cannabidiol}~~cannabis testing laboratory; or

(C) for ~~{cannabidiol}~~cannabis-based medicine, from a ~~{cannabidiol}~~CBM dispensary to a ~~{cannabidiol}~~cannabis processing facility; or

(ii) by an individual with a medical ~~{cannabidiol}~~cannabis card, for ~~{cannabidiol}~~cannabis-based medicine, to a ~~{cannabidiol}~~CBM dispensary.

(5) "~~{Cannabidiol}~~CBM dispensary" means the same as that term is defined in Section 26-58-102.

(6) "~~{Cannabidiol}~~Cannabis processing facility" means the same as that term is defined in Section 4-42-102.

(7) "Electronic verification system" means the same as that term is defined in Section 26-58-102.

Section 28. Section 7-26-201 is enacted to read:

Part 2. ~~{Cannabidiol}~~Cannabis Payment Processor License

7-26-201. ~~{Cannabidiol}~~Cannabis payment processor -- License.

(1) Subject to this chapter, the department shall issue a license to a person to operate as a ~~{cannabidiol}~~cannabis payment processor.

(2) A person may not act as a ~~{cannabidiol}~~cannabis payment processor without a license issued by the department under this section.

(3) An applicant for a ~~{cannabidiol}~~cannabis payment processor license shall:

(a) submit to the department:

(i) the applicant's name, business address, and place of incorporation; and

(ii) the name of each owner, officer, director, board member, shareholder, agent, employee, or volunteer of the applicant; and

(b) present evidence to the department that:

(i) the applicant is capable of electronically receiving funds from, and distributing funds to:

(A) a ~~{cannabidiol}~~cannabis production establishment;

(B) a ~~{cannabidiol}~~CBM dispensary; and

(C) an individual with a medical ~~{cannabidiol}~~cannabis card;

(ii) the applicant has a partnership, service agreement, or service contract with a federally-insured depository institution that agrees to clear ~~{cannabidiol}~~cannabis-based

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medicine transactions; and

(iii) the applicant is able to interface with the electronic verification system to enable an individual with a medical ~~{cannabidiol}~~cannabis card to:

(A) add funds, using a bank wire or a credit card, to an account with the applicant associated with the medical ~~{cannabidiol}~~cannabis card; and

(B) use the medical ~~{cannabidiol}~~cannabis card to pay for ~~{cannabidiol}~~cannabis-based medicine at a ~~{cannabidiol}~~CBM dispensary using the funds in the individual's account with the ~~{cannabidiol}~~cannabis payment processor.

(4) A license issued under this section is valid for two years.

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

(a) any additional information an applicant for a ~~{cannabidiol}~~cannabis payment processor is required to submit to the department; and

(b) procedural requirements for an applicant for a license under this chapter.

(6) An applicant for a ~~{cannabidiol}~~cannabis payment processor license under this section may request that the department treat information that the applicant submits to the department as confidential under Section 7-1-802.

Section 29. Section 7-26-202 is enacted to read:

7-26-202. Renewal -- Abandonment.

(1) Except as provided in Subsection (2), the department shall renew a person's ~~{cannabidiol}~~cannabis payment processor license every two years if, at the time of renewal:

(a) the person meets:

(i) the requirements of Section 7-26-201; and

(ii) demonstrates the criteria described in Subsection 7-26-203(2); 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}~~cannabis payment processor's license for a consecutive time unless the department publishes a notice, in a newspaper of general circulation for the geographic area in which the ~~{cannabidiol}~~cannabis payment processor is located, one year before the day on which the ~~{cannabidiol}~~cannabis payment processor's license expires, that includes:

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(i) the name and location of the ~~{}cannabidiol~~cannabis payment processor;
(ii) the day on which the license for the ~~{}cannabidiol~~cannabis payment processor will expire; and

(iii) a solicitation for ~~{}cannabidiol~~cannabis payment processor license applicants.

(b) If, after the department publishes the notice described in Subsection (2)(a), the department receives an application for a ~~{}cannabidiol~~cannabis payment processor license from a new applicant and also receives an application for renewal from the existing ~~{}cannabidiol~~cannabis production establishment, the department shall issue the license to the applicant that the department determines best meets the criteria established in Section 7-26-203.

(3) (a) If a person who is a licensed ~~{}cannabidiol~~cannabis payment processor abandons the person's ~~{}cannabidiol~~cannabis payment processor license, or has the person's license revoked, 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~~cannabis payment processor constitute abandonment of a ~~{}cannabidiol~~cannabis payment processor license.

Section 30. Section 7-26-203 is enacted to read:

7-26-203. Number of licenses -- Criteria for awarding a license.

(1) The department may only issue one ~~{}cannabidiol~~cannabis payment processor license under this chapter.

(2) The department shall evaluate an applicant for a ~~{}cannabidiol~~cannabis payment processor license to determine to what extent the applicant has demonstrated:

(a) experience with:

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

(ii) operating a payment processing system;

(iii) complying with a regulatory environment; and

(iv) training, evaluating, and monitoring employees;

(b) connections to the local community;

(c) that the applicant will keep the cost of the applicant's products or services low; and

(d) that the applicant will maximize convenience, efficiency, and security for

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processing ~~ƒcannabidiolƒ~~cannabis-based medicine payments.

(3) After the department reviews an applicant's application under Section 7-26-201 and evaluates the application for the criteria described in Subsection (2), the department shall submit the department's findings and recommendations to the commissioner.

(4) After reviewing the findings and recommendations described in Subsection (3), the commissioner shall make a final determination that awards or denies a ~~ƒcannabidiolƒ~~cannabis payment processor license to an applicant.

(5) In making a recommendation of which applicant to award a ~~ƒcannabidiolƒ~~cannabis payment processor license under Subsection (1), the department shall consult, to the extent that the consultation involves compatibility and coordination of a ~~ƒcannabidiolƒ~~cannabis payment processor licensee with other state ~~ƒcannabidiolƒ~~cannabis-based medicine regulation, with:

(a) the executive director of the Department of Commerce or the executive director's designee;

(b) the chair of the State Tax Commission or the chair's designee;

(c) the chief information officer of the Department of Technology Services or the chief information officer's designee;

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

(e) the commissioner of the Department of Agriculture and Food or the executive director's designee;

(f) the commissioner of the Department of Financial Institutions or the commissioner's designee; and

(g) the commissioner of the Department of Public Safety or the commissioner's designee.

(6) An applicant for which the department denies an application is entitled to judicial review under Section 7-1-714.

Section 31. Section **7-26-301** is enacted to read:

Part 3. Operating Requirements

7-26-301. Operating requirements.

(1) A ~~ƒcannabidiolƒ~~cannabis payment processor may not accept or disburse cash in a transaction involving ~~ƒcannabidiolƒ~~cannabis-based medicine.

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- (2) A ~~{cannabidiol}~~cannabis payment processor may not act as a ~~{cannabidiol}~~cannabis payment processor for a person unless the person is:
- (a) an individual with a medical ~~{cannabidiol}~~cannabis card issued by the Department of Health under Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine Act; or
 - (b) a person who is licensed under:
 - (i) Title 4, Chapter 42, ~~{Cannabidiol}~~Cannabis Production Establishment License; or
 - (ii) Title 58, Chapter 86, ~~{Cannabidiol}~~CBM Dispensary License.
- (3) A ~~{cannabidiol}~~cannabis payment processor shall maintain interoperability with the electronic verification system.

Section 32. Section ~~7-26-401~~ is enacted to read:

Part 4. Enforcement

7-26-401. Examination -- Administrative action.

- (1) The department may examine the records or activities of a ~~{cannabidiol}~~cannabis payment processor at any time in order to determine if the ~~{cannabidiol}~~cannabis payment processor is complying with this chapter.
- (2) If the department determines that a person is acting as a ~~{cannabidiol}~~cannabis payment processor without a license issued under this section, the department may:
- (a) order the person to cease and desist from acting as a ~~{cannabidiol}~~cannabis payment processor; and
 - (b) assess the person a fine in an amount determined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) If the department determines that a person with a ~~{cannabidiol}~~cannabis payment processor license issued by the department has violated this chapter, the department may:
- (a) order the person to cease and desist from the violation;
 - (b) assess the person a fine in an amount determined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 - (c) revoke the person's license.

Section 33. Section ~~{26-58-101}~~7-26-402 is enacted to read:

7-26-402. Fees -- Deposit into Medical Cannabis Restricted Account.

The department shall deposit fees the department collects under this chapter in the Medical Cannabis Restricted Account.

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Section 34. Section 26-58-101 is enacted to read:

CHAPTER 58. ~~{MEDICAL CANNABIDIOL}~~CANNABIS-BASED MEDICINE ACT

Part 1. General Provisions

26-58-101. Title.

This chapter is known as "~~{Medical Cannabidiol}~~Cannabis-Based Medicine Act."

Section ~~{34}~~35. Section 26-58-102 is enacted to read:

26-58-102. Definitions.

As used in this chapter:

(1) "~~{Cannabidiol}~~Cannabis-based medicine" means the same as that term is defined in Section 58-37-3.6.

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

(3) "~~{Cannabidiol}~~Cannabis payment processor" means the same as that term is defined in Section 7-26-102.

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

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

(6) "Expanded CBM" means the same as that term is defined in Section 58-37-3.6.

~~{6}~~7 "Inventory control system" means the system described in Section 4-42-103.

~~{7}~~8 "Medical ~~{cannabidiol}~~cannabis card" means a card that is issued to an individual by the Department of Health under Section 26-58-201.

(9) "Medical Cannabis Restricted Account" means the account created in Section 26-58-105.

~~{8}~~10 "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.

~~{9}~~11 "Qualifying illness" means a condition described in Subsection 58-38a-203.1(1).

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Section ~~{35}~~36. 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}~~CBM dispensary, that is more restrictive than this chapter.

Section ~~{36}~~37. 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) shall direct the Department of Technology Services to work with a third party 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 (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}~~cannabis card; and

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

(b) allow a designated caregiver to apply for a medical ~~{cannabidiol}~~cannabis card;

(c) allow a physician to electronically recommend treatment with ~~{cannabidiol}~~cannabis-based medicine to a patient during a visit with the patient;

(d) connect an individual's medical ~~{cannabidiol}~~cannabis card to a database, and to an inventory control system used by a ~~{cannabidiol}~~CBM dispensary, to track, in real time, for the individual's purchase of ~~{cannabidiol}~~cannabis-based medicine:

(i) the time and date of the purchase;

(ii) the quantity and type of ~~{cannabidiol}~~cannabis-based medicine purchased; and

(iii) a ~~{cannabidiol}~~cannabis production establishment or ~~{cannabidiol}~~CBM dispensary associated with the ~~{cannabidiol}~~cannabis-based medicine;

(e) provide access to an entity described in Subsection (1) to the extent necessary for

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the entity to carry out the functions and responsibilities given to the entity under this chapter;

(f) provide access to state or local law enforcement;

(i) during a traffic stop; or

(ii) after obtaining a warrant;

(g) create a record each time the database is accessed that identifies the individual who accessed the database and the individual whose records were accessed have;

(h) have the capability of interfacing with a ~~{cannabidiol}~~cannabis payment processor to facilitate payment for ~~{cannabidiol}~~cannabis-based medicine services; and

(i) include an inventory control system for each licensed ~~{cannabidiol}~~cannabis production establishment and each licensed ~~{cannabidiol}~~CBM dispensary.

(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 ~~{37}~~38. Section ~~{26-58-201}~~26-58-105 is enacted to read:

26-58-105. Medical Cannabis Restricted Account -- Creation.

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

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

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

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

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

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

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

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

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

(a) the cost of state regulation of cannabis-based medicine under:

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

(ii) Title 7, Chapter 26, Cannabis Payment Processor;

(iii) Title 26, Chapter 58, Medical Cannabis Act;

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(iv) Title 58, Chapter 86, CBM Dispensary License; and

(v) Title 59, Chapter 28, Medical Cannabis Tax Act;

(b) the cost to the attorney general for investigation and enforcement related to medical cannabis; and

(c) cannabis abuse prevention and cannabis education programs developed by the state.

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

Section 39. Section 26-58-201 is enacted to read:

Part 2. Medical ~~{Cannabidiol}~~Cannabis Card

26-58-201. Medical ~~{cannabidiol}~~cannabis card -- Application -- Renewal.

(1) The department shall, within 45 days after an individual submits an application in compliance with this section, issue a medical ~~{cannabidiol}~~cannabis 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) ~~(A)~~ suffers from a qualifying illness, including the type of qualifying illness; and

~~{ii}~~B) may benefit from treatment with ~~{cannabidiol}~~

~~{cannabis-based medicine; or~~

(ii) qualifies for expanded CBM under Section 26-58-205;

(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 photo identification.

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

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(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}~~cannabis card that the department issues under Subsection (1) is valid for one year.

(4) The department may renew an individual's medical ~~{cannabidiol}~~cannabis 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}~~cannabis card if the individual violates this chapter.

Section ~~{38}~~40. Section 26-58-202 is enacted to read:

26-58-202. Medical ~~{cannabidiol}~~cannabis card -- Designated caregiver --

Registration -- Renewal -- Revocation.

(1) An individual who holds a valid medical ~~{cannabidiol}~~cannabis card under Section 26-58-201 who a physician determines is unable to obtain ~~{cannabidiol}~~cannabis-based medicine from a ~~{cannabidiol}~~CBM 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}~~cannabis 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}~~cannabis-based medicine, 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

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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}~~cannabis card issued to a designated caregiver is valid for one year.

(5) A medical ~~}{cannabidiol}~~cannabis 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).

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

(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 ~~{39}~~41. 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 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 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

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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 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 ~~{40}~~42. Section 26-58-204 is enacted to read:

26-58-204. Medical ~~{cannabidiol}~~cannabis card -- Patient and designated caregiver requirements.

(1) An individual with a valid medical ~~{cannabidiol}~~cannabis card who possesses ~~{cannabidiol}~~cannabis-based medicine outside of the individual's residence shall:

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

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

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

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(2) An individual who has a valid medical ~~{}cannabidiol{}~~cannabis card may only purchase ~~{}cannabidiol{}~~cannabis-based medicine via a ~~{}cannabidiol{}~~cannabis payment processor licensed under Section 7-26-201.

(3) An individual who has a valid medical ~~{}cannabidiol{}~~cannabis card is guilty of an infraction if the individual:

(a) possesses ~~{}cannabidiol{}~~cannabis-based medicine; and

(b) (i) does not possess the individual's medical ~~{}cannabidiol{}~~cannabis card on the individual's person; or

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

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

Section ~~{41}~~43. Section 26-58-205 is enacted to read:

26-58-205. Expanded CBM access -- Physician training --- Cannabis-based medicine specialist.

(1) As used in this section:

(a) "Cannabis-based medicine specialist" means a physician with a cannabis-based medicine specialist certification issued by the division under Subsection (7).

(b) "Division" means the Division of Occupational and Professional Licensing within the Department of Commerce.

(c) "Group 1 physician" means a physician who may recommend expanded CBM to a patient under Subsection (4).

(d) "Group 2 physician" means a physician who may recommend expanded CBM to a patient under Subsection (5).

(2) An individual with a medical cannabis card may not purchase expanded CBM at a CBM dispensary unless the individual's physician recommends expanded CBM to the individual in compliance with this section.

(3) A physician may not recommend expanded CBM to an individual except in compliance with this section.

(4) In addition to the requirements of this chapter, a physician with a group 1 certification from the division may recommend expanded CBM to a patient if:

(a) (i) the physician is board certified in hematology or oncology; and

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(ii) the patient is being actively treated for a diagnosed malignancy or is being provided palliative care for an incurable malignancy;

(b) (i) the physician is a hospice director who, after a face-to-face evaluation with the patient, determines that the patient has six months or less to live; and

(ii) the patient is being actively treated by a licensed hospice care provider;

(c) (i) the physician is an infectious disease specialist; and

(ii) the patient is diagnosed with HIV- or AIDS-associated anorexia and wasting syndrome; or

(d) (i) the physician is a state-certified cannabis-based medicine specialist who is board-certified in pain management, internal medicine, or pediatrics; and

(ii) the patient is has an incurable, catastrophic, or rare condition.

(5) In addition to the requirements of this chapter, a physician with a group 2 certification from the division may recommend expanded CBM to a patient if:

(a) (i) the physician is board certified in neurology; and

(ii) the patient is diagnosed with multiple sclerosis, epilepsy, ALS, or peripheral neuropathy;

(b) (i) the physician is board certified in infectious disease; and

(ii) the patient is diagnosed with HIV- or AIDS-peripheral neuropathy;

(c) (i) the physician is a board certified pain specialist; and

(ii) the patient is diagnosed with chronic pain, failed back syndrome, or neuropathic pain; or

(d) (i) the physician is board certified in gastroenterology; and

(ii) the patient is diagnosed with intractable nausea.

(6) The division shall issue, to a physician who completes training in cannabis-based medicine developed by the division in coordination with the department and required by the division by rule made in accordance with Title 63G Chapter 3, Utah Administrative Rulemaking Act:

(a) a group 1 certification; or

(b) a group 2 certification.

(7) (a) The division shall issue a cannabis-based medicine specialist certification to a physician who completes training in cannabis-based medicine developed by the division in

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coordination with the department and required by the division by rule made in accordance with Title 63G Chapter 3, Utah Administrative Rulemaking Act; and

(b) The division shall issue a cannabis-based medicine specialist certification to no more than the greater of:

(i) one physician per 200,000 people in the state; or

(ii) two physicians in each health district as determined by the division.

(8) A group 1 physician may recommend expanded CBM to a patient if the patient:

(a) was referred to the group 1 physician by the patient's primary care physician; and

(b) has a condition the treatment of which the group 1 physician specializes in.

(9) A group 1 physician may recommend that a patient use expanded CBM with a vaporizer.

(10) A cannabis-based medicine specialist may recommend expanded CBM to, and the department may issue a medical cannabis card to, a patient who is less than 18 years old if:

(a) the cannabis-based medicine specialist is board certified in pediatrics; and

(b) the patient has an incurable, catastrophic, or rare condition.

(11) A group 2 physician may recommend expanded CBM to a patient if:

(a) the patient was referred to the group 2 physician by the patient's primary care physician; and

(b) the group 2 physician recommends expanded CBM that is at least 50% cannabidiol by weight.

(12) If a physician recommends treatment with expanded CBM to a patient under this section:

(a) the physician shall submit the recommendation to the department via the electronic verification system; and

(b) the department shall:

(i) designate, via the electronic verification system, that the patient is eligible to purchase expanded CBM; and

(ii) issue the patient a unique type of medical cannabis card that:

(A) indicates that the patient is eligible to purchase expanded CBM; and

(B) is physically distinguishable from a medical cannabis card used by a patient who is not eligible for expanded CBM.

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Section 44. Section 26-58-206 is enacted to read:

26-58-206. Insurance coverage.

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

Section ~~{42}~~45. Section ~~{26-58-206}~~26-58-207 is enacted to read:

~~{26-58-206}~~26-58-207. 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 ~~{43}~~46. Section 26-58-301 is enacted to read:

Part 3. Medical ~~{Cannabidiol}~~Cannabis-Based Medicine Research License
26-58-301. Medical ~~{cannabidiol}~~cannabis-based medicine research license.

(1) The department may issue a license to a higher education institution to conduct medical research on ~~{cannabidiol}~~cannabis-based medicine 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}~~cannabis-based medicine 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}~~cannabis-based medicine research license under this chapter may:

(a) purchase ~~{cannabidiol}~~cannabis-based medicine from a person licensed under Title 58, Chapter 86, ~~{Cannabidiol}~~CBM Dispensary License;

(b) possess ~~{cannabidiol}~~cannabis-based medicine; or

(c) provide ~~{cannabidiol}~~cannabis-based medicine 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}~~cannabis-based medicine research license; and

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

Section ~~{44}~~47. Section ~~{41-6a-517 is amended to read:~~

~~}{26-58-401 is enacted to read:~~

26-58-401. Fees -- Deposit into Medical Cannabis Restricted Account.

The department shall deposit fees the department collects under this chapter in the Medical Cannabis Restricted Account.

Section 48. 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}~~cannabis-based medicine recommended by a physician and the person holds a valid medical ~~{cannabidiol}~~cannabis card under Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine 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

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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

(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

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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, 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

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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).

(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 ~~{45}~~49. Section 53-1-106.5 is enacted to read:

53-1-106.5. ~~{Medical Cannabidiol}~~ Cannabis-Based Medicine 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 ~~{46}~~50. 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}~~ cannabis-based medicine.

(1) As used in this section:

(a) "Cannabis-based medicine" means low-THC CBM or expanded CBM.

(~~{a}~~ b) "~~{Cannabidiol}~~ Expanded CBM" means a product intended for human ingestion that ~~{:}~~

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(i) contains an extract or concentrate that is obtained from cannabis; and

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

(c) "Low-THC cannabis-based medicine" or "Low-THC CBM" 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

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

~~(b)~~(d) "Cannabis" means any part of the plant cannabis sativa, whether growing or not ~~that has a delta-9 tetrahydrocannabinol concentration of less than 0.3% by dry weight~~;

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

~~(d)~~(f) "Tetrahydrocannabinol" means a substance derived from ~~cannabidiol~~ cannabis-based medicine 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~~ Cannabis Production Establishment License;

(ii) Title 26, Chapter 58, ~~Medical Cannabidiol~~ Cannabis-Based Medicine Act; and

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

(b) an individual who grows, possesses, sells, or offers to sell ~~cannabidiol~~ cannabis-based medicine 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~~ cannabis-based medicine complies with:

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- (i) Title 4, Chapter 42, ~~{Cannabidiol}~~Cannabis Production Establishment License;
- (ii) Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine Act; and
- (iii) Title 58, Chapter 86, ~~{Cannabidiol}~~CBM Dispensary License; and

(c) an individual who possesses, sells, or offers to sell ~~{cannabidiol}~~cannabis-based medicine 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}~~cannabis-based medicine complies with:

- (i) Title 4, Chapter 42, ~~{Cannabidiol}~~Cannabis Production Establishment License;
- (ii) Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine Act; and
- (iii) Title 58, Chapter 86, ~~{Cannabidiol}~~CBM Dispensary License.

Section ~~{47}~~51. Section **58-37f-204** is enacted to read:

58-37f-204. Controlled substance database and ~~{medical cannabidiol}~~cannabis-based medicine.

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

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

(2) A ~~{cannabidiol}~~CBM dispensary shall, each time the ~~{cannabidiol}~~CBM dispensary dispenses ~~{cannabidiol}~~cannabis-based medicine to an individual with a medical ~~{cannabidiol}~~cannabis card, submit to the division the following information:

(a) the name of the physician who recommended the ~~{cannabidiol}~~cannabis-based medicine and the unique number identifying the recommendation;

(b) the date of the recommendation;

(c) the date the ~~{cannabidiol}~~cannabis-based medicine was dispensed;

(d) the name of the individual with the medical ~~{cannabidiol}~~cannabis card;

(e) positive identification of the individual who receives the ~~{cannabidiol}~~cannabis-based medicine, including the type of identification and any identifying numbers on the identification;

(f) the amount of ~~{cannabidiol}~~cannabis-based medicine dispensed;

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

(h) the name of the ~~{cannabidiol}~~ CBM dispensary dispensing the ~~{cannabidiol}~~ cannabis-based medicine product;

(i) the name of the ~~{cannabidiol}~~ CBM dispensary agent who dispensed the ~~{cannabidiol}~~ cannabis-based medicine product; and

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

(3) If an individual's medical ~~{cannabidiol}~~ cannabis-based medicine 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.

(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}~~ CBM 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).

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(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}~~cannabis-based medicine, additional information that a ~~}{cannabidiol}~~CBM dispensary is required to submit to the controlled substance database.

Section ~~{48}~~52. 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;
- (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;]~~

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~~[(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 ~~{49}~~53. 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]~~

(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}~~cannabis-based medicine 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;

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(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:

(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 ~~{50}~~54. Section **58-38a-203.1** is enacted to read:

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

~~{cannabidiol}~~**cannabis-based medicine** -- Committee duties -- Recommendation to Legislature.

(1) For the purposes of Title 26, Chapter 58, Medical Cannabidiol Act, the following

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conditions are considered a qualifying illness:

(a) epilepsy;

~~(b)~~ or a similar condition that causes debilitating seizures;

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

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

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

(e) nausea and vomiting during chemotherapy;

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

~~(d)~~ (f) muscle spasticity or a movement disorder; and

~~(e)~~ (g) 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; and

(h) post-traumatic stress disorder related to military service.

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

(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 ~~51~~ 55. Section **58-67-807** is enacted to read:

58-67-807. Recommendation of ~~cannabidiol~~ cannabis-based medicine --

Registration with division and Department of Health.

(1) A physician may recommend the use of ~~cannabidiol~~ cannabis-based medicine to a patient in accordance with Title 26, Chapter 58, ~~Medical Cannabidiol~~ Cannabis-Based Medicine Act, if the physician:

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(a) registers with the division and the Department of Health as a physician who recommends ~~{cannabidiol}~~cannabis-based medicine;~~{ and}~~

(b) completes the training required under Subsection (3)~~{,}; and~~

(c) complies with Section 26-58-205.

(2) A physician who recommends ~~{cannabidiol}~~cannabis-based medicine shall:

(a) recommend ~~{cannabidiol}~~cannabis-based medicine to 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}~~cannabis-based medicine to a patient to determine if the patient is abusing ~~{cannabidiol}~~cannabis-based medicine;

(c) report an adverse event experienced by a patient related to the patient's medical ~~{cannabidiol}~~cannabis-based medicine use to the Department of Health; and

(d) report other data on ~~{cannabidiol}~~cannabis-based medicine required by Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine 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}~~cannabis-based medicine.

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

(4) It is not a breach of the applicable standard of care for a physician to recommend treatment with ~~{cannabidiol}~~cannabis-based medicine to an individual under this section and Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine Act.

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

(a) civil liability;

(b) criminal liability; or

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(c) licensure sanctions under this chapter.

Section ~~{52}~~56. Section 58-68-807 is enacted to read:

58-68-807. Recommendation of ~~{cannabidiol}~~cannabis-based medicine --

Registration with division and Department of Health.

(1) A physician may recommend the use of ~~{cannabidiol}~~cannabis-based medicine to a patient in accordance with Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine Act, if the physician:

(a) registers with the division and the Department of Health as a physician who recommends ~~{cannabidiol}~~cannabis-based medicine;~~{ and}~~

(b) completes the training required under Subsection (3)~~{,}~~; and

(c) complies with Section 26-58-205.

(2) A physician who recommends ~~{cannabidiol}~~cannabis-based medicine shall:

(a) recommend ~~{cannabidiol}~~cannabis-based medicine to 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}~~cannabis-based medicine to a patient to determine if the patient is abusing ~~{cannabidiol}~~cannabis-based medicine;

(c) report an adverse event experienced by a patient related to the patient's medical ~~{cannabidiol}~~cannabis-based medicine use to the Department of Health; and

(d) report other data on ~~{cannabidiol}~~cannabis-based medicine required by Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine 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}~~cannabis-based medicine.

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

(4) It is not a breach of the applicable standard of care for a physician to recommend treatment with ~~{cannabidiol}~~cannabis-based medicine to an individual under this section and

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Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine Act.

(5) A physician who recommends treatment with ~~{cannabidiol}~~cannabis-based medicine or a ~~{cannabidiol}~~cannabis-based medicine product to an individual under this section and Title 26, Chapter 58, ~~{Medical Cannabidiol}~~Cannabis-Based Medicine 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 ~~{53}~~57. Section **58-86-101** is enacted to read:

CHAPTER 86. ~~{CANNABIDIOL}~~CBM DISPENSARY LICENSE

Part 1. General Provisions

58-86-101. Title.

This chapter is known as "~~{Cannabidiol}~~CBM Dispensary License."

Section ~~{54}~~58. Section **58-86-102** is enacted to read:

58-86-102. Definitions.

As used in this chapter:

(1) "~~{Cannabidiol}~~Cannabis-based medicine" means the same as that term is defined in Section 58-37-3.6.

(2) "~~{Cannabidiol}~~Cannabis cultivation facility" means the same as that term is defined in Section 4-42-102.

(3) "~~{Cannabidiol}~~CBM dispensary" means a person that:

- (a) sells ~~{cannabidiol}~~cannabis-based medicine; or
- (b) purchases or possesses ~~{cannabidiol}~~cannabis-based medicine with the intent to sell ~~{cannabidiol}~~cannabis-based medicine.

(4) "~~{Cannabidiol}~~CBM dispensary agent" means an owner, officer, director, board member, shareholder, agent, employee or volunteer of a ~~{cannabidiol}~~CBM dispensary.

(5) "~~{Cannabidiol}~~CBM 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}~~CBM dispensary agent.

(6) "~~{Cannabidiol}~~cannabis payment processor" means the same as that term is defined in Section 7-26-201.

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(7) "~~{Cannabidiol}~~Cannabis production establishment" means the same as that term is defined in Section 4-42-102.

(8) "~~{Cannabidiol}~~Cannabis production establishment agent" means the same as that term is defined in Section 4-42-102.

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

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

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

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

(13) "Independent ~~{cannabidiol}~~cannabis testing laboratory" means the same as that term is defined in Section 4-42-102.

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

(15) "Medical ~~{cannabidiol}~~cannabis card" means the same as that term is defined in Section 26-58-102.

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

Section ~~{55}~~59. Section 58-86-201 is enacted to read:

Part 2. License and Eligibility

58-86-201. ~~{Cannabidiol}~~ CBM dispensary -- License -- Eligibility.

(1) A person may not operate as a ~~{cannabidiol}~~CBM 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}~~CBM dispensary to a person who submits to the division:

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

(b) a bond, as required by Section 58-86-205, for each license for which the person applies;

(c) evidence that the person:

(i) can comply with the operating requirements for a ~~{cannabidiol}~~CBM dispensary described in this chapter;

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(ii) will implement an inventory control system at the ~~}{cannabidiol}~~CBM dispensary;
and

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

(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}~~CBM dispensary is eligible for a license under this section, the division shall charge the ~~}{cannabidiol}~~CBM 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}~~CBM dispensary is not operational within one year of the issuance of the initial license.

Section ~~}{56}~~60. Section **58-86-202** is enacted to read:

58-86-202. Renewal.

(1) Except as provided in Subsection (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}~~CBM 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}~~CBM dispensary is located, one year before the day on which the ~~}{cannabidiol}~~CBM dispensary's license expires, that includes:

(i) the name and location of the ~~}{cannabidiol}~~CBM dispensary;

(ii) the day on which the license for the ~~}{cannabidiol}~~CBM dispensary will expire; and

(iii) a solicitation for ~~}{cannabidiol}~~CBM dispensary license applicants.

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

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(3) (a) If a licensed ~~{cannabidiol}~~CBM dispensary abandons the ~~{cannabidiol}~~CBM 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 Administrative Rulemaking Act, for what actions by a ~~{cannabidiol}~~CBM dispensary constitute abandonment of a ~~{cannabidiol}~~CBM dispensary license.

Section ~~{57}~~61. Section **58-86-203** is enacted to read:

58-86-203. Operating plan.

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

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

(a) a description of the ~~{cannabidiol}~~CBM dispensary's employee training standards;

(b) a security plan for the ~~{cannabidiol}~~CBM dispensary;

(c) a plan to process payments through a ~~{cannabidiol}~~cannabis payment processor licensed under Section 7-26-201.

(d) the time period in which the person estimates the ~~{cannabidiol}~~CBM dispensary will become operational; and

(e) the products, and anticipated sources of the products, that a ~~{cannabidiol}~~CBM dispensary plans to sell.

Section ~~{58}~~62. 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}~~CBM dispensary licenses at any given time.

(2) If more than one applicant for a license meets the qualifications of this chapter for a ~~{cannabidiol}~~CBM 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;

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(b) connections to the local community; and

(c) that the applicant will keep the cost of ~~{cannabidiol}~~cannabis-based medicine low.

Section ~~{59}~~63. Section 58-86-205 is enacted to read:

58-86-205. Bond for a ~~{cannabidiol}~~CBM dispensary license.

(1) A ~~{cannabidiol}~~CBM dispensary licensed under Section 58-86-201 shall post a cash bond or surety bond, payable to the division, in an amount equal to \$750,000.

(2) A ~~{cannabidiol}~~CBM dispensary licensed under Section 4-42-201 shall maintain the bond described in Subsection (1) for as long as the ~~{cannabidiol}~~CBM dispensary continues to operate.

(3) The division shall require a bond a ~~{cannabidiol}~~CBM dispensary posts under this section to be:

(a) in a form approved by the attorney general; and

(b) conditioned upon the ~~{cannabidiol}~~CBM dispensary's compliance with this chapter.

(4) If a bond described in Subsection (1) is canceled due to a ~~{cannabidiol}~~CBM dispensary's negligence, the division may assess the ~~{cannabidiol}~~CBM dispensary a \$300 reinstatement fee.

(5) A ~~{cannabidiol}~~CBM dispensary may not withdraw any part of a bond posted under Subsection (1):

(a) during the period when the ~~{cannabidiol}~~CBM dispensary's license is in effect; or

(b) while a license revocation proceeding is pending against the ~~{cannabidiol}~~CBM dispensary.

(6) A ~~{cannabidiol}~~CBM dispensary forfeits a bond posted under Subsection (1) if the ~~{cannabidiol}~~CBM dispensary's license is revoked.

(7) The division may, without revoking a license, make a claim against a bond posted by a ~~{cannabidiol}~~CBM dispensary under Subsection (1) for money the ~~{cannabidiol}~~CBM dispensary owes the division under this chapter.

Section ~~{60}~~64. Section 58-86-301 is enacted to read:

Part 3. ~~{Cannabidiol}~~CBM Dispensary Agents

58-86-301. ~~{Cannabidiol}~~ CBM dispensary agent -- Registration.

(1) An individual may not act as an owner, officer, director, board member,

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shareholder, agent, or employee of a ~~{cannabidiol}~~CBM dispensary unless the individual is registered by the division as a ~~{cannabidiol}~~CBM dispensary agent.

(2) A physician may not act as a ~~{cannabidiol}~~CBM dispensary agent.

(3) The division shall, within 15 business days after receiving a complete application, register and issue a ~~{cannabidiol}~~CBM 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}~~CBM dispensary where the individual will act as a ~~{cannabidiol}~~CBM 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}~~CBM 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}~~CBM 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 ~~{61}~~65. Section 58-86-302 is enacted to read:

58-86-302. ~~{Cannabidiol}~~ CBM dispensary agents -- Criminal background checks.

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

(a) submit to the division:

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(i) a fingerprint card in a form acceptable to the Department of Public Safety; and
(ii) a signed waiver in accordance with 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 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.

(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 ~~{62}~~66. Section **58-86-303** is enacted to read:

58-86-303. ~~{cannabidiol}~~ CBM dispensary agent registration card -- Required to carry registration card.

(1) An individual who has a ~~{cannabidiol}~~CBM dispensary agent registration card shall carry the individual's ~~{cannabidiol}~~CBM dispensary agent registration card with the

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individual at all times when:

(a) the individual is on the premises of a ~~{cannabidiol}~~ CBM dispensary; and

(b) the individual is transporting cannabis or ~~{cannabidiol}~~ cannabis-based medicine

between two ~~{cannabidiol}~~ cannabis production establishments or transporting

~~{cannabidiol}~~ cannabis-based medicine between a ~~{cannabidiol}~~ cannabis production

establishment and a ~~{cannabidiol}~~ CBM dispensary.

(2) A ~~{cannabidiol}~~ CBM dispensary agent registered with the department is guilty of an infraction if the registered ~~{cannabidiol}~~ CBM dispensary agent:

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

(ii) transports cannabis or ~~{cannabidiol}~~ cannabis-based medicine; and

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

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

Section ~~{63}~~ 67. Section **58-86-401** is enacted to read:

Part 4. ~~{Cannabidiol}~~ CBM Dispensary Operation Requirements

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

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

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

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

(a) in a facility that is accessible only by an individual with a valid ~~{cannabidiol}~~ CBM dispensary agent registration card issued under Section 58-86-301 or by an individual with a medical ~~{cannabidiol}~~ cannabis card; and

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

(3) A ~~{cannabidiol}~~ cannabis-based medicine production facility may allow the press, a visitor, or a contractor access to the ~~{cannabidiol}~~ CBM dispensary if:

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(a) the ~~{}cannabidiol{}~~cannabis-based medicine production facility tracks and monitors the individual at all times while the individual is in the ~~{}cannabidiol{}~~CBM dispensary; and

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

(4) A ~~{}cannabidiol{}~~CBM 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{}~~CBM 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{}~~CBM dispensary where ~~{}cannabidiol{}~~cannabis-based medicine 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{}~~CBM dispensary agent; or

(b) except online, advertise that the physician may or will recommend ~~{}cannabidiol{}~~cannabis-based medicine.

(6) (a) A ~~{}cannabidiol{}~~CBM 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{}~~cannabis card who purchases ~~{}cannabidiol{}~~cannabis-based medicine from the ~~{}cannabidiol{}~~CBM dispensary; and

(ii) answer questions for an individual with a medical ~~{}cannabidiol{}~~cannabis card.

(7) A ~~{}cannabidiol{}~~CBM dispensary may only transmit or accept payment for ~~{}cannabidiol{}~~cannabis-based medicine through a ~~{}cannabidiol{}~~cannabis payment processor licensed under Section 7-26-201.

(8) A ~~{}cannabidiol{}~~CBM dispensary may not allow any individual to consume ~~{}cannabidiol{}~~cannabis-based medicine on the property or premises of the establishment.

(9) A ~~{}cannabidiol{}~~CBM dispensary may not sell ~~{}cannabidiol{}~~cannabis-based medicine before January 1, 2017.

(10) A ~~{}cannabidiol{}~~CBM dispensary shall require any ~~{}cannabidiol{}~~CBM dispensary agent to wear a white lab coat at all times while the ~~{}cannabidiol{}~~CBM dispensary agent is in

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the view of a customer at the ~~{}cannabidiol}~~CBM dispensary

Section ~~{64}~~68. Section 58-86-402 is enacted to read:

58-86-402. Dispensing -- Amount a ~~{}cannabidiol}~~CBM dispensary may dispense --

Reporting -- Form of cannabis or cannabis product.

(1) A ~~{}cannabidiol}~~CBM dispensary may only sell, subject to this chapter:

(a) ~~{}cannabidiol}~~cannabis-based medicine; or

(b) educational materials related to the medical use of ~~{}cannabidiol}~~cannabis-based medicine.

(2) A ~~{}cannabidiol}~~CBM dispensary may only sell ~~{}cannabidiol}~~cannabis-based medicine to an individual with a medical ~~{}cannabidiol}~~cannabis card issued by the department.

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

(4) An individual with a medical ~~{}cannabidiol}~~cannabis card may not purchase more ~~{}cannabidiol}~~cannabis-based medicine than the amounts designated in Subsection (3).

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

(6) A ~~{}cannabidiol}~~CBM dispensary shall:

(a) submit a record to the electronic verification system of each time the ~~{}cannabidiol}~~CBM dispensary dispenses ~~{}cannabidiol}~~cannabis-based medicine to an individual with a medical ~~{}cannabidiol}~~cannabis card;

(b) access the electronic verification system before dispensing ~~{}cannabidiol}~~cannabis-based medicine 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 ~~{65}~~69. Section 58-86-403 is enacted to read:

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

(1) A ~~{}cannabidiol}~~CBM dispensary may not sell or offer to sell

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~~{cannabidiol}~~cannabis-based medicine unless:

(a) the amount of ~~{cannabidiol}~~cannabis-based medicine is clearly and accurately stated on the ~~{cannabidiol}~~cannabis-based medicine packaging; and

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

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

Section ~~{66}~~70. Section **58-86-404** is enacted to read:

58-86-404. Advertising.

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

(2) A ~~{cannabidiol}~~CBM dispensary may advertise using a:

(a) sign on the outside of the ~~{cannabidiol}~~CBM dispensary that includes only the ~~{cannabidiol}~~CBM 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}~~cannabis-based medicine.

Section ~~{67}~~71. Section **58-86-405** is enacted to read:

58-86-405. Inspections.

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

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

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

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

Section ~~{68}~~72. Section **58-86-406** is enacted to read:

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58-86-406. ~~{cannabidiol}~~ Cannabis-based medicine transportation.

(1) An individual may not transport ~~{cannabidiol}~~cannabis-based medicine unless the individual has a valid:

- (a) ~~{cannabidiol}~~cannabis production establishment agent registration card; or
- (b) ~~{cannabidiol}~~CBM dispensary agent registration card.

(2) An individual transporting ~~{cannabidiol}~~cannabis-based medicine shall keep a transportation record that includes:

- (a) a bar code or identification number that links the ~~{cannabidiol}~~cannabis-based medicine to a relevant inventory control system;
- (b) origin and destination information for any ~~{cannabidiol}~~cannabis-based medicine the individual is transporting; and
- (c) monitors the departure and arrival time of the individual transporting the ~~{cannabidiol}~~cannabis-based medicine.

(3) In addition to the requirements in Subsections (1) and (2), the Department of Agriculture and Food may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting ~~{cannabidiol}~~cannabis-based medicine related to human consumption safety.

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

- (a) transports cannabis or ~~{cannabidiol}~~cannabis-based medicine; and
- (b) does not possess, on the registered ~~{cannabidiol}~~CBM dispensary agent's person or in the transport vehicle, a transportation record that complies with Subsection (2).

(5) A registered ~~{cannabidiol}~~CBM dispensary agent who is guilty of an infraction under Subsection (3) is subject to a \$100 fine.

Section ~~{69}~~73. 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}~~CBM dispensary or ~~{cannabidiol}~~CBM dispensary agent:

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

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(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 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}~~ **CBM** 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 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}~~ **CBM** dispensary agent registration card; or

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

Section ~~{70}~~ **74**. 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;~~

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- ~~—— (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;~~
- ~~—— (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~~

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property, unless Section 59-12-104 provides for an exemption} 58-86-502 is enacted to read:

58-86-502. Fees -- Deposit into Medical Cannabis Restricted Account.

The division shall deposit fees the division collects under this chapter in the Medical Cannabis Restricted Account.

Section 75. Section 59-12-104.7 is enacted to read:

59-12-104.7. 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;~~
- ~~—— (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~~

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- ~~(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;~~ **tax for medical cannabis.**

(1) As used in this section:

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

~~{(2) (a) Except as provided in Subsections (2)(b) through (c), 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~~
- ~~(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction;}~~ **(b) "Cannabis-based medicine" means the same as that term is defined in Section 58-37-3.6.**

(c) "CBM dispensary" means the same as that term is defined in Section 26-58-102.

(2) In addition to the exemptions described in Section 59-12-104, the sale, by a licensed CBM dispensary, of cannabis-based medicine is not subject to the taxes imposed by this chapter.

Section 76. Section 59-28-101 is enacted to read:

CHAPTER 28. MEDICAL CANNABIS TAX ACT

59-28-101. Title.

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

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Section 77. Section 59-28-102 is enacted to read:

59-28-102. Definitions.

As used in this chapter:

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

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

(3) "CBM dispensary" means the same as that term is defined in Section 26-58-102.

(4) "Medical Cannabis Restricted Account" means the account created in Section 26-58-105.

Section 78. Section 59-28-103 is enacted to read:

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

There is imposed a tax on the retail purchaser of cannabis-based medicine at a CBM dispensary in the state, in an amount equal to 4.70% of amounts paid or charged for the cannabis-based medicine.

Section 79. Section 59-28-104 is enacted to read:

59-28-104. Collection of tax.

A CBM dispensary shall:

(1) collect the tax imposed by Section 59-28-103 from a cannabis-based medicine purchaser; and

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

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

(b) using a form prescribed by the commission.

Section 80. Section 59-28-105 is enacted to read:

59-28-105. Deposit of tax revenue.

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

Section 81. Section 59-28-106 is enacted to read:

59-28-106. Records.

(1) A CBM dispensary shall maintain any record typically deemed necessary to determine the amount of tax that the CBM dispensary is required to remit to the commission

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under this chapter ~~{ other than this part.~~

~~— (b);~~

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

(a) by notice served upon the CBM dispensary; or

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

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

Section 82. Section 59-28-107 is enacted to read:

59-28-107. Rulemaking authority.

(1) 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}; the commission may make rules 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~~

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~~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 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~~

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course of business for nontax purposes:

~~—— (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(c)(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 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)(c)(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~~

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~~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);~~

~~—— (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);~~

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- ~~—— (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) } to:~~
 - ~~(a) implement the tax imposed by {Subsection (2)(a)(i)(A);} this chapter; and~~
 - ~~(~~iii~~) b) enforce payment of the tax imposed by {Subsection (2)(b)(i);~~
 - ~~(ii) the tax imposed by Subsection (2)(c)(i); or~~
 - ~~(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).~~
- ~~—— (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~~

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~~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 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~~

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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 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~~

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~~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.~~

~~—— (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)(c)(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~~

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~~Subsection (5)(c) 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 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~~

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~~(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 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; **this chapter.**~~

Section 83. Section 59-28-108 is enacted to read:

59-28-108. Penalties and interest.

A CBM dispensary that fails to comply with any provision of this chapter is subject to penalties and interest 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~~

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~~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 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:~~

~~‡Sections 59-1-401 and 59-1-402.~~

Section 84. Section 62A-4a-202.1 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(i) a shelter facility; or

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

(c) When making a placement under Subsection (4)(b), the Division of Child and Family Services shall give priority to a placement with a noncustodial parent, relative, or

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friend, in accordance with Section 62A-4a-209.

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

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

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

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

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

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

(i) mental health resources;

(ii) substance abuse resources; and

(iii) parenting classes; and

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

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

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

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

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

Section ~~{71}~~85. 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.

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~~[(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.

Section 86. Section 78A-6-508 is amended to read:

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

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

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

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

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

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

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

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

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive

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nature;

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

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

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

(f) a history of violent behavior; or

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

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

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

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

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

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

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

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

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

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

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

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

Section ~~{72}~~87. **Effective date.**

This bill takes effect on July 1, 2016.