

**CANNABIDIOL PRODUCT ACT**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: Brad M. Daw

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**LONG TITLE**

**General Description:**

This bill enacts and amends provisions related to cannabidiol products.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes the Department of Agriculture and Food to make rules regarding cannabidiol;
- ▶ authorizes the cultivation, production, and possession of hemp and the sale and use of cannabidiol products under certain circumstances;
- ▶ directs the Department of Agriculture and Food to issue licenses and enforce operating requirements;
- ▶ grants the Department of Agriculture and Food, the Division of Occupational and Professional Licensing, the Department of Financial Institutions, and the Department of Health rulemaking authority;
- ▶ creates an exemption from sales and use tax for sales of cannabidiol products;
- ▶ imposes a special tax on the sale of cannabidiol products;
- ▶ creates the Cannabinoid Product Restricted Account;
- ▶ amends provisions related to driving with a measurable metabolite of cannabinoid medicine; and
- ▶ prohibits a court from discriminating against a parent in a child custody case based on the parent's legal use of a cannabidiol product.

**Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill provides a special effective date.

33 This bill provides a coordination clause.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **4-41-101**, as enacted by Laws of Utah 2014, Chapter 25

37 **4-41-102**, as enacted by Laws of Utah 2014, Chapter 25

38 **41-6a-517**, as last amended by Laws of Utah 2017, Chapter 446

39 **58-37-3.6**, as enacted by Laws of Utah 2017, Chapter 398

40 **58-37f-203**, as last amended by Laws of Utah 2015, Chapters 89 and 326

41 **78A-6-508**, as last amended by Laws of Utah 2014, Chapter 409

42 ENACTS:

43 **4-41-201**, Utah Code Annotated 1953

44 **4-41-202**, Utah Code Annotated 1953

45 **4-41-203**, Utah Code Annotated 1953

46 **4-41-204**, Utah Code Annotated 1953

47 **4-43-101**, Utah Code Annotated 1953

48 **4-43-102**, Utah Code Annotated 1953

49 **4-43-201**, Utah Code Annotated 1953

50 **4-43-202**, Utah Code Annotated 1953

51 **4-43-203**, Utah Code Annotated 1953

52 **4-43-301**, Utah Code Annotated 1953

53 **4-43-401**, Utah Code Annotated 1953

54 **4-43-402**, Utah Code Annotated 1953

55 **4-43-501**, Utah Code Annotated 1953

56 **4-43-502**, Utah Code Annotated 1953

57 **4-43-503**, Utah Code Annotated 1953

- 58            **4-43-601**, Utah Code Annotated 1953
- 59            **4-43-602**, Utah Code Annotated 1953
- 60            **4-43-701**, Utah Code Annotated 1953
- 61            **4-43-702**, Utah Code Annotated 1953
- 62            **4-43-703**, Utah Code Annotated 1953
- 63            **4-43-801**, Utah Code Annotated 1953
- 64            **26-62-101**, Utah Code Annotated 1953
- 65            **26-62-102**, Utah Code Annotated 1953
- 66            **26-62-103**, Utah Code Annotated 1953
- 67            **26-62-201**, Utah Code Annotated 1953
- 68            **26-62-202**, Utah Code Annotated 1953
- 69            **58-67-808**, Utah Code Annotated 1953
- 70            **58-68-808**, Utah Code Annotated 1953
- 71            **58-88-101**, Utah Code Annotated 1953
- 72            **58-88-102**, Utah Code Annotated 1953
- 73            **58-88-103**, Utah Code Annotated 1953
- 74            **58-88-104**, Utah Code Annotated 1953
- 75            **59-12-104.8**, Utah Code Annotated 1953
- 76            **59-29-101**, Utah Code Annotated 1953
- 77            **59-29-102**, Utah Code Annotated 1953
- 78            **59-29-103**, Utah Code Annotated 1953
- 79            **59-29-104**, Utah Code Annotated 1953
- 80            **59-29-105**, Utah Code Annotated 1953
- 81            **59-29-106**, Utah Code Annotated 1953
- 82            **59-29-107**, Utah Code Annotated 1953
- 83            **59-29-108**, Utah Code Annotated 1953
- 84            **Utah Code Sections Affected by Coordination Clause:**
- 85            **58-37f-203**, as last amended by Laws of Utah 2015, Chapters 89 and 326

86

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

88 Section 1. Section 4-41-101 is amended to read:

89 **CHAPTER 41. HEMP AND CANNABIDIOL ACT**

90 **Part 1. Industrial Hemp Research**

91 **4-41-101. Title.**

92 (1) This chapter is known as the "Hemp and Cannabidiol Act."

93 (2) This part is known as "Industrial Hemp Research [Act]."

94 Section 2. Section 4-41-102 is amended to read:

95 **4-41-102. Definitions.**

96 For purposes of this chapter:

97 (1) "Cannabidiol product" means a chemical compound extracted from a hemp product  
98 that:

99 (a) is processed into a medicinal dosage form; and

100 (b) contains less than 0.3% tetrahydrocannabinol by weight before processing and no  
101 more than a 10:1 ratio of cannabidiol to tetrahydrocannabinol after processing.

102 ~~[(1)]~~ (2) "Industrial hemp" means any part of a cannabis plant, whether growing or not,  
103 with a concentration of less than 0.3% tetrahydrocannabinol by weight.

104 ~~[(2)]~~ (3) "Industrial hemp certificate" means a certificate issued by the department to a  
105 higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

106 (4) "Medicinal dosage form" means the same as that term is defined in Section  
107 26-62-102.

108 Section 3. Section 4-41-201 is enacted to read:

109 **Part 2. Cannabidiol Product Act**

110 **4-41-201. Title.**

111 This part is known as "Cannabidiol Product Act."

112 Section 4. Section 4-41-202 is enacted to read:

113 **4-41-202. Cannabidiol sales and use authorized.**

- 114 (1) The sale or use of a cannabidiol product is prohibited:
- 115 (a) except as provided in this chapter;
- 116 (b) except as provided in Title 26, Chapter 56, Hemp Extract Registration Act; or
- 117 (c) unless the product is approved by the United States Food and Drug Administration.
- 118 (2) The department shall keep a list of registered cannabidiol products that the
- 119 department has determined, pursuant to Section [4-41-203](#), are safe for human consumption.
- 120 (3) A person may sell or use a cannabidiol product that is in the list of registered
- 121 cannabidiol products described in Subsection (2).

122 Section 5. Section **4-41-203** is enacted to read:

123 **4-41-203. Standards for registration.**

- 124 (1) The department shall determine by rule, made in accordance with Title 63G,
- 125 Chapter 3, Utah Administrative Rulemaking Act, standards for a registered cannabidiol
- 126 product, including standards for:
- 127 (a) testing to ensure the product is safe for human consumption;
- 128 (b) accurate labeling; and
- 129 (c) any other issue the department considers necessary.
- 130 (2) The department shall set a fee for a registered cannabidiol product, in accordance
- 131 with Section [4-2-103](#).
- 132 (3) The fee described in Subsection (2) may be paid by a producer, manufacturer, or
- 133 distributor of a cannabidiol product, but a cannabidiol product may not be registered with the
- 134 department until the fee is paid.
- 135 (4) The department shall set an administrative fine, larger than the fee described in
- 136 Subsection (2), for a person who sells a cannabidiol product that is not registered by the
- 137 department.

138 Section 6. Section **4-41-204** is enacted to read:

139 **4-41-204. Department duties.**

- 140 (1) The department shall work with the state's federal congressional delegation and
- 141 relevant federal agencies to seek a federal waiver from the Controlled Substances Act, in

142 whatever form that waiver may take, for a cannabidiol product produced in:

143 (a) compliance with the rules established pursuant to Subsection 4-41-203(1); or

144 (b) another state with similarly stringent rules, as determined by the department, to the  
145 rules established pursuant to Subsection 4-41-203(1).

146 (2) The department shall report to the Legislature:

147 (a) on the rules established pursuant to Subsection 4-41-203(1) by October 31, 2018;

148 and

149 (b) in the event the department is successful in procuring a federal waiver.

150 (3) The department may seize and destroy any cannabidiol product offered for sale in  
151 this state from a person that is not registered with the department.

152 (4) The department shall assess the fine described in Subsection 4-41-203(4) against  
153 any person who offers an unregistered cannabidiol product for sale in this state.

154 Section 7. Section 4-43-101 is enacted to read:

155 **CHAPTER 43. CANNABIDIOL PRODUCERS**

156 **Part 1. General Provisions**

157 **4-43-101. Title.**

158 This chapter is known as "Cannabidiol Producers."

159 Section 8. Section 4-43-102 is enacted to read:

160 **4-43-102. Definitions.**

161 As used in this chapter:

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

163 (2) "Cannabidiol laboratory" means a person that:

164 (a) conducts a chemical or other analysis of a cannabidiol product; or

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

167 (3) "Cannabidiol processor" means a person that:

168 (a) manufactures a hemp-grade product into a cannabidiol product;

169 (b) purchases or possesses a hemp-grade product with the intent to manufacture a

170 cannabidiol product; or

171 (c) sells or intends to sell a cannabidiol product to a cannabidiol-qualified pharmacy.

172 (4) "Cannabidiol product" means the same as that term is defined in Section [4-41-102](#).

173 (5) "Cannabidiol-qualified pharmacy" means a facility that:

174 (a) sells a cannabidiol product at retail to a patient with a written recommendation from  
175 the patient's physician; and

176 (b) complies with any rules issued by the Division of Professional Licensing under  
177 Section [58-88-104](#).

178 (6) "Cannabinoid Product Restricted Account" means the account created in Section  
179 [4-43-801](#).

180 (7) "Hemp cultivator" means a person licensed by the department to grow hemp.

181 (8) "Medical dosage form" means the same as that term is defined in Section  
182 [26-62-102](#).

183 (9) "Physician" means the same as that term is defined in Section [26-62-102](#).

184 Section 9. Section **4-43-201** is enacted to read:

**Part 2. Cannabidiol Producer License**

**4-43-201. Cannabidiol processor -- Cannabidiol laboratory -- License -- Renewal.**

187 (1) A person may not act as a cannabidiol processor or a cannabidiol laboratory  
188 without a cannabidiol producer license issued by the department in accordance with this  
189 chapter.

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

192 (a) cannabidiol processor; or

193 (b) cannabidiol laboratory.

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

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

198 Administrative Rulemaking Act;

199 (b) a bond, as required by Section 4-43-203, for each license for which the person  
200 applies;

201 (c) an application fee established by the department, in accordance with Section  
202 63J-1-504, in an amount equal to the amount necessary to cover the department's cost to  
203 implement this chapter; and

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

207 (i) security;

208 (ii) a cannabidiol processor:

209 (A) cannabidiol extraction; and

210 (B) processing technique; and

211 (iii) a cannabidiol laboratory:

212 (A) testing method; and

213 (B) testing capability.

214 (4) The department shall require a separate license and separate license fee for each  
215 physical location of a cannabidiol processor and cannabidiol laboratory.

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

218 (a) that holds a license for or has an ownership interest in a cannabidiol-qualified  
219 pharmacy in the state; or

220 (b) that otherwise has an interest in a cannabidiol-qualified pharmacy, as determined by  
221 the department.

222 (6) The department may not issue a license to operate a cannabidiol laboratory to a  
223 person:

224 (a) that holds a license for or has an ownership interest in a cannabidiol-qualified  
225 pharmacy, a cannabidiol processor, or a hemp cultivator in the state; or



226 (b) that otherwise has an interest in a cannabidiol-qualified pharmacy, a cannabidiol  
227 processor, or a hemp cultivator as determined by the department.

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

230 Section 10. Section **4-43-202** is enacted to read:

231 **4-43-202. Renewal.**

232 Except as provided in Subsection (2), the department shall renew the license of a  
233 cannabidiol processor or cannabidiol laboratory licensed under Section [4-43-201](#) every two  
234 years if, at the time of renewal:

235 (1) the cannabidiol processor or cannabidiol laboratory meets the requirements of  
236 Section [4-43-201](#); and

237 (2) the cannabidiol processor or cannabidiol laboratory pays the department a license  
238 renewal fee in an amount determined by the department in accordance with Section [63J-1-504](#).

239 Section 11. Section **4-43-203** is enacted to read:

240 **4-43-203. Bond required for license.**

241 (1) A cannabidiol processor or cannabidiol laboratory licensed under Section [4-43-201](#)  
242 shall post a \$100,000 cash bond or surety bond, payable to the department.

243 (2) A cannabidiol processor or cannabidiol laboratory licensed under Section [4-43-201](#)  
244 shall maintain the bond described in Subsection (1) for as long as the processor or laboratory  
245 continues to operate.

246 (3) The department shall require a bond posted under this section to be:

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

248 (b) conditioned upon the cannabidiol processor or cannabidiol laboratory's compliance  
249 with this chapter.

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

252 (5) A processor or laboratory may not withdraw any part of a bond posted under  
253 Subsection (1):

254 (a) during the period when the license is in effect; or

255 (b) while a license revocation proceeding is pending against the processor or  
256 laboratory.

257 (6) A processor or laboratory forfeits a bond posted under Subsection (1) if the  
258 processor's or laboratory's license is revoked.

259 (7) The department may, without revoking a license, make a claim against a bond  
260 posted under Subsection (1) for money the processor or laboratory owes the department under  
261 this chapter.

262 Section 12. Section **4-43-301** is enacted to read:

263 **Part 3. Hemp Producer Agents**

264 **4-43-301. Cannabidiol processor and laboratory agents.**

265 (1) A cannabidiol processor or cannabidiol laboratory licensed under Section [4-43-201](#)  
266 shall maintain a current list of each agent of the cannabidiol processor or cannabidiol  
267 laboratory.

268 (2) A cannabidiol processor or cannabidiol laboratory shall submit the list described in  
269 Subsection (1) to the department before:

270 (a) January 1 of each year; and

271 (b) July 1 of each year.

272 (3) The department may audit the list described in Subsection (1) at any time, at  
273 random, in order to determine that the list is accurate.

274 (4) A cannabidiol processor or cannabidiol laboratory is guilty of an infraction if the  
275 cannabidiol processor or cannabidiol laboratory fails to maintain an accurate list of each agent  
276 of the cannabidiol processor or cannabidiol laboratory in accordance with this section.

277 Section 13. Section **4-43-401** is enacted to read:

278 **Part 4. Cannabidiol Processor or Cannabidiol Laboratory**

279 **General Operating Requirements**

280 **4-43-401. Cannabidiol processor or cannabidiol laboratory -- General operating**  
281 **requirements.**

282 (1) (a) A cannabidiol processor or cannabidiol laboratory shall operate in accordance  
283 with the operating plan provided to the department under Section [4-43-201](#).

284 (b) A cannabidiol processor or cannabidiol laboratory shall notify the department  
285 within 30 days of any change in the cannabidiol processor or cannabidiol laboratory operation  
286 plan.

287 (c) The department shall review a cannabidiol processor's or cannabidiol laboratory's  
288 operating plan for compliance with state law and administrative rules.

289 (d) A cannabidiol processor or cannabidiol laboratory may not operate under an  
290 operating plan until the operating plan is reviewed and approved by the department under  
291 Subsection (1)(c).

292 (2) The department shall establish physical facility standards for a cannabidiol  
293 processor or cannabidiol laboratory by rule made in accordance with Title 63G, Chapter 3,  
294 Utah Administrative Rulemaking Act.

295 Section 14. Section **4-43-402** is enacted to read:

296 **4-43-402. Cannabidiol processor or cannabidiol laboratory -- Inspection by**  
297 **department.**

298 (1) Subject to Subsection (2), the department shall inspect the records and facility of a  
299 cannabidiol processor or cannabidiol laboratory in order to determine if the cannabidiol  
300 processor or cannabidiol laboratory complies with the requirements of this chapter.

301 (2) The department may inspect the records and facility of a cannabidiol processor or  
302 cannabidiol laboratory:

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

304 (b) if the department has reason to believe that the cannabidiol processor or  
305 cannabidiol laboratory has violated the law, at any time, scheduled or unscheduled.

306 Section 15. Section **4-43-501** is enacted to read:

307 **Part 5. Cannabidiol Processor Operating Requirements**

308 **4-43-501. Cannabidiol processor -- Operating requirements.**

309 (1) A cannabidiol processor shall ensure that a cannabidiol product that the cannabidiol

310 processor sells or provides to a cannabidiol-qualified pharmacy complies with the requirements  
311 of this part.

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

314 (3) The department shall establish, by rule made in accordance with Title 63G, Chapter  
315 3, Utah Administrative Rulemaking Act, physical facility standards for a cannabidiol processor.

316 Section 16. Section **4-43-502** is enacted to read:

317 **4-43-502. Cannabidiol product.**

318 A cannabidiol processor may only produce a cannabidiol product in a medicinal dosage  
319 form.

320 Section 17. Section **4-43-503** is enacted to read:

321 **4-43-503. Cannabidiol medicine -- Labeling and packaging.**

322 (1) A cannabidiol processor shall ensure that any cannabidiol product that the  
323 cannabidiol processor distributes to a cannabidiol-qualified pharmacy has a label or package  
324 that:

325 (a) clearly displays the cannabidiol profile of the product; and

326 (b) has a unique batch identifier that identifies the unique manufacturing process when  
327 the cannabidiol product was manufactured.

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

331 Section 18. Section **4-43-601** is enacted to read:

332 **Part 6. Cannabidiol Laboratory Operating Requirements**

333 **4-43-601. Hemp and cannabidiol product testing.**

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

336 (2) A cannabidiol laboratory shall, before cannabidiol is offered for sale at a  
337 cannabidiol-qualified pharmacy, test the cannabidiol as described in this section.

338 (3) A cannabidiol laboratory shall determine if a cannabidiol product contains, in an  
339 amount that is harmful to human health:

- 340 (a) mold;
- 341 (b) fungus;
- 342 (c) pesticides;
- 343 (d) other microbial contaminants; or
- 344 (e) another harmful substance identified by the department under Subsection (5).

345 (4) For a cannabidiol product that is manufactured using a process that involves  
346 extraction using hydrocarbons, a cannabidiol laboratory shall test the cannabidiol product for  
347 residual solvents.

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

- 350 (a) the amount of substances described in Subsection (3) and the amount of residual  
351 solvents that are safe for human consumption;
- 352 (b) additional cannabidiol testing that a cannabidiol laboratory is required to perform;
- 353 and
- 354 (c) minimum standards for a cannabidiol laboratory's testing methods and procedures.

355 Section 19. Section **4-43-602** is enacted to read:

356 **4-43-602. Reporting -- Inspections.**

357 (1) A cannabidiol laboratory shall report the results of each product test to the  
358 department.

359 (2) A cannabidiol laboratory shall determine if the results of a lab test indicate that a  
360 cannabidiol product batch is unsafe for human consumption.

361 (3) If a cannabidiol laboratory makes a determination described in Subsection (2), the  
362 cannabidiol laboratory may not release the batch to a cannabidiol processor or a  
363 cannabidiol-qualified pharmacy until the department has an opportunity to respond to the  
364 cannabidiol laboratory within a period of time determined by the department.

365 (4) (a) If the department determines that a cannabidiol product batch is unsafe for

366 human consumption, the department shall destroy the product batch.

367 (b) If the department determines that a cannabidiol product batch was not cultivated in  
368 accordance with this title, the department may seize, embargo, or destroy the cannabidiol  
369 product batch.

370 (5) The department shall establish, by rule made in accordance with Title 63G, Chapter  
371 3, Utah Administrative Rulemaking Act, the amount of time that a cannabidiol laboratory is  
372 required to hold a batch under Subsection (3).

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

374 (a) determine the accuracy of a cannabidiol laboratory's:

375 (i) cannabidiol product test results; or

376 (ii) analytical method; or

377 (b) validate a cannabidiol laboratory's testing methods.

378 Section 20. Section **4-43-701** is enacted to read:

379 **Part 7. Enforcement**

380 **4-43-701. Enforcement -- Fine -- Citation.**

381 (1) The department may, for a violation of this chapter by a cannabidiol processor or  
382 cannabidiol laboratory:

383 (a) revoke a license;

384 (b) refuse to renew a license;

385 (c) assess an administrative penalty; or

386 (d) take any other appropriate administrative action.

387 (2) The department shall deposit an administrative penalty imposed under this section  
388 into the Cannabinoid Product Restricted Account established in Section [4-43-801](#).

389 (3) (a) The department may take an action described in Subsection (3)(b) if the  
390 department concludes, upon inspection or investigation, that:

391 (i) the person has violated the provisions of this chapter or a rule made under this  
392 chapter; or

393 (ii) the person prepared a cannabidiol product batch in a manner, or such that the batch

394 contains a substance, that poses a threat to human health.

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

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

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

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

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

403 (i) seize, embargo, or destroy a hemp or cannabidiol product batch; and

404 (ii) direct the person to appear before an adjudicative proceeding conducted under Title  
405 63G, Chapter 4, Administrative Procedures Act.

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

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

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

411 (5) The department may not revoke a license issued pursuant to this chapter via a  
412 citation.

413 (6) If, within 15 calendar days after the day on which a department serves a citation for  
414 a violation of this chapter, the person that is the subject of the citation fails to request a hearing  
415 to contest the citation, the citation becomes the basis of the department's final order.

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

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

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

420 Section 21. Section **4-43-702** is enacted to read:

421 **4-43-702. Report to the Legislature.**

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

425 Section 22. Section **4-43-703** is enacted to read:

426 **4-43-703. Fees -- Deposit into Cannabinoid Product Restricted Account.**

427 The department shall deposit fees the department collects under this chapter into the  
428 Cannabinoid Product Restricted Account created in Section [4-43-801](#).

429 Section 23. Section **4-43-801** is enacted to read:

430 **Part 8. Restricted Account**

431 **4-43-801. Cannabinoid Product Restricted Account -- Creation.**

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

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

435 (a) money deposited by the State Tax Commission under Title 59, Chapter 29,  
436 Cannabidiol Product Tax Act;

437 (b) money deposited into the account by the Department of Agriculture and Food under  
438 Title 4, Chapter 43, Cannabidiol Producers;

439 (c) appropriations made to the account by the Legislature; and

440 (d) the interest described in Subsection (3).

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

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

443 (a) the cost of state regulation of cannabidiol products under:

444 (i) Title 4, Chapter 43, Cannabidiol Producers;

445 (ii) Title 26, Chapter 62, Cannabidiol Product Act;

446 (iii) Title 59, Chapter 29, Cannabidiol Product Tax Act; and

447 (b) the cost to the state for investigation and enforcement related to cannabinoid  
448 products.

449 (5) Subject to appropriation and available funds in the restricted account, at the end of



450 fiscal year 2020 and fiscal year 2021, the director of the Division of Finance shall transfer into  
451 the General Fund from the Cannabinoid Product Restricted Account an amount equal to the  
452 General Fund appropriation in fiscal year 2018 and fiscal year 2019, respectively, to implement  
453 the programs described in Subsection (4).

454 Section 24. Section **26-62-101** is enacted to read:

455 **CHAPTER 62. CANNABIDIOL PRODUCT ACT**

456 **Part 1. General Provisions**

457 **26-62-101. Title.**

458 This chapter is known as the "Cannabidiol Product Act."

459 Section 25. Section **26-62-102** is enacted to read:

460 **26-62-102. Definitions.**

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

462 (2) "Cannabidiol laboratory" means the same as that term is defined in Section  
463 4-43-102.

464 (3) "Cannabidiol product" means the same as that term is defined in Section 4-41-102.

465 (4) "Cannabidiol-qualified pharmacy" means the same as that term is defined in  
466 Section 4-43-102.

467 (5) "Cannabinoid Product Restricted Account" means the account created in Section  
468 4-43-801.

469 (6) "Medicinal dosage form" means a qualifying dosage form for a cannabidiol product  
470 under Section 26-62-103.

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

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

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

475 Section 26. Section **26-62-103** is enacted to read:

476 **26-62-103. Medicinal dosage form.**

477 (1) For the purpose of this chapter, any of the following is a qualifying medicinal

478 dosage form for a cannabidiol product:

479 (a) a tablet;

480 (b) a capsule;

481 (c) a concentrated oil;

482 (d) a liquid suspension;

483 (e) a transdermal preparation; and

484 (f) a sublingual preparation.

485 (2) A patient may not purchase, use, or possess a cannabidiol product unless the  
486 cannabidiol product is prepared in a medicinal dosage form.

487 (3) A cannabidiol-qualified pharmacy may not purchase, possess, or sell a cannabidiol  
488 product unless the cannabidiol product is prepared in a medicinal dosage form.

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

491 Section 27. Section **26-62-201** is enacted to read:

492 **Part 2. Miscellaneous**

493 **26-62-201. Insurance coverage.**

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

496 Section 28. Section **26-62-202** is enacted to read:

497 **26-62-202. Rules -- Report to the Legislature.**

498 (1) The department shall make rules regarding data to be:

499 (a) collected by a physician who recommends a cannabinoid product to a patient; and

500 (b) reported to the department.

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

504 Section 29. Section **41-6a-517** is amended to read:

505 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**

506 **body -- Penalties -- Arrest without warrant.**

507 (1) As used in this section:

508 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

509 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.

510 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.

511 (d) "Prescription" means the same as that term is defined in Section 58-37-2.

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

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

517 (a) involuntarily ingested by the accused;

518 (b) prescribed by a practitioner for use by the accused or recommended by a physician  
519 for use by the accused; or

520 (c) otherwise legally ingested.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

555 (9) The Driver License Division shall subtract from any suspension or revocation  
556 period the number of days for which a license was previously suspended under Section  
557 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
558 which the record of conviction is based.

559 (10) The Driver License Division shall:

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

562 committed prior to July 1, 2009; or

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

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

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

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

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

574 (b) completes a screening;

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

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

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

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

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

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

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

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

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

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

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

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

605 (14) The court:

606 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person  
607 convicted under Subsection (2); and

608 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety  
609 program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

610 (15) (a) A court that reported a conviction of a violation of this section to the Driver  
611 License Division may shorten the suspension period imposed under Subsection (6) before  
612 completion of the suspension period if the person is participating in or has successfully  
613 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

614 (b) If the court shortens a person's license suspension period in accordance with the  
615 requirements of this Subsection (15), the court shall forward to the Driver License Division the  
616 order shortening the person's suspension period.

617 (c) The court shall notify the Driver License Division if a person fails to complete all

618 requirements of a 24-7 sobriety program.

619 (d) Upon receiving the notification described in Subsection (15)(c), the division shall  
620 suspend the person's driving privilege in accordance with Subsections [53-3-221](#)(2) and (3).

621 Section 30. Section **58-37-3.6** is amended to read:

622 **58-37-3.6. Exemption for possession or distribution of a cannabinoid product or**  
623 **expanded cannabinoid product pursuant to an approved study.**

624 (1) As used in this section:

625 ~~(a)~~ (a) "Cannabidiol product" means the same as that term is defined in Section [4-41-102](#).

626 ~~(a)~~ (b) "Cannabinoid product" means a product intended for human ingestion that:

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

628 (ii) is prepared in a medicinal dosage form; and

629 (iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

630 ~~(b)~~ (c) "Cannabis" means any part of the plant cannabis sativa, whether growing or

631 not.

632 ~~(c)~~ (d) "Drug paraphernalia" means the same as that term is defined in Section  
633 [58-37a-3](#).

634 ~~(d)~~ (e) "Expanded cannabinoid product" means a product intended for human  
635 ingestion that:

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

637 (ii) is prepared in a medicinal dosage form; and

638 (iii) contains less than 10 units of cannabidiol for every one unit of

639 tetrahydrocannabinol.

640 ~~(e)~~ (f) "Medicinal dosage form" means:

641 (i) a tablet;

642 (ii) a capsule;

643 (iii) a concentrated oil;

644 (iv) a liquid suspension;

645 (v) a transdermal preparation; or

646 (vi) a sublingual preparation.

647 ~~[(f)]~~ (g) "Tetrahydrocannabinol" means a substance derived from cannabis that meets  
648 the description in Subsection 58-37-4(2)(a)(iii)(AA).

649 (2) Notwithstanding any other provision of this chapter~~[-]~~:

650 (a) an individual who possesses or distributes a cannabinoid product or an expanded  
651 cannabinoid product is not subject to the penalties described in this title for the possession or  
652 distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession  
653 or distribution of the cannabinoid product or expanded cannabinoid product complies with  
654 Title 26, Chapter 61, Cannabinoid Research Act[-];

655 (b) an individual who grows, processes, possesses, transports, or distributes  
656 cannabidiol for medicinal use or a hemp-grade product that is intended to be processed into  
657 cannabidiol for medicinal use, is not subject to the penalties described in this title to the extent  
658 that the individual's growth, processing, possession, transportation, or distribution of the  
659 cannabidiol or hemp-grade product is in compliance with Title 4, Chapter 43, Cannabidiol  
660 Producers; and

661 (c) a person who processes, possesses, or sells cannabidiol is not subject to the  
662 penalties described in this title if:

663 (i) the person is a cannabidiol-qualified pharmacy; or

664 (ii) the person is an individual whose physician has recommended use of the  
665 cannabidiol and the individual purchased the cannabidiol from a cannabidiol-qualified  
666 pharmacy.

667 Section 31. Section 58-37f-203 is amended to read:

668 **58-37f-203. Submission, collection, and maintenance of data.**

669 (1) (a) The division shall implement on a statewide basis, including non-resident  
670 pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to  
671 submit information:

672 (i) real-time submission of the information required to be submitted under this part to  
673 the controlled substance database; and



674 (ii) 24-hour daily or next business day, whichever is later, batch submission of the  
675 information required to be submitted under this part to the controlled substance database.

676 (b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

677 (A) the submission time requirements established by the division under Subsection  
678 (1)(a)(i); or

679 (B) the submission time requirements established by the division under Subsection  
680 (1)(a)(ii).

681 (ii) Prior to January 1, 2016, a pharmacist may submit information using either option  
682 under this Subsection (1).

683 (c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

684 (2) (a) The pharmacist in charge of the drug outlet where a controlled substance is  
685 dispensed shall submit the data described in this section to the division:

686 (i) in accordance with the requirements of this section;

687 (ii) in accordance with the procedures established by the division; and

688 (iii) in the format established by the division.

689 (b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing  
690 Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with  
691 the provisions of this section and the dispensing medical practitioner shall assume the duties of  
692 the pharmacist under this chapter.

693 (3) The pharmacist described in Subsection (2) shall, for each controlled substance  
694 dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an  
695 inpatient at a health care facility, submit to the division the following information:

696 (a) the name of the prescribing practitioner;

697 (b) the date of the prescription;

698 (c) the date the prescription was filled;

699 (d) the name of the individual for whom the prescription was written;

700 (e) positive identification of the individual receiving the prescription, including the  
701 type of identification and any identifying numbers on the identification;

- 702 (f) the name of the controlled substance;
- 703 (g) the quantity of the controlled substance prescribed;
- 704 (h) the strength of the controlled substance;
- 705 (i) the quantity of the controlled substance dispensed;
- 706 (j) the dosage quantity and frequency as prescribed;
- 707 (k) the name of the drug outlet dispensing the controlled substance; [~~and~~]
- 708 (l) the name of the pharmacist dispensing the controlled substance[-]; and
- 709 (m) in the case of a cannabidiol-qualified pharmacy dispensing a cannabidiol product:
- 710 (i) the name of the recommending physician;
- 711 (ii) the date of the recommendation;
- 712 (iii) the date the recommendation was filled by the cannabidiol-qualified pharmacy;
- 713 (iv) the name of the individual for whom the recommendation was written; and
- 714 (v) any other information the division requires by rule, made in accordance with Title
- 715 63G, Chapter 3, Utah Administrative Rulemaking Act.

716 (4) An individual whose records are in the database may obtain those records upon  
717 submission of a written request to the division.

718 (5) (a) A patient whose record is in the database may contact the division in writing to  
719 request correction of any of the patient's database information that is incorrect. The patient  
720 shall provide a postal address for the division's response.

721 (b) The division shall grant or deny the request within 30 days from receipt of the  
722 request and shall advise the requesting patient of its decision by mail postmarked within 35  
723 days of receipt of the request.

724 (c) If the division denies a request under this Subsection (5) or does not respond within  
725 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days  
726 after the postmark date of the patient's letter making a request for a correction under this  
727 Subsection (5).

728 (6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
729 Administrative Rulemaking Act, to establish submission requirements under this part,

730 including the electronic format in which the information required under this section shall be  
731 submitted to the division.

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

734 (a) the identification of each individual who requests or receives information from the  
735 database;

736 (b) the information provided to each individual; and

737 (c) the date and time that the information is requested or provided.

738 Section 32. Section **58-67-808** is enacted to read:

739 **58-67-808. Recommendation of cannabidiol products.**

740 (1) (a) A physician may recommend the use of a cannabidiol product to a patient.

741 (b) A physician who recommends a cannabinoid product to a patient shall:

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

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

746 (iii) report other data on cannabinoid products required by Section [26-62-202](#).

747 (2) It is not a breach of the applicable standard of care for a physician to recommend  
748 treatment with a cannabidiol product to an individual under this section.

749 (3) A physician who recommends treatment with a cannabidiol product to an  
750 individual under this section may not, solely based on that recommendation, be subject to:

751 (a) civil liability;

752 (b) criminal liability; or

753 (c) licensure sanctions under this title.

754 Section 33. Section **58-68-808** is enacted to read:

755 **58-68-808. Recommendation of cannibidiol products.**

756 (1) (a) A physician may recommend the use of a cannabidiol product to a patient.

757 (b) A physician who recommends a cannabinoid product to a patient shall:

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

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

762 (iii) report other data on cannabinoid products required by Section [26-62-202](#).

763 (2) It is not a breach of the applicable standard of care for a physician to recommend  
764 treatment with a cannabidiol product to an individual under this section.

765 (3) A physician who recommends treatment with a cannabidiol product to an  
766 individual under this section may not, solely based on that recommendation, be subject to:

767 (a) civil liability;

768 (b) criminal liability; or

769 (c) licensure sanctions under this title.

770 Section 34. Section **58-88-101** is enacted to read:

771 **CHAPTER 88. CANNABIDIOL-QUALIFIED PHARMACIES**

772 **Part 1. General Provisions**

773 **58-88-101. Title.**

774 This chapter is known as "Cannabidiol-Qualified Pharmacies."

775 Section 35. Section **58-88-102** is enacted to read:

776 **58-88-102. Definitions.**

777 As used in this chapter:

778 (1) "Cannabidiol-qualified pharmacy" means a pharmacy that sells cannabidiol at retail  
779 to a patient with a written recommendation from the patient's physician.

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

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

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

784 Section 36. Section **58-88-103** is enacted to read:

785 **58-88-103. Cannabidiol-qualified pharmacy requirements.**

786 (1) A pharmacy licensed in this state may become a cannabidiol-qualified pharmacy if  
787 it:  
788 (a) registers with the division, on a form and in a manner prescribed by the division;  
789 and  
790 (b) complies with all rules issued by the division under Section 58-88-104.  
791 (2) A cannabidiol-qualified pharmacy may sell a cannabidiol product to a patient if the  
792 patient produces a written recommendation from the patient's physician.

793 Section 37. Section **58-88-104** is enacted to read:

794 **58-88-104. Division to make rules -- Study.**

795 (1) A pharmacy that seeks to sell cannabidiol at retail shall do so in accordance with  
796 rules established by the division.

797 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
798 Administrative Rulemaking Act, governing:

799 (a) the requirements for a pharmacy to become a cannabidiol-qualified pharmacy,  
800 including:

801 (i) the manner in which a pharmacy registers with the division to become a  
802 cannabidiol-qualified pharmacy;

803 (ii) requirements for the division to accept or reject a pharmacy's registration as a  
804 cannabidiol-qualified pharmacy;

805 (iii) the class of pharmacy that may become a cannabidiol-qualified pharmacy; and

806 (iv) any other requirements the division considers reasonably necessary to implement  
807 its duties under this chapter; and

808 (b) the manner in which a pharmacy may sell cannabidiol at retail.

809 (3) The department shall prepare a de-identified set of data based on records described  
810 in Section 58-37f-203(m) and make the set of data available to researchers at a higher  
811 education institution for the purpose of the use of cannabidiol.

812 Section 38. Section **59-12-104.8** is enacted to read:

813 **59-12-104.8. Exemption from sales tax for cannabinoid products.**

814 (1) As used in this section:

815 (a) "Cannabidiol product" means the same as that term is defined in Section 4-41-102.

816 (b) "Cannabidiol-qualified pharmacy" means the same as that term is defined in

817 Section 58-88-102.

818 (2) In addition to the exemptions described in Section 59-12-104, the sale by a  
819 cannabidiol-qualified pharmacy of a cannabidiol product is not subject to the taxes imposed by  
820 this chapter.

821 Section 39. Section 59-29-101 is enacted to read:

**CHAPTER 29. CANNABIDIOL PRODUCT TAX ACT**

**Part 1. General Provisions**

**59-29-101. Title.**

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

826 Section 40. Section 59-29-102 is enacted to read:

**59-29-102. Definitions.**

As used in this chapter:

829 (1) "Cannabidiol product" means the same as that term is defined in Section 4-41-102.

830 (2) "Cannabidiol-qualified pharmacy" means the same as that term is defined in

831 Section 58-88-102.

832 (3) "Cannabinoid Product Restricted Account" means the account created in Section  
833 4-43-801.

834 Section 41. Section 59-29-103 is enacted to read:

**59-29-103. Imposition of tax -- Rate -- Administration.**

836 (1) There is imposed a tax on the retail purchaser of a cannabidiol product at a  
837 cannabidiol-qualified pharmacy in the state in an amount equal to 5.77% of amounts paid or  
838 charged for the cannabidiol product.

839 (2) The commission shall administer, collect, and enforce the tax authorized under this  
840 chapter in accordance with the provisions of Chapter 1, General Taxation Policies, and Chapter  
841 12, Sales and Use Tax Act.

842 Section 42. Section **59-29-104** is enacted to read:

843 **59-29-104. Collection of tax.**

844 A cannabidiol-qualified pharmacy shall:

845 (1) collect the tax imposed by Section [59-29-103](#) from a cannabidiol product

846 purchaser; and

847 (2) file a return with the commission and pay the tax calculated on the return to the

848 commission:

849 (a) quarterly on or before the last day of the month immediately following the last day  
850 of the previous calendar quarter if:

851 (i) the cannabidiol-qualified pharmacy is required to file a quarterly sales and use tax  
852 return with the commission under Section [59-12-107](#); or

853 (ii) the cannabidiol-qualified pharmacy is not required to file a sales and use tax return  
854 with the commission under Chapter 12, Sales and Use Tax Act; or

855 (b) monthly on or before the last day of the month immediately following the last day  
856 of the previous calendar month if the cannabidiol-qualified pharmacy is required to file a  
857 monthly sales and use tax return with the commission under Section [59-12-108](#).

858 Section 43. Section **59-29-105** is enacted to read:

859 **59-29-105. Deposit of tax revenue.**

860 The commission shall deposit revenues generated by the tax imposed by this chapter  
861 into the Cannabinoid Product Restricted Account created in Section [4-43-801](#).

862 Section 44. Section **59-29-106** is enacted to read:

863 **59-29-106. Records.**

864 (1) A cannabidiol-qualified pharmacy shall maintain any record typically considered  
865 necessary to determine the amount of tax that the pharmacy is required to remit to the  
866 commission under this chapter.

867 (2) The commission may require a cannabidiol-qualified pharmacy to keep any record  
868 the commission reasonably considers necessary to constitute sufficient evidence of the amount  
869 of tax the cannabidiol-qualified pharmacy is required to remit to the commission under this

870 chapter:

871 (a) by notice served upon the cannabidiol-qualified pharmacy; or

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

873 Rulemaking Act.

874 (3) Upon notice by the commission, a cannabidiol-qualified pharmacy shall open the  
875 pharmacy's records for examination by the commission.

876 Section 45. Section **59-29-107** is enacted to read:

877 **59-29-107. Rulemaking authority.**

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

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

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

882 Section 46. Section **59-29-108** is enacted to read:

883 **59-29-108. Penalties and interest.**

884 A cannabidiol-qualified pharmacy that fails to comply with any provision of this  
885 chapter is subject to penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

886 Section 47. Section **78A-6-508** is amended to read:

887 **78A-6-508. Evidence of grounds for termination.**

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

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

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

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

897 (d) have abandoned an infant, as described in Subsection [78A-6-316\(1\)](#).



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

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

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

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

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

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

913 (f) a history of violent behavior; or

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

916 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent  
917 because of the parent's possession or consumption of a cannabidiol product, in accordance with  
918 Title 26, Chapter 62, Cannabidiol Product Act.

919 [~~3~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not  
920 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit  
921 parent.

922 [~~4~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful  
923 or unfit because of a health care decision made for a child by the child's parent unless the state  
924 or other party to the proceeding shows, by clear and convincing evidence, that the health care  
925 decision is not reasonable and informed.

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

928 [~~(5)~~] (6) If a child has been placed in the custody of the division and the parent or  
929 parents fail to comply substantially with the terms and conditions of a plan within six months  
930 after the date on which the child was placed or the plan was commenced, whichever occurs  
931 later, that failure to comply is evidence of failure of parental adjustment.

932 [~~(6)~~] (7) The following circumstances constitute prima facie evidence of unfitness:

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

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

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

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

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

944 Section 48. **Contingent effective date.**

945 (1) Except as provided in Subsection (2), this bill takes effect on May 8, 2018.

946 (2) The following sections take effect on July 1, 2019 or the day on which the  
947 Department of Agriculture and Food receives a federal waiver as described in Section  
948 4-41-204, whichever comes first:

949 (a) Section 4-43-101;

950 (b) Section 4-43-102;

951 (c) Section 4-43-201;

952 (d) Section 4-43-202;

953 (e) Section 4-43-203;

- 954            (f) Section 4-43-301;
- 955            (g) Section 4-43-401;
- 956            (h) Section 4-43-402;
- 957            (i) Section 4-43-501;
- 958            (j) Section 4-43-502;
- 959            (k) Section 4-43-503;
- 960            (l) Section 4-43-601;
- 961            (m) Section 4-43-602;
- 962            (n) Section 4-43-701;
- 963            (o) Section 4-43-702;
- 964            (p) Section 4-43-703;
- 965            (q) Section 4-43-801;
- 966            (r) Section 26-62-101;
- 967            (s) Section 26-62-102;
- 968            (t) Section 26-62-103;
- 969            (u) Section 26-62-201;
- 970            (v) Section 26-62-202;
- 971            (w) Section 41-6a-517;
- 972            (x) Section 58-37-3.6;
- 973            (y) Section 58-37f-203;
- 974            (z) Section 58-67-808;
- 975            (aa) Section 58-68-808;
- 976            (bb) Section 58-88-101;
- 977            (cc) Section 58-88-102;
- 978            (dd) Section 58-88-103;
- 979            (ee) Section 58-88-104;
- 980            (ff) Section 59-12-104.8;
- 981            (gg) Section 59-29-101;

- 982           (hh) Section 59-29-102;
- 983           (ii) Section 59-29-103;
- 984           (jj) Section 59-29-104;
- 985           (kk) Section 59-29-105;
- 986           (ll) Section 59-29-106;
- 987           (mm) Section 59-29-107;
- 988           (nn) Section 59-29-108; and
- 989           (oo) Section 78A-6-508.

990           Section 49. **Coordinating S.B. 130 with H.B. 158 -- Substantive and technical**  
991 **amendments.**

992           If this S.B. 130 and H.B. 158, Controlled Substance Database Revisions, both pass and  
993 become law, it is the intent of the Legislature that the Office of Legislative Research and  
994 General Counsel shall prepare the Utah Code database for publication on July 1, 2019, by  
995 amending Subsection 58-37f-203(3) to read:

996           "(3)(a) The pharmacist-in-charge and the pharmacist described in Subsection (2) shall,  
997 for each controlled substance dispensed by a pharmacist under the pharmacist's supervision  
998 other than those dispensed for an inpatient at a health care facility, submit to the division any  
999 type of information or data field established by the division by rule in accordance with  
1000 Subsection (6).

1001           (b) The pharmacist described in Subsection (2) shall, in the case of a  
1002 cannabidiol-qualified pharmacy dispensing a cannabidiol product, submit the following  
1003 information to the division:

- 1004           (i) the name of the recommending physician;
- 1005           (ii) the date of the recommendation;
- 1006           (iii) the date the recommendation was filled by the cannabidiol-qualified pharmacy;
- 1007           (iv) the name of the individual for whom the recommendation was written; and
- 1008           (v) any other information the division requires by rule, made in accordance with Title  
1009 63G, Chapter 3, Utah Administrative Rulemaking Act."

1010           Section 50. **Coordinating S.B. 130 with H.B. 197 -- Substantive and technical**  
1011 **amendments.**

1012           If this S.B. 130 and H.B. 197, Cannabis Cultivation Amendments, both pass and  
1013 become law, it is the intent of the Legislature that the Office of Legislative Research and  
1014 General Counsel shall prepare the Utah Code database for publication by not enacting Title 7,  
1015 Chapter 26, Cannabis Payment Processor.