

SB0211S01 compared with SB0211

~~deleted text~~ shows text that was in SB0211 but was deleted in SB0211S01.

Inserted text shows text that was not in SB0211 but was inserted into SB0211S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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: _____

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

SB0211S01 compared with SB0211

Department of Health rulemaking authority;

- ▶ directs the Department of Financial Institutions to issue cannabis payment processor licenses and enforce cannabis payment processor operating requirements;
- ▶ directs the Division of Occupational and Professional Licensing within the Department of Commerce to issue cannabinoid dispensary licenses and enforce cannabinoid dispensary operating requirements;
- ▶ directs the Department of Health to issue cannabinoid cards to individuals under certain circumstances;
- ▶ creates an exemption from sales and use tax for sales of cannabinoid products;
- ▶ imposes a special tax on the sale of cannabinoid products;
- ▶ creates the Cannabinoid Product Restricted Account;
- ▶ amends provisions related to driving with a measurable metabolite of cannabinoid medicine;
- ▶ prohibits a court from discriminating against a parent in a child custody case based on the parent's legal use of cannabinoid medicine; and
- ▶ prohibits a peace officer or child welfare worker from removing a child from an individual's home on the basis of the individual's lawful use of cannabinoid medicine.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[7-1-401, as last amended by Laws of Utah 2015, Chapter 284](#)

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

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

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

ENACTS:

4-42-101, Utah Code Annotated 1953

4-42-102, Utah Code Annotated 1953

SB0211S01 compared with SB0211

4-42-103, Utah Code Annotated 1953
4-42-104, Utah Code Annotated 1953
4-42-201, Utah Code Annotated 1953
4-42-202, Utah Code Annotated 1953
4-42-203, Utah Code Annotated 1953
4-42-204, Utah Code Annotated 1953
4-42-301, Utah Code Annotated 1953
4-42-302, Utah Code Annotated 1953
4-42-401, Utah Code Annotated 1953
4-42-402, Utah Code Annotated 1953
4-42-403, Utah Code Annotated 1953
4-42-501, Utah Code Annotated 1953
4-42-601, Utah Code Annotated 1953
4-42-602, Utah Code Annotated 1953
4-42-603, Utah Code Annotated 1953
4-42-701, Utah Code Annotated 1953
4-42-702, Utah Code Annotated 1953
4-42-801, Utah Code Annotated 1953
4-42-802, Utah Code Annotated 1953
4-42-803, Utah Code Annotated 1953
7-26-101, Utah Code Annotated 1953
7-26-102, Utah Code Annotated 1953
7-26-201, Utah Code Annotated 1953
7-26-202, Utah Code Annotated 1953
7-26-203, Utah Code Annotated 1953
7-26-204, Utah Code Annotated 1953
7-26-301, Utah Code Annotated 1953
7-26-401, Utah Code Annotated 1953
7-26-402, Utah Code Annotated 1953
26-59-101, Utah Code Annotated 1953
26-59-102, Utah Code Annotated 1953

SB0211S01 compared with SB0211

26-59-103, Utah Code Annotated 1953

26-59-201, Utah Code Annotated 1953

26-59-202, Utah Code Annotated 1953

26-59-203, Utah Code Annotated 1953

26-59-204, Utah Code Annotated 1953

26-59-205, Utah Code Annotated 1953

26-59-206, Utah Code Annotated 1953

57-37-3.7, Utah Code Annotated 1953

58-37-3.6, Utah Code Annotated 1953

58-37f-204, Utah Code Annotated 1953

58-67-807, Utah Code Annotated 1953

58-68-807, Utah Code Annotated 1953

58-87-101, Utah Code Annotated 1953

58-87-102, Utah Code Annotated 1953

~~† — **58-87-103**, Utah Code Annotated 1953~~

† **58-87-201**, Utah Code Annotated 1953

58-87-202, Utah Code Annotated 1953

58-87-203, Utah Code Annotated 1953

58-87-204, Utah Code Annotated 1953

58-87-301, Utah Code Annotated 1953

58-87-302, Utah Code Annotated 1953

58-87-401, Utah Code Annotated 1953

58-87-402, Utah Code Annotated 1953

58-87-403, Utah Code Annotated 1953

58-87-404, Utah Code Annotated 1953

58-87-501, Utah Code Annotated 1953

58-87-502, Utah Code Annotated 1953

59-12-104.7, Utah Code Annotated 1953

59-28-101, Utah Code Annotated 1953

59-28-102, Utah Code Annotated 1953

59-28-103, Utah Code Annotated 1953

SB0211S01 compared with SB0211

59-28-104, Utah Code Annotated 1953

59-28-105, Utah Code Annotated 1953

59-28-106, Utah Code Annotated 1953

59-28-107, Utah Code Annotated 1953

59-28-108, Utah Code Annotated 1953

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

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

CHAPTER 1. CANNABIS PRODUCERS

Part 1. General Provisions

4-42-101. Title.

This chapter is known as "Cannabis Producers."

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

4-42-102. Definitions.

As used in this chapter:

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

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

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

(a) sells cannabinoid medicine at retail; or

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

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

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

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

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

(a) grows cannabis; or

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

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

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

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

SB0211S01 compared with SB0211

analysis of the cannabinoid product.

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

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

(a) manufactures a cannabinoid product from cannabis;

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

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

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

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

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

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

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

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

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

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

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

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

(a) each registered patient;

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

(c) each transaction involving a cannabinoid product.

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

SB0211S01 compared with SB0211

product:

- (a) the time and date of the purchase;
- (b) the quantity and type of the cannabinoid product purchased; and
- (c) the cannabinoid dispensary where the registered patient purchased the cannabinoid

product.

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

(5) The electronic monitoring system shall store, in real time, a record of the amount of cannabis or cannabinoid products in a cannabis processor's or cannabinoid dispensary's possession.

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

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

(b) state or local law enforcement.

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

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

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

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

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

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

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

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

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

SB0211S01 compared with SB0211

(d) money deposited into the account by the ~~department~~ Department of Health under Title 26, Chapter 59, Cannabinoid Product Act;

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

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

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

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

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

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

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

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

(iii) Title 26, Chapter 59, Cannabinoid Product Act;

(iv) Title 58, Chapter 87, Cannabinoid Dispensaries; and

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

(b) the cost to the ~~attorney general~~ state for investigation and enforcement related to cannabinoid products; and

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

(5) At the end of fiscal year 2019 and fiscal year 2020 the director of the Division of Finance shall transfer into the General Fund from the Cannabinoid Product Restricted Account an amount equal to the General Fund appropriation in fiscal year 2017 and fiscal year 2018 to implement the programs described in Subsection (4).

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

Part 2. Cannabis Producer License

4-42-201. Cannabis cultivator -- Cannabis processor -- Cannabis laboratory -- License -- Renewal.

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

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

(a) cannabis cultivator;

SB0211S01 compared with SB0211

(b) cannabis processor; or

(c) cannabis laboratory.

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

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

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

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

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

(i) security;

(ii) payment processing;

(iii) for a cannabis cultivator:

(A) pesticide and fertilizer use; and

(B) anticipated cannabis yield;

(iv) for a cannabis processor:

(A) cannabinoid extraction; and

(B) processing technique; and

(v) for a cannabis laboratory:

(A) testing method; and

(B) testing capability.

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

(5) The department may not issue a license to operate a cannabis cultivator or a cannabis producer to a person:

(a) that holds a license for or has an ownership interest in a cannabinoid medicine

SB0211S01 compared with SB0211

dispensary in the state; or

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

~~(5)6~~ The department may not issue a license to operate a cannabis laboratory to a person:

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

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

~~(6)7~~ The department may establish additional application criteria and procedures by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

4-42-202. Renewal.

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

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

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

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

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

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

(a) cannabis cultivator;

(b) cannabis processor; and

(c) cannabis laboratory.

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

(a) the population of the state; and

(b) the number of registered patients.

(3) The department may not issue, at any given time, more than a number of licenses

SB0211S01 compared with SB0211

greater than the number available under Subsection (1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3. Cannabis Producer Agents

SB0211S01 compared with SB0211

4-42-301. Cannabis producer agents.

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

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

(a) January 1 of each year; and

(b) July 1 of each year.

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

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

(a) that the list is accurate; and

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

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

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

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

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

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

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

(1) Each cannabis producer agent shall:

(a) submit to the department:

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

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

(b) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

SB0211S01 compared with SB0211

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

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

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

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

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

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

(3) The department shall:

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

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

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

Part 4. Cannabis Producer General Operating Requirements

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

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

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

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

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

SB0211S01 compared with SB0211

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) In addition to the requirements in Subsections (1) and (2), the ~~board~~department shall establish ~~with department concurrence~~, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis or

SB0211S01 compared with SB0211

cannabinoid medicine related to safety for human consumption of cannabinoid medicine.

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

(a) transports cannabis or cannabinoid medicine; and

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

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

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

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

Part 5. Cannabis Cultivator Operating Requirements

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

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

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

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

(b) each unique harvest of cannabis plants.

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

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

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

(i) use of pesticides;

(ii) use of fertilizers; and

(iii) cultivation techniques; and

(b) physical facility standards for a cannabis cultivator.

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

Part 6. Cannabis Processor Operating Requirements

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

SB0211S01 compared with SB0211

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

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

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

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

4-42-602. Cannabinoid product.

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

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

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

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

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

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

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

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

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

Part 7. Cannabis Laboratory Operating Requirements

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

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

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

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

SB0211S01 compared with SB0211

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

(a) mold;

(b) fungus;

(c) pesticides;

(d) other microbial contaminants; or

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

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

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

(a) the origin of the cannabis;

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

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

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

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

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

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

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

4-42-702. Reporting -- Inspections.

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

(2) A cannabis laboratory shall determine if:

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

(b) using a ~~carbon~~ stable isotope test, was not cultivated in accordance with this

SB0211S01 compared with SB0211

chapter.

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

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

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

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

(6) The department may conduct a test to:

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

(i) cannabis or cannabinoid product test results; or

(ii) analytical method; or

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

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

Part 8. Enforcement

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

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

(a) revoke the cannabis producer's license;

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

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

(d) take any other appropriate administrative action.

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

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

SB0211S01 compared with SB0211

producer:

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

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

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

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

(i) issue the person a citation in writing;

(ii) attempt to negotiate a stipulated settlement; or

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

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

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

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

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

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

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

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

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

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

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

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

SB0211S01 compared with SB0211

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

4-42-802. Report to the Legislature.

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

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

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

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

Section 23. Section 7-1-401 is amended to read:

7-1-401. Fees payable to commissioner.

(1) Except for an out-of-state depository institution with a branch in Utah, a depository institution under the jurisdiction of the department shall pay an annual fee:

(a) computed by averaging the total assets of the depository institution shown on each quarterly report of condition for the depository institution for the calendar year immediately proceeding the date on which the annual fee is due under Section 7-1-402; and

(b) at the following rates:

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

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

(B) \$500;

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

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

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

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

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

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

(2) A financial institution with a trust department shall pay a fee determined in accordance with Subsection (7) for each examination of the trust department by a state examiner.

(3) Notwithstanding Subsection (1), a credit union in its first year of operation shall pay a basic fee of \$25 instead of the fee required under Subsection (1).

SB0211S01 compared with SB0211

(4) A trust company that is not a depository institution or a subsidiary of a depository institution holding company shall pay:

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

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

(5) Any person or institution under the jurisdiction of the department that does not pay a fee under Subsections (1) through (4) shall pay:

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

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

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

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

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

(I) a depository institution;

(II) a trust company; or

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

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

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

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

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

(i) for each examiner; and

(ii) per hour worked.

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

(8) In addition to a fee under Subsection (5), a person registering under Section

SB0211S01 compared with SB0211

7-23-201 or 7-24-201 shall pay an original registration fee of \$300.

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

Section ~~{23}~~24. Section 7-26-101 is enacted to read:

CHAPTER 26. CANNABIS PAYMENT PROCESSOR

Part 1. General Provisions

7-26-101. Title.

This chapter is known as "Cannabis Payment Processor."

Section ~~{24}~~25. Section 7-26-102 is enacted to read:

7-26-102. Definitions.

As used in this chapter:

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

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

58-87-102.

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

(a) contains cannabis; and

(b) is intended for human medical use.

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

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

(a) without using cash;

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

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

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

cannabis laboratory; or

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

or

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

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

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

(8) "Registered patient" means an individual with a valid cannabinoid card issued by

SB0211S01 compared with SB0211

the department under Section 26-59-201.

Section ~~{25}~~26. Section 7-26-201 is enacted to read:

Part 2. Cannabis Payment Processor License

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

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

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

(a) submit to the department:

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

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

(iii) a fee in accordance with Section 7-1-401; and

(b) present evidence to the department that:

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

(A) a cannabis producer;

(B) a cannabinoid dispensary; and

(C) a registered patient;

(ii) the applicant has a partnership, service agreement, or service contract with a federally insured depository institution that agrees to clear cannabinoid product transactions;

(iii) the applicant is able to interface with the electronic monitoring system to enable a registered patient to:

(A) add funds, using a bank wire or a credit card, to an account with the applicant associated with the cannabinoid card; and

(B) use the cannabinoid card to pay for a cannabinoid product at a cannabinoid dispensary using the funds in the individual's account with the cannabis payment processor; and

(iv) the applicant is, at minimum:

(A) a level one payment card industry data security standard-validated provider;

(B) certified by Europay, MasterCard, and Visa; and

(C) capable of integrating with 50 payment processors.

SB0211S01 compared with SB0211

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

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

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

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

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

Section ~~{26}~~27. Section **7-26-202** is enacted to read:

7-26-202. Renewal -- Abandonment.

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

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

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

(3) pays the department a license renewal fee in an amount **that is the same as the licensing fee** determined by the department in accordance with Section 7-1-401.

Section ~~{27}~~28. Section **7-26-203** is enacted to read:

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

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

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

(a) experience with:

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

(ii) operating a payment processing system;

(iii) complying with a regulatory environment; and

(iv) training, evaluating, and monitoring employees;

(b) connections to the local community;

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

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

SB0211S01 compared with SB0211

processing cannabinoid product payments.

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

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

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

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

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

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

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

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

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

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

Section ~~{28}~~29. Section 7-26-204 is enacted to read:

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

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

(2) If the department makes the determination described in Subsection (1), the department shall issue a statement that a cannabis payment processor is not available and that a

SB0211S01 compared with SB0211

cannabis producer, cannabinoid dispensary, or registered patient may use cash to pay for products and services related to cannabinoid products.

Section ~~{29}~~30. Section 7-26-301 is enacted to read:

Part 3. Operating Requirements

7-26-301. Operating requirements.

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

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

(a) a registered patient; or

(b) a person that is licensed under:

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

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

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

Section ~~{30}~~31. Section 7-26-401 is enacted to read:

Part 4. Enforcement

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

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

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

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

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

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

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

(b) assess the person a fine in an amount determined by the department by rule made in

SB0211S01 compared with SB0211

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(c) revoke the person's license.

Section ~~{31}~~32. Section 7-26-402 is enacted to read:

7-26-402. ~~{Fees}~~ Fines -- Deposit into Cannabinoid Product Restricted Account.

The department shall deposit ~~{fees}~~ finesthat the department collects under this chapter into the Cannabinoid Product Restricted Account created in Section 4-42-104.

Section ~~{32}~~33. Section 26-59-101 is enacted to read:

CHAPTER 59. CANNABINOID PRODUCT ACT

Part 1. General Provisions

26-59-101. Title.

This chapter is known as "Cannabinoid Product Act."

Section ~~{33}~~34. Section 26-59-102 is enacted to read:

26-59-102. Definitions.

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

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

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

(a) sells a cannabinoid product; or

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

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

(a) contains cannabis; and

(b) is intended for human medical use.

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

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

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

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

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

SB0211S01 compared with SB0211

patient's behalf.

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

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

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

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

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

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

Section ~~{34}~~35. Section **26-59-103** is enacted to read:

26-59-103. Medical dosage form.

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

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) an injectable;

(e) a transdermal preparation; and

(f) a sublingual preparation.

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

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

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

Section ~~{35}~~36. Section **26-59-201** is enacted to read:

Part 2. Cannabinoid Card

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

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

SB0211S01 compared with SB0211

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

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

(a) the individual is:

(i) at least 18 years old; and

(ii) a Utah resident; and

(b) a physician determines that the individual:

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

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

(4) An applicant for a cannabinoid card shall:

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

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

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

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

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

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

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

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

Section ~~36~~37. Section 26-59-202 is enacted to read:

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

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

(2) An individual registered as a designated caregiver of a registered patient under this

SB0211S01 compared with SB0211

section may:

- (a) carry the registered patient's cannabinoid card; and
- (b) purchase and possess a cannabinoid product, in accordance with this chapter, on

behalf of the designating patient.

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

- (a) at least 18 years old; and
- (b) a Utah resident.

Section ~~37~~38. Section **26-59-203** is enacted to read:

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

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

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

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

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

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

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

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

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

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

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

Section ~~38~~39. Section **26-59-204** is enacted to read:

26-59-204. Insurance coverage.

SB0211S01 compared with SB0211

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

Section ~~{39}~~40. Section **26-59-205** is enacted to read:

26-59-205. Report to the Legislature.

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

Section ~~{40}~~41. Section **26-59-206** is enacted to read:

26-59-206. Fees -- Deposit.

The department shall deposit any fee the department collects under this chapter into the Cannabinoid Product Restricted Account created in Section 4-42-104.

Section ~~{41}~~42. Section **41-6a-517** is amended to read:

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

(1) As used in this section:

- (a) "Controlled substance" has the same meaning as in Section 58-37-2.
- (b) "Practitioner" has the same meaning as in Section 58-37-2.
- (c) "Prescribe" has the same meaning as in Section 58-37-2.
- (d) "Prescription" has the same meaning as in Section 58-37-2.

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

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

- (a) involuntarily ingested by the accused;
- (b) prescribed by a practitioner for use by the accused; ~~[or]~~
- (c) for a person who is a registered patient under Title 26, Chapter 59, Cannabinoid Product Act, a cannabinoid product recommended by a physician; or

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

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

SB0211S01 compared with SB0211

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0211S01 compared with SB0211

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

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

(10) The Driver License Division shall:

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

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

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

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

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

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

(b) completes a screening;

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

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

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

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

(g) has complied with all the terms of the person's probation or all orders of the court if

SB0211S01 compared with SB0211

not ordered to probation; and

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

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

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

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

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

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

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

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

Section ~~{42}~~43. Section **57-37-3.7** is enacted to read:

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

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

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

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

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

SB0211S01 compared with SB0211

- (c) Title 26, Chapter 59, Cannabinoid Product Act;
- (d) Title 58, Chapter 87, Cannabinoid Dispensaries;
- (e) Title 59, Chapter 28, Cannabinoid Product Tax Act;
- (f) Section 58-37-3.6;
- (g) Section 58-37f-204;
- (h) Section 58-67-807; or
- (i) Section 58-68-807.

Section ~~{43}~~44. Section **58-37-3.6** is enacted to read:

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

(1) As used in this section:

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

- (i) contains cannabis; and
- (ii) is approved for a physician to recommend under Section 58-37-3.7.

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

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

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

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

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

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

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

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

SB0211S01 compared with SB0211

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

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

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

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

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

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

Section ~~{44}~~45. Section **58-37f-204** is enacted to read:

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

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

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

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

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

(b) the date of the recommendation;

(c) the date the cannabinoid product was dispensed;

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

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

(f) the amount of cannabinoid product dispensed;

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

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

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

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

SB0211S01 compared with SB0211

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0211S01 compared with SB0211

database.

Section ~~{45}~~46. Section **58-67-807** is enacted to read:

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

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

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

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

~~{~~ (c) complies with Section 26-59-205.

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

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

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

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

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

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

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

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

(5) A physician who recommends treatment with a cannabinoid product to an individual under this section and Title 26, Chapter 59, Cannabinoid Product Act, may not,

SB0211S01 compared with SB0211

solely based on that recommendation, be subject to:

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

Section ~~{46}~~47. Section **58-68-807** is enacted to read:

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

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

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

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

~~{~~ (c) complies with Section 26-59-205.

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

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

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

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

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

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

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

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

SB0211S01 compared with SB0211

59, Cannabinoid Product Act.

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

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

Section ~~{47}~~48. Section **58-87-101** is enacted to read:

CHAPTER 87. CANNABINOID DISPENSARIES

Part 1. General Provisions

58-87-101. Title.

This chapter is known as "Cannabinoid Dispensaries."

Section ~~{48}~~49. Section **58-87-102** is enacted to read:

58-87-102. Definitions.

As used in this chapter:

- (1) "Agent" means an employee or independent contractor of an entity.
- (2) "Cannabinoid card" means the same as that term is defined in Section 26-59-102.
- (3) "Cannabinoid dispensary" means a person that:

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

~~}~~ (a) sells a cannabinoid product; or

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

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

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

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

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

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

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

SB0211S01 compared with SB0211

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

(11) "Cannabis producer" means:

(a) a cannabis cultivation facility;

(b) a cannabis processor; or

(c) a cannabis laboratory.

(12) "Electronic monitoring system" means the system described in Section ~~4-42-104~~ 4-42-103.

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

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

~~{~~ ~~Section 49. Section 58-87-103 is enacted to read:~~

~~Section 58-87-103. Requirement made by a political subdivision.~~

~~(1) Except as provided in Subsection (2), this chapter preempts any requirement related to a cannabinoid dispensary imposed by a political subdivision of the state that is more restrictive than this chapter.~~

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

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

Part 2. Cannabinoid Dispensary License and Eligibility

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

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

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

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

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

(b) a bond, as required by Section ~~58-87-205~~ 58-87-204, for each license for which the person applies;

(c) an application fee established by the division, in accordance with Section

SB0211S01 compared with SB0211

63J-1-504, in an amount equal to the amount necessary to cover the division's cost to implement this chapter; and

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

(i) security;

(ii) payment processing; and

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

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

(5) The division may not issue a license to operate a cannabinoid dispensary to a person:

(a) that holds a license for or has an ownership interest in a cannabis cultivator or a cannabis processor in the state; or

(b) that otherwise has an interest in a cannabis cultivator or a cannabis processor, as determined by the division.

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

58-87-202. Renewal.

Except as provided in Subsection (2), the division shall renew the license of a cannabinoid dispensary licensed under Section 58-87-201 if, at the time of renewal:

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

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

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

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

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

(2) The ~~{board}~~ **division** shall determine ~~{, with division concurrence,}~~ the number of licenses available under Subsection (1) by considering:

(a) the population of the state; and

(b) the number of registered patients.

SB0211S01 compared with SB0211

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3. Cannabinoid Dispensary Agents

SB0211S01 compared with SB0211

58-87-301. Cannabinoid dispensary agents.

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

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

(a) January 1 of each year; and

(b) July 1 of each year.

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

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

(a) that the list is accurate; and

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

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

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

(b) has an agent who has not submitted to a background check in accordance with Section 58-87-302.

(6) A physician may not act as an agent of a cannabinoid dispensary.

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

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

(1) Each cannabinoid dispensary agent shall:

(a) submit to the division:

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

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

(b) consent to a fingerprint background check by:

SB0211S01 compared with SB0211

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

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

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

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

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

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

(3) The division shall:

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

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

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

Part 4. Cannabinoid Dispensary Operating Requirements

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

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

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

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

(d) A cannabinoid dispensary may not operate under an operating plan until the

SB0211S01 compared with SB0211

operating plan is reviewed and approved by the division under Subsection (1)(c).

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

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

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

(b) physical facility standards for a cannabinoid dispensary.

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

58-87-402. Dispensing -- Amount a cannabinoid dispensary may dispense --

Reporting -- Form of cannabis or cannabinoid product.

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

(a) cannabinoid products; or

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

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

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

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

(b) an individual with a valid hemp extract registration card issued under Title 26,

Chapter 56, Hemp Extract Registration Act.

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

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

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

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

SB0211S01 compared with SB0211

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

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

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

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

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

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

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

58-87-404. Cannabinoid transportation.

An agent of a cannabinoid dispensary shall transport cannabinoid medicine in accordance with Section 4-42-403.

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

Part 5. Enforcement

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

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

(a) revoke the cannabinoid dispensary's license;

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

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

(d) take any other appropriate administrative action.

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

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

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

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

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

SB0211S01 compared with SB0211

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

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

- (a) refuse to issue or renew the person's license; or
- (b) suspend, revoke, or place on probation the person's license.

Section 61. Section **58-87-502** is enacted to read:

58-87-502. Fees -- Deposit into Cannabinoid Product Restricted Account.

The division shall deposit fees the division collects under this chapter into the Cannabinoid Product Restricted Account created in Section 4-42-104.

Section 62. Section **59-12-104.7** is enacted to read:

59-12-104.7. Exemption from sales tax for cannabinoid products.

(1) As used in this section:

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

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

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

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

CHAPTER 28. CANNABINOID PRODUCT TAX ACT

Part 1. General Provisions

59-28-101. Title.

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

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

59-28-102. Definitions.

As used in this chapter:

(1) "Cannabinoid dispensary" means the same as that term is defined in Section ~~26-58-102~~ 26-59-102.

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

SB0211S01 compared with SB0211

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

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

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

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

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

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

59-28-104. Collection of tax.

A cannabinoid dispensary shall:

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

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

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

(b) using a form prescribed by the commission.

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

59-28-105. Deposit of tax revenue.

The commission shall deposit revenues generated by the tax imposed by this chapter into the Cannabinoid Product Restricted Account created in Section 4-42-104.

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

59-28-106. Records.

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

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

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

SB0211S01 compared with SB0211

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

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

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

59-28-107. Rulemaking authority.

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

- (1) implement the tax imposed by this chapter; and
- (2) enforce payment of the tax imposed by this chapter.

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

59-28-108. Penalties and interest.

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

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

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

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

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

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

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

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

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

SB0211S01 compared with SB0211

reasonably available.

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

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

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

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

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

(i) a shelter facility; or

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

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

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

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

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

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

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

SB0211S01 compared with SB0211

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

(i) mental health resources;

(ii) substance abuse resources; and

(iii) parenting classes; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) habitual or excessive use of intoxicating liquors, controlled substances, or

SB0211S01 compared with SB0211

dangerous drugs that render the parent unable to care for the child;

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

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

(f) a history of violent behavior; or

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

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

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

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

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

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

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

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

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the

SB0211S01 compared with SB0211

child's physical, mental, or emotional health and development;

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

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

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

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Legislative Review Note

Office of Legislative Research and General Counsel