

Senator Evan J. Vickers proposes the following substitute bill:

CANNABINOID PRODUCT ACT

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Brad M. Daw

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;



- 26 ▶ directs the Department of Health to issue cannabinoid cards to individuals under
- 27 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 7-1-401, as last amended by Laws of Utah 2015, Chapter 284
- 45 41-6a-517, as last amended by Laws of Utah 2013, Chapter 333
- 46 62A-4a-202.1, as last amended by Laws of Utah 2012, Chapters 221 and 293
- 47 78A-6-508, as last amended by Laws of Utah 2014, Chapter 409

48 ENACTS:

- 49 4-42-101, Utah Code Annotated 1953
- 50 4-42-102, Utah Code Annotated 1953
- 51 4-42-103, Utah Code Annotated 1953
- 52 4-42-104, Utah Code Annotated 1953
- 53 4-42-201, Utah Code Annotated 1953
- 54 4-42-202, Utah Code Annotated 1953
- 55 4-42-203, Utah Code Annotated 1953
- 56 4-42-204, Utah Code Annotated 1953

- 57 [4-42-301](#), Utah Code Annotated 1953
- 58 [4-42-302](#), Utah Code Annotated 1953
- 59 [4-42-401](#), Utah Code Annotated 1953
- 60 [4-42-402](#), Utah Code Annotated 1953
- 61 [4-42-403](#), Utah Code Annotated 1953
- 62 [4-42-501](#), Utah Code Annotated 1953
- 63 [4-42-601](#), Utah Code Annotated 1953
- 64 [4-42-602](#), Utah Code Annotated 1953
- 65 [4-42-603](#), Utah Code Annotated 1953
- 66 [4-42-701](#), Utah Code Annotated 1953
- 67 [4-42-702](#), Utah Code Annotated 1953
- 68 [4-42-801](#), Utah Code Annotated 1953
- 69 [4-42-802](#), Utah Code Annotated 1953
- 70 [4-42-803](#), Utah Code Annotated 1953
- 71 [7-26-101](#), Utah Code Annotated 1953
- 72 [7-26-102](#), Utah Code Annotated 1953
- 73 [7-26-201](#), Utah Code Annotated 1953
- 74 [7-26-202](#), Utah Code Annotated 1953
- 75 [7-26-203](#), Utah Code Annotated 1953
- 76 [7-26-204](#), Utah Code Annotated 1953
- 77 [7-26-301](#), Utah Code Annotated 1953
- 78 [7-26-401](#), Utah Code Annotated 1953
- 79 [7-26-402](#), Utah Code Annotated 1953
- 80 [26-59-101](#), Utah Code Annotated 1953
- 81 [26-59-102](#), Utah Code Annotated 1953
- 82 [26-59-103](#), Utah Code Annotated 1953
- 83 [26-59-201](#), Utah Code Annotated 1953
- 84 [26-59-202](#), Utah Code Annotated 1953
- 85 [26-59-203](#), Utah Code Annotated 1953
- 86 [26-59-204](#), Utah Code Annotated 1953
- 87 [26-59-205](#), Utah Code Annotated 1953

- 88 **26-59-206**, Utah Code Annotated 1953
- 89 **57-37-3.7**, Utah Code Annotated 1953
- 90 **58-37-3.6**, Utah Code Annotated 1953
- 91 **58-37f-204**, Utah Code Annotated 1953
- 92 **58-67-807**, Utah Code Annotated 1953
- 93 **58-68-807**, Utah Code Annotated 1953
- 94 **58-87-101**, Utah Code Annotated 1953
- 95 **58-87-102**, 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**

121 **Part 1. General Provisions**

122 **4-42-101. Title.**

123 This chapter is known as "Cannabis Producers."

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

125 **4-42-102. Definitions.**

126 As used in this chapter:

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

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

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

130 (a) sells cannabinoid medicine at retail; or

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

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

134 (5) "Cannabinoid Product Restricted Account" means the account created in Section
135 [4-42-104](#).

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

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

138 (a) grows cannabis; or

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

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

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

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

144 (9) "Cannabis payment processor" means the same as that term is defined in Section
145 [7-26-102](#).

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

147 (a) manufactures a cannabinoid product from cannabis;

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

- 150 (c) sells or intends to sell a cannabinoid product to a cannabinoid dispensary.
- 151 (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 of Health under Title 26,
206 Chapter 59, 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 state for investigation and enforcement related to cannabinoid
- 220 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 cultivator or a
265 cannabis producer to a person:

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

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

270 (6) The department may not issue a license to operate a cannabis laboratory to a
271 person:

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

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

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

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

279 **4-42-202. Renewal.**

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

282 (1) the cannabis producer meets the requirements of Section 4-42-201; and

283 (2) the cannabis producer pays the department a license renewal fee in an amount
284 determined by the department in accordance with Section 63J-1-504.

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

286 **4-42-203. Department may accept or deny a license -- Maximum number of**
287 **licenses.**

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

290 (a) cannabis cultivator;

291 (b) cannabis processor; and

292 (c) cannabis laboratory.

293 (2) The department shall determine the number of licenses available under Subsection

294 (1) by considering:

295 (a) the population of the state; and

296 (b) the number of registered patients.

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

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

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

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

304 **4-42-204. Bond required for license -- Cannabis producer.**

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

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

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

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

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

312 (3) The department shall require a bond a cannabis producer posts under this section to
313 be:

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

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

316 (4) If a bond described in Subsection (1) is canceled due to a cannabis producer's
317 negligence, the department may assess the cannabis producer a \$300 reinstatement fee.

318 (5) A cannabis producer may not withdraw any part of a bond posted under Subsection
319 (1):

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

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

322 (6) A cannabis producer forfeits a bond posted under Subsection (1) if the cannabis
323 producer's license is revoked.

324 (7) The department may, without revoking a license, make a claim against a bond
325 posted by a cannabis producer under Subsection (1) for money the cannabis producer owes the
326 department under this chapter.

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

328 **Part 3. Cannabis Producer Agents**

329 **4-42-301. Cannabis producer agents.**

330 (1) A cannabis producer licensed under Section 4-42-201 shall maintain a current list
331 of each agent of the cannabis producer.

332 (2) A cannabis producer shall submit the list described in Subsection (1) to the
333 department before:

334 (a) January 1 of each year; and

335 (b) July 1 of each year.

336 (3) In addition to the list described in Subsection (1), a cannabis producer licensed
337 under Section 4-42-201 shall require each agent to submit to a criminal background check in
338 accordance with Section 4-42-302.

339 (4) The department may audit the list described in Subsection (1) at any time, at
340 random, in order to determine:

341 (a) that the list is accurate; and

342 (b) that each agent has submitted to a criminal background check in accordance with
343 Section 4-42-302.

344 (5) A cannabis producer is guilty of an infraction if the cannabis producer:

345 (a) fails to maintain an accurate list of each agent of the cannabis producer in
346 accordance with this section; or

347 (b) has an agent who has not submitted to a background check in accordance with
348 Section 4-42-302.

349 (6) A physician may not act as an agent of a cannabis producer.

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

351 **4-42-302. Cannabis producer agents -- Criminal background checks.**

352 (1) Each cannabis producer agent shall:

353 (a) submit to the department:

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

355 (ii) a signed waiver in accordance with Subsection 53-10-108(4) indicating that the

356 agent's fingerprints are being registered in the Federal Bureau of Investigation Next Generation
357 Identification System's Rap Back Service; and

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

359 (i) the Bureau of Criminal Identification; and

360 (ii) the Federal Bureau of Investigation.

361 (2) The Bureau of Criminal Identification shall:

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

363 regional, and national criminal records databases, including the Federal Bureau of Investigation
364 Next Generation Identification System;

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

366 (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by

367 future submissions to the local and regional criminal records databases, including latent prints;

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

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

370 national criminal records databases, including the Next Generation Identification System and

371 latent prints; and

372 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives

373 notifications for an individual with whom the entity maintains an authorizing relationship.

374 (3) The department shall:

375 (a) assess an individual who submits fingerprints, in accordance with this section, a fee

376 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of

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

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

379 Identification.

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

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

382 **4-42-401. Cannabis producer -- General operating requirements.**

383 (1) (a) A cannabis producer shall operate in accordance with the operating plan the

384 cannabis producer provides to the department under Section [4-42-201](#).

385 (b) A cannabis producer shall notify the department within 30 days of any change in

386 the cannabis producer's operation plan.

387 (c) The department shall review a cannabis producer's operating plan for compliance

388 with state law and administrative rules.

389 (d) A cannabis producer may not operate under an operating plan until the operating

390 plan is reviewed and approved by the department under Subsection (1)(c).

391 (2) Except when determined by the Department of Financial Institutions under Section

392 [7-26-204](#), a cannabis producer may only transmit or accept payments for cannabinoid medicine

393 using a cannabis payment processor licensed under Section [7-26-201](#).

394 (3) The department shall establish physical facility standards for a cannabis producer

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

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

397 **4-42-402. Cannabis producer -- Inspection by department.**

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

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

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

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

405 Section 13. Section ~~4-42-403~~ is enacted to read:

406 **4-42-403. Cannabis or cannabinoid medicine transportation.**

407 (1) An individual may not transport cannabis or cannabinoid medicine between two
408 cannabis producers, or between a cannabis producer and a cannabinoid medicine dispensary,
409 unless the individual is an agent of a licensed cannabis producer or licensed cannabinoid
410 medicine dispensary.

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

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

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

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

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

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

425 (a) transports cannabis or cannabinoid medicine; and

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

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

429 fine.

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

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

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

435 **4-42-501. Cannabis cultivator -- Operating requirements.**

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

438 (2) A cannabis cultivator shall use a unique identifier for:

439 (a) each batch of cannabis transferred to a cannabis processor; and

440 (b) each unique harvest of cannabis plants.

441 (3) A cannabis cultivator shall ensure that any cannabis growing at the cannabis
442 cultivator's facility is not visible from outside the facility.

443 (4) The department shall establish, by rule made in accordance with Title 63G, Chapter
444 3, Utah Administrative Rulemaking Act:

445 (a) human safety standards for a cannabis cultivator's:

446 (i) use of pesticides;

447 (ii) use of fertilizers; and

448 (iii) cultivation techniques; and

449 (b) physical facility standards for a cannabis cultivator.

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

451 **Part 6. Cannabis Processor Operating Requirements**

452 **4-42-601. Cannabis processor -- Operating requirements.**

453 (1) A cannabis processor shall ensure that a cannabinoid product that the cannabis
454 processor sells or provides to a cannabinoid medicine dispensary complies with the
455 requirements of this part.

456 (2) A cannabis processor shall operate in a facility with a carbon filtration system for
457 air output.

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

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

460 4-42-602. Cannabinoid product.

461 A cannabis processor may only produce a cannabinoid product in a medical dosage
462 form.

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

464 **4-42-603. Cannabinoid medicine -- Labeling and packaging.**

465 (1) A cannabis processor shall ensure that any cannabinoid product that the cannabis
466 processor distributes has a label or package that:

467 (a) clearly displays the cannabinoid profile of the cannabinoid product;

468 (b) has a unique batch identifier that identifies the unique manufacturing process when
469 the cannabinoid product was manufactured; and

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

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

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

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

477 **4-42-701. Cannabis and cannabinoid product testing.**

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

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

482 (3) A cannabis laboratory shall determine the cannabinoid profile of a cannabinoid
483 product.

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

486 (a) mold;

487 (b) fungus;

488 (c) pesticides;

489 (d) other microbial contaminants; or

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

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

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

496 (a) the origin of the cannabis;

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

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

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

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

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

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

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

508 **4-42-702. Reporting -- Inspections.**

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

511 (2) A cannabis laboratory shall determine if:

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

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

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

519 (4) (a) If the department determines that a cannabis or cannabinoid product batch is
520 unsafe for human consumption, the department shall destroy the cannabis or cannabinoid
521 product batch.

522 (b) If the department determines that a cannabis or cannabinoid product batch was not
523 cultivated in accordance with this chapter, the department may seize, embargo, or destroy a
524 cannabis or cannabinoid product batch in accordance with Section 4-42-801.

525 (5) The department shall establish, by rule made in accordance with Title 63G, Chapter
526 3, Utah Administrative Rulemaking Act, the amount of time that a cannabis laboratory is
527 required to hold a batch under Subsection (3).

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

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

530 (i) cannabis or cannabinoid product test results; or

531 (ii) analytical method; or

532 (b) validate a cannabis laboratory's testing methods.

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

534 **Part 8. Enforcement**

535 **4-42-801. Enforcement -- Fine -- Citation.**

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

537 (a) revoke the cannabis producer's license;

538 (b) refuse to renew the cannabis producer's license;

539 (c) assess the cannabis producer an administrative penalty; or

540 (d) take any other appropriate administrative action.

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

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

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

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

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

552 (b) If the department makes the determination about a person described in Subsection

553 (3)(a)(i), the department shall:

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

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

556 (iii) direct the person to appear before an adjudicative proceeding conducted under

557 Title 63G, Chapter 4, Administrative Procedures Act.

558 (c) If the department makes the determination about a person described in Subsection

559 (3)(a)(ii), the department may:

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

561 (ii) direct the person to appear before an adjudicative proceeding conducted under Title

562 63G, Chapter 4, Administrative Procedures Act.

563 (4) The department may, for a person subject to an uncontested citation, a stipulated

564 settlement, or a finding of a violation in an adjudicative proceeding under this section:

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

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

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

569 (6) If, within 20 calendar days after the day on which a department serves a citation for

570 a violation of this chapter, the person that is the subject of the citation fails to request a hearing

571 to contest the citation, the citation becomes the basis of the department's final order.

572 (7) The department may, for a person that fails to comply with a citation under this

573 section:

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

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

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

577 **4-42-802. Report to the Legislature.**

578 The department shall report, each year before November 1, to the Health and Human

579 Services Interim Committee, on the department's administration and enforcement of this

580 chapter.

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

582 **4-42-803. Fees -- Deposit into Cannabinoid Product Restricted Account.**

583 The department shall deposit fees the department collects under this chapter into the

584 Cannabinoid Product Restricted Account.585 Section 23. Section **7-1-401** is amended to read:586 **7-1-401. Fees payable to commissioner.**587 (1) Except for an out-of-state depository institution with a branch in Utah, a depository
588 institution under the jurisdiction of the department shall pay an annual fee:589 (a) computed by averaging the total assets of the depository institution shown on each
590 quarterly report of condition for the depository institution for the calendar year immediately
591 proceeding the date on which the annual fee is due under Section **7-1-402**; and

592 (b) at the following rates:

593 (i) on the first \$5,000,000 of these assets, the greater of:

594 (A) 65 cents per \$1,000; or

595 (B) \$500;

596 (ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;

597 (iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;

598 (iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;

599 (v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;

600 (vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000; and

601 (vii) on all amounts over \$600,000,000 of these assets, 2 cents per \$1,000.

602 (2) A financial institution with a trust department shall pay a fee determined in
603 accordance with Subsection (7) for each examination of the trust department by a state
604 examiner.605 (3) Notwithstanding Subsection (1), a credit union in its first year of operation shall
606 pay a basic fee of \$25 instead of the fee required under Subsection (1).607 (4) A trust company that is not a depository institution or a subsidiary of a depository
608 institution holding company shall pay:

609 (a) an annual fee of \$500; and

610 (b) an additional fee determined in accordance with Subsection (7) for each
611 examination by a state examiner.612 (5) Any person or institution under the jurisdiction of the department that does not pay
613 a fee under Subsections (1) through (4) shall pay:

614 (a) an annual fee of \$200; and

615 (b) an additional fee determined in accordance with Subsection (7) for each
616 examination by a state examiner.

617 (6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703,
618 7-1-704, 7-1-713, 7-5-3, [or] 7-18a-202, or 7-26-201 shall pay:

619 (a) (i) a filing fee of \$500 if on the day on which the application or request is filed the
620 person:

621 (A) is a person with authority to transact business as:

622 (I) a depository institution;

623 (II) a trust company; or

624 (III) any other person described in Section 7-1-501 as being subject to the jurisdiction
625 of the department; and

626 (B) has total assets in an amount less than \$5,000,000; or

627 (ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and

628 (b) all reasonable expenses incurred in processing the application.

629 (7) (a) Per diem assessments for an examination shall be calculated at the rate of \$55
630 per hour:

631 (i) for each examiner; and

632 (ii) per hour worked.

633 (b) For an examination of a branch or office of a financial institution located outside of
634 this state, in addition to the per diem assessment under this Subsection (7), the institution shall
635 pay all reasonable travel, lodging, and other expenses incurred by each examiner while
636 conducting the examination.

637 (8) In addition to a fee under Subsection (5), a person registering under Section
638 7-23-201 or 7-24-201 shall pay an original registration fee of \$300.

639 (9) In addition to a fee under Subsection (5), a person applying for licensure under
640 Chapter 25, Money Transmitter Act, shall pay an original license fee of \$300.

641 Section 24. Section 7-26-101 is enacted to read:

642 **CHAPTER 26. CANNABIS PAYMENT PROCESSOR**

643 **Part 1. General Provisions**

644 **7-26-101. Title.**

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

646 Section 25. Section 7-26-102 is enacted to read:

647 **7-26-102. Definitions.**

648 As used in this chapter:

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

650 (2) "Cannabinoid dispensary" means the same as that term is defined in Section
651 58-87-102.

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

653 (a) contains cannabis; and

654 (b) is intended for human medical use.

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

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

657 (a) without using cash;

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

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

660 (B) for cannabis or cannabinoid product testing, from a cannabis producer to a

661 cannabis laboratory; or

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

663 or

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

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

666 (7) "Electronic monitoring system" means the same as that term is defined in Section
667 4-42-102.

668 (8) "Registered patient" means an individual with a valid cannabinoid card issued by
669 the department under Section 26-59-201.

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

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

672 **7-26-201. Cannabis payment processor -- License.**

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

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

676 (a) submit to the department:

- 677 (i) the applicant's name, business address, and place of incorporation;
678 (ii) the name of each owner, officer, director, board member, shareholder, agent,
679 employee, or volunteer of the applicant; and
680 (iii) a fee in accordance with Section 7-1-401; and
681 (b) present evidence to the department that:
682 (i) the applicant is capable of electronically receiving funds from, and distributing
683 funds to:
684 (A) a cannabis producer;
685 (B) a cannabinoid dispensary; and
686 (C) a registered patient;
687 (ii) the applicant has a partnership, service agreement, or service contract with a
688 federally insured depository institution that agrees to clear cannabinoid product transactions;
689 (iii) the applicant is able to interface with the electronic monitoring system to enable a
690 registered patient to:
691 (A) add funds, using a bank wire or a credit card, to an account with the applicant
692 associated with the cannabinoid card; and
693 (B) use the cannabinoid card to pay for a cannabinoid product at a cannabinoid
694 dispensary using the funds in the individual's account with the cannabis payment processor;
695 and
696 (iv) the applicant is, at minimum:
697 (A) a level one payment card industry data security standard-validated provider;
698 (B) certified by Europay, MasterCard, and Visa; and
699 (C) capable of integrating with 50 payment processors.
700 (3) A license issued under this section is valid for two years.
701 (4) The department may determine, by rule made in accordance with Title 63G,
702 Chapter 3, Utah Administrative Rulemaking Act:
703 (a) any additional information an applicant for a cannabis payment processor is
704 required to submit to the department; and
705 (b) procedural requirements for an applicant for a license under this chapter.
706 (5) An applicant for a cannabis payment processor license under this section may
707 request that the department treat information that the applicant submits to the department as

708 confidential under Section 7-1-802.

709 Section 27. Section **7-26-202** is enacted to read:

710 **7-26-202. Renewal -- Abandonment.**

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

713 (1) meets the requirements of Section 7-26-201;

714 (2) demonstrates the criteria described in Subsection 7-26-203(2);

715 (3) pays the department a license renewal fee in an amount that is the same as the

716 licensing fee determined by the department in accordance with Section 7-1-401.

717 Section 28. Section **7-26-203** is enacted to read:

718 **7-26-203. Number of licenses -- Criteria for awarding a license.**

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

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

723 (a) experience with:

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

725 (ii) operating a payment processing system;

726 (iii) complying with a regulatory environment; and

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

728 (b) connections to the local community;

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

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

731 processing cannabinoid product payments.

732 (3) After an appropriate supervisor reviews an applicant's application under Section
733 7-26-201 and evaluates the application for the criteria described in Subsection (2), the
734 appropriate supervisor shall submit the department's findings and recommendations to the
735 commissioner.

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

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

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

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

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

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

750 (e) the commissioner of the Department of Agriculture and Food or the commissioner's
751 designee; and

752 (f) the commissioner of the Department of Public Safety or the commissioner's
753 designee.

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

756 Section 29. Section **7-26-204** is enacted to read:

757 **7-26-204. Cash system if no cannabis payment processor available.**

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

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

764 Section 30. Section **7-26-301** is enacted to read:

765 **Part 3. Operating Requirements**

766 **7-26-301. Operating requirements.**

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

769 (2) A cannabis payment processor may not act as a cannabis payment processor for a

770 person unless the person is:

771 (a) a registered patient; or

772 (b) a person that is licensed under:

773 (i) Title 4, Chapter 42, Cannabis Producers; or

774 (ii) Title 58, Chapter 87, Cannabinoid Dispensaries.

775 (3) A cannabis payment processor shall maintain interoperability with the electronic
776 monitoring system.

777 Section 31. Section 7-26-401 is enacted to read:

778 **Part 4. Enforcement**

779 **7-26-401. Examination -- Administrative action.**

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

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

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

786 and

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

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

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

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

794 (c) revoke the person's license.

795 Section 32. Section 7-26-402 is enacted to read:

796 **7-26-402. Fines -- Deposit into Cannabinoid Product Restricted Account.**

797 The department shall deposit fines that the department collects under this chapter into
798 the Cannabinoid Product Restricted Account created in Section [4-42-104](#).

799 Section 33. Section 26-59-101 is enacted to read:

800 **CHAPTER 59. CANNABINOID PRODUCT ACT**

801 **Part 1. General Provisions**

802 **26-59-101. Title.**

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

804 Section 34. Section **26-59-102** is enacted to read:

805 **26-59-102. Definitions.**

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

807 (2) "Cannabinoid card" means a card issued by the department under Section
808 26-59-201 to a patient who qualifies for treatment with a cannabinoid product.

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

810 (a) sells a cannabinoid product; or

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

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

814 (a) contains cannabis; and

815 (b) is intended for human medical use.

816 (5) "Cannabinoid Product Restricted Account" means the account created in Section
817 4-42-104.

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

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

820 (8) "Cannabis payment processor" means the same as that term is defined in Section
821 7-26-102.

822 (9) "Designated caregiver" means an individual authorized by a registered patient under
823 Section 26-59-202 to retrieve the registered patient's cannabinoid product on the registered
824 patient's behalf.

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

826 (11) "Medical dosage form" means a qualifying dosage form for a cannabinoid product
827 under Section 26-59-103.

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

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

830 (b) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical
831 Practice Act.

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

834 Section 35. Section **26-59-103** is enacted to read:

835 **26-59-103. Medical dosage form.**

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

838 (a) a tablet;

839 (b) a capsule;

840 (c) a concentrated oil;

841 (d) an injectable;

842 (e) a transdermal preparation; and

843 (f) a sublingual preparation.

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

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

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

850 Section 36. Section **26-59-201** is enacted to read:

851 **Part 2. Cannabinoid Card**

852 **26-59-201. Cannabinoid card -- Application -- Renewal.**

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

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

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

858 (a) the individual is:

859 (i) at least 18 years old; and

860 (ii) a Utah resident; and

861 (b) a physician determines that the individual:

862 (i) suffers from an illness approved for a physician to recommend treatment with a

863 cannabinoid product under state law; and

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

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

866 (a) submit an application to the department, in a form determined by the department,

867 that includes:

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

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

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

871 (iv) any other information required by the department by rule made in accordance with

872 Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

873 (b) pay the department a fee established by the department in accordance with Section

874 63J-1-504.

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

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

879 Section 37. Section **26-59-202** is enacted to read:

880 **26-59-202. Cannabinoid card -- Designated caregiver -- Registration -- Renewal --**
881 **Revocation.**

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

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

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

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

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

892 (a) at least 18 years old; and

893 (b) a Utah resident.

894 Section 38. Section **26-59-203** is enacted to read:

895 **26-59-203. Cannabinoid card -- Patient and designated caregiver requirements.**

896 (1) A registered patient or designated caregiver of the registered patient who possesses
897 a cannabinoid product outside of the registered patient's residence shall:

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

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

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

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

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

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

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

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

913 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a
914 \$100 fine.

915 Section 39. Section **26-59-204** is enacted to read:

916 **26-59-204. Insurance coverage.**

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

919 Section 40. Section **26-59-205** is enacted to read:

920 **26-59-205. Report to the Legislature.**

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

924 Section 41. Section **26-59-206** is enacted to read:

925 **26-59-206. Fees -- Deposit.**

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

928 Section 42. Section **41-6a-517** is amended to read:

929 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
930 **body -- Penalties -- Arrest without warrant.**

931 (1) As used in this section:

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

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

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

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

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

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

941 (a) involuntarily ingested by the accused;

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

943 (c) for a person who is a registered patient under Title 26, Chapter 59, Cannabinoid
944 Product Act, a cannabinoid product recommended by a physician; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

980 (9) The Driver License Division shall subtract from any suspension or revocation
981 period the number of days for which a license was previously suspended under Section
982 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
983 which the record of conviction is based.

984 (10) The Driver License Division shall:

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

987 committed prior to July 1, 2009; or

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

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

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

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

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

999 (b) completes a screening;

1000 (c) completes an assessment, if it is found appropriate by a screening under Subsection
1001 (11)(b);

1002 (d) completes substance abuse treatment if it is found appropriate by the assessment
1003 under Subsection (11)(c);

1004 (e) completes an educational series if substance abuse treatment is not required by the
1005 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

1006 (f) has not been convicted of a violation of any motor vehicle law in which the person
1007 was involved as the operator of the vehicle during the suspension period imposed under
1008 Subsection (7)(a) or (8)(a);

1009 (g) has complied with all the terms of the person's probation or all orders of the court if
1010 not ordered to probation; and

1011 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
1012 person has not consumed a controlled substance not prescribed by a practitioner for use by the
1013 person or unlawfully consumed alcohol during the suspension period imposed under
1014 Subsection (7)(a) or (8)(a); or

1015 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
1016 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
1017 knowledge the person has not consumed a controlled substance not prescribed by a practitioner

1018 for use by the person or unlawfully consumed alcohol during the suspension period imposed
1019 under Subsection (7)(a) or (8)(a).

1020 (12) If the court shortens a person's license suspension period in accordance with the
1021 requirements of Subsection (11), the court shall forward the order shortening the person's
1022 license suspension period prior to the completion of the suspension period imposed under
1023 Subsection (7)(a) or (8)(a) to the Driver License Division.

1024 (13) (a) The court shall notify the Driver License Division if a person fails to:

1025 (i) complete all court ordered screening and assessment, educational series, and
1026 substance abuse treatment; or

1027 (ii) pay all fines and fees, including fees for restitution and treatment costs.

1028 (b) Upon receiving the notification, the division shall suspend the person's driving
1029 privilege in accordance with Subsections [53-3-221](#)(2) and (3).

1030 (14) The court shall order supervised probation in accordance with Section [41-6a-507](#)
1031 for a person convicted under Subsection (2).

1032 Section 43. Section [57-37-3.7](#) is enacted to read:

1033 **57-37-3.7. Cannabinoid product -- Approval by Legislature.**

1034 (1) A substance that contains cannabis is only considered a cannabinoid product for the
1035 purpose of Section [58-37-3.6](#) if the substance is expressly approved for a physician to
1036 recommend for treatment of a patient's condition in this section.

1037 (2) A person may not, before a cannabinoid product is expressly approved in this
1038 section, implement or take action in accordance with:

1039 (a) Title 4, Chapter 42, Cannabis Producers;

1040 (b) Title 7, Chapter 26, Cannabis Payment Processors;

1041 (c) Title 26, Chapter 59, Cannabinoid Product Act;

1042 (d) Title 58, Chapter 87, Cannabinoid Dispensaries;

1043 (e) Title 59, Chapter 28, Cannabinoid Product Tax Act;

1044 (f) Section [58-37-3.6](#);

1045 (g) Section [58-37f-204](#);

1046 (h) Section [58-67-807](#); or

1047 (i) Section [58-68-807](#).

1048 Section 44. Section [58-37-3.6](#) is enacted to read:

1049 **58-37-3.6. Exemption for possession or use of cannabinoid medicine.**

1050 (1) As used in this section:

1051 (a) "Cannabinoid product" means a substance that:

1052 (i) contains cannabis; and

1053 (ii) is approved for a physician to recommend under Section [58-37-3.7](#).

1054 (b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

1055 (c) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).

1056 (d) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the

1057 description in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

1058 (2) Except as provided in Section [57-37-3.7](#), notwithstanding any other provision of
1059 this chapter:

1060 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to
1061 the penalties described in this title for the growth, possession, sale, or offer for sale of
1062 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,
1063 or offer for sale of cannabis complies with:

1064 (i) Title 4, Chapter 42, Cannabis Producers;

1065 (ii) Title 26, Chapter 59, Cannabinoid Product Act; and

1066 (iii) Title 58, Chapter 87, Cannabinoid Dispensaries;

1067 (b) an individual who possesses, sells, or offers to sell a cannabinoid product is not
1068 subject to the penalties described in this title for the possession, sale, or offer for sale of

1069 marijuana or tetrahydrocannabinol to the extent that the individual's possession, sale, or offer
1070 for sale of the cannabinoid product complies with:

1071 (i) Title 4, Chapter 42, Cannabis Producers;

1072 (ii) Title 26, Chapter 59, Cannabinoid Product Act; and

1073 (iii) Title 58, Chapter 87, Cannabinoid Dispensaries; and

1074 (c) an individual who possesses, sells, or offers to sell a cannabinoid product is not
1075 subject to the penalties described in this title for the possession, sale, or offer for sale of

1076 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's growth,
1077 possession, sale, or offer for sale of the cannabinoid product complies with:

1078 (i) Title 4, Chapter 42, Cannabis Producers;

1079 (ii) Title 26, Chapter 59, Cannabinoid Product Act; and

1080 (iii) Title 58, Chapter 87, Cannabinoid Dispensaries.

1081 Section 45. Section **58-37f-204** is enacted to read:

1082 **58-37f-204. Controlled substance database and cannabinoid products.**

1083 (1) (a) The division shall establish a process for a cannabinoid dispensary agent to
1084 submit, at a specified time during each 24-hour period, the information required by this section.

1085 (b) A cannabinoid dispensary shall comply with the process established by the division
1086 under Subsection (1)(a).

1087 (2) A cannabinoid dispensary shall, each time the cannabinoid dispensary dispenses a
1088 cannabinoid product to an individual with a medical cannabis card, submit to the division the
1089 following information:

1090 (a) the name of the physician who recommended the cannabinoid product and the
1091 unique number identifying the recommendation;

1092 (b) the date of the recommendation;

1093 (c) the date the cannabinoid product was dispensed;

1094 (d) the name of the individual with the medical cannabis card;

1095 (e) positive identification of the individual who receives the cannabinoid product,
1096 including the type of identification and any identifying numbers on the identification;

1097 (f) the amount of cannabinoid product dispensed;

1098 (g) the dosage, quantity, and frequency recommended by the physician;

1099 (h) the name of the cannabinoid dispensary dispensing the cannabinoid product;

1100 (i) the name of the cannabinoid dispensary agent who dispensed the cannabinoid
1101 product; and

1102 (j) any other information required by the division under Subsection (8).

1103 (3) If an individual's cannabinoid product record is in the controlled substance
1104 database:

1105 (a) the individual may obtain the record by requesting the record from the division in
1106 writing; and

1107 (b) the individual may request, in writing, with the individual's postal address included,
1108 that the division correct any incorrect information about the individual contained in the
1109 database.

1110 (4) For a request described in Subsection (3), the division shall:

1111 (a) grant or deny the request no later than 30 days after the day on which the division
1112 receives the request; and

1113 (b) notify the individual who submitted the request of the division's decision by mail
1114 postmarked no later than 35 days after the day on which the division received the request.

1115 (5) If the division denies a request described in Subsection (3), or does not respond to
1116 the request within the time period described in Subsection (4), the individual who submitted
1117 the request may, no later than 60 days after the day on which the individual's initial request is
1118 postmarked, submit an appeal to the Department of Commerce.

1119 (6) The division shall ensure that the database system records and maintains for
1120 reference:

1121 (a) the identity of and a form of identification for each individual who requests
1122 information from the database;

1123 (b) the information accessed by the individual described in Subsection (6)(a); and

1124 (c) the date and time the individual described in Subsection (6)(a) made the request.

1125 (7) A cannabinoid dispensary agent may access the controlled substance database in the
1126 same manner and for the same purpose as a pharmacist may access the database under
1127 Subsection [58-37f-301\(2\)\(i\)](#).

1128 (8) The division shall establish, by rule made in accordance with Title 63G, Chapter 3,
1129 Utah Administrative Rulemaking Act:

1130 (a) requirements for the form and manner of submission of information submitted to
1131 the database under this section; and

1132 (b) for the purpose of collecting health data on cannabinoid products, additional
1133 information that a cannabinoid dispensary is required to submit to the controlled substance
1134 database.

1135 Section 46. Section **58-67-807** is enacted to read:

1136 **58-67-807. Recommendation of cannabinoid products -- Registration with**
1137 **division and Department of Health.**

1138 (1) A physician may recommend the use of cannabinoid product to a patient in
1139 accordance with Title 26, Chapter 59, Cannabinoid Product Act, if the physician:

1140 (a) registers with the division and the Department of Health as a physician who
1141 recommends cannabinoid products; and

1142 (b) completes the training required under Subsection (3).
1143 (2) A physician who recommends a cannabinoid product shall:
1144 (a) recommend cannabinoid products to no more than an amount of patients
1145 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,
1146 Utah Administrative Rulemaking Act;
1147 (b) consult the controlled substance database before recommending cannabinoid
1148 products to a patient to determine if the patient is abusing cannabinoid products;
1149 (c) report an adverse event experienced by a patient related to the patient's cannabinoid
1150 product use to the Department of Health; and
1151 (d) report other data on cannabinoid products required by Title 26, Chapter 59,
1152 Cannabinoid Product Act.
1153 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
1154 3, Utah Administrative Rulemaking Act, training requirements for a physician that
1155 recommends cannabinoid products.
1156 (b) The division shall include, in the training requirements the division establishes
1157 under Subsection (3)(a), training on using caution when recommending cannabinoid products
1158 to avoid patient cannabinoid product abuse.
1159 (4) It is not a breach of the applicable standard of care for a physician to recommend
1160 treatment with a cannabinoid product to an individual under this section and Title 26, Chapter
1161 59, Cannabinoid Product Act.
1162 (5) A physician who recommends treatment with a cannabinoid product to an
1163 individual under this section and Title 26, Chapter 59, Cannabinoid Product Act, may not,
1164 solely based on that recommendation, be subject to:
1165 (a) civil liability;
1166 (b) criminal liability; or
1167 (c) licensure sanctions under this chapter.
1168 Section 47. Section **58-68-807** is enacted to read:
1169 **58-68-807. Recommendation of cannabinoid products -- Registration with**
1170 **division and Department of Health.**
1171 (1) A physician may recommend the use of cannabinoid product to a patient in
1172 accordance with Title 26, Chapter 59, Cannabinoid Product Act, if the physician:

- 1173 (a) registers with the division and the Department of Health as a physician who
1174 recommends cannabinoid products; and
- 1175 (b) completes the training required under Subsection (3).
- 1176 (2) A physician who recommends a cannabinoid product shall:
- 1177 (a) recommend cannabinoid products to no more than an amount of patients
1178 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,
1179 Utah Administrative Rulemaking Act;
- 1180 (b) consult the controlled substance database before recommending cannabinoid
1181 products to a patient to determine if the patient is abusing cannabinoid products;
- 1182 (c) report an adverse event experienced by a patient related to the patient's cannabinoid
1183 product use to the Department of Health; and
- 1184 (d) report other data on cannabinoid products required by Title 26, Chapter 59,
1185 Cannabinoid Product Act.
- 1186 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
1187 3, Utah Administrative Rulemaking Act, training requirements for a physician that
1188 recommends cannabinoid products.
- 1189 (b) The division shall include, in the training requirements the division establishes
1190 under Subsection (3)(a), training on using caution when recommending cannabinoid products
1191 to avoid patient cannabinoid product abuse.
- 1192 (4) It is not a breach of the applicable standard of care for a physician to recommend
1193 treatment with a cannabinoid product to an individual under this section and Title 26, Chapter
1194 59, Cannabinoid Product Act.
- 1195 (5) A physician who recommends treatment with a cannabinoid product to an
1196 individual under this section and Title 26, Chapter 59, Cannabinoid Product Act, may not,
1197 solely based on that recommendation, be subject to:
- 1198 (a) civil liability;
- 1199 (b) criminal liability; or
- 1200 (c) licensure sanctions under this chapter.

1201 Section 48. Section **58-87-101** is enacted to read:

1202 **CHAPTER 87. CANNABINOID DISPENSARIES**

1203 **Part 1. General Provisions**

1204 **58-87-101. Title.**

1205 This chapter is known as "Cannabinoid Dispensaries."

1206 Section 49. Section **58-87-102** is enacted to read:

1207 **58-87-102. Definitions.**

1208 As used in this chapter:

1209 (1) "Agent" means an employee or independent contractor of an entity.

1210 (2) "Cannabinoid card" means the same as that term is defined in Section [26-59-102.](#)

1211 (3) "Cannabinoid dispensary" means a person that:

1212 (a) sells a cannabinoid product; or

1213 (b) purchases or possesses a cannabinoid product with the intent to sell the cannabinoid
1214 product.

1215 (4) "Cannabinoid product" means the same as that term is defined in Section [58-37-3.6.](#)

1216 (5) "Cannabinoid Product Restricted Account" means the account created in Section
1217 [4-42-104.](#)

1218 (6) "Cannabis" means any part of a cannabis plant, whether growing or not.

1219 (7) "Cannabis cultivator" means the same as that term is defined in Section [4-42-102.](#)

1220 (8) "Cannabis laboratory" means the same as that term is defined in Section [4-42-102.](#)

1221 (9) "Cannabis payment processor" means the same as that term is defined in Section
1222 [7-26-102.](#)

1223 (10) "Cannabis processor" means the same as that term is defined in Section [4-42-102.](#)

1224 (11) "Cannabis producer" means:

1225 (a) a cannabis cultivation facility;

1226 (b) a cannabis processor; or

1227 (c) a cannabis laboratory.

1228 (12) "Electronic monitoring system" means the system described in Section [4-42-103.](#)

1229 (13) "Physician" means the same as that term is defined in Section [26-59-102.](#)

1230 (14) "Registered patient" means an individual with a valid cannabinoid card issued by
1231 the department under Section [26-59-201.](#)

1232 Section 50. Section **58-87-201** is enacted to read:

1233 **Part 2. Cannabinoid Dispensary License and Eligibility**

1234 **58-87-201. Cannabinoid dispensary -- License -- Eligibility.**

- 1235 (1) A person may not operate as a cannabinoid dispensary without a license from the
1236 division issued under this part.
- 1237 (2) A person may submit an application to the division for a license to act as a
1238 cannabinoid dispensary.
- 1239 (3) An applicant for a license described in Subsection (2) shall submit to the division:
- 1240 (a) an application in a form determined by the division that includes information
1241 required by the division by rule made in accordance with Title 63G, Chapter 3, Utah
1242 Administrative Rulemaking Act;
- 1243 (b) a bond, as required by Section 58-87-204, for each license for which the person
1244 applies;
- 1245 (c) an application fee established by the division, in accordance with Section
1246 63J-1-504, in an amount equal to the amount necessary to cover the division's cost to
1247 implement this chapter; and
- 1248 (d) an operating plan that complies with minimum operating standards determined by
1249 the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1250 Rulemaking Act, that includes a plan for:
- 1251 (i) security;
- 1252 (ii) payment processing; and
- 1253 (iii) the cannabinoid products that the cannabinoid dispensary intends to sell.
- 1254 (4) The division shall require a separate license and separate license fee for each
1255 physical location of a cannabinoid dispensary.
- 1256 (5) The division may not issue a license to operate a cannabinoid dispensary to a
1257 person:
- 1258 (a) that holds a license for or has an ownership interest in a cannabis cultivator or a
1259 cannabis processor in the state; or
- 1260 (b) that otherwise has an interest in a cannabis cultivator or a cannabis processor, as
1261 determined by the division.
- 1262 Section 51. Section **58-87-202** is enacted to read:
- 1263 **58-87-202. Renewal.**
- 1264 Except as provided in Subsection (2), the division shall renew the license of a
1265 cannabinoid dispensary licensed under Section 58-87-201 if, at the time of renewal:

1266 (1) the cannabinoid dispensary meets the requirements of Section 58-87-201; and
1267 (2) the cannabinoid dispensary pays the division a license renewal fee in an amount
1268 determined by the division in accordance with Section 63J-1-504.

1269 Section 52. Section **58-87-203** is enacted to read:

1270 **58-87-203. Division may accept or deny a license -- Maximum number of licenses.**

1271 (1) The division shall determine the number of cannabinoid dispensary licenses that the
1272 division may issue at any given time.

1273 (2) The division shall determine the number of licenses available under Subsection (1)
1274 by considering:

1275 (a) the population of the state; and

1276 (b) the number of registered patients.

1277 (3) The division may not issue more than, at any given time, a number of licenses
1278 greater than the number available under Subsection (1).

1279 (4) The division is not required to issue an available license if the division determines
1280 that no qualified applicant has applied.

1281 (5) A division decision to award or deny a license under this section is final and not
1282 subject to judicial review.

1283 Section 53. Section **58-87-204** is enacted to read:

1284 **58-87-204. Bond for a cannabinoid medicine dispensary license.**

1285 (1) A cannabinoid dispensary licensed under Section 58-87-201 shall post a cash bond
1286 or surety bond, payable to the division, in an amount equal to \$750,000.

1287 (2) A cannabinoid dispensary licensed under Section 58-87-201 shall maintain the
1288 bond described in Subsection (1) for as long as the cannabinoid dispensary continues to
1289 operate.

1290 (3) The division shall require a bond that a cannabinoid dispensary posts under this
1291 section to be:

1292 (a) in a form approved by the attorney general; and

1293 (b) conditioned upon the cannabinoid dispensary's compliance with this chapter.

1294 (4) If a bond described in Subsection (1) is canceled due to a cannabinoid dispensary's
1295 negligence, the division may assess the cannabinoid dispensary a \$300 reinstatement fee.

1296 (5) A cannabinoid dispensary may not withdraw any part of a bond posted under

1297 Subsection (1):

1298 (a) during the period when the cannabinoid dispensary's license is in effect; or

1299 (b) while a license revocation proceeding is pending against the cannabinoid

1300 dispensary.

1301 (6) A cannabinoid dispensary forfeits a bond posted under Subsection (1) if the

1302 cannabinoid dispensary's license is revoked.

1303 (7) The division may, without revoking a license, make a claim against a bond posted

1304 by a cannabinoid dispensary under Subsection (1) for money the cannabinoid dispensary owes

1305 the division under this chapter.

1306 Section 54. Section **58-87-301** is enacted to read:

1307 **Part 3. Cannabinoid Dispensary Agents**

1308 **58-87-301. Cannabinoid dispensary agents.**

1309 (1) A cannabinoid dispensary licensed under Section [58-87-201](#) shall maintain a

1310 current list of each agent of the cannabinoid dispensary.

1311 (2) A cannabinoid dispensary shall submit the list described in Subsection (1) to the

1312 division before:

1313 (a) January 1 of each year; and

1314 (b) July 1 of each year.

1315 (3) In addition to the list described in Subsection (1), a cannabinoid dispensary licensed

1316 under Section [58-87-201](#) shall require each agent to submit to a criminal background check in

1317 accordance with Section [58-87-302](#).

1318 (4) The division may audit the list described in Subsection (1) at any time, at random in

1319 order to determine:

1320 (a) that the list is accurate; and

1321 (b) that each agent has submitted to a criminal background check in accordance with

1322 Section [58-87-302](#).

1323 (5) A cannabinoid dispensary is guilty of an infraction if the cannabinoid dispensary:

1324 (a) fails to maintain an accurate list of each agent of the cannabinoid dispensary in

1325 accordance with this section; or

1326 (b) has an agent who has not submitted to a background check in accordance with

1327 Section [58-87-302](#).

- 1328 (6) A physician may not act as an agent of a cannabinoid dispensary.
1329 Section 55. Section **58-87-302** is enacted to read:
1330 **58-87-302. Cannabinoid medicine dispensary agents -- Criminal background**
1331 **checks.**
- 1332 (1) Each cannabinoid dispensary agent shall:
1333 (a) submit to the division:
1334 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and
1335 (ii) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) indicating that the
1336 agent's fingerprints are being registered in the Federal Bureau of Investigation Next Generation
1337 Identification System's Rap Back Service; and
1338 (b) consent to a fingerprint background check by:
1339 (i) the Bureau of Criminal Identification; and
1340 (ii) the Federal Bureau of Investigation.
1341 (2) The Bureau of Criminal Identification shall:
1342 (a) check the fingerprints submitted under Subsection (1) against the applicable state,
1343 regional, and national criminal records databases, including the Federal Bureau of
1344 Investigation's Next Generation Identification system;
1345 (b) report the results of the background check to the division;
1346 (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by
1347 future submissions to the local and regional criminal records databases, including latent prints;
1348 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next
1349 Generation Identification System's Rap Back Service for search by future submissions to
1350 national criminal records databases, including the Federal Bureau of Investigation Next
1351 Generation Identification System and latent prints; and
1352 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives
1353 notifications for an individual with whom the entity maintains an authorizing relationship.
1354 (3) The division shall:
1355 (a) assess an individual who submits fingerprints, in accordance with this section, a fee
1356 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of
1357 Criminal Identification or other authorized agency provides under this section; and
1358 (b) remit a fee collected under Subsection (3)(a) to the Bureau of Criminal

1359 Identification.

1360 Section 56. Section **58-87-401** is enacted to read:

1361 **Part 4. Cannabinoid Dispensary Operating Requirements**

1362 **58-87-401. Operating requirements -- General.**

1363 (1) (a) A cannabinoid dispensary shall operate in accordance with the operating plan
1364 that the cannabinoid dispensary provides to the department under Section [58-87-201](#).

1365 (b) A cannabinoid dispensary shall notify the department within 30 days of any change
1366 in the cannabinoid dispensary's operation plan.

1367 (c) The division shall review a cannabinoid dispensary's operating plan for compliance
1368 with state law and administrative rules.

1369 (d) A cannabinoid dispensary may not operate under an operating plan until the
1370 operating plan is reviewed and approved by the division under Subsection (1)(c).

1371 (2) Except when determined by the Department of Financial Institutions under Section
1372 [7-26-204](#), a cannabinoid dispensary may only transmit or accept payment for a cannabinoid
1373 product through a cannabis payment processor licensed under Section [7-26-201](#).

1374 (3) The division shall establish by rule made in accordance with Title 63G, Chapter 3,
1375 Utah Administrative Rulemaking Act:

1376 (a) additional operating requirements for a cannabinoid dispensary; and

1377 (b) physical facility standards for a cannabinoid dispensary.

1378 Section 57. Section **58-87-402** is enacted to read:

1379 **58-87-402. Dispensing -- Amount a cannabinoid dispensary may dispense --**
1380 **Reporting -- Form of cannabis or cannabinoid product.**

1381 (1) A cannabinoid dispensary may only sell, subject to this chapter:

1382 (a) cannabinoid products; or

1383 (b) educational materials related to the use of cannabinoid products.

1384 (2) A cannabinoid dispensary may only sell a cannabinoid product that has been
1385 inspected by a cannabis laboratory in accordance with Section [4-42-701](#).

1386 (3) A cannabinoid dispensary may only sell a cannabinoid product to:

1387 (a) an individual with a cannabinoid card issued by the department; or

1388 (b) an individual with a valid hemp extract registration card issued under Title 26,
1389 Chapter 56, Hemp Extract Registration Act.

1390 (4) A cannabinoid dispensary may not dispense on behalf of any one registered patient,
1391 in any one 90-day period, an amount of cannabinoid products that exceeds a 90-day supply of
1392 the dosage recommended by the registered patient's physician.

1393 (5) A registered patient may not purchase more cannabinoid products than the amounts
1394 designated in Subsection (4).

1395 (6) A designated caregiver designated by a registered patient may not purchase, for the
1396 registered patient, an amount of cannabinoid products that exceeds the amounts designated in
1397 Subsection (4).

1398 (7) A cannabinoid dispensary shall submit a record to the electronic monitoring system
1399 of each time the cannabinoid dispensary dispenses a cannabinoid product to a registered
1400 patient.

1401 Section 58. Section **58-87-403** is enacted to read:

1402 **58-87-403. Cannabinoid dispensary -- Inspection by division.**

1403 (1) The division shall inspect, in accordance with Subsection (2), a cannabinoid
1404 dispensary's facility and records in order to determine if the cannabinoid dispensary complies
1405 with the requirements of this chapter.

1406 (2) The division may inspect the records and facility of a cannabinoid dispensary:

1407 (a) as many as four times per year, scheduled or unscheduled; and

1408 (b) if the division has reason to believe that the cannabinoid dispensary has violated the
1409 law, at any time, scheduled or unscheduled.

1410 Section 59. Section **58-87-404** is enacted to read:

1411 **58-87-404. Cannabinoid transportation.**

1412 An agent of a cannabinoid dispensary shall transport cannabinoid medicine in
1413 accordance with Section [4-42-403](#).

1414 Section 60. Section **58-87-501** is enacted to read:

1415 **Part 5. Enforcement**

1416 **58-87-501. Enforcement -- Fine -- Citation.**

1417 (1) The division may, for a violation of this chapter by a cannabinoid dispensary:

1418 (a) revoke the cannabinoid dispensary's license;

1419 (b) refuse to renew the cannabinoid dispensary's license;

1420 (c) assess the cannabinoid dispensary an administrative penalty; or

- 1421 (d) take any other appropriate administrative action.
- 1422 (2) The division shall deposit an administrative penalty imposed under this section into
1423 the General Fund as a dedicated credit to be used by the division to administer and enforce this
1424 chapter.
- 1425 (3) The division may, for a person subject to an uncontested citation, a stipulated
1426 settlement, or a finding of a violation in an adjudicative proceeding under this section:
- 1427 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
1428 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
1429 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 1430 (b) order the person to cease and desist from the action that creates a violation.
- 1431 (4) The division may not revoke a cannabinoid dispensary's license via a citation.
- 1432 (5) If within 20 calendar days after the day on which a division serves a citation for a
1433 violation of this chapter, the person that is the subject of the citation fails to request a hearing
1434 to contest the citation, the citation becomes the basis of the division's final order.
- 1435 (6) The division may, for a person who fails to comply with a citation under this
1436 section:
- 1437 (a) refuse to issue or renew the person's license; or
- 1438 (b) suspend, revoke, or place on probation the person's license.
- 1439 Section 61. Section **58-87-502** is enacted to read:
- 1440 **58-87-502. Fees -- Deposit into Cannabinoid Product Restricted Account.**
- 1441 The division shall deposit fees the division collects under this chapter into the
1442 Cannabinoid Product Restricted Account created in Section [4-42-104](#).
- 1443 Section 62. Section **59-12-104.7** is enacted to read:
- 1444 **59-12-104.7. Exemption from sales tax for cannabinoid products.**
- 1445 (1) As used in this section:
- 1446 (a) "Cannabinoid dispensary" means the same as that term is defined in Section
1447 [58-87-102](#).
- 1448 (b) "Cannabinoid product" means the same as that term is defined in Section [58-37-3.6](#).
- 1449 (2) In addition to the exemptions described in Section [59-12-104](#), the sale by a licensed
1450 cannabinoid dispensary of a cannabinoid product is not subject to the taxes imposed by this
1451 chapter.

1452 Section 63. Section **59-28-101** is enacted to read:

1453 **CHAPTER 28. CANNABINOID PRODUCT TAX ACT**

1454 **Part 1. General Provisions**

1455 **59-28-101. Title.**

1456 This chapter is known as the "Cannabinoid Product Tax Act."

1457 Section 64. Section **59-28-102** is enacted to read:

1458 **59-28-102. Definitions.**

1459 As used in this chapter:

1460 (1) "Cannabinoid dispensary" means the same as that term is defined in Section

1461 [26-59-102.](#)

1462 (2) "Cannabinoid product" means the same as that term is defined in Section [58-37-3.6.](#)

1463 (3) "Cannabinoid Product Restricted Account" means the account created in Section

1464 [4-42-104.](#)

1465 Section 65. Section **59-28-103** is enacted to read:

1466 **59-28-103. Imposition of tax -- Rate -- Administration.**

1467 (1) There is imposed a tax on the retail purchaser of a cannabinoid product at a
1468 cannabinoid dispensary in the state, in an amount equal to 5.77% of amounts paid or charged
1469 for the cannabinoid product.

1470 (2) The commission shall administer, collect, and enforce the tax authorized under this
1471 chapter in accordance with the provisions of Title 59, Chapter 1, General Taxation Policies.

1472 Section 66. Section **59-28-104** is enacted to read:

1473 **59-28-104. Collection of tax.**

1474 A cannabinoid dispensary shall:

1475 (1) collect the tax imposed by Section [59-28-103](#) from a cannabinoid product
1476 purchaser; and

1477 (2) pay the tax collected under Subsection (1):

1478 (a) to the commission quarterly on or before the last day of the month immediately
1479 following the last day of the previous quarter; and

1480 (b) using a form prescribed by the commission.

1481 Section 67. Section **59-28-105** is enacted to read:

1482 **59-28-105. Deposit of tax revenue.**

1483 The commission shall deposit revenues generated by the tax imposed by this chapter
1484 into the Cannabinoid Product Restricted Account created in Section [4-42-104](#).

1485 Section 68. Section **59-28-106** is enacted to read:

1486 **59-28-106. Records.**

1487 (1) A cannabinoid dispensary shall maintain any record typically deemed necessary to
1488 determine the amount of tax that the cannabinoid dispensary is required to remit to the
1489 commission under this chapter.

1490 (2) The commission may require a cannabinoid dispensary to keep any record the
1491 commission reasonably considers necessary to constitute sufficient evidence of the amount of
1492 tax the cannabinoid dispensary is required to remit to the commission under this chapter:

1493 (a) by notice served upon the cannabinoid dispensary; or

1494 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1495 Rulemaking Act.

1496 (3) Upon notice by the commission, a cannabinoid dispensary shall open the
1497 cannabinoid dispensary's records for examination by the commission.

1498 Section 69. Section **59-28-107** is enacted to read:

1499 **59-28-107. Rulemaking authority.**

1500 The commission may make rules in accordance with Title 63G, Chapter 3, Utah
1501 Administrative Rulemaking Act, to:

1502 (1) implement the tax imposed by this chapter; and

1503 (2) enforce payment of the tax imposed by this chapter.

1504 Section 70. Section **59-28-108** is enacted to read:

1505 **59-28-108. Penalties and interest.**

1506 A cannabinoid dispensary that fails to comply with any provision of this chapter is
1507 subject to penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

1508 Section 71. Section **62A-4a-202.1** is amended to read:

1509 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
1510 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
1511 **emergency placement.**

1512 (1) A peace officer or child welfare worker may not:

1513 (a) enter the home of a child who is not under the jurisdiction of the court, remove a

1514 child from the child's home or school, or take a child into protective custody unless authorized
1515 under Subsection [78A-6-106\(2\)](#); or

1516 (b) remove a child from the child's home or take a child into custody under this section
1517 solely on the basis of:

1518 (i) educational neglect, truancy, or failure to comply with a court order to attend
1519 school[-]; or

1520 (ii) the possession or use of a cannabinoid product in the home, if the use and
1521 possession of the cannabinoid product complies with Title 26, Chapter 59, Cannabinoid
1522 Product Act.

1523 (2) A child welfare worker within the division may take action under Subsection (1)
1524 accompanied by a peace officer, or without a peace officer when a peace officer is not
1525 reasonably available.

1526 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
1527 into protective custody, the child welfare worker shall also determine whether there are
1528 services available that, if provided to a parent or guardian of the child, would eliminate the
1529 need to remove the child from the custody of the child's parent or guardian.

1530 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
1531 utilized.

1532 (c) In determining whether the services described in Subsection (3)(a) are reasonably
1533 available, and in making reasonable efforts to provide those services, the child's health, safety,
1534 and welfare shall be the child welfare worker's paramount concern.

1535 (4) (a) A child removed or taken into custody under this section may not be placed or
1536 kept in a secure detention facility pending court proceedings unless the child is detainable
1537 based on guidelines promulgated by the Division of Juvenile Justice Services.

1538 (b) A child removed from the custody of the child's parent or guardian but who does
1539 not require physical restriction shall be given temporary care in:

1540 (i) a shelter facility; or

1541 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

1542 (c) When making a placement under Subsection (4)(b), the Division of Child and
1543 Family Services shall give priority to a placement with a noncustodial parent, relative, or
1544 friend, in accordance with Section [62A-4a-209](#).

1545 (d) If the child is not placed with a noncustodial parent, a relative, or a designated
1546 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor
1547 explaining why a different placement was in the child's best interest.

1548 (5) When a child is removed from the child's home or school or taken into protective
1549 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

1550 (a) the parent's rights under this part, including the right to be present and participate in
1551 any court proceeding relating to the child's case;

1552 (b) that it may be in the parent's best interest to contact an attorney and that, if the
1553 parent cannot afford an attorney, the court will appoint one;

1554 (c) the name and contact information of a division employee the parent may contact
1555 with questions;

1556 (d) resources that are available to the parent, including:

1557 (i) mental health resources;

1558 (ii) substance abuse resources; and

1559 (iii) parenting classes; and

1560 (e) any other information considered relevant by the division.

1561 (6) The pamphlet or flier described in Subsection (5) shall be:

1562 (a) evaluated periodically for its effectiveness at conveying necessary information and
1563 revised accordingly;

1564 (b) written in simple, easy-to-understand language; and

1565 (c) available in English and other languages as the division determines to be
1566 appropriate and necessary.

1567 Section 72. Section **78A-6-508** is amended to read:

1568 **78A-6-508. Evidence of grounds for termination.**

1569 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
1570 evidence of abandonment that the parent or parents:

1571 (a) although having legal custody of the child, have surrendered physical custody of the
1572 child, and for a period of six months following the surrender have not manifested to the child
1573 or to the person having the physical custody of the child a firm intention to resume physical
1574 custody or to make arrangements for the care of the child;

1575 (b) have failed to communicate with the child by mail, telephone, or otherwise for six

1576 months;

1577 (c) failed to have shown the normal interest of a natural parent, without just cause; or

1578 (d) have abandoned an infant, as described in Subsection 78A-6-316(1).

1579 (2) In determining whether a parent or parents are unfit or have neglected a child the
1580 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

1581 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
1582 parent unable to care for the immediate and continuing physical or emotional needs of the child
1583 for extended periods of time;

1584 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
1585 nature;

1586 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
1587 dangerous drugs that render the parent unable to care for the child;

1588 (d) repeated or continuous failure to provide the child with adequate food, clothing,
1589 shelter, education, or other care necessary for the child's physical, mental, and emotional health
1590 and development by a parent or parents who are capable of providing that care;

1591 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
1592 sentence is of such length that the child will be deprived of a normal home for more than one
1593 year;

1594 (f) a history of violent behavior; or

1595 (g) whether the parent has intentionally exposed the child to pornography or material
1596 harmful to a minor, as defined in Section 76-10-1201.

1597 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent
1598 because of the parent's possession or consumption of a cannabinoid product, in accordance
1599 with Title 26, Chapter 59, Cannabinoid Product Act.

1600 [~~3~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not
1601 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit
1602 parent.

1603 [~~4~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful
1604 or unfit because of a health care decision made for a child by the child's parent unless the state
1605 or other party to the proceeding shows, by clear and convincing evidence, that the health care
1606 decision is not reasonable and informed.

1607 (b) Nothing in Subsection [~~(4)~~] (5)(a) may prohibit a parent from exercising the right to
1608 obtain a second health care opinion.

1609 [~~(5)~~] (6) If a child has been placed in the custody of the division and the parent or
1610 parents fail to comply substantially with the terms and conditions of a plan within six months
1611 after the date on which the child was placed or the plan was commenced, whichever occurs
1612 later, that failure to comply is evidence of failure of parental adjustment.

1613 [~~(6)~~] (7) The following circumstances constitute prima facie evidence of unfitness:

1614 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
1615 child, due to known or substantiated abuse or neglect by the parent or parents;

1616 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
1617 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
1618 child's physical, mental, or emotional health and development;

1619 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
1620 of the child;

1621 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
1622 commit murder or manslaughter of a child or child abuse homicide; or

1623 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
1624 of the child, without legal justification.