

CANNABINOID PRODUCT ACT

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts and amends provisions related to cannabinoid products.

Highlighted Provisions:

This bill:

- ▶ authorizes the cultivation, production, possession, use, and sale of cannabis and cannabinoid products under certain circumstances;
- ▶ provides for the creation of an electronic monitoring system for cannabinoid products;
- ▶ directs the Department of Agriculture and Food to issue cannabis producer licenses and enforce cannabis producer operating requirements;
- ▶ grants the Department of Agriculture and Food, the Division of Occupational and Professional Licensing, the Department of Financial Institutions, and the Department of Health rulemaking authority;
- ▶ directs the Department of Financial Institutions to issue cannabis payment processor licenses and enforce cannabis payment processor operating requirements;
- ▶ directs the Division of Occupational and Professional Licensing within the Department of Commerce to issue cannabinoid dispensary licenses and enforce cannabinoid dispensary operating requirements;
- ▶ directs the Department of Health to issue cannabinoid cards to individuals under certain circumstances;



- 28 ▶ creates an exemption from sales and use tax for sales of cannabinoid products;
- 29 ▶ imposes a special tax on the sale of cannabinoid products;
- 30 ▶ creates the Cannabinoid Product Restricted Account;
- 31 ▶ amends provisions related to driving with a measurable metabolite of cannabinoid
- 32 medicine;
- 33 ▶ prohibits a court from discriminating against a parent in a child custody case based
- 34 on the parent's legal use of cannabinoid medicine; and
- 35 ▶ prohibits a peace officer or child welfare worker from removing a child from an
- 36 individual's home on the basis of the individual's lawful use of cannabinoid
- 37 medicine.

38 **Money Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

44 41-6a-517, as last amended by Laws of Utah 2013, Chapter 333

45 62A-4a-202.1, as last amended by Laws of Utah 2012, Chapters 221 and 293

46 78A-6-508, as last amended by Laws of Utah 2014, Chapter 409

47 ENACTS:

48 4-42-101, Utah Code Annotated 1953

49 4-42-102, Utah Code Annotated 1953

50 4-42-103, Utah Code Annotated 1953

51 4-42-104, Utah Code Annotated 1953

52 4-42-201, Utah Code Annotated 1953

53 4-42-202, Utah Code Annotated 1953

54 4-42-203, Utah Code Annotated 1953

55 4-42-204, Utah Code Annotated 1953

56 4-42-301, Utah Code Annotated 1953

57 4-42-302, Utah Code Annotated 1953

58 4-42-401, Utah Code Annotated 1953

- 59 [4-42-402](#), Utah Code Annotated 1953
- 60 [4-42-403](#), Utah Code Annotated 1953
- 61 [4-42-501](#), Utah Code Annotated 1953
- 62 [4-42-601](#), Utah Code Annotated 1953
- 63 [4-42-602](#), Utah Code Annotated 1953
- 64 [4-42-603](#), Utah Code Annotated 1953
- 65 [4-42-701](#), Utah Code Annotated 1953
- 66 [4-42-702](#), Utah Code Annotated 1953
- 67 [4-42-801](#), Utah Code Annotated 1953
- 68 [4-42-802](#), Utah Code Annotated 1953
- 69 [4-42-803](#), Utah Code Annotated 1953
- 70 [7-26-101](#), Utah Code Annotated 1953
- 71 [7-26-102](#), Utah Code Annotated 1953
- 72 [7-26-201](#), Utah Code Annotated 1953
- 73 [7-26-202](#), Utah Code Annotated 1953
- 74 [7-26-203](#), Utah Code Annotated 1953
- 75 [7-26-204](#), Utah Code Annotated 1953
- 76 [7-26-301](#), Utah Code Annotated 1953
- 77 [7-26-401](#), Utah Code Annotated 1953
- 78 [7-26-402](#), Utah Code Annotated 1953
- 79 [26-59-101](#), Utah Code Annotated 1953
- 80 [26-59-102](#), Utah Code Annotated 1953
- 81 [26-59-103](#), Utah Code Annotated 1953
- 82 [26-59-201](#), Utah Code Annotated 1953
- 83 [26-59-202](#), Utah Code Annotated 1953
- 84 [26-59-203](#), Utah Code Annotated 1953
- 85 [26-59-204](#), Utah Code Annotated 1953
- 86 [26-59-205](#), Utah Code Annotated 1953
- 87 [26-59-206](#), Utah Code Annotated 1953
- 88 [57-37-3.7](#), Utah Code Annotated 1953
- 89 [58-37-3.6](#), Utah Code Annotated 1953

- 90 **58-37f-204**, Utah Code Annotated 1953
- 91 **58-67-807**, Utah Code Annotated 1953
- 92 **58-68-807**, Utah Code Annotated 1953
- 93 **58-87-101**, Utah Code Annotated 1953
- 94 **58-87-102**, Utah Code Annotated 1953
- 95 **58-87-103**, Utah Code Annotated 1953
- 96 **58-87-201**, Utah Code Annotated 1953
- 97 **58-87-202**, Utah Code Annotated 1953
- 98 **58-87-203**, Utah Code Annotated 1953
- 99 **58-87-204**, Utah Code Annotated 1953
- 100 **58-87-301**, Utah Code Annotated 1953
- 101 **58-87-302**, Utah Code Annotated 1953
- 102 **58-87-401**, Utah Code Annotated 1953
- 103 **58-87-402**, Utah Code Annotated 1953
- 104 **58-87-403**, Utah Code Annotated 1953
- 105 **58-87-404**, Utah Code Annotated 1953
- 106 **58-87-501**, Utah Code Annotated 1953
- 107 **58-87-502**, Utah Code Annotated 1953
- 108 **59-12-104.7**, Utah Code Annotated 1953
- 109 **59-28-101**, Utah Code Annotated 1953
- 110 **59-28-102**, Utah Code Annotated 1953
- 111 **59-28-103**, Utah Code Annotated 1953
- 112 **59-28-104**, Utah Code Annotated 1953
- 113 **59-28-105**, Utah Code Annotated 1953
- 114 **59-28-106**, Utah Code Annotated 1953
- 115 **59-28-107**, Utah Code Annotated 1953
- 116 **59-28-108**, Utah Code Annotated 1953

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

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

120 **CHAPTER 1. CANNABIS PRODUCERS**

Part 1. General Provisions

4-42-101. Title.

This chapter is known as "Cannabis Producers."

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

4-42-102. Definitions.

As used in this chapter:

(1) "Agent" means an employee or independent contractor of an entity.

(2) "Cannabinoid card" means the same as that term is defined in Section [26-59-102](#).

(3) "Cannabinoid dispensary" means a person that:

(a) sells cannabinoid medicine at retail; or

(b) purchases or possesses a cannabinoid product with the intent to sell the cannabinoid product.

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

(5) "Cannabinoid Product Restricted Account" means the account created in Section [4-42-104](#).

(6) "Cannabis" means any part of a cannabis plant, whether growing or not.

(7) "Cannabis cultivator" means a person that:

(a) grows cannabis; or

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

(8) "Cannabis laboratory" means a person that:

(a) conducts a chemical or other analysis of a cannabinoid product; or

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

(9) "Cannabis payment processor" means the same as that term is defined in Section [7-26-102](#).

(10) "Cannabis processor" means a person that:

(a) manufactures a cannabinoid product from cannabis;

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

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

(11) "Electronic monitoring system" means the system described in Section [4-42-103](#).

152 (12) "Medical dosage form" means the same as that term is defined in Section
153 26-59-102.

154 (13) "Physician" means the same as that term is defined in Section 26-59-102.

155 (14) "Registered patient" means an individual with a valid cannabinoid medicine card
156 issued by the department under Section 26-59-201.

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

158 **4-42-103. Electronic monitoring system for cannabinoid products.**

159 (1) (a) The department, with input from the Department of Health, the Division of
160 Occupational and Professional Licensing, and the Department of Public Safety, shall develop
161 the required functions of and minimum operating standards for an electronic monitoring system
162 that monitors cannabinoid product in the state.

163 (b) The department shall work with a third-party provider to develop and maintain the
164 electronic monitoring system.

165 (c) The department shall select the third-party provider described in Subsection (1)(b)
166 in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

167 (2) The electronic monitoring system described in Subsection (1) shall maintain a
168 record of:

169 (a) each registered patient;

170 (b) each physician who recommends a cannabinoid product to a registered patient; and

171 (c) each transaction involving a cannabinoid product.

172 (3) The electronic monitoring system shall interface with a registered patient's
173 cannabinoid card to track, in real time, for the registered patient's purchase of a cannabinoid
174 product:

175 (a) the time and date of the purchase;

176 (b) the quantity and type of the cannabinoid product purchased; and

177 (c) the cannabinoid dispensary where the registered patient purchased the cannabinoid
178 product.

179 (4) The electronic monitoring system shall track cannabis and cannabinoid products in
180 real time, from the time that a cannabis plant is first planted as a seed or clone until the
181 cannabinoid product derived from the cannabis is sold by a cannabinoid dispensary.

182 (5) The electronic monitoring system shall store, in real time, a record of the amount of

183 cannabis or cannabinoid products in a cannabis processor's or cannabinoid dispensary's
184 possession.

185 (6) The electronic monitoring system shall provide access to:

186 (a) a state entity to the extent necessary for the entity to carry out the functions and
187 responsibilities given to the entity under this chapter; and

188 (b) state or local law enforcement.

189 (7) The electronic monitoring system shall interface with a cannabis payment processor
190 to facilitate payment for cannabinoid product services.

191 (8) The department may make rules in accordance with Title 63G, Chapter 3, Utah
192 Administrative Rulemaking Act, to facilitate the operation, maintenance, and security of the
193 electronic monitoring system.

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

195 **4-42-104. Cannabinoid Product Restricted Account -- Creation.**

196 (1) There is created in the General Fund a restricted account known as the
197 "Cannabinoid Medicine Restricted Account."

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

199 (a) money deposited by the State Tax Commission under Title 59, Chapter 28,
200 Cannabinoid Product Tax Act;

201 (b) money deposited into the account by the Department of Agriculture and Food under
202 Title 4, Chapter 42, Cannabis Producers;

203 (c) money deposited into the account by the Department of Financial Institutions under
204 Title 7, Chapter 26, Cannabis Payment Processor;

205 (d) money deposited into the account by the department under Title 26, Chapter 59,
206 Cannabinoid Product Act;

207 (e) money deposited into the account by the Division of Occupational and Professional
208 Licensing under Title 58, Chapter 87, Cannabinoid Dispensaries;

209 (f) appropriations made to the account by the Legislature; and

210 (g) the interest described in Subsection (3).

211 (3) Interest earned on the account is deposited into the account.

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

213 (a) the cost of state regulation of cannabinoid products under:

- 214 (i) Title 4, Chapter 42, Cannabis Producers;
- 215 (ii) Title 7, Chapter 26, Cannabis Payment Processors;
- 216 (iii) Title 26, Chapter 59, Cannabinoid Product Act;
- 217 (iv) Title 58, Chapter 87, Cannabinoid Dispensaries; and
- 218 (v) Title 59, Chapter 28, Cannabinoid Product Tax Act;
- 219 (b) the cost to the attorney general for investigation and enforcement related to
- 220 cannabinoid products; and
- 221 (c) cannabis abuse prevention and cannabis education programs developed by the state.
- 222 (5) At the end of fiscal year 2019 and fiscal year 2020 the director of the Division of
- 223 Finance shall transfer into the General Fund from the Cannabinoid Product Restricted Account
- 224 an amount equal to the General Fund appropriation in fiscal year 2017 and fiscal year 2018 to
- 225 implement the programs described in Subsection (4).

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

227 **Part 2. Cannabis Producer License**

228 **4-42-201. Cannabis cultivator -- Cannabis processor -- Cannabis laboratory --**
229 **License -- Renewal.**

230 (1) A person may not act as a cannabis cultivator, a cannabis processor, or a cannabis
231 laboratory without a cannabis producer license issued by the department in accordance with
232 this chapter.

233 (2) A person may submit an application to the department for a cannabis producer
234 license of the class of:

- 235 (a) cannabis cultivator;
- 236 (b) cannabis processor; or
- 237 (c) cannabis laboratory.

238 (3) An applicant for a license described in Subsection (2) shall submit to the
239 department:

240 (a) an application in a form determined by the department that includes information
241 required by the department by rule made in accordance with Title 63G, Chapter 3, Utah
242 Administrative Rulemaking Act;

243 (b) a bond, as required by Section 4-42-204, for each license for which the person
244 applies;

245 (c) an application fee established by the department, in accordance with Section
246 63J-1-504, in an amount equal to the amount necessary to cover the department's cost to
247 implement this chapter; and

248 (d) an operating plan that complies with minimum operating standards determined by
249 the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
250 Rulemaking Act, that includes a plan for:

251 (i) security;

252 (ii) payment processing;

253 (iii) for a cannabis cultivator:

254 (A) pesticide and fertilizer use; and

255 (B) anticipated cannabis yield;

256 (iv) for a cannabis processor:

257 (A) cannabinoid extraction; and

258 (B) processing technique; and

259 (v) for a cannabis laboratory:

260 (A) testing method; and

261 (B) testing capability.

262 (4) The department shall require a separate license and separate license fee for each
263 physical location of a cannabis cultivator, cannabis processor, and cannabis laboratory.

264 (5) The department may not issue a license to operate a cannabis laboratory to a
265 person:

266 (a) that holds a license for or has an ownership interest in a cannabinoid medicine
267 dispensary, a cannabis processor, or a cannabis cultivator in the state; or

268 (b) that otherwise has an interest in a cannabinoid medicine dispensary, a cannabis
269 processor, or a cannabis cultivator as determined by the department.

270 (6) The department may establish additional application criteria and procedures by rule
271 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

273 **4-42-202. Renewal.**

274 Except as provided in Subsection (2), the department shall renew the license of a
275 cannabis producer licensed under Section 4-42-201 every two years if, at the time of renewal:

276 (1) the cannabis producer meets the requirements of Section 4-42-201; and
277 (2) the cannabis producer pays the department a license renewal fee in an amount
278 determined by the department in accordance with Section 63J-1-504.

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

280 **4-42-203. Department may accept or deny a license -- Maximum number of**
281 **licenses.**

282 (1) The department shall determine the number of licenses that the department may
283 issue, at any given time, for the class of:

284 (a) cannabis cultivator;

285 (b) cannabis processor; and

286 (c) cannabis laboratory.

287 (2) The department shall determine the number of licenses available under Subsection
288 (1) by considering:

289 (a) the population of the state; and

290 (b) the number of registered patients.

291 (3) The department may not issue, at any given time, more than a number of licenses
292 greater than the number available under Subsection (1).

293 (4) The department is not required to issue an available license if the department
294 determines that no qualified applicant has applied.

295 (5) A department decision to award or deny a license under this section is final and not
296 subject to judicial review.

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

298 **4-42-204. Bond required for license -- Cannabis producer.**

299 (1) A cannabis producer licensed under Section 4-42-201 shall post a cash bond or
300 surety bond, payable to the department, in an amount equal to:

301 (a) for a cannabis cultivator, \$2,000,000;

302 (b) for a cannabis processor, \$1,000,000; and

303 (c) for a cannabis laboratory, \$75,000.

304 (2) A cannabis producer licensed under Section 4-42-201 shall maintain the bond
305 described in Subsection (1) for as long as the cannabis producer continues to operate.

306 (3) The department shall require a bond a cannabis producer posts under this section to

307 be:

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

309 (b) conditioned upon the cannabis producer's compliance with this chapter.

310 (4) If a bond described in Subsection (1) is canceled due to a cannabis producer's

311 negligence, the department may assess the cannabis producer a \$300 reinstatement fee.

312 (5) A cannabis producer may not withdraw any part of a bond posted under Subsection

313 (1):

314 (a) during the period when the cannabis producer's license is in effect; or

315 (b) while a license revocation proceeding is pending against the cannabis producer.

316 (6) A cannabis producer forfeits a bond posted under Subsection (1) if the cannabis

317 producer's license is revoked.

318 (7) The department may, without revoking a license, make a claim against a bond

319 posted by a cannabis producer under Subsection (1) for money the cannabis producer owes the

320 department under this chapter.

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

322 **Part 3. Cannabis Producer Agents**

323 **4-42-301. Cannabis producer agents.**

324 (1) A cannabis producer licensed under Section [4-42-201](#) shall maintain a current list

325 of each agent of the cannabis producer.

326 (2) A cannabis producer shall submit the list described in Subsection (1) to the

327 department before:

328 (a) January 1 of each year; and

329 (b) July 1 of each year.

330 (3) In addition to the list described in Subsection (1), a cannabis producer licensed

331 under Section [4-42-201](#) shall require each agent to submit to a criminal background check in

332 accordance with Section [4-42-302](#).

333 (4) The department may audit the list described in Subsection (1) at any time, at

334 random, in order to determine:

335 (a) that the list is accurate; and

336 (b) that each agent has submitted to a criminal background check in accordance with

337 Section [4-42-302](#).

- 338 (5) A cannabis producer is guilty of an infraction if the cannabis producer:
339 (a) fails to maintain an accurate list of each agent of the cannabis producer in
340 accordance with this section; or
341 (b) has an agent who has not submitted to a background check in accordance with
342 Section [4-42-302](#).
- 343 Section 10. Section **4-42-302** is enacted to read:
344 **4-42-302. Cannabis producer agents -- Criminal background checks.**
- 345 (1) Each cannabis producer agent shall:
346 (a) submit to the department:
347 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and
348 (ii) a signed waiver in accordance with Subsection [53-10-108](#)(4) indicating that the
349 agent's fingerprints are being registered in the Federal Bureau of Investigation Next Generation
350 Identification System's Rap Back Service; and
351 (b) consent to a fingerprint background check by:
352 (i) the Bureau of Criminal Identification; and
353 (ii) the Federal Bureau of Investigation.
- 354 (2) The Bureau of Criminal Identification shall:
355 (a) check the fingerprints submitted under Subsection (1) against the applicable state,
356 regional, and national criminal records databases, including the Federal Bureau of Investigation
357 Next Generation Identification System;
358 (b) report the results of the background check to the department;
359 (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by
360 future submissions to the local and regional criminal records databases, including latent prints;
361 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next
362 Generation Identification System's Rap Back Service for search by future submissions to
363 national criminal records databases, including the Next Generation Identification System and
364 latent prints; and
365 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives
366 notifications for an individual with whom the entity maintains an authorizing relationship.
- 367 (3) The department shall:
368 (a) assess an individual who submits fingerprints, in accordance with this section, a fee

369 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of
370 Criminal Identification or other authorized agency provides under this section; and

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

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

374 **Part 4. Cannabis Producer General Operating Requirements**

375 **4-42-401. Cannabis producer -- General operating requirements.**

376 (1) (a) A cannabis producer shall operate in accordance with the operating plan the
377 cannabis producer provides to the department under Section [4-42-201](#).

378 (b) A cannabis producer shall notify the department within 30 days of any change in
379 the cannabis producer's operation plan.

380 (c) The department shall review a cannabis producer's operating plan for compliance
381 with state law and administrative rules.

382 (d) A cannabis producer may not operate under an operating plan until the operating
383 plan is reviewed and approved by the department under Subsection (1)(c).

384 (2) Except when determined by the Department of Financial Institutions under Section
385 [7-26-204](#), a cannabis producer may only transmit or accept payments for cannabinoid medicine
386 using a cannabis payment processor licensed under Section [7-26-201](#).

387 (3) The department shall establish physical facility standards for a cannabis producer
388 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

389 Section 12. Section **4-42-402** is enacted to read:

390 **4-42-402. Cannabis producer -- Inspection by department.**

391 (1) Subject to Subsection (2), the department shall inspect the records and facility of a
392 cannabis producer in order to determine if the cannabis producer complies with the
393 requirements of this chapter.

394 (2) The department may inspect the records and facility of a cannabis producer:

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

396 (b) if the department has reason to believe that the cannabis producer has violated the
397 law, at any time, scheduled or unscheduled.

398 Section 13. Section **4-42-403** is enacted to read:

399 **4-42-403. Cannabis or cannabinoid medicine transportation.**

400 (1) An individual may not transport cannabis or cannabinoid medicine between two
401 cannabis producers, or between a cannabis producer and a cannabinoid medicine dispensary,
402 unless the individual is an agent of a licensed cannabis producer or licensed cannabinoid
403 medicine dispensary.

404 (2) An individual transporting cannabinoid medicine or cannabis shall keep a
405 transportation record that includes:

406 (a) a unique identifier that links the cannabis or cannabinoid medicine to the electronic
407 monitoring system;

408 (b) origin and destination information for any cannabis or cannabinoid medicine the
409 individual is transporting; and

410 (c) a record of the departure and arrival time of the individual transporting the cannabis
411 or cannabinoid medicine.

412 (3) In addition to the requirements in Subsections (1) and (2), the board shall establish,
413 with department concurrence, by rule made in accordance with Title 63G, Chapter 3, Utah
414 Administrative Rulemaking Act, requirements for transporting cannabis or cannabinoid
415 medicine related to safety for human consumption of cannabinoid medicine.

416 (4) An agent of a cannabis producer or cannabinoid medicine dispensary is guilty of an
417 infraction if the agent:

418 (a) transports cannabis or cannabinoid medicine; and

419 (b) does not possess, on the agent's person or in the transport vehicle, a transportation
420 record that complies with Subsection (2).

421 (5) An agent who is guilty of an infraction under Subsection (4) is subject to a \$100
422 fine.

423 (6) If the department or a cannabis producer or cannabinoid medicine dispensary agent
424 discovers a defect in the transportation record, the department or agent shall notify law
425 enforcement immediately.

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

427 **Part 5. Cannabis Cultivator Operating Requirements**

428 **4-42-501. Cannabis cultivator -- Operating requirements.**

429 (1) A cannabis cultivator shall cultivate cannabis indoors in a facility that is equipped
430 with a carbon air filtration system for air output.

- 431 (2) A cannabis cultivator shall use a unique identifier for:
- 432 (a) each batch of cannabis transferred to a cannabis processor; and
- 433 (b) each unique harvest of cannabis plants.
- 434 (3) A cannabis cultivator shall ensure that any cannabis growing at the cannabis
- 435 cultivator's facility is not visible from outside the facility.
- 436 (4) The department shall establish, by rule made in accordance with Title 63G, Chapter
- 437 3, Utah Administrative Rulemaking Act:

- 438 (a) human safety standards for a cannabis cultivator's:
- 439 (i) use of pesticides;
- 440 (ii) use of fertilizers; and
- 441 (iii) cultivation techniques; and
- 442 (b) physical facility standards for a cannabis cultivator.

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

Part 6. Cannabis Processor Operating Requirements

4-42-601. Cannabis processor -- Operating requirements.

446 (1) A cannabis processor shall ensure that a cannabinoid product that the cannabis

447 processor sells or provides to a cannabinoid medicine dispensary complies with the

448 requirements of this part.

449 (2) A cannabis processor shall operate in a facility with a carbon filtration system for

450 air output.

451 (3) The department shall establish physical facility standards for a cannabis processor.

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

4-42-602. Cannabinoid product.

454 A cannabis processor may only produce a cannabinoid product in a medical dosage

455 form.

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

4-42-603. Cannabinoid medicine -- Labeling and packaging.

458 (1) A cannabis processor shall ensure that any cannabinoid product that the cannabis

459 processor distributes has a label or package that:

- 460 (a) clearly displays the cannabinoid profile of the cannabinoid product;
- 461 (b) has a unique batch identifier that identifies the unique manufacturing process when

462 the cannabinoid product was manufactured; and

463 (c) has a unique identifier that allows the cannabinoid product to be tracked by the
464 electronic monitoring system.

465 (2) In addition to Subsection (1), the department shall establish, by rule made in
466 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, labeling and
467 packaging standards for a cannabinoid product produced by a cannabis processor.

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

469 **Part 7. Cannabis Laboratory Operating Requirements**

470 **4-42-701. Cannabis and cannabinoid product testing.**

471 (1) A cannabis laboratory may not operate unless the cannabis laboratory is capable of
472 accurately testing a cannabinoid product as described in this section.

473 (2) A cannabis laboratory shall, before cannabinoid medicine is offered for sale at a
474 cannabinoid medicine dispensary, test the cannabinoid medicine as described in this section.

475 (3) A cannabis laboratory shall determine the cannabinoid profile of a cannabinoid
476 product.

477 (4) A cannabis laboratory shall determine if a cannabinoid product contains, in an
478 amount that is harmful to human health:

479 (a) mold;

480 (b) fungus;

481 (c) pesticides;

482 (d) other microbial contaminants; or

483 (e) another harmful substance identified by the department under Subsection (7).

484 (5) For a cannabinoid product that is manufactured using a process that involves
485 extraction using hydrocarbons, a cannabis laboratory shall test the cannabinoid product for
486 residual solvents.

487 (6) A cannabis laboratory shall test any cannabis that the cannabis laboratory receives
488 from a cannabis cultivator using carbon stable isotope testing to determine:

489 (a) the origin of the cannabis;

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

491 (c) any other information required by the department under Subsection (7) about the
492 cannabis that can be determined using stable isotope testing.

493 (7) The department shall determine by rule made in accordance with Title 63G,
494 Chapter 3, Utah Administrative Rulemaking Act:

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

497 (b) additional cannabis or cannabinoid medicine testing that a cannabis laboratory is
498 required to perform; and

499 (c) minimum standards for a cannabis laboratory's testing methods and procedures.

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

501 **4-42-702. Reporting -- Inspections.**

502 (1) A cannabis laboratory shall report the results of each cannabis or cannabinoid
503 product test to the department.

504 (2) A cannabis laboratory shall determine if:

505 (a) the results of a lab test indicate that a cannabis or cannabinoid product batch is
506 unsafe for human consumption; and

507 (b) using a carbon stable isotope test, was not cultivated in accordance with this
508 chapter.

509 (3) If a cannabis laboratory makes a determination described in Subsection (2), the
510 cannabis laboratory may not release the batch to a cannabis processor or a cannabinoid
511 dispensary until the department has an opportunity to respond to the cannabis laboratory within
512 a period of time determined by the department.

513 (4) (a) If the department determines that a cannabis or cannabinoid product batch is
514 unsafe for human consumption, the department shall destroy the cannabis or cannabinoid
515 product batch.

516 (b) If the department determines that a cannabis or cannabinoid product batch was not
517 cultivated in accordance with this chapter, the department may seize, embargo, or destroy a
518 cannabis or cannabinoid product batch in accordance with Section [4-42-801](#).

519 (5) The board, with department concurrence, shall establish, by rule made in
520 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the amount of
521 time that a cannabis laboratory is required to hold a batch under Subsection (3).

522 (6) The department may conduct a test to:

523 (a) determine the accuracy of a cannabis laboratory's:

- 524 (i) cannabis or cannabinoid product test results; or
- 525 (ii) analytical method; or
- 526 (b) validate a cannabis laboratory's testing methods.

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

528 **Part 8. Enforcement**

529 **4-42-801. Enforcement -- Fine -- Citation.**

530 (1) The department may, for a violation of this chapter by a cannabis producer:

- 531 (a) revoke the cannabis producer's license;
- 532 (b) refuse to renew the cannabis producer's license;
- 533 (c) assess the cannabis producer an administrative penalty; or
- 534 (d) take any other appropriate administrative action.

535 (2) The department shall deposit an administrative penalty imposed under this section
536 into the Cannabinoid Product Restricted Account.

537 (3) (a) The department may take an action described in Subsection (3)(b) if the
538 department concludes, upon inspection or investigation, that, for a person that is a cannabis
539 producer:

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

542 (ii) the person prepared a cannabis or cannabinoid product batch in a manner, or such
543 that the batch contains a substance, that poses a threat to human health; or

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

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

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

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

554 (i) seize, embargo, or destroy a cannabis or cannabinoid product batch; and

555 (ii) direct the person to appear before an adjudicative proceeding conducted under Title
556 63G, Chapter 4, Administrative Procedures Act.

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

559 (a) assess the person a fine in an amount determined by the department in accordance
560 with Section 63J-1-504; or

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

562 (5) The department may not revoke a cannabis producer's license via a citation.

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

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

568 (a) refuse to issue or renew the person's license; or

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

570 Section 21. Section **4-42-802** is enacted to read:

571 **4-42-802. Report to the Legislature.**

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

575 Section 22. Section **4-42-803** is enacted to read:

576 **4-42-803. Fees -- Deposit into Cannabinoid Product Restricted Account.**

577 The department shall deposit fees the department collects under this chapter into the
578 Cannabinoid Product Restricted Account.

579 Section 23. Section **7-26-101** is enacted to read:

580 **CHAPTER 26. CANNABIS PAYMENT PROCESSOR**

581 **Part 1. General Provisions**

582 **7-26-101. Title.**

583 This chapter is known as "Cannabis Payment Processor."

584 Section 24. Section **7-26-102** is enacted to read:

585 **7-26-102. Definitions.**

586 As used in this chapter:

587 (1) "Cannabinoid card" means the same as that term is defined in Section [26-59-102](#).

588 (2) "Cannabinoid dispensary" means the same as that term is defined in Section
589 [58-87-102](#).

590 (3) "Cannabinoid product" means a substance that:

591 (a) contains cannabis; and

592 (b) is intended for human medical use.

593 (4) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

594 (5) "Cannabis payment processor" means a person that facilitates payment:

595 (a) without using cash;

596 (b) electronically, in connection with the electronic monitoring system; and

597 (c) (i) (A) for cannabis, from a cannabis producer to another cannabis producer;

598 (B) for cannabis or cannabinoid product testing, from a cannabis producer to a
599 cannabis laboratory; or

600 (C) for a cannabinoid product, from a cannabinoid dispensary to a cannabis producer;

601 or

602 (ii) for a cannabinoid product, from a registered patient to a cannabinoid dispensary.

603 (6) "Cannabis producer" means the same as that term is defined in Section [4-42-102](#).

604 (7) "Electronic monitoring system" means the same as that term is defined in Section
605 [4-42-102](#).

606 (8) "Registered patient" means an individual with a valid cannabinoid card issued by
607 the department under Section [26-59-201](#).

608 Section 25. Section **7-26-201** is enacted to read:

609 **Part 2. Cannabis Payment Processor License**

610 **7-26-201. Cannabis payment processor -- License.**

611 (1) A person may not act as a cannabis payment processor without a license issued by
612 the department under this section.

613 (2) An applicant for a cannabis payment processor license shall:

614 (a) submit to the department:

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

616 (ii) the name of each owner, officer, director, board member, shareholder, agent,

617 employee, or volunteer of the applicant; and
618 (iii) a fee in accordance with Section 7-1-401; and
619 (b) present evidence to the department that:
620 (i) the applicant is capable of electronically receiving funds from, and distributing
621 funds to:
622 (A) a cannabis producer;
623 (B) a cannabinoid dispensary; and
624 (C) a registered patient;
625 (ii) the applicant has a partnership, service agreement, or service contract with a
626 federally insured depository institution that agrees to clear cannabinoid product transactions;
627 (iii) the applicant is able to interface with the electronic monitoring system to enable a
628 registered patient to:
629 (A) add funds, using a bank wire or a credit card, to an account with the applicant
630 associated with the cannabinoid card; and
631 (B) use the cannabinoid card to pay for a cannabinoid product at a cannabinoid
632 dispensary using the funds in the individual's account with the cannabis payment processor;
633 and
634 (iv) the applicant is, at minimum:
635 (A) a level one payment card industry data security standard-validated provider;
636 (B) certified by Europay, MasterCard, and Visa; and
637 (C) capable of integrating with 50 payment processors.
638 (3) A license issued under this section is valid for two years.
639 (4) The department may determine, by rule made in accordance with Title 63G,
640 Chapter 3, Utah Administrative Rulemaking Act:
641 (a) any additional information an applicant for a cannabis payment processor is
642 required to submit to the department; and
643 (b) procedural requirements for an applicant for a license under this chapter.
644 (5) An applicant for a cannabis payment processor license under this section may
645 request that the department treat information that the applicant submits to the department as
646 confidential under Section 7-1-802.
647 Section 26. Section 7-26-202 is enacted to read:

648 **7-26-202. Renewal -- Abandonment.**

649 The department shall renew a person's cannabis payment processor license every two
650 years if, at the time of renewal, the person:

651 (1) meets the requirements of Section [7-26-201](#);

652 (2) demonstrates the criteria described in Subsection [7-26-203\(2\)](#); and

653 (3) pays the department a license renewal fee in an amount determined by the
654 department in accordance with Section [7-1-401](#).

655 Section 27. Section **7-26-203** is enacted to read:

656 **7-26-203. Number of licenses -- Criteria for awarding a license.**

657 (1) The department may issue up to a number of cannabis payment processor licenses
658 determined by the department.

659 (2) The department shall evaluate an applicant for a cannabis payment processor
660 license to determine to what extent the applicant has demonstrated:

661 (a) experience with:

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

663 (ii) operating a payment processing system;

664 (iii) complying with a regulatory environment; and

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

666 (b) connections to the local community;

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

668 (d) that the applicant will maximize convenience, efficiency, and security for
669 processing cannabinoid product payments.

670 (3) After a department official reviews an applicant's application under Section
671 [7-26-201](#) and evaluates the application for the criteria described in Subsection (2), the official
672 shall submit the department's findings and recommendations to the commissioner.

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

676 (5) In making a recommendation of which applicant to award a cannabis payment
677 processor license under Subsection (1), the department shall consult, to the extent that the
678 consultation involves compatibility and coordination of a cannabis payment processor licensee

679 with other state cannabinoid medicine regulation, with:

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

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

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

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

687 (e) the commissioner of the Department of Agriculture and Food or the commissioner's
688 designee; and

689 (f) the commissioner of the Department of Public Safety or the commissioner's
690 designee.

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

693 Section 28. Section **7-26-204** is enacted to read:

694 **7-26-204. Cash system if no cannabis payment processor available.**

695 (1) The department shall determine if no qualified cannabis payment processor
696 submitted an application for a license under this chapter.

697 (2) If the department makes the determination described in Subsection (1), the
698 department shall issue a statement that a cannabis payment processor is not available and that a
699 cannabis producer, cannabinoid dispensary, or registered patient may use cash to pay for
700 products and services related to cannabinoid products.

701 Section 29. Section **7-26-301** is enacted to read:

702 **Part 3. Operating Requirements**

703 **7-26-301. Operating requirements.**

704 (1) Except as provided in Section [7-26-204](#), a cannabis payment processor may not
705 accept or disburse cash in a transaction involving a cannabinoid product.

706 (2) A cannabis payment processor may not act as a cannabis payment processor for a
707 person unless the person is:

708 (a) a registered patient; or

709 (b) a person that is licensed under:

- 710 (i) Title 4, Chapter 42, Cannabis Producers; or
- 711 (ii) Title 58, Chapter 87, Cannabinoid Dispensaries.
- 712 (3) A cannabis payment processor shall maintain interoperability with the electronic
- 713 monitoring system.

714 Section 30. Section 7-26-401 is enacted to read:

715 **Part 4. Enforcement**

716 **7-26-401. Examination -- Administrative action.**

717 (1) The department may examine the records or activities of a cannabis payment
718 processor at any time in order to determine if the cannabis payment processor is complying
719 with this chapter.

720 (2) If the department determines that a person is acting as a cannabis payment
721 processor without a license issued under this section, the department may:

722 (a) order the person to cease and desist from acting as a cannabis payment processor;
723 and

724 (b) assess the person a fine in an amount determined by the department by rule made in
725 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

726 (3) If the department determines that a person with a cannabis payment processor
727 license issued by the department has violated this chapter, the department may:

728 (a) order the person to cease and desist from the violation;

729 (b) assess the person a fine in an amount determined by the department by rule made in
730 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

731 (c) revoke the person's license.

732 Section 31. Section 7-26-402 is enacted to read:

733 **7-26-402. Fees -- Deposit into Cannabinoid Product Restricted Account.**

734 The department shall deposit fees the department collects under this chapter into the
735 Cannabinoid Product Restricted Account created in Section [4-42-104](#).

736 Section 32. Section 26-59-101 is enacted to read:

737 **CHAPTER 59. CANNABINOID PRODUCT ACT**

738 **Part 1. General Provisions**

739 **26-59-101. Title.**

740 This chapter is known as "Cannabinoid Product Act."

741 Section 33. Section **26-59-102** is enacted to read:

742 **26-59-102. Definitions.**

743 (1) "Agent" means an employee or independent contractor of an entity.

744 (2) "Cannabinoid card" means a card issued by the department under Section

745 26-59-201 to a patient who qualifies for treatment with a cannabinoid product.

746 (3) "Cannabinoid dispensary" means a person that:

747 (a) sells a cannabinoid product; or

748 (b) purchases or possesses a cannabinoid product with the intent to sell a cannabinoid

749 product.

750 (4) "Cannabinoid product" means a substance that:

751 (a) contains cannabis; and

752 (b) is intended for human medical use.

753 (5) "Cannabinoid Product Restricted Account" means the account created in Section

754 4-42-104.

755 (6) "Cannabis" means any part of a cannabis plant, whether growing or not.

756 (7) "Cannabis laboratory" means the same as that term is defined in Section 4-42-102.

757 (8) "Cannabis payment processor" means the same as that term is defined in Section

758 7-26-102.

759 (9) "Designated caregiver" means an individual authorized by a registered patient under

760 Section 26-59-202 to retrieve the registered patient's cannabinoid product on the registered

761 patient's behalf.

762 (10) "Electronic monitoring system" means the system described in Section 4-42-103.

763 (11) "Medical dosage form" means a qualifying dosage form for a cannabinoid product

764 under Section 26-59-103.

765 (12) "Physician" means an individual who is licensed to practice:

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

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

768 Practice Act.

769 (13) "Registered patient" means an individual with a valid cannabinoid medicine card

770 issued by the department under Section 26-59-201.

771 Section 34. Section **26-59-103** is enacted to read:

772 **26-59-103. Medical dosage form.**

773 (1) For the purpose of this chapter, any of the following is a qualifying medical dosage
774 form for a cannabinoid product:

- 775 (a) a tablet;
- 776 (b) a capsule;
- 777 (c) a concentrated oil;
- 778 (d) an injectable;
- 779 (e) a transdermal preparation; and
- 780 (f) a sublingual preparation.

781 (2) A registered patient may not purchase, use, or possess a cannabinoid product unless
782 the cannabinoid product is prepared in a medical dosage form.

783 (3) A cannabinoid dispensary may not purchase, possess, or sell a cannabinoid product
784 unless the cannabinoid product is prepared in a medical dosage form.

785 (4) The department may recommend that the Legislature approve the use of an
786 additional medical dosage form.

787 Section 35. Section **26-59-201** is enacted to read:

788 **Part 2. Cannabinoid Card**

789 **26-59-201. Cannabinoid card -- Application -- Renewal.**

790 (1) An individual may not purchase a cannabinoid product unless the department issues
791 the individual a cannabinoid card in accordance with this section.

792 (2) The department shall issue a cannabinoid card to an individual who qualifies for a
793 cannabinoid card under this chapter and follows the procedures described in this chapter.

794 (3) An individual qualifies for a cannabinoid card if:

795 (a) the individual is:

- 796 (i) at least 18 years old; and
- 797 (ii) a Utah resident; and

798 (b) a physician determines that the individual:

799 (i) suffers from an illness approved for a physician to recommend treatment with a
800 cannabinoid product under state law; and

801 (ii) may benefit from treatment with a cannabinoid product.

802 (4) An applicant for a cannabinoid card shall:

803 (a) submit an application to the department, in a form determined by the department,
804 that includes:

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

806 (ii) a copy of the individual's valid government-issued photo identification;

807 (iii) a signed copy of the physician determination described in Subsection (2)(b); and

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

810 (b) pay the department a fee established by the department in accordance with Section
811 63J-1-504.

812 (5) A cannabinoid card that the department issues under Subsection (1) is valid for one
813 year.

814 (6) The department may revoke an individual's cannabinoid card if the individual
815 violates this chapter.

816 Section 36. Section **26-59-202** is enacted to read:

817 **26-59-202. Cannabinoid card -- Designated caregiver -- Registration -- Renewal --**
818 **Revocation.**

819 (1) A registered patient who a physician determines is unable to obtain a cannabinoid
820 product from a cannabinoid dispensary may register with the department, via the electronic
821 monitoring system, one individual to serve as the registered patient's designated caregiver.

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

824 (a) carry the registered patient's cannabinoid card; and

825 (b) purchase and possess a cannabinoid product, in accordance with this chapter, on
826 behalf of the designating patient.

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

829 (a) at least 18 years old; and

830 (b) a Utah resident.

831 Section 37. Section **26-59-203** is enacted to read:

832 **26-59-203. Cannabinoid card -- Patient and designated caregiver requirements.**

833 (1) A registered patient or designated caregiver of the registered patient who possesses

834 a cannabinoid product outside of the registered patient's residence shall:

835 (a) carry the registered patient's cannabinoid card on the registered patient's or
836 designated caregiver's person at all times;

837 (b) carry, with the cannabinoid product, the cannabinoid product label or packaging
838 that includes a unique identifier that links the cannabinoid product to the electronic monitoring
839 system; and

840 (c) possess no more than a 90-day supply of cannabinoid product as established by the
841 recommendation of a physician for the registered patient's treatment.

842 (2) A registered patient or designated caregiver may only purchase a cannabinoid
843 product via a cannabis payment processor licensed under Section [7-26-201](#).

844 (3) A registered patient or designated caregiver of a registered patient is guilty of an
845 infraction if the registered patient or designated caregiver:

846 (a) possesses a cannabinoid product outside of the registered patient's residence; and

847 (b) (i) does not possess, on the registered patient's or designated caregiver's person, the
848 registered patient's cannabinoid card; or

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

850 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a
851 \$100 fine.

852 Section 38. Section **26-59-204** is enacted to read:

853 **26-59-204. Insurance coverage.**

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

856 Section 39. Section **26-59-205** is enacted to read:

857 **26-59-205. Report to the Legislature.**

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

861 Section 40. Section **26-59-206** is enacted to read:

862 **26-59-206. Fees -- Deposit.**

863 The department shall deposit any fee the department collects under this chapter into the
864 Cannabinoid Product Restricted Account created in Section [4-42-104](#).

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

866 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
867 **body -- Penalties -- Arrest without warrant.**

868 (1) As used in this section:

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

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

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

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

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

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

878 (a) involuntarily ingested by the accused;

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

880 (c) for a person who is a registered patient under Title 26, Chapter 59, Cannabinoid

881 Product Act, a cannabinoid product recommended by a physician; or

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

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

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

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

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

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

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

896 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
897 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
898 and within a period of 10 years after the date of the prior violation.

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

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

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

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

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

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

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

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

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

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

917 (9) The Driver License Division shall subtract from any suspension or revocation
918 period the number of days for which a license was previously suspended under Section
919 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
920 which the record of conviction is based.

921 (10) The Driver License Division shall:

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

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

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

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

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

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

936 (b) completes a screening;

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

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

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

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

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

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

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

957 (12) If the court shortens a person's license suspension period in accordance with the

958 requirements of Subsection (11), the court shall forward the order shortening the person's
959 license suspension period prior to the completion of the suspension period imposed under
960 Subsection (7)(a) or (8)(a) to the Driver License Division.

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

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

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

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

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

969 Section 42. Section [57-37-3.7](#) is enacted to read:

970 **[57-37-3.7](#). Cannabinoid product -- Approval by Legislature.**

971 (1) A substance that contains cannabis is only considered a cannabinoid product for the
972 purpose of Section [58-37-3.6](#) if the substance is expressly approved for a physician to
973 recommend for treatment of a patient's condition in this section.

974 (2) A person may not, before a cannabinoid product is expressly approved in this
975 section, implement or take action in accordance with:

976 (a) Title 4, Chapter 42, Cannabis Producers;

977 (b) Title 7, Chapter 26, Cannabis Payment Processors;

978 (c) Title 26, Chapter 59, Cannabinoid Product Act;

979 (d) Title 58, Chapter 87, Cannabinoid Dispensaries;

980 (e) Title 59, Chapter 28, Cannabinoid Product Tax Act;

981 (f) Section [58-37-3.6](#);

982 (g) Section [58-37f-204](#);

983 (h) Section [58-67-807](#); or

984 (i) Section [58-68-807](#).

985 Section 43. Section [58-37-3.6](#) is enacted to read:

986 **[58-37-3.6](#). Exemption for possession or use of cannabinoid medicine.**

987 (1) As used in this section:

988 (a) "Cannabinoid product" means a substance that:

- 989 (i) contains cannabis; and
- 990 (ii) is approved for a physician to recommend under Section 58-37-3.7.
- 991 (b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.
- 992 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
- 993 (d) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the
- 994 description in Subsection 58-37-4(2)(a)(iii)(AA).

995 (2) Except as provided in Section 57-37-3.7, notwithstanding any other provision of
 996 this chapter:

997 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to
 998 the penalties described in this title for the growth, possession, sale, or offer for sale of
 999 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,
 1000 or offer for sale of cannabis complies with:

- 1001 (i) Title 4, Chapter 42, Cannabis Producers;
- 1002 (ii) Title 26, Chapter 59, Cannabinoid Product Act; and
- 1003 (iii) Title 58, Chapter 87, Cannabinoid Dispensaries;

1004 (b) an individual who possesses, sells, or offers to sell a cannabinoid product is not
 1005 subject to the penalties described in this title for the possession, sale, or offer for sale of
 1006 marijuana or tetrahydrocannabinol to the extent that the individual's possession, sale, or offer
 1007 for sale of the cannabinoid product complies with:

- 1008 (i) Title 4, Chapter 42, Cannabis Producers;
- 1009 (ii) Title 26, Chapter 59, Cannabinoid Product Act; and
- 1010 (iii) Title 58, Chapter 87, Cannabinoid Dispensaries; and

1011 (c) an individual who possesses, sells, or offers to sell a cannabinoid product is not
 1012 subject to the penalties described in this title for the possession, sale, or offer for sale of
 1013 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's growth,
 1014 possession, sale, or offer for sale of the cannabinoid product complies with:

- 1015 (i) Title 4, Chapter 42, Cannabis Producers;
- 1016 (ii) Title 26, Chapter 59, Cannabinoid Product Act; and
- 1017 (iii) Title 58, Chapter 87, Cannabinoid Dispensaries.

1018 Section 44. Section **58-37f-204** is enacted to read:

1019 **58-37f-204. Controlled substance database and cannabinoid products.**

1020 (1) (a) The division shall establish a process for a cannabinoid dispensary agent to
1021 submit, at a specified time during each 24-hour period, the information required by this section.

1022 (b) A cannabinoid dispensary shall comply with the process established by the division
1023 under Subsection (1)(a).

1024 (2) A cannabinoid dispensary shall, each time the cannabinoid dispensary dispenses a
1025 cannabinoid product to an individual with a medical cannabis card, submit to the division the
1026 following information:

1027 (a) the name of the physician who recommended the cannabinoid product and the
1028 unique number identifying the recommendation;

1029 (b) the date of the recommendation;

1030 (c) the date the cannabinoid product was dispensed;

1031 (d) the name of the individual with the medical cannabis card;

1032 (e) positive identification of the individual who receives the cannabinoid product,
1033 including the type of identification and any identifying numbers on the identification;

1034 (f) the amount of cannabinoid product dispensed;

1035 (g) the dosage, quantity, and frequency recommended by the physician;

1036 (h) the name of the cannabinoid dispensary dispensing the cannabinoid product;

1037 (i) the name of the cannabinoid dispensary agent who dispensed the cannabinoid
1038 product; and

1039 (j) any other information required by the division under Subsection (8).

1040 (3) If an individual's cannabinoid product record is in the controlled substance
1041 database:

1042 (a) the individual may obtain the record by requesting the record from the division in
1043 writing; and

1044 (b) the individual may request, in writing, with the individual's postal address included,
1045 that the division correct any incorrect information about the individual contained in the
1046 database.

1047 (4) For a request described in Subsection (3), the division shall:

1048 (a) grant or deny the request no later than 30 days after the day on which the division
1049 receives the request; and

1050 (b) notify the individual who submitted the request of the division's decision by mail

1051 postmarked no later than 35 days after the day on which the division received the request.

1052 (5) If the division denies a request described in Subsection (3), or does not respond to
1053 the request within the time period described in Subsection (4), the individual who submitted
1054 the request may, no later than 60 days after the day on which the individual's initial request is
1055 postmarked, submit an appeal to the Department of Commerce.

1056 (6) The division shall ensure that the database system records and maintains for
1057 reference:

1058 (a) the identity of and a form of identification for each individual who requests
1059 information from the database;

1060 (b) the information accessed by the individual described in Subsection (6)(a); and

1061 (c) the date and time the individual described in Subsection (6)(a) made the request.

1062 (7) A cannabinoid dispensary agent may access the controlled substance database in the
1063 same manner and for the same purpose as a pharmacist may access the database under
1064 Subsection [58-37f-301\(2\)\(i\)](#).

1065 (8) The division shall establish, by rule made in accordance with Title 63G, Chapter 3,
1066 Utah Administrative Rulemaking Act:

1067 (a) requirements for the form and manner of submission of information submitted to
1068 the database under this section; and

1069 (b) for the purpose of collecting health data on cannabinoid products, additional
1070 information that a cannabinoid dispensary is required to submit to the controlled substance
1071 database.

1072 Section 45. Section **58-67-807** is enacted to read:

1073 **58-67-807. Recommendation of cannabinoid products -- Registration with**
1074 **division and Department of Health.**

1075 (1) A physician may recommend the use of cannabinoid product to a patient in
1076 accordance with Title 26, Chapter 59, Cannabinoid Product Act, if the physician:

1077 (a) registers with the division and the Department of Health as a physician who
1078 recommends cannabinoid products;

1079 (b) completes the training required under Subsection (3); and

1080 (c) complies with Section [26-59-205](#).

1081 (2) A physician who recommends a cannabinoid product shall:

1082 (a) recommend cannabinoid products to no more than an amount of patients
1083 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,
1084 Utah Administrative Rulemaking Act;

1085 (b) consult the controlled substance database before recommending cannabinoid
1086 products to a patient to determine if the patient is abusing cannabinoid products;

1087 (c) report an adverse event experienced by a patient related to the patient's cannabinoid
1088 product use to the Department of Health; and

1089 (d) report other data on cannabinoid products required by Title 26, Chapter 59,
1090 Cannabinoid Product Act.

1091 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
1092 3, Utah Administrative Rulemaking Act, training requirements for a physician that
1093 recommends cannabinoid products.

1094 (b) The division shall include, in the training requirements the division establishes
1095 under Subsection (3)(a), training on using caution when recommending cannabinoid products
1096 to avoid patient cannabinoid product abuse.

1097 (4) It is not a breach of the applicable standard of care for a physician to recommend
1098 treatment with a cannabinoid product to an individual under this section and Title 26, Chapter
1099 59, Cannabinoid Product Act.

1100 (5) A physician who recommends treatment with a cannabinoid product to an
1101 individual under this section and Title 26, Chapter 59, Cannabinoid Product Act, may not,
1102 solely based on that recommendation, be subject to:

1103 (a) civil liability;

1104 (b) criminal liability; or

1105 (c) licensure sanctions under this chapter.

1106 Section 46. Section **58-68-807** is enacted to read:

1107 **58-68-807. Recommendation of cannabinoid products -- Registration with**
1108 **division and Department of Health.**

1109 (1) A physician may recommend the use of cannabinoid product to a patient in
1110 accordance with Title 26, Chapter 59, Cannabinoid Product Act, if the physician:

1111 (a) registers with the division and the Department of Health as a physician who
1112 recommends cannabinoid products;

1113 (b) completes the training required under Subsection (3); and
 1114 (c) complies with Section 26-59-205.
 1115 (2) A physician who recommends a cannabinoid product shall:
 1116 (a) recommend cannabinoid products to no more than an amount of patients
 1117 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,
 1118 Utah Administrative Rulemaking Act;
 1119 (b) consult the controlled substance database before recommending cannabinoid
 1120 products to a patient to determine if the patient is abusing cannabinoid products;
 1121 (c) report an adverse event experienced by a patient related to the patient's cannabinoid
 1122 product use to the Department of Health; and
 1123 (d) report other data on cannabinoid products required by Title 26, Chapter 59,
 1124 Cannabinoid Product Act.
 1125 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
 1126 3, Utah Administrative Rulemaking Act, training requirements for a physician that
 1127 recommends cannabinoid products.
 1128 (b) The division shall include, in the training requirements the division establishes
 1129 under Subsection (3)(a), training on using caution when recommending cannabinoid products
 1130 to avoid patient cannabinoid product abuse.
 1131 (4) It is not a breach of the applicable standard of care for a physician to recommend
 1132 treatment with a cannabinoid product to an individual under this section and Title 26, Chapter
 1133 59, Cannabinoid Product Act.
 1134 (5) A physician who recommends treatment with a cannabinoid product to an
 1135 individual under this section and Title 26, Chapter 59, Cannabinoid Product Act, may not,
 1136 solely based on that recommendation, be subject to:
 1137 (a) civil liability;
 1138 (b) criminal liability; or
 1139 (c) licensure sanctions under this chapter.
 1140 Section 47. Section **58-87-101** is enacted to read:

CHAPTER 87. CANNABINOID DISPENSARIES

Part 1. General Provisions

58-87-101. Title.

1144 This chapter is known as "Cannabinoid Dispensaries."

1145 Section 48. Section **58-87-102** is enacted to read:

1146 **58-87-102. Definitions.**

1147 As used in this chapter:

1148 (1) "Agent" means an employee or independent contractor of an entity.

1149 (2) "Cannabinoid card" means the same as that term is defined in Section [26-59-102](#).

1150 (3) "Cannabinoid dispensary" means a person that:

1151 (4) "Cannabinoid product" means the same as that term is defined in Section [58-37-3.6](#).

1152 (a) sells a cannabinoid product; or

1153 (b) purchases or possesses a cannabinoid product with the intent to sell the cannabinoid
1154 product.

1155 (5) "Cannabinoid Product Restricted Account" means the account created in Section
1156 [4-42-104](#).

1157 (6) "Cannabis" means any part of a cannabis plant, whether growing or not.

1158 (7) "Cannabis cultivation facility" means the same as that term is defined in Section
1159 [4-42-102](#).

1160 (8) "Cannabis laboratory" means the same as that term is defined in Section [4-42-102](#).

1161 (9) "Cannabis payment processor" means the same as that term is defined in Section
1162 [7-26-102](#).

1163 (10) "Cannabis processor" means the same as that term is defined in Section [4-42-102](#).

1164 (11) "Cannabis producer" means:

1165 (a) a cannabis cultivation facility;

1166 (b) a cannabis processor; or

1167 (c) a cannabis laboratory.

1168 (12) "Electronic monitoring system" means the system described in Section [4-42-104](#).

1169 (13) "Physician" means the same as that term is defined in Section [26-59-102](#).

1170 (14) "Registered patient" means an individual with a valid cannabinoid card issued by
1171 the department under Section [26-59-201](#).

1172 Section 49. Section **58-87-103** is enacted to read:

1173 **58-87-103. Requirement made by a political subdivision.**

1174 (1) Except as provided in Subsection (2), this chapter preempts any requirement related

1175 to a cannabinoid dispensary imposed by a political subdivision of the state that is more
1176 restrictive than this chapter.

1177 (2) A political subdivision of the state may impose reasonable zoning requirements on
1178 a cannabinoid dispensary.

1179 Section 50. Section **58-87-201** is enacted to read:

Part 2. Cannabinoid Dispensary License and Eligibility

58-87-201. Cannabinoid dispensary -- License -- Eligibility.

1181 (1) A person may not operate as a cannabinoid dispensary without a license from the
1182 division issued under this part.

1183 (2) A person may submit an application to the division for a license to act as a
1184 cannabinoid dispensary.

1185 (3) An applicant for a license described in Subsection (2) shall submit to the division:

1186 (a) an application in a form determined by the division that includes information
1187 required by the division by rule made in accordance with Title 63G, Chapter 3, Utah
1188 Administrative Rulemaking Act;

1189 (b) a bond, as required by Section [58-87-205](#), for each license for which the person
1190 applies;

1191 (c) an application fee established by the division, in accordance with Section
1192 [63J-1-504](#), in an amount equal to the amount necessary to cover the division's cost to
1193 implement this chapter; and

1194 (d) an operating plan that complies with minimum operating standards determined by
1195 the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1196 Rulemaking Act, that includes a plan for:

1197 (i) security;

1198 (ii) payment processing; and

1199 (iii) the cannabinoid products that the cannabinoid dispensary intends to sell.

1200 (4) The division shall require a separate license and separate license fee for each
1201 physical location of a cannabinoid dispensary.

1202 Section 51. Section **58-87-202** is enacted to read:

58-87-202. Renewal.

1203 Except as provided in Subsection (2), the division shall renew the license of a

1206 cannabinoid dispensary licensed under Section 58-87-201 if, at the time of renewal:

1207 (1) the cannabinoid dispensary meets the requirements of Section 58-87-201; and

1208 (2) the cannabinoid dispensary pays the division a license renewal fee in an amount
1209 determined by the division in accordance with Section 63J-1-504.

1210 Section 52. Section **58-87-203** is enacted to read:

1211 **58-87-203. Division may accept or deny a license -- Maximum number of licenses.**

1212 (1) The division shall determine, with division concurrence, the number of cannabinoid
1213 dispensary licenses that the division may issue at any given time.

1214 (2) The board shall determine, with division concurrence, the number of licenses
1215 available under Subsection (1) by considering:

1216 (a) the population of the state; and

1217 (b) the number of registered patients.

1218 (3) The division may not issue more than, at any given time, a number of licenses
1219 greater than the number available under Subsection (1).

1220 (4) The division is not required to issue an available license if the division determines
1221 that no qualified applicant has applied.

1222 (5) A division decision to award or deny a license under this section is final and not
1223 subject to judicial review.

1224 Section 53. Section **58-87-204** is enacted to read:

1225 **58-87-204. Bond for a cannabinoid medicine dispensary license.**

1226 (1) A cannabinoid dispensary licensed under Section 58-87-201 shall post a cash bond
1227 or surety bond, payable to the division, in an amount equal to \$750,000.

1228 (2) A cannabinoid dispensary licensed under Section 58-87-201 shall maintain the
1229 bond described in Subsection (1) for as long as the cannabinoid dispensary continues to
1230 operate.

1231 (3) The division shall require a bond that a cannabinoid dispensary posts under this
1232 section to be:

1233 (a) in a form approved by the attorney general; and

1234 (b) conditioned upon the cannabinoid dispensary's compliance with this chapter.

1235 (4) If a bond described in Subsection (1) is canceled due to a cannabinoid dispensary's
1236 negligence, the division may assess the cannabinoid dispensary a \$300 reinstatement fee.

1237 (5) A cannabinoid dispensary may not withdraw any part of a bond posted under
1238 Subsection (1):

1239 (a) during the period when the cannabinoid dispensary's license is in effect; or

1240 (b) while a license revocation proceeding is pending against the cannabinoid
1241 dispensary.

1242 (6) A cannabinoid dispensary forfeits a bond posted under Subsection (1) if the
1243 cannabinoid dispensary's license is revoked.

1244 (7) The division may, without revoking a license, make a claim against a bond posted
1245 by a cannabinoid dispensary under Subsection (1) for money the cannabinoid dispensary owes
1246 the division under this chapter.

1247 Section 54. Section **58-87-301** is enacted to read:

1248 **Part 3. Cannabinoid Dispensary Agents**

1249 **58-87-301. Cannabinoid dispensary agents.**

1250 (1) A cannabinoid dispensary licensed under Section [58-87-201](#) shall maintain a
1251 current list of each agent of the cannabinoid dispensary.

1252 (2) A cannabinoid dispensary shall submit the list described in Subsection (1) to the
1253 division before:

1254 (a) January 1 of each year; and

1255 (b) July 1 of each year.

1256 (3) In addition to the list described in Subsection (1), a cannabinoid dispensary licensed
1257 under Section [58-87-201](#) shall require each agent to submit to a criminal background check in
1258 accordance with Section [58-87-302](#).

1259 (4) The division may audit the list described in Subsection (1) at any time, at random in
1260 order to determine:

1261 (a) that the list is accurate; and

1262 (b) that each agent has submitted to a criminal background check in accordance with
1263 Section [58-87-302](#).

1264 (5) A cannabinoid dispensary is guilty of an infraction if the cannabinoid dispensary:

1265 (a) fails to maintain an accurate list of each agent of the cannabinoid dispensary in
1266 accordance with this section; or

1267 (b) has an agent who has not submitted to a background check in accordance with

1268 Section 58-87-302.

1269 Section 55. Section **58-87-302** is enacted to read:

1270 **58-87-302. Cannabinoid medicine dispensary agents -- Criminal background**
1271 **checks.**

1272 (1) Each cannabinoid dispensary agent shall:

1273 (a) submit to the division:

1274 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and

1275 (ii) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) indicating that the

1276 agent's fingerprints are being registered in the Federal Bureau of Investigation Next Generation

1277 Identification System's Rap Back Service; and

1278 (b) consent to a fingerprint background check by:

1279 (i) the Bureau of Criminal Identification; and

1280 (ii) the Federal Bureau of Investigation.

1281 (2) The Bureau of Criminal Identification shall:

1282 (a) check the fingerprints submitted under Subsection (1) against the applicable state,

1283 regional, and national criminal records databases, including the Federal Bureau of

1284 Investigation's Next Generation Identification system;

1285 (b) report the results of the background check to the division;

1286 (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by
1287 future submissions to the local and regional criminal records databases, including latent prints;

1288 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next

1289 Generation Identification System's Rap Back Service for search by future submissions to

1290 national criminal records databases, including the Federal Bureau of Investigation Next

1291 Generation Identification System and latent prints; and

1292 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives
1293 notifications for an individual with whom the entity maintains an authorizing relationship.

1294 (3) The division shall:

1295 (a) assess an individual who submits fingerprints, in accordance with this section, a fee
1296 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of
1297 Criminal Identification or other authorized agency provides under this section; and

1298 (b) remit a fee collected under Subsection (3)(a) to the Bureau of Criminal

1299 Identification.

1300 Section 56. Section **58-87-401** is enacted to read:

1301 **Part 4. Cannabinoid Dispensary Operating Requirements**

1302 **58-87-401. Operating requirements -- General.**

1303 (1) (a) A cannabinoid dispensary shall operate in accordance with the operating plan
1304 that the cannabinoid dispensary provides to the department under Section [58-87-201](#).

1305 (b) A cannabinoid dispensary shall notify the department within 30 days of any change
1306 in the cannabinoid dispensary's operation plan.

1307 (c) The division shall review a cannabinoid dispensary's operating plan for compliance
1308 with state law and administrative rules.

1309 (d) A cannabinoid dispensary may not operate under an operating plan until the
1310 operating plan is reviewed and approved by the division under Subsection (1)(c).

1311 (2) Except when determined by the Department of Financial Institutions under Section
1312 [7-26-204](#), a cannabinoid dispensary may only transmit or accept payment for a cannabinoid
1313 product through a cannabis payment processor licensed under Section [7-26-201](#).

1314 (3) The division shall establish by rule made in accordance with Title 63G, Chapter 3,
1315 Utah Administrative Rulemaking Act:

1316 (a) additional operating requirements for a cannabinoid dispensary; and

1317 (b) physical facility standards for a cannabinoid dispensary.

1318 Section 57. Section **58-87-402** is enacted to read:

1319 **58-87-402. Dispensing -- Amount a cannabinoid dispensary may dispense --**
1320 **Reporting -- Form of cannabis or cannabinoid product.**

1321 (1) A cannabinoid dispensary may only sell, subject to this chapter:

1322 (a) cannabinoid products; or

1323 (b) educational materials related to the use of cannabinoid products.

1324 (2) A cannabinoid dispensary may only sell a cannabinoid product that has been
1325 inspected by a cannabis laboratory in accordance with Section [4-42-701](#).

1326 (3) A cannabinoid dispensary may only sell a cannabinoid product to:

1327 (a) an individual with a cannabinoid card issued by the department; or

1328 (b) an individual with a valid hemp extract registration card issued under Title 26,
1329 Chapter 56, Hemp Extract Registration Act.

1330 (4) A cannabinoid dispensary may not dispense on behalf of any one registered patient,
1331 in any one 90-day period, an amount of cannabinoid products that exceeds a 90-day supply of
1332 the dosage recommended by the registered patient's physician.

1333 (5) A registered patient may not purchase more cannabinoid products than the amounts
1334 designated in Subsection (4).

1335 (6) A designated caregiver designated by a registered patient may not purchase, for the
1336 registered patient, an amount of cannabinoid products that exceeds the amounts designated in
1337 Subsection (4).

1338 (7) A cannabinoid dispensary shall submit a record to the electronic monitoring system
1339 of each time the cannabinoid dispensary dispenses a cannabinoid product to a registered
1340 patient.

1341 Section 58. Section **58-87-403** is enacted to read:

1342 **58-87-403. Cannabinoid dispensary -- Inspection by division.**

1343 (1) The division shall inspect, in accordance with Subsection (2), a cannabinoid
1344 dispensary's facility and records in order to determine if the cannabinoid dispensary complies
1345 with the requirements of this chapter.

1346 (2) The division may inspect the records and facility of a cannabinoid dispensary:

1347 (a) as many as four times per year, scheduled or unscheduled; and

1348 (b) if the division has reason to believe that the cannabinoid dispensary has violated the
1349 law, at any time, scheduled or unscheduled.

1350 Section 59. Section **58-87-404** is enacted to read:

1351 **58-87-404. Cannabinoid transportation.**

1352 An agent of a cannabinoid dispensary shall transport cannabinoid medicine in
1353 accordance with Section [4-42-403](#).

1354 Section 60. Section **58-87-501** is enacted to read:

1355 **Part 5. Enforcement**

1356 **58-87-501. Enforcement -- Fine -- Citation.**

1357 (1) The division may, for a violation of this chapter by a cannabinoid dispensary:

1358 (a) revoke the cannabinoid dispensary's license;

1359 (b) refuse to renew the cannabinoid dispensary's license;

1360 (c) assess the cannabinoid dispensary an administrative penalty; or

- 1361 (d) take any other appropriate administrative action.
- 1362 (2) The division shall deposit an administrative penalty imposed under this section into
1363 the General Fund as a dedicated credit to be used by the division to administer and enforce this
1364 chapter.
- 1365 (3) The division may, for a person subject to an uncontested citation, a stipulated
1366 settlement, or a finding of a violation in an adjudicative proceeding under this section:
- 1367 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
1368 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
1369 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 1370 (b) order the person to cease and desist from the action that creates a violation.
- 1371 (4) The division may not revoke a cannabinoid dispensary's license via a citation.
- 1372 (5) If within 20 calendar days after the day on which a division serves a citation for a
1373 violation of this chapter, the person that is the subject of the citation fails to request a hearing
1374 to contest the citation, the citation becomes the basis of the division's final order.
- 1375 (6) The division may, for a person who fails to comply with a citation under this
1376 section:
- 1377 (a) refuse to issue or renew the person's license; or
- 1378 (b) suspend, revoke, or place on probation the person's license.
- 1379 Section 61. Section **58-87-502** is enacted to read:
- 1380 **58-87-502. Fees -- Deposit into Cannabinoid Product Restricted Account.**
- 1381 The division shall deposit fees the division collects under this chapter into the
1382 Cannabinoid Product Restricted Account created in Section [4-42-104](#).
- 1383 Section 62. Section **59-12-104.7** is enacted to read:
- 1384 **59-12-104.7. Exemption from sales tax for cannabinoid products.**
- 1385 (1) As used in this section:
- 1386 (a) "Cannabinoid dispensary" means the same as that term is defined in Section
1387 [58-87-102](#).
- 1388 (b) "Cannabinoid product" means the same as that term is defined in Section [58-37-3.6](#).
- 1389 (2) In addition to the exemptions described in Section [59-12-104](#), the sale by a licensed
1390 cannabinoid dispensary of a cannabinoid product is not subject to the taxes imposed by this
1391 chapter.

1392 Section 63. Section **59-28-101** is enacted to read:

1393 **CHAPTER 28. CANNABINOID PRODUCT TAX ACT**

1394 **Part 1. General Provisions**

1395 **59-28-101. Title.**

1396 This chapter is known as the "Cannabinoid Product Tax Act."

1397 Section 64. Section **59-28-102** is enacted to read:

1398 **59-28-102. Definitions.**

1399 As used in this chapter:

1400 (1) "Cannabinoid dispensary" means the same as that term is defined in Section

1401 [26-58-102.](#)

1402 (2) "Cannabinoid product" means the same as that term is defined in Section [58-37-3.6.](#)

1403 (3) "Cannabinoid Product Restricted Account" means the account created in Section

1404 [4-42-104.](#)

1405 Section 65. Section **59-28-103** is enacted to read:

1406 **59-28-103. Imposition of tax -- Rate.**

1407 There is imposed a tax on the retail purchaser of a cannabinoid product at a cannabinoid
1408 dispensary in the state, in an amount equal to 5.77% of amounts paid or charged for the
1409 cannabinoid product.

1410 Section 66. Section **59-28-104** is enacted to read:

1411 **59-28-104. Collection of tax.**

1412 A cannabinoid dispensary shall:

1413 (1) collect the tax imposed by Section [59-28-103](#) from a cannabinoid product
1414 purchaser; and

1415 (2) pay the tax collected under Subsection (1):

1416 (a) to the commission quarterly on or before the last day of the month immediately
1417 following the last day of the previous quarter; and

1418 (b) using a form prescribed by the commission.

1419 Section 67. Section **59-28-105** is enacted to read:

1420 **59-28-105. Deposit of tax revenue.**

1421 The commission shall deposit revenues generated by the tax imposed by this chapter
1422 into the Cannabinoid Product Restricted Account created in Section [4-42-104.](#)

1423 Section 68. Section **59-28-106** is enacted to read:

1424 **59-28-106. Records.**

1425 (1) A cannabinoid dispensary shall maintain any record typically deemed necessary to
1426 determine the amount of tax that the cannabinoid dispensary is required to remit to the
1427 commission under this chapter.

1428 (2) The commission may require a cannabinoid dispensary to keep any record the
1429 commission reasonably considers necessary to constitute sufficient evidence of the amount of
1430 tax the cannabinoid dispensary is required to remit to the commission under this chapter:

1431 (a) by notice served upon the cannabinoid dispensary; or

1432 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1433 Rulemaking Act.

1434 (3) Upon notice by the commission, a cannabinoid dispensary shall open the
1435 cannabinoid dispensary's records for examination by the commission.

1436 Section 69. Section **59-28-107** is enacted to read:

1437 **59-28-107. Rulemaking authority.**

1438 The commission may make rules in accordance with Title 63G, Chapter 3, Utah
1439 Administrative Rulemaking Act, to:

1440 (1) implement the tax imposed by this chapter; and

1441 (2) enforce payment of the tax imposed by this chapter.

1442 Section 70. Section **59-28-108** is enacted to read:

1443 **59-28-108. Penalties and interest.**

1444 A cannabinoid dispensary that fails to comply with any provision of this chapter is
1445 subject to penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

1446 Section 71. Section **62A-4a-202.1** is amended to read:

1447 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
1448 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
1449 **emergency placement.**

1450 (1) A peace officer or child welfare worker may not:

1451 (a) enter the home of a child who is not under the jurisdiction of the court, remove a
1452 child from the child's home or school, or take a child into protective custody unless authorized
1453 under Subsection [78A-6-106\(2\)](#); or

1454 (b) remove a child from the child's home or take a child into custody under this section
1455 solely on the basis of:

1456 (i) educational neglect, truancy, or failure to comply with a court order to attend
1457 school[-]; or

1458 (ii) the possession or use of a cannabinoid product in the home, if the use and
1459 possession of the cannabinoid product complies with Title 26, Chapter 59, Cannabinoid
1460 Product Act.

1461 (2) A child welfare worker within the division may take action under Subsection (1)
1462 accompanied by a peace officer, or without a peace officer when a peace officer is not
1463 reasonably available.

1464 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
1465 into protective custody, the child welfare worker shall also determine whether there are
1466 services available that, if provided to a parent or guardian of the child, would eliminate the
1467 need to remove the child from the custody of the child's parent or guardian.

1468 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
1469 utilized.

1470 (c) In determining whether the services described in Subsection (3)(a) are reasonably
1471 available, and in making reasonable efforts to provide those services, the child's health, safety,
1472 and welfare shall be the child welfare worker's paramount concern.

1473 (4) (a) A child removed or taken into custody under this section may not be placed or
1474 kept in a secure detention facility pending court proceedings unless the child is detainable
1475 based on guidelines promulgated by the Division of Juvenile Justice Services.

1476 (b) A child removed from the custody of the child's parent or guardian but who does
1477 not require physical restriction shall be given temporary care in:

1478 (i) a shelter facility; or

1479 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

1480 (c) When making a placement under Subsection (4)(b), the Division of Child and
1481 Family Services shall give priority to a placement with a noncustodial parent, relative, or
1482 friend, in accordance with Section [62A-4a-209](#).

1483 (d) If the child is not placed with a noncustodial parent, a relative, or a designated
1484 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor

1485 explaining why a different placement was in the child's best interest.

1486 (5) When a child is removed from the child's home or school or taken into protective
1487 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

1488 (a) the parent's rights under this part, including the right to be present and participate in
1489 any court proceeding relating to the child's case;

1490 (b) that it may be in the parent's best interest to contact an attorney and that, if the
1491 parent cannot afford an attorney, the court will appoint one;

1492 (c) the name and contact information of a division employee the parent may contact
1493 with questions;

1494 (d) resources that are available to the parent, including:

1495 (i) mental health resources;

1496 (ii) substance abuse resources; and

1497 (iii) parenting classes; and

1498 (e) any other information considered relevant by the division.

1499 (6) The pamphlet or flier described in Subsection (5) shall be:

1500 (a) evaluated periodically for its effectiveness at conveying necessary information and
1501 revised accordingly;

1502 (b) written in simple, easy-to-understand language; and

1503 (c) available in English and other languages as the division determines to be
1504 appropriate and necessary.

1505 Section 72. Section **78A-6-508** is amended to read:

1506 **78A-6-508. Evidence of grounds for termination.**

1507 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
1508 evidence of abandonment that the parent or parents:

1509 (a) although having legal custody of the child, have surrendered physical custody of the
1510 child, and for a period of six months following the surrender have not manifested to the child
1511 or to the person having the physical custody of the child a firm intention to resume physical
1512 custody or to make arrangements for the care of the child;

1513 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
1514 months;

1515 (c) failed to have shown the normal interest of a natural parent, without just cause; or

1516 (d) have abandoned an infant, as described in Subsection 78A-6-316(1).

1517 (2) In determining whether a parent or parents are unfit or have neglected a child the
1518 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

1519 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
1520 parent unable to care for the immediate and continuing physical or emotional needs of the child
1521 for extended periods of time;

1522 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
1523 nature;

1524 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
1525 dangerous drugs that render the parent unable to care for the child;

1526 (d) repeated or continuous failure to provide the child with adequate food, clothing,
1527 shelter, education, or other care necessary for the child's physical, mental, and emotional health
1528 and development by a parent or parents who are capable of providing that care;

1529 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
1530 sentence is of such length that the child will be deprived of a normal home for more than one
1531 year;

1532 (f) a history of violent behavior; or

1533 (g) whether the parent has intentionally exposed the child to pornography or material
1534 harmful to a minor, as defined in Section 76-10-1201.

1535 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent
1536 because of the parent's possession or consumption of a cannabinoid product, in accordance
1537 with Title 26, Chapter 59, Cannabinoid Product Act.

1538 ~~[(3)]~~ (4) A parent who, legitimately practicing the parent's religious beliefs, does not
1539 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit
1540 parent.

1541 ~~[(4)]~~ (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful
1542 or unfit because of a health care decision made for a child by the child's parent unless the state
1543 or other party to the proceeding shows, by clear and convincing evidence, that the health care
1544 decision is not reasonable and informed.

1545 (b) Nothing in Subsection ~~[(4)]~~ (5)(a) may prohibit a parent from exercising the right to
1546 obtain a second health care opinion.

1547 [~~(5)~~] (6) If a child has been placed in the custody of the division and the parent or
1548 parents fail to comply substantially with the terms and conditions of a plan within six months
1549 after the date on which the child was placed or the plan was commenced, whichever occurs
1550 later, that failure to comply is evidence of failure of parental adjustment.

1551 [~~(6)~~] (7) The following circumstances constitute prima facie evidence of unfitness:

1552 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
1553 child, due to known or substantiated abuse or neglect by the parent or parents;

1554 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
1555 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
1556 child's physical, mental, or emotional health and development;

1557 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
1558 of the child;

1559 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
1560 commit murder or manslaughter of a child or child abuse homicide; or

1561 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
1562 of the child, without legal justification.

Legislative Review Note
Office of Legislative Research and General Counsel