Senator Jim Dabakis proposes the following substitute bill:

UTAH MEDICAL CANNABIS ACT
2018 THIRD SPECIAL SESSION
STATE OF UTAH

Chief Sponsor: Gregory H. Hughes
Senate Sponsor: Evan J. Vickers

LONG TITLE
General Description:
This bill addresses provisions that Proposition 2 technically repealed by implication.

Highlighted Provisions:
This bill:
- technically renumbers the medical cannabis provisions that voters enacted in the 2018 election under Proposition 2;
- reenacts provisions that Proposition 2 repealed by implication through use of outdated code; and
- makes technical changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
This bill provides a special effective date.

Utah Code Sections Affected:
AMENDS:
10-9a-104, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018
17-27a-104, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018
30-3-10, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018
ENACTS:

26  58-37-3.7, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
27  58-37-3.9, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
28  62A-4a-202.1, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018
29  63I-1-226, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last
30 amended by Laws of Utah 2018, Chapters 180, 281, 384, 430, and 468
31  63I-1-258, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last
32 amended by Laws of Utah 2018, Chapter 399
33  78A-6-508 (Superseded 07/01/19), as last amended by Laws of Utah 2014, Chapter
34  409
35  78A-6-508 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapter 452
36
37 ENACTS:
38  26-36d-101, Utah Code Annotated 1953
39  26-36d-102, Utah Code Annotated 1953
40  26-36d-103, Utah Code Annotated 1953
41  26-36d-201, Utah Code Annotated 1953
42  26-36d-202, Utah Code Annotated 1953
43  26-36d-203, Utah Code Annotated 1953
44  26-36d-204, Utah Code Annotated 1953
45  26-36d-205, Utah Code Annotated 1953
46  26-36d-206, Utah Code Annotated 1953
47  26-36d-207, Utah Code Annotated 1953
48  26-36d-208, Utah Code Annotated 1953
49  58-20b-101, Utah Code Annotated 1953
50  58-20b-102, Utah Code Annotated 1953
51  58-20b-201, Utah Code Annotated 1953
52  58-20b-301, Utah Code Annotated 1953
53  58-20b-302, Utah Code Annotated 1953
54  58-20b-303, Utah Code Annotated 1953
55  58-20b-304, Utah Code Annotated 1953
56  58-20b-305, Utah Code Annotated 1953
57  58-20b-401, Utah Code Annotated 1953
57  
58  
59 RENUMBERS AND AMENDS:
60  
61 4-41a-101, (Renumbered from 4-41b-101, as enacted by Statewide Initiative --
62 Proposition 2, Nov. 6, 2018)
63 4-41a-102, (Renumbered from 4-41b-102, as enacted by Statewide Initiative --
64 Proposition 2, Nov. 6, 2018)
65 4-41a-103, (Renumbered from 4-41b-103, as enacted by Statewide Initiative --
66 Proposition 2, Nov. 6, 2018)
67 4-41a-104, (Renumbered from 4-41b-104, as enacted by Statewide Initiative --
68 Proposition 2, Nov. 6, 2018)
69 4-41a-201, (Renumbered from 4-41b-201, as enacted by Statewide Initiative --
70 Proposition 2, Nov. 6, 2018)
71 4-41a-202, (Renumbered from 4-41b-202, as enacted by Statewide Initiative --
72 Proposition 2, Nov. 6, 2018)
73 4-41a-203, (Renumbered from 4-41b-203, as enacted by Statewide Initiative --
74 Proposition 2, Nov. 6, 2018)
75 4-41a-204, (Renumbered from 4-41b-204, as enacted by Statewide Initiative --
76 Proposition 2, Nov. 6, 2018)
77 4-41a-301, (Renumbered from 4-41b-301, as enacted by Statewide Initiative --
78 Proposition 2, Nov. 6, 2018)
79 4-41a-302, (Renumbered from 4-41b-302, as enacted by Statewide Initiative --
80 Proposition 2, Nov. 6, 2018)
81 4-41a-303, (Renumbered from 4-41b-303, as enacted by Statewide Initiative --
82 Proposition 2, Nov. 6, 2018)
83 4-41a-401, (Renumbered from 4-41b-401, as enacted by Statewide Initiative --
84 Proposition 2, Nov. 6, 2018)
85 4-41a-402, (Renumbered from 4-41b-402, as enacted by Statewide Initiative --
86 Proposition 2, Nov. 6, 2018)
87 4-41a-403, (Renumbered from 4-41b-403, as enacted by Statewide Initiative --
4-41a-404, (Renumbered from 4-41b-404, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-405, (Renumbered from 4-41b-405, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-501, (Renumbered from 4-41b-501, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-502, (Renumbered from 4-41b-502, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-601, (Renumbered from 4-41b-601, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-602, (Renumbered from 4-41b-602, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-603, (Renumbered from 4-41b-603, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-701, (Renumbered from 4-41b-701, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-702, (Renumbered from 4-41b-702, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-801, (Renumbered from 4-41b-801, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

4-41a-802, (Renumbered from 4-41b-802, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

26-61a-101, (Renumbered from 26-60b-101, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

26-61a-102, (Renumbered from 26-60b-102, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

26-61a-103, (Renumbered from 26-60b-103, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

26-61a-104, (Renumbered from 26-60b-104, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

26-61a-105, (Renumbered from 26-60b-105, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-106, (Renumbered from 26-60b-106, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-107, (Renumbered from 26-60b-107, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-108, (Renumbered from 26-60b-108, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-109, (Renumbered from 26-60b-109, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-110, (Renumbered from 26-60b-110, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-201, (Renumbered from 26-60b-201, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-202, (Renumbered from 26-60b-202, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-203, (Renumbered from 26-60b-203, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-204, (Renumbered from 26-60b-204, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-301, (Renumbered from 26-60b-301, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-302, (Renumbered from 26-60b-302, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-303, (Renumbered from 26-60b-303, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-304, (Renumbered from 26-60b-304, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-401, (Renumbered from 26-60b-401, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-402, (Renumbered from 26-60b-402, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-101, which is renumbered from Section 4-41b-101 is renumbered and amended to read:

**Part 1. General Provisions**

[4-41b-101].  4-41a-101. Title.

(1) This chapter is known as "Cannabis Production Establishments."

Section 2. Section 4-41a-102, which is renumbered from Section 4-41b-102 is renumbered and amended to read:

[4-41b-102].  4-41a-102. Definitions.
As used in this chapter:

(1) "Cannabis" means the same as that term is defined in Section 58-37-3.9.

(2) "Cannabis cultivation facility" means a person that:
   (a) possesses cannabis;
   (b) grows or intends to grow cannabis; and
   (c) sells or intends to sell cannabis to cannabis production establishments or to
       cannabis dispensaries.

(3) "Cannabis cultivation facility agent" means an individual who is an owner, officer,
    director, board member, employee, or volunteer of a cannabis cultivation facility.

(4) "Cannabis dispensary" means the same as that term is defined in Section

(5) "Cannabis dispensary agent" means the same as that term is defined in Section

(6) "Cannabis processing facility" means a person that:
    (a) acquires or intends to acquire cannabis from a cannabis production establishment;
    (b) possesses cannabis with the intent to manufacture a cannabis product;
    (c) manufactures or intends to manufacture a cannabis product from unprocessed
        cannabis; and
    (d) sells or intends to sell a cannabis product to a cannabis dispensary.

(7) "Cannabis processing facility agent" means an individual who is an owner, officer,
    director, board member, employee, or volunteer of a cannabis processing facility.

(8) "Cannabis product" means the same as that term is defined in Section 58-37-3.9.

(9) "Cannabis production establishment" means a cannabis cultivation facility, a
    cannabis processing facility, or an independent cannabis testing laboratory.

(10) "Cannabis production establishment agent" means a cannabis cultivation facility
    agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(11) "Cannabis production establishment agent registration card" means a registration
    card, issued by the department, that authorizes an individual to act as a cannabis production
    establishment agent and designates the type of cannabis production establishment for which an
    individual is authorized to act as an agent.

(12) "Community location" means a public or private school, a church, a public library,
a public playground, or a public park.

(13) "Independent cannabis testing laboratory" means a person that:

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

(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(14) "Independent cannabis testing laboratory agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of an independent cannabis testing laboratory.

(15) "Inventory control system" means the system described in Section [4-41b-103]

4-41a-103.

(16) "Medical cannabis card" means the same as that term is defined in Section [26-60b-102] 26-61a-102.

(17) "Medical Cannabis Restricted Account" means the account created in Section [26-60b-109] 26-61a-109.

(18) "Physician" means the same as that term is defined in Section [26-60b-107] 26-61a-107.

(19) "State electronic verification system" means the system described in Section [26-60b-103] 26-61a-103.

Section 3. Section 4-41a-103, which is renumbered from Section 4-41b-103 is renumbered and amended to read:

[4-41b-103]. 4-41a-103. Inventory control system.

(1) A cannabis production establishment and a cannabis dispensary shall maintain an inventory control system that meets the requirements of this section.

(2) An inventory control system shall track cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall, and has a root ball, until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card.

(3) An inventory control system shall store in real time a record of the amount of cannabis and cannabis products in the cannabis production establishment's or cannabis dispensary's possession.

(4) An inventory control system shall include a video recording system that:
(a) tracks all handling and processing of cannabis or a cannabis product in the cannabis production establishment or cannabis dispensary;

(b) is tamper proof; and

(c) is capable of storing a video record for 45 days.

(5) An inventory control system installed in a cannabis production establishment or cannabis dispensary shall maintain compatibility with the state electronic verification system.

(6) A cannabis production establishment or cannabis dispensary shall allow the department or the Department of Health access to the cannabis production establishment's or cannabis dispensary's inventory control system during an inspection.

(7) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 4-41a-104, which is renumbered from Section 4-41b-104 is renumbered and amended to read:

4-41a-104. Preemption.

This chapter preempts any ordinance or rule enacted by a political subdivision of the state regarding a cannabis production establishment.

Section 5. Section 4-41a-201, which is renumbered from Section 4-41b-201 is renumbered and amended to read:

4-41a-201. Cannabis production establishment -- License.

(1) A person may not operate a cannabis production establishment without a license issued by the department under this chapter.

(2) Subject to Subsections (6) and (7) and to Section 4-41b-204, the department shall, within 90 days after receiving a complete application, issue a license to operate a cannabis production establishment to a person who submits to the department:

(a) a proposed name and address where the person will operate the cannabis production establishment that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area;
(b) the name and address of any individual who has a financial or voting interest of two percent or greater in the proposed cannabis production establishment or who has the power to direct or cause the management or control of a proposed medical cannabis production establishment;

(c) an operating plan that complies with Section [4-41b-203] 4-41a-203 and that includes operating procedures to comply with the requirements of this chapter and with any laws adopted by the municipality or county that are consistent with Section [4-41b-405] 4-41a-405;

(d) financial statements demonstrating that the person possesses a minimum of $500,000 in liquid assets available for each cannabis cultivation facility for which the person applies or a minimum of $100,000 in liquid assets available for each cannabis processing facility or independent cannabis testing laboratory for which the person applies;

(e) if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis production establishment is in compliance with the restrictions;

(f) if the municipality or county where the proposed cannabis production establishment would be located requires a local permit or license, a copy of the application for the local permit or license; and

(g) an application fee established by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this chapter.

(3) If the department determines that a cannabis production establishment is eligible for a license under this section, the department shall charge the cannabis establishment an initial license fee in an amount determined by the department in accordance with Section 63J-1-504.

(4) Except as provided in Subsection (5), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(5) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(6) The department may not issue a license to operate an independent cannabis testing laboratory to a person:
(a) that holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility in the state;
(b) that has an owner, officer, director, or employee whose immediate family member holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility; or
(c) who proposes to operate the independent cannabis testing laboratory at the same physical location as a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

(7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
(a) has been convicted of an offense that is a felony under either state or federal law; or
(b) is less than 21 years of age.

(8) The department may revoke a license under this part if the cannabis production establishment is not operating within one year of the issuance of the initial license.

(9) The department shall deposit the proceeds of a fee imposed by this section in the Medical Cannabis Restricted Account.

(10) The department shall begin accepting applications under this part no later than January 1, 2020.

Section 6. Section 4-41a-202, which is renumbered from Section 4-41b-202 is renumbered and amended to read:

(1) The department shall renew a person's license issued under Section [4-41b-201] 4-41a-201 every two years, if, at the time of renewal:
(a) the person meets the requirements of Section [4-41b-201] 4-41a-201; and
(b) the person pays the department a license renewal fee in an amount determined by the department in accordance with Section 63J-1-504.

Section 7. Section 4-41a-203, which is renumbered from Section 4-41b-203 is renumbered and amended to read:

[4-41b-203]. 4-41a-203. Operating plan.
(1) A person applying for a cannabis production facility license shall submit to the
department a proposed operation plan that complies with this section and that includes:
(a) a description of the physical characteristics of the proposed facility, including a
floor plan and an architectural elevation;
(b) a description of the credentials and experience of:
(i) each officer, director, or owner of the proposed cannabis production establishment;
and
(ii) any highly skilled or experienced prospective employee;
(c) the cannabis production establishment's employee training standards;
(d) a security plan;
(e) a description of the cannabis production establishment's inventory control system,
including a plan to make the inventory control system compatible with the state electronic
verification system;
(f) for a cannabis cultivation facility, the information described in Subsection (2);
(g) for a cannabis processing facility, the information described in Subsection (3); and
(h) for an independent cannabis testing laboratory, the information described in
Subsection (4).

(2) A cannabis cultivation facility's operating plan shall include the cannabis
cultivation facility's intended cannabis cultivation practices, including the cannabis cultivation
facility's intended pesticide use, fertilizer use, square footage under cultivation, and anticipated
cannabis yield.

(3) A cannabis processing facility's operating plan shall include the cannabis
processing facility's intended cannabis processing practices, including the cannabis processing
facility's intended offered variety of cannabis product, cannabinoid extraction method,
cannabinoid extraction equipment, processing equipment, processing techniques, and sanitation
and food safety procedures.

(4) An independent cannabis testing laboratory's operating plan shall include the
independent cannabis testing laboratory's intended cannabis and cannabis product testing
capability and cannabis and cannabis product testing equipment.

Section 8. Section 4-41a-204, which is renumbered from Section 4-41b-204 is
renumbered and amended to read:
4-41a-204. Number of licenses -- Cannabis cultivation facilities.

(1) Except as otherwise provided in Subsection (2), the department may issue not more than 15 licenses to operate cannabis cultivation facilities.

(2) After January 1, 2022, the department may issue additional licenses to operate cannabis cultivation facilities if the department determines, after an analysis of the current and anticipated market for medical cannabis and medical cannabis products, that additional licenses are needed to provide an adequate supply, quality, or variety of medical cannabis and medical cannabis products to medical cannabis card holders in Utah.

(3) If there are more qualified applicants than there are available licenses for cannabis cultivation facilities, the department shall evaluate the applicants and award licenses to the applicants that best demonstrate:

(a) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community; and

(d) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients.

(4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Section 9. Section 4-41a-301, which is renumbered from Section 4-41b-301 is renumbered and amended to read:

Part 3. Cannabis Production Establishment Agents

4-41a-301. Cannabis production establishment agent -- Registration.

(1) An individual may not act as a cannabis production establishment agent unless the individual is registered by the department as a cannabis production establishment agent.

(2) A physician may not serve as a cannabis production establishment agent.

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

(4) The department shall, within 15 business days after receiving a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to an individual who:

(a) provides to the department the individual's name and address and the name and location of a licensed cannabis production establishment where the individual will act as the cannabis production establishment's agent; and

(b) pays a fee to the department, in an amount determined by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this part.

(5) The department shall designate, on an individual's cannabis production establishment agent registration card:

(a) the name of the cannabis production establishment where the individual is registered as an agent; and

(b) the type of cannabis production establishment for which the individual is authorized to act as an agent.

(6) A cannabis production establishment agent shall comply with a certification standard developed by the department or with a third party certification standard designated by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) The certification standard described in Subsection (6) shall include training:

(a) in Utah medical cannabis law;

(b) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

(c) for a cannabis processing facility agent, in cannabis processing, food safety, and sanitation best practices; and

(d) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(8) The department may revoke or refuse to issue the cannabis production establishment agent registration card of an individual who:

(a) violates the requirements of this chapter; or
is convicted of an offense that is a felony under state or federal law.

Section 10. Section 4-41a-302, which is renumbered from Section 4-41b-302 is renumbered and amended to read:

4-41b-302. Cannabis production establishment -- Criminal background checks.

(1) Each applicant shall submit, at the time of application, from each individual who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the department; and

(b) consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation.

(2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for the individual described in Subsection (1).

Section 11. Section 4-41a-303, which is renumbered from Section 4-41b-303 is renumbered and amended to read:

4-41b-303. Cannabis production establishment agent registration card -- Rebuttable presumption.

(1) A cannabis production establishment agent who is registered with the department under Section 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the individual at all times when:

(a) the individual is on the premises of a cannabis production establishment where the individual is a cannabis production establishment agent; and

(b) the individual is transporting cannabis, a cannabis product, or a medical cannabis device between two cannabis production establishments or between a cannabis production establishment and a cannabis dispensary.

(2) If an individual handling cannabis, a cannabis product, or a medical cannabis device at a cannabis production establishment, or transporting cannabis, a cannabis product, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

(a) there is a rebuttable presumption that the individual possesses the cannabis,
cannabis product, or medical cannabis device legally; and

(b) a law enforcement officer does not have probable cause, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) An individual who violates Subsection (1) is:

(a) guilty of an infraction; and

(b) is subject to a $100 fine.

Section 12. Section 4-41a-401, which is renumbered from Section 4-41b-401 is renumbered and amended to read:

Part 4. General Cannabis Production Establishment Operating Requirements

4-41a-401. Cannabis production establishment -- General operating requirements.

(1) (a) A cannabis production establishment shall operate in accordance with the operating plan provided to the department under Section 4-41b-203.

(b) A cannabis production establishment shall notify the department before a change in the cannabis production establishment's operating plan.

(2) A cannabis production establishment shall operate:

(a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section 4-41b-301; and

(b) at the physical address provided to the department under Section 4-41b-201.

(3) A cannabis production establishment may not employ any person who is younger than 21 years of age.

(4) A cannabis production establishment shall conduct a background check into the criminal history of every person who will become an agent of the cannabis production establishment and may not employ any person who has been convicted of an offense that is a felony under either state or federal law.

(5) A cannabis production establishment may authorize an individual who is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment tracks and monitors the individual at all times while the
individual is at the cannabis production establishment and maintains a record of the individual's
access.

(6) A cannabis production establishment shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the cannabis production establishment; and

(ii) provides notice of an unauthorized entry to law enforcement when the cannabis
production establishment is closed; and

(c) a lock on any area where the cannabis production establishment stores cannabis or a
cannabis product.

Section 13. Section 4-41a-402, which is renumbered from Section 4-41b-402 is
renumbered and amended to read:

[4-41b-402]. 4-41a-402. Inspections.
The department may inspect the records and facility of a cannabis production
establishment at any time in order to determine if the cannabis production establishment
complies with the requirements of this chapter.

Section 14. Section 4-41a-403, which is renumbered from Section 4-41b-403 is
renumbered and amended to read:

[4-41b-403]. 4-41a-403. Advertising.

(1) A cannabis production establishment may not advertise to the general public in any
medium.

(2) Notwithstanding Subsection (1), a cannabis production establishment may advertise
employment opportunities at the cannabis production facility.

Section 15. Section 4-41a-404, which is renumbered from Section 4-41b-404 is
renumbered and amended to read:

[4-41b-404]. 4-41a-404. Cannabis, cannabis product, or medical cannabis
device transportation.

(1) Except for an individual with a valid medical cannabis card pursuant to Title 26,
Chapter [60b] 61a, Medical Cannabis Act, an individual may not transport cannabis, a cannabis
product, or a medical cannabis device unless the individual is:

(a) a registered cannabis production establishment agent; or
(b) a registered cannabis dispensary agent.

(2) Except for an individual with a valid medical cannabis card pursuant to Title 26, Chapter 61a, Medical Cannabis Act, an individual transporting cannabis, a cannabis product, or a medical cannabis device shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) In addition to the requirements in Subsections (1) and (2), the department may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical cannabis device that are related to safety for human cannabis or cannabis product consumption.

(4) An individual who transports cannabis, a cannabis product, or a medical cannabis device with a manifest that does not meet the requirements of this section is:

(a) guilty of an infraction; and

(b) subject to a $100 fine.

Section 16. Section 4-41a-405, which is renumbered from Section 4-41b-405 is renumbered and amended to read:

[4-41b-405]. 4-41a-405. Local control.

(1) A municipality or county may not enact a zoning ordinance that prohibits a cannabis production establishment from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis production establishment possesses, grows, manufactures, or sells cannabis.

(2) A municipality or county may not deny or revoke a permit or license to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates a law of the United States.

Section 17. Section 4-41a-501, which is renumbered from Section 4-41b-501 is renumbered and amended to read:

Part 5. Cannabis Cultivation Facility Operating Requirements
4-41a-501. Cannabis cultivation facility -- Operating requirements.

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible at the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the cannabis cultivation facility's inventory control system for:

(a) beginning at the time a cannabis plant is 8 inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis transferred to a cannabis dispensary, a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) disposal of excess, contaminated, or deteriorated cannabis.

Section 18. Section 4-41a-502, which is renumbered from Section 4-41b-502 is renumbered and amended to read:

4-41a-502. Cannabis -- Labeling and packaging.

(1) Cannabis shall have a label that:

(a) has a unique batch identification number that is connected to the inventory control system; and

(b) does not display images, words, or phrases that are intended to appeal to children.

(2) A cannabis cultivation facility shall package cannabis in a container that:

(a) is tamper evident;

(b) is not appealing to children or similar to a candy container;

(c) is opaque; and

(d) complies with child-resistant effectiveness standards established by the United States Consumer Product Safety Commission.

Section 19. Section 4-41a-601, which is renumbered from Section 4-41b-601 is renumbered and amended to read:

Part 6. Cannabis Processing Facility Operating Requirements

4-41a-601. Cannabis processing facility -- Operating requirements -- General.

(1) A cannabis processing facility shall ensure that a cannabis product sold by the
cannabis processing facility complies with the requirements of this part.

(2) If a cannabis processing facility extracts cannabinoids from cannabis using a hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a blast hood and shall use a system to reclaim solvents.

Section 20. Section 4-41a-602, which is renumbered from Section 4-41b-602 is renumbered and amended to read:

4-41a-602. Cannabis product -- Labeling and packaging.

(1) A cannabis product shall have a label that:

(a) clearly and unambiguously states that the cannabis product contains cannabis;

(b) clearly displays the amount of tetrahydrocannabinol and cannabidiol in the cannabis product;

(c) has a unique identification number that:

(i) is connected to the inventory control system; and

(ii) identifies the unique cannabis product manufacturing process by which the cannabis product was manufactured;

(d) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

(e) does not display images, words, or phrases that are intended to appeal to children; and

(f) discloses ingredients and possible allergens.

(2) A cannabis processing facility shall package a cannabis product in a container that:

(a) is tamper evident;

(b) is not appealing to children or similar to a candy container;

(c) is opaque; and

(d) complies with child-resistant effectiveness standards established by the United States Consumer Product Safety Commission.

Section 21. Section 4-41a-603, which is renumbered from Section 4-41b-603 is renumbered and amended to read:

4-41a-603. Cannabis product -- Product quality.

(1) A cannabis processing facility may not produce a cannabis product in a physical form that:
(a) is intended to appeal to children; or
(b) is designed to mimic or be mistaken for an existing candy product.
(2) A cannabis processing facility may not manufacture a cannabis product by applying
a cannabis agent only to the surface of a pre-manufactured food product that is not produced by
the cannabis processing facility.
(3) A cannabis product may vary in the cannabis product's labeled cannabis profile by
up to 15% of the indicated amount of a given cannabinoid, by weight.
(4) The department shall adopt, by rule made in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act, human safety standards for manufacture of cannabis
products that are consistent, to the extent possible, with rules for similar products that do not
contain cannabis.
Section 22. Section 4-41a-701, which is renumbered from Section 4-41b-701 is
renumbered and amended to read:
Part 7. Independent Cannabis Testing Laboratories
4-41a-701. Cannabis and cannabis product testing.
(1) No cannabis or cannabis product may be offered for sale at a cannabis dispensary
unless a representative sample of the cannabis or cannabis product has been tested by an
independent cannabis testing laboratory to determine:
(a) the amount of tetrahydrocannabinol and cannabidiol in the cannabis or cannabis
product;
(b) that the presence of contaminants, including mold, fungus, pesticides, microbial
contaminants, or foreign material, does not exceed an amount that is safe for human
consumption; and
(c) for a cannabis product that is manufactured using a process that involves extraction
using hydrocarbons, that the cannabis product does not contain an unhealthy level of a residual
solvent.
(2) The department may determine, by rule made in accordance with Title 63G,
Chapter 3, Utah Administrative Rulemaking Act, the amount of a substance described in
Subsection (1) that is safe for human consumption.
Section 23. Section 4-41a-702, which is renumbered from Section 4-41b-702 is
renumbered and amended to read:
(1) If an independent cannabis testing laboratory determines that the results of a lab test indicate that a cannabis or cannabis product batch may be unsafe for human consumption, the independent cannabis testing laboratory shall:

(a) report the results and the cannabis or cannabis product batch to:

(i) the department; and

(ii) the cannabis production establishment that prepared the cannabis or cannabis product batch;

(b) retain possession of the cannabis or cannabis product batch for one week in order to investigate the cause of the defective batch and to make a determination; and

(c) allow the cannabis production establishment that prepared the cannabis or cannabis product batch to appeal the determination described in Subsection (1)(b).

(2) If, under Subsection (1)(b), the department determines, following an appeal, that a cannabis or cannabis product prepared by a cannabis production establishment is unsafe for human consumption, the department may seize, embargo, or destroy the cannabis or cannabis product batch.

Section 24. Section 4-41a-801, which is renumbered from Section 4-41b-801 is renumbered and amended to read:

Part 8. Enforcement

(1) The department may, for a violation of this chapter by a person that is a cannabis production establishment or a cannabis production establishment agent:

(a) revoke the person's license or cannabis production establishment agent registration card;

(b) refuse to renew the person's license or cannabis production establishment agent registration card; or

(c) assess the person an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section in the general fund.

(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
production establishment or a cannabis production establishment agent:

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

(ii) the person produced cannabis or a cannabis product batch that contains a substance
that poses a threat to human health.

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

(i) issue the person a written citation;

(ii) attempt to negotiate a stipulated settlement;

(iii) seize, embargo, or destroy the cannabis or cannabis product batch; and

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

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

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

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

(5) The department may not revoke a cannabis production establishment's license
without first direct the cannabis production establishment to appear before an adjudicative
proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(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 department's final order.

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

(a) refuse to issue or renew the person's license or cannabis production establishment
agent registration card; or

(b) suspend, revoke, or place on probation the person's license or cannabis production
establishment registration card.
(8) If the department makes a final determination under this section that an individual violated a provision of this chapter, the individual is guilty of an infraction.

Section 25. Section 4-41a-802, which is renumbered from Section 4-41b-802 is renumbered and amended to read:

4-41a-802. Report.

(1) The department shall report annually to the Health and Human Services Interim Committee on the number of applications and renewal applications received, the number of each type of cannabis production facility licensed in each county, the amount of cannabis grown by licensees, the amount of cannabis manufactured into cannabis products by licensees, the number of licenses revoked, and the expenses incurred and revenues generated from the medical cannabis program.

(2) The department may not include personally identifying information in the report.

Section 26. Section 10-9a-104 is amended to read:

10-9a-104. Stricter requirements or higher standards.

(1) Except as provided in Subsection (2), a municipality may enact a land use regulation imposing stricter requirements or higher standards than are required by this chapter or by:

(a) Section 4-41a-405; or

(b) Section 26-61a-506.

(2) A municipality may not impose a requirement or standard that conflicts with a provision of this chapter, other state law, or federal law.

17-27a-104. Stricter requirements or higher standards.

(1) Except as provided in Subsection (2), a county may enact a land use regulation imposing stricter requirements or higher standards than are required by this chapter or by:
(a) Section 4-41a-405; or
(b) Section 26-61a-506.

(2) A county may not impose [stricter requirements or higher standards than are
required by:] a requirement or standard that conflicts with a provision of this chapter, other
state law, or federal law.

[(a) Section 4-41b-405;]
[(b) Section 17-27a-305;]
[(c) Section 17-27a-513; and]
[(d) Section 26-60b-506.]

Section 28. Section 26-36d-101 is enacted to read:

CHAPTER 36d. HOSPITAL PROVIDER ASSESSMENT ACT


26-36d-101. Title.
This chapter is known as the "Hospital Provider Assessment Act."

Section 29. Section 26-36d-102 is enacted to read:

26-36d-102. Legislative findings.
(1) The Legislature finds that there is an important state purpose to improve the access
of Medicaid patients to quality care in Utah hospitals because of continuous decreases in state
revenues and increases in enrollment under the Utah Medicaid program.
(2) The Legislature finds that in order to improve this access to those persons described
in Subsection (1):
(a) the rates paid to Utah hospitals shall be adequate to encourage and support
improved access; and
(b) adequate funding shall be provided to increase the rates paid to Utah hospitals
providing services pursuant to the Utah Medicaid program.

Section 30. Section 26-36d-103 is enacted to read:

26-36d-103. Definitions.
As used in this chapter:
(1) "Accountable care organization" means a managed care organization, as defined in
42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section
26-18-405.
(2) "Assessment" means the Medicaid hospital provider assessment established by this chapter.

(3) "Discharges" means the number of total hospital discharges reported on worksheet S-3 Part I, column 15, lines 12, 14, and 14.01 of the 2552-96 Medicare Cost Report or on Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare Cost Report for the applicable assessment year.

(4) "Division" means the Division of Health Care Financing of the department.

(5) "Hospital":

(a) means a privately owned:

(i) general acute hospital operating in the state as defined in Section 26-21-2; and

(ii) specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services; and

(b) does not include:

(i) a human services program, as defined in Section 62A-2-101;

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital; or

(iii) a hospital that is owned by the state government, a state agency, or a political subdivision of the state, including:

(A) a state-owned teaching hospital; and

(B) the Utah State Hospital.

(6) "Medicare cost report" means CMS-2552-96 or CMS-2552-10, the cost report for electronic filing of hospitals.

(7) "State plan amendment" means a change or update to the state Medicaid plan.

Section 31. Section 26-36d-201 is enacted to read:

Part 2. Application of Chapter

26-36d-201. Application of chapter.

(1) Other than for the imposition of the assessment described in this chapter, nothing in
this chapter shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under:

(a) Section 501(c), as amended, of the Internal Revenue Code;
(b) other applicable federal law;
(c) any state law;
(d) any ad valorem property taxes;
(e) any sales or use taxes; or
(f) any other taxes, fees, or assessments, whether imposed or sought to be imposed by the state or any political subdivision, county, municipality, district, authority, or any agency or department thereof.

(2) All assessments paid under this chapter may be included as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This chapter does not authorize a political subdivision of the state to:

(a) license a hospital for revenue;
(b) impose a tax or assessment upon hospitals; or
(c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 32. Section 26-36d-202 is enacted to read:


(1) A uniform, broad based, assessment is imposed on each hospital as defined in Subsection 26-36d-103(5)(a):

(a) in the amount designated in Section 26-36d-203; and
(b) in accordance with Section 26-36d-204.

(2) (a) The assessment imposed by this chapter is due and payable on a quarterly basis in accordance with Section 26-36d-204.

(b) The collecting agent for this assessment is the department which is vested with the administration and enforcement of this chapter, including the right to adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(i) implement and enforce the provisions of this act; and
(ii) audit records of a facility:

(A) that is subject to the assessment imposed by this chapter; and
(B) does not file a Medicare cost report.
The department shall forward proceeds from the assessment imposed by this chapter to the state treasurer for deposit in the expendable special revenue fund as specified in Section 26-36d-207.

(3) The department may, by rule, extend the time for paying the assessment.

Section 33. Section 26-36d-203 is enacted to read:

26-36d-203. Calculation of assessment.

(1) (a) An annual assessment is payable on a quarterly basis for each hospital in an amount calculated at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) The uniform assessment rate shall be determined using the total number of hospital discharges for assessed hospitals divided into the total non-federal portion in an amount consistent with Section 26-36d-205 that is needed to support capitated rates for accountable care organizations for purposes of hospital services provided to Medicaid enrollees.

(c) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed hospitals.

(d) The annual uniform assessment rate may not generate more than:

(i) $1,000,000 to offset Medicaid mandatory expenditures; and

(ii) the non-federal share to seed amounts needed to support capitated rates for accountable care organizations as provided for in Subsection (1)(b).

(2) (a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare Cost Report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file. The hospital's discharge data will be derived as follows:

(i) for state fiscal year 2013, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2009, and June 30, 2010;

(ii) for state fiscal year 2014, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2010, and June 30, 2011;

(iii) for state fiscal year 2015, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2011, and June 30, 2012;

(iv) for state fiscal year 2016, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2012, and June 30, 2013; and
(v) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years prior to the assessment fiscal year.

(b) If a hospital's fiscal year Medicare Cost Report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare Cost Report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(c) If a hospital is not certified by the Medicare program and is not required to file a Medicare Cost Report:

(i) the hospital shall submit to the division its applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (2)(c)(i); and

(iii) the failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

(3) Except as provided in Subsection (4), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

(4) Notwithstanding the requirement of Subsection (3), if multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 34. Section 26-36d-204 is enacted to read:

**26-36d-204. Quarterly notice -- Collection.**

Quarterly assessments imposed by this chapter shall be paid to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

Section 35. Section 26-36d-205 is enacted to read:

**26-36d-205. Medicaid hospital adjustment under accountable care organization**
To preserve and improve access to hospital services, the division shall, for accountable care organization rates effective on or after April 1, 2013, incorporate an annualized amount equal to $154,000,000 into the accountable care organization rate structure calculation consistent with the certified actuarial rate range.

Section 36. Section 26-36d-206 is enacted to read:

26-36d-206. Penalties and interest.

(1) A facility that fails to pay any assessment or file a return as required under this chapter, within the time required by this chapter, shall pay, in addition to the assessment, penalties and interest established by the department.

(2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which establish reasonable penalties and interest for the violations described in Subsection (1).

(b) If a hospital fails to timely pay the full amount of a quarterly assessment, the department shall add to the assessment:

(i) a penalty equal to 5% of the quarterly amount not paid on or before the due date; and

(ii) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(b)(i) are paid in full, an additional 5% penalty on:

(A) any unpaid quarterly assessment; and

(B) any unpaid penalty assessment.

(c) Upon making a record of its actions, and upon reasonable cause shown, the division may waive, reduce, or compromise any of the penalties imposed under this part.

Section 37. Section 26-36d-207 is enacted to read:

26-36d-207. Hospital Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under this chapter;

(b) any interest and penalties levied with the administration of this chapter; and

(c) any other funds received as donations for the fund and appropriations from other
sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection 26-36d-203(1)(d) for accountable care organizations; and

(b) to reimburse money collected by the division from a hospital through a mistake made under this chapter.

Section 38. Section 26-36d-208 is enacted to read:

26-36d-208. Repeal of assessment.

(1) The repeal of the assessment imposed by this chapter shall occur upon the certification by the executive director of the department that the sooner of the following has occurred:

(a) the effective date of any action by Congress that would disqualify the assessment imposed by this chapter from counting toward state Medicaid funds available to be used to determine the federal financial participation;

(b) the effective date of any decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government that has the effect of:

(i) disqualifying the assessment from counting towards state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creating for any reason a failure of the state to use the assessments for the Medicaid program as described in this chapter;

(c) the effective date of:

(i) an appropriation for any state fiscal year from the General Fund for hospital payments under the state Medicaid program that is less than the amount appropriated for state fiscal year 2012;

(ii) the annual revenues of the state General Fund budget return to the level that was appropriated for fiscal year 2008;

(iii) a division change in rules that reduces any of the following below July 1, 2011 payments:

(A) aggregate hospital inpatient payments;

(B) adjustment payment rates; or
(C) any cost settlement protocol; or
(iv) a division change in rules that reduces the aggregate outpatient payments below July 1, 2011 payments; and
(d) the sunset of this chapter in accordance with Section 63I-1-226.
(2) If the assessment is repealed under Subsection (1), money in the fund that was derived from assessments imposed by this chapter, before the determination made under Subsection (1), shall be disbursed under Section 26-36d-205 to the extent federal matching is not reduced due to the impermissibility of the assessments. Any funds remaining in the special revenue fund shall be refunded to the hospitals in proportion to the amount paid by each hospital.

Section 39. Section 26-61a-101, which is renumbered from Section 26-60b-101 is renumbered and amended to read:

CHAPTER 61a. MEDICAL CANNABIS ACT

26-61a-101. Title.
This chapter is known as "Medical Cannabis Act."

Section 40. Section 26-61a-102, which is renumbered from Section 26-60b-102 is renumbered and amended to read:

26-61a-102. Definitions.
As used in this chapter:
(1) "Cannabis" means the same as that term is defined in Section 58-37-3.9.
(2) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41b-102.
(3) "Cannabis dispensary" means a person that:
   (a) acquires or intends to acquire cannabis or a cannabis product from a cannabis production establishment and acquires or intends to acquire a medical cannabis device;
   (b) possesses cannabis, a cannabis product, or a medical cannabis device; and
   (c) sells or intends to sell cannabis, a cannabis product, or a medical cannabis device.
(4) "Cannabis dispensary agent" means an owner, officer, director, board member, employee, or volunteer of a cannabis dispensary.
(5) "Cannabis dispensary agent registration card" means a registration card issued by the department that authorizes an individual to act as a cannabis dispensary agent.
(6) "Cannabis processing facility" means the same as that term is defined in Section [4-41b-102] 4-41a-102.

(7) "Cannabis product" means the same as that term is defined in Section 58-37-3.9.

(8) "Cannabis production establishment agent" means the same as that term is defined in Section [4-41b-102] 4-41a-102.

(9) "Cannabis production establishment agent registration card" means the same as that term is defined in Section [4-41b-102] 4-41a-102.

(10) "Community location" means a public or private school, a church, a public library, a public playground, or a public park.

(11) "Designated caregiver" means an individual:

(a) whom a patient with a medical cannabis card designates as the patient's caregiver; and

(b) registers with the department under Section [26-60b-202] 26-61a-202.

(12) "Independent cannabis testing laboratory" means the same as that term is defined in Section [4-41b-102] 4-41a-102.

(13) "Inventory control system" means the system described in Section [4-41b-103] 4-41a-103.

(14) "Medical cannabis card" means an official card issued by the department to an individual with a qualifying illness, or the individual's designated caregiver under this chapter, that is connected to the electronic verification system.

(15) "Medical cannabis device" means the same as that term is defined in Section 58-37-3.9.

(16) "Medical Cannabis Restricted Account" means the account created in Section [26-60b-109] 26-61a-109.

(17) "Physician" means an individual who is qualified to recommend cannabis under Section [26-60b-107] 26-61a-107.

(18) "Qualifying illness" means a condition described in Section [26-60b-105] 26-61a-105.

(19) "State electronic verification system" means the system described in Section [26-60b-103] 26-61a-103.

Section 41. Section 26-61a-103, which is renumbered from Section 26-60b-103 is
1018 renumbered and amended to read:
1019
1019 [26-60b-103]. 26-61a-103. Electronic verification system.
1020 (1) The Department of Agriculture and Food, the Department of Health, the
1021 Department of Public Safety, and the Department of Technology Services shall:
1022 (a) enter into a memorandum of understanding in order to determine the function and
1023 operation of an electronic verification system;
1024 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
1025 Procurement Code, to develop a request for proposals for a third-party provider to develop and
1026 maintain an electronic verification system in coordination with the Department of Technology
1027 Services; and
1028 (c) select a third-party provider described in Subsection (1)(b).
1029 (2) The electronic verification system described in Subsection (1) shall:
1030 (a) allow an individual, with the individual's physician in the physician's office, to
1031 apply for a medical cannabis card;
1032 (b) allow a physician to electronically recommend, during a visit with a patient,
1033 treatment with cannabis or a cannabis product;
1034 (c) connect with an inventory control system used by a cannabis dispensary to track, in
1035 real time, and to archive for no more than 60 days, purchase history of cannabis or a cannabis
1036 product by a medical cannabis card holder, including the time and date of the purchase, the
1037 quantity and type of cannabis or cannabis product purchased, and any cannabis production
1038 establishment and cannabis dispensary associated with the cannabis or cannabis product;
1039 (d) provide access to the Department of Health and the Department of Agriculture and
1040 Food to the extent necessary to carry out the Department of Health's and the Department of
1041 Agriculture and Food's functions and responsibilities under this chapter and under Title 4,
1042 Chapter [41b] 41a, Cannabis Production [Establishment Establishments];
1043 (e) provide access to state or local law enforcement during a traffic stop for the purpose
1044 of determining if the individual subject to the traffic stop is complying with state medical
1045 cannabis law, or after obtaining a warrant;
1046 (f) create a record each time a person accesses the database that identifies the person
1047 who accessed the database and the individual whose records are accessed; and
1048 (g) [(9)] be operational no later than March 1, 2020.
(3) The Department of Health may release de-identified data collected by the system for the purpose of conducting medical research and for providing the report required by Section [26-60b-602] 26-61a-602.

Section 42. Section 26-61a-104, which is renumbered from Section 26-60b-104 is renumbered and amended to read:

[26-60b-104]. 26-61a-104. Preemption.
This chapter preempts any ordinance or rule enacted by a political subdivision of the state regarding a cannabis dispensary or a medical cannabis card.

Section 43. Section 26-61a-105, which is renumbered from Section 26-60b-105 is renumbered and amended to read:

[26-60b-105]. 26-61a-105. Qualifying illness.
(1) For the purposes of this chapter, the following conditions are considered a qualifying illness:

(a) HIV, acquired immune deficiency syndrome or an autoimmune disorder;
(b) Alzheimer's disease;
(c) amyotrophic lateral sclerosis;
(d) cancer, cachexia, or a condition manifest by physical wasting, nausea, or malnutrition associated with chronic disease;
(e) Crohn's disease, ulcerative colitis, or a similar gastrointestinal disorder;
(f) epilepsy or a similar condition that causes debilitating seizures;
(g) multiple sclerosis or a similar condition that causes persistent and debilitating muscle spasms;
(h) post-traumatic stress disorder;
(i) autism;
(j) a rare condition or disease that affects less than 200,000 persons in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and
(k) chronic or debilitating pain in an individual, if:
(i) a physician determines that the individual is at risk of becoming chemically dependent on, or overdosing on, opiate-based pain medication; or
(ii) a physician determines that the individual is allergic to opiates or is otherwise medically unable to use opiates.
In addition to the conditions described in Subsection (1), a condition approved under Section [26-60b-106] [26-61a-106], in an individual, on a case-by-case basis, is considered a qualifying illness for the purposes of this chapter.

Section 44. Section 26-61a-106, which is renumbered from Section 26-60b-106 is renumbered and amended to read:

[26-60b-106]. 26-61a-106. Compassionate Use Board.

(1) The department shall establish a Compassionate Use Board consisting of:

(a) five physicians who are knowledgeable about the medicinal use of cannabis and certified by the appropriate board in one of the following specialties: neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, and gastroenterology; and

(b) the director of the Department of Health or the director's designee as a non-voting member.

(2) (a) Two of the members of the board first appointed shall serve for a term of three years and two of the members of the board first appointed shall serve for a term of four years.

(b) After the first members' terms expire, members of the board shall serve for a term of four years and shall be eligible for reappointment.

(c) Any member of the board may serve until a successor is appointed.

(d) The director of the Department of Health or the director's designee shall serve as the chair of the board.

(3) A quorum of the Compassionate Use Board shall consist of three members.

(4) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Section 63A-3-106, Section 63A-3-107, and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend to the department approval for an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use if:

(i) the individual offers, in the board's discretion, satisfactory evidence that the individual suffers from a condition that substantially impairs the individual's quality of life and
is intractable; and

(ii) the board determines it is in the best interest of the patient to allow the

compassionate use of medical cannabis;

(b) meet to receive or review compassionate use petitions quarterly, unless no petitions
are pending, or as often as necessary if there are more petitions than the board can receive or
review during the board's regular schedule;

(c) complete a review of each petition and recommend approval or denial of the
applicant for qualification for a medical cannabis card within 90 days of receipt; and

(d) report, before November 1 of each year, to the Health and Human Services Interim
Committee, the number of compassionate use approvals the board issued during the past year
and the types of conditions for which the board approved compassionate use.

(6) The department shall review any compassionate use approved by the board under
this section to determine if the board properly exercised the board's discretion under this
section.

(7) If the department determines the board properly approved an individual for
compassionate use under this section, the department shall issue a medical cannabis card.

(8) Any individually identifiable health information contained in a petition received
under this section shall be a protected record in accordance with Title 63G, Chapter 2,
Government Records Access and Management Act.

(9) The Compassionate Use Board may recommend to the Health and Human Services
Interim Committee:

(a) a condition to designate as a qualifying illness under Section [26-60b-105]

26-61a-105; or

(b) a condition to remove as a qualifying illness under Section [26-60b-105]

26-61a-105.

Section 45. Section 26-61a-107, which is renumbered from Section 26-60b-107 is
renumbered and amended to read:


(1) For the purposes of this chapter, a physician means an individual, other than a
veterinarian, who is licensed to prescribe a controlled substance under Title 58, Chapter 37,
Utah Controlled Substances Act, and who possesses the authority, in accordance with the
individual's scope of practice, to prescribe Schedule II controlled substances.

(2) A physician may recommend cannabis if the physician recommends cannabis to no more than 20% of the physician's patients at any given time.

(3) A physician may recommend cannabis to greater than 20% of the physician's patients if the physician is certified, by the appropriate American medical board, in one of the following specialties: anesthesiology, gastroenterology, neurology, oncology, pain and palliative care, physiatry, or psychiatry.

(4) A physician may recommend cannabis to an individual under this chapter only in the course of a physician-patient relationship after the physician has completed a full assessment of the patient's condition and medical history.

(5) (a) Except as provided in Subsection (5)(b), a physician eligible to recommend cannabis or a cannabis product under this section may not advertise that the physician recommends cannabis or a cannabis product.

(b) A physician may advertise via a website that displays only:

(i) a green cross;

(ii) the location and hours of operation of the physician's office;

(iii) a qualifying illness that the physician treats; and

(iv) a scientific study regarding cannabis use.

Section 46. Section 26-61a-108, which is renumbered from Section 26-60b-108 is renumbered and amended to read:


A physician who recommends treatment with cannabis or a cannabis product to an individual in accordance with this chapter may not, based on the recommendation, be subject to civil liability, criminal liability, or licensure sanctions under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

Section 47. Section 26-61a-109, which is renumbered from Section 26-60b-109 is renumbered and amended to read:


(1) There is created in the General Fund a restricted account known as the "Medical
1173 Cannabis Restricted Account."
1174 (2) The account created in this section is funded from:
1175 (a) money deposited into the account by the Department of Agriculture and Food under
1176 Title 4, Chapter [41b] 41a, Cannabis Production Establishments;
1177 (b) money deposited into the account by the department under this chapter;
1178 (c) appropriations made to the account by the Legislature; and
1179 (d) the interest described in Subsection (3).
1180 (3) Interest earned on the account is deposited in the account.
1181 (4) Money in the account may only be used to fund the state medical cannabis program,
1182 including Title 26, Chapter [61a] 61a, Medical Cannabis Act and Title 4, Chapter [41b] 41a,
1183 Cannabis Production Establishments.

Section 48. Section 26-61a-110, which is renumbered from Section 26-60b-110 is
renumbered and amended to read:

[26-60b-110]. 26-61a-110. Nondiscrimination for use of cannabis, a
1187 cannabis product, or a medical cannabis device.
1188 (1) For purposes of medical care, including organ and tissue transplants, the use of
cannabis by a patient who holds a medical cannabis card in accordance with this chapter is
considered the equivalent of the authorized use of any other medication used at the discretion
of a physician and does not constitute the use of an illicit substance or otherwise disqualify an
individual from needed medical care.
1193 (2) No landlord may refuse to lease to and may not otherwise penalize a person solely
for the person's status as a medical cannabis card holder, unless failing to do so would cause
the landlord to lose a monetary or licensing-related benefit under federal law.

Section 49. Section 26-61a-201, which is renumbered from Section 26-60b-201 is
renumbered and amended to read:

Part 2. Medical Cannabis Card Registration

[26-60b-201]. 26-61a-201. Medical cannabis card -- Application -- Fees --
1200 Database.
1201 (1) The Department of Health shall, no later than March 1, 2020, and within 15 days
after an individual submits an application in compliance with this section, issue a medical
cannabis card to an individual who complies with this section.
(2) An individual is eligible for a medical cannabis card if:
(a) the individual is at least 18 years old, the individual is a Utah resident, and
treatment with medical cannabis has been recommended by the individual's physician under
Subsection (4); or
(b) the individual is the parent or legal guardian of a minor, the individual is at least 18
years old, the individual is a Utah resident, and treatment with medical cannabis has been
recommended by the minor's physician under Subsection (4).

(3) An individual who is eligible for a medical cannabis card under Subsection (2)
shall submit an application for a medical cannabis card to the department via an electronic
application connected to the electronic verification system, with the recommending physician
while in the recommending physician's office, and that includes the individual's name, gender,
age, and address.

(4) A physician who recommends treatment with medical cannabis to an individual or
minor shall:
(a) state in the physician's recommendation that the individual suffers from a qualifying
illness, including the type of qualifying illness, and that the individual may benefit from
treatment with cannabis or a cannabis product; and
(b) before recommending cannabis or a cannabis product, look up the individual in the
controlled substance database created in Section 58-37f-201.

(5) A medical cannabis card issued by the department under this section is valid for the
lesser of an amount of time determined by the physician or six months.

(6) An individual who has been issued a medical cannabis card under this section may:
(a) carry a valid medical cannabis card with the patient's name;
(b) purchase, possess, and transport, in accordance with this chapter, cannabis, a
cannabis product, or a medical cannabis device;
(c) use or assist with the use of medical cannabis or medical cannabis products to treat
the qualifying illness or symptoms associated with the qualifying illness of the person for
whom medical cannabis has been recommended; and
(d) after January 1, 2021, if a licensed cannabis dispensary is not operating within 100
miles of the medical cannabis card holder's primary residence, grow up to six cannabis plants
for personal medical use within an enclosed and locked space and not within view from a
public place and that is not within 600 feet of a community location or within 300 feet of an
area zoned exclusively for residential use, as measured from the nearest entrance to the space
and following the shortest route or ordinary pedestrian travel to the property boundary of the
community location or residential area.

(7) The department may establish procedures, by rule in accordance with Title 63G,
Chapter 3, Utah Administrative Rulemaking Act, to implement the medical cannabis card
application and issuance provisions of this section.

(8) (a) A person may submit, to the department, a request to conduct a medical research
study using medical cannabis cardholder data contained in the electronic verification system.

(b) The department shall review a request submitted under Subsection (8)(a) to
determine if the medical research study is valid.

(c) If the department determines that the medical research study is valid under
Subsection (8)(b), the department shall notify a relevant medical cannabis cardholder asking
for the medical cannabis cardholder's participation in the study.

(d) The department may release, for the purposes of a study, information about a
medical cannabis cardholder who consents to participation under Subsection (8)(c).

(e) The department may establish standards for a medical research study's validity, by
rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.


Section 50. Section 26-61a-202, which is renumbered from Section 26-60b-202 is
renumbered and amended to read:

[26-60b-202].  26-61a-202. Medical cannabis card --- Designated caregiver
-- Registration -- Renewal -- Revocation.

(1) An individual may designate up to two individuals to serve as designated caregivers
for the individual if:

(a) the individual has a valid medical cannabis card under Section [26-60b-201]

(b) a physician determines that, due to physical difficulty or undue hardship, the
individual needs assistance to obtain cannabis or a cannabis product from a cannabis
dispensary.

(2) An individual registered as a designated caregiver under this section may:

(a) carry a valid medical cannabis card with the designating patient's name and the
designated caregiver's name;

(b) purchase, possess, and transport, in accordance with this chapter, cannabis, a
cannabis product, or a medical cannabis device on behalf of the designating patient;

(c) accept reimbursement from the designating patient for direct costs incurred by the
designated caregiver for assisting with the designating patient's medicinal use of cannabis; and

d) after January 1, 2021, if a licensed cannabis dispensary is not operating within 100
miles of the designating patient's primary residence, assist the designating patient with growing
up to six cannabis plants for personal medicinal use within an enclosed and locked space and
not within view from a public place and that is not within 600 feet of a community location or
within 300 feet of an area zoned exclusively for residential use, as measured from the nearest
entrance to the space and following the shortest route or ordinary pedestrian travel to the
property boundary of the community location or residential area.

(3) The department shall, within 30 days after an individual submits an application in
compliance with this section, issue a medical cannabis card to an individual designated as a
caregiver under Subsection (1) and who complies with this section.

(4) An individual is eligible for a medical cannabis card as a designated caregiver if the
individual:

(a) is at least 18 years old;

(b) is a Utah resident;

(c) pays, to the department, a fee established by the department in accordance with
Section 63J-1-504, plus the cost of a criminal background check required by Section
26-61a-203; and

(d) has not been convicted of an offense that is a felony under either state or federal
law, unless any sentence imposed was completed seven or more years earlier.

(5) An individual who is eligible for a medical cannabis card as a designated caregiver
shall submit an application for a medical cannabis card to the department via an electronic
application connected to the electronic verification system and shall include the individual's
name, gender, age, and address and the name of the patient that designated the individual under
Subsection (1).

(6) A medical cannabis card issued by the department under this section is valid for the
lesser of an amount of time determined by the physician, by the patient, or 6 months.
(7) A medical cannabis card is renewable for a designated caregiver if, at the time of
renewal:
(a) the individual with a medical cannabis card described in Subsection (1) renews the
caregiver's designation; and
(b) the designated caregiver meets the requirements of Subsection (4).
(8) A designated caregiver may not charge an individual a fee to act as the individual's
designated caregiver or for services provided.
(9) The Department of Health may revoke a designated caregiver's medical cannabis
card if the individual:
(a) violates this chapter; or
(b) is convicted of an offense that is a felony under either state or federal law.

Section 51. Section 26-61a-203, which is renumbered from Section 26-60b-203 is
renumbered and amended to read:

26-61a-203. Designated caregiver -- Criminal background check.
(1) An individual registered as a designated caregiver under Section 26-60b-202 shall submit to a criminal background check in accordance with Subsection (2).
(2) Each designated caregiver shall:
(a) submit, to the department, a fingerprint card in a form acceptable to the department
and the Department of Public Safety; and
(b) consent to a fingerprint background check by:
(i) the Utah Bureau of Criminal Identification; and
(ii) the Federal Bureau of Investigation.
(3) The Department of Public Safety shall complete a Federal Bureau of Investigation
Criminal Background Check for each designated caregiver under Subsection (2) and report the
results of the background check to the department.

Section 52. Section 26-61a-204, which is renumbered from Section 26-60b-204 is
renumbered and amended to read:

26-61a-204. Medical cannabis card -- Patient and designated
caregiver requirements -- Rebuttable presumption.
(1) An individual who has a medical cannabis card and who possesses cannabis or a
cannabis product outside of the individual's residence shall:

(a) carry, with the individual at all times, the individual's medical cannabis card;
(b) carry, with the cannabis or cannabis product, a label that identifies that the cannabis
or cannabis product was originally sold from a licensed cannabis dispensary and includes an
identification number that links the cannabis or cannabis product to the inventory control
system; and
(c) possess not more than four ounces of unprocessed cannabis or an amount of
cannabis product that contains 20 or fewer grams of tetrahydrocannabinol or cannabidiol.

(2) (a) Except as described in Subsection (2)(b), an individual who has a medical
cannabis card may not use cannabis or a cannabis product in public view.
(b) An individual may use cannabis or a cannabis product in public view in the event of
a medical emergency.

(3) If an individual possesses cannabis or a cannabis product in compliance with
Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis
product:
(a) there is a rebuttable presumption that the individual possesses the cannabis,
cannabis product, or medical cannabis device legally; and
(b) a law enforcement officer does not have probable cause, based solely on the
individual's possession of the cannabis, cannabis product, or medical cannabis device, to
believe that the individual is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis, a
cannabis product, or a medical cannabis device, and the individual represents to the law
enforcement officer that the individual holds a valid medical cannabis card, but the individual
does not have the medical cannabis card in the individual's possession at the time of the stop by
the law enforcement officer, the law enforcement officer shall attempt to access the electronic
verification system to determine whether the individual holds a valid medical cannabis card.
(b) If the law enforcement officer is able to verify that the individual described in
Subsection (4)(a) holds a valid medical cannabis card, the law enforcement officer:
(i) may not arrest or take the individual into custody for the sole reason that the
individual is in possession of cannabis, a cannabis product, or a medical cannabis device; and
(ii) may not seize the cannabis, cannabis product, or medical cannabis device.
An individual who possesses cannabis, a cannabis product, or a medical cannabis device in violation of Subsection (1)(a) or Subsection 1(b) is guilty of an infraction and subject to a $100 fine.

Section 53. Section 26-61a-301, which is renumbered from Section 26-60b-301 is renumbered and amended to read:

Part 3. Cannabis Dispensary License

26-61a-301. Cannabis dispensary -- License -- Eligibility.

(1) A person may not operate as a cannabis dispensary without a license issued by the department issued under this part.

(2) Subject to Subsections (5) and to Section 26-60b-304, the department shall, within 90 business days after receiving a complete application, issue a license to operate a cannabis dispensary to a person who submits to the department:

(a) a proposed name and address where the person will operate the cannabis dispensary that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area;

(b) the name and address of any individual who has a financial or voting interest of two percent or greater in the proposed cannabis dispensary or who has the power to direct or cause the management or control of a proposed cannabis production establishment;

(c) financial statements demonstrating that the person possesses a minimum of $250,000 in liquid assets available for each application submitted to the department;

(d) an operating plan that complies with Section 26-60b-303 and that includes operating procedures to comply with the operating requirements for a cannabis dispensary described in this chapter and with any laws adopted by the municipality or county that are consistent with Section 26-60b-506;

(e) if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis dispensary is in compliance with the restrictions;

(f) if the municipality or county where the proposed cannabis dispensary would be located requires a local permit or license, a copy of the application for the local permit or
license; and

(g) an application fee established by the department in accordance with Section 63J-1-504 that is necessary to cover the department's cost to implement this part;[;]

[(4)] (3) If the department determines that a cannabis dispensary is eligible for a license under this section, the department shall charge the cannabis dispensary an initial license fee in an amount determined by the department in accordance with Section 63J-1-504.

[(5)] (4) The department may not issue a license to operate a cannabis dispensary to an applicant if any individual who has a financial or voter interest of two percent or greater in the cannabis dispensary applicant or who has power to direct or cause the management or control of the applicant:

(a) has been convicted of an offense that is a felony under either state or federal law; or

(b) is less than 21 years of age.

[(6)] (5) The department may revoke a license under this part if the cannabis dispensary is not operating within one year of the issuance of the initial license.

[(7)] (6) The department shall deposit the proceeds of a fee imposed by this section in the Medical Cannabis Restricted Account.

[(8)] (7) The department shall begin accepting applications under this part no later than March 1, 2020.

Section 54. Section 26-61a-302, which is renumbered from Section 26-60b-302 is renumbered and amended to read:

[26-60b-302.  26-61a-302. Renewal.]

(1) Except as provided in Subsection (3), the department shall renew a person's license under this part every two years if, at the time of renewal:

(a) the person meets the requirements of Section [26-60b-301] 26-61a-301; and

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

(2) (a) If a licensed cannabis dispensary abandons the cannabis dispensary's license, the department shall publish notice of an available license in a newspaper of general circulation for the geographic area in which the cannabis dispensary license is available or on the Utah Public Notice Website established in Section 63F-1-701.

(b) The department may establish criteria, in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act, for what actions by a cannabis dispensary constitute abandonment of a cannabis dispensary license.

Section 55. Section 26-61a-303, which is renumbered from Section 26-60b-303 is renumbered and amended to read:


(1) A person applying for a cannabis dispensary license shall submit to the department a proposed operation plan for the cannabis dispensary that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

[b] a description of the credentials and experience of:

(i) each officer, director, or owner of the proposed cannabis dispensary; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis dispensary's employee training standards;

(d) a security plan; and

(e) a description of the cannabis dispensary's inventory control system, including a plan to make the inventory control system compatible with the electronic verification system.

Section 56. Section 26-61a-304, which is renumbered from Section 26-60b-304 is renumbered and amended to read:

[26-60b-304]. 26-61a-304. Maximum number of licenses.

(1) The department may not issue more than the greater of, in each county in the state:

(a) one cannabis dispensary license; or

(b) an amount of cannabis dispensary licenses equal to the number of residents in the county divided by 150,000, rounded up to the nearest greater whole number.

(2) If there are more qualified applicants than there are available licenses for cannabis dispensaries, the department shall evaluate the applicants and award the license to the applicant that best demonstrates:

(a) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(b) an operating plan that will best ensure the safety and security of patrons and the
community;
(c) positive connections to the local community;
(d) the suitability of the proposed location and its accessibility for qualifying patients;
and
(e) the extent to which the applicant can reduce the cost of cannabis or cannabis
products for patients.
(3) The department may conduct a face-to-face interview with an applicant for a
license that the department evaluates under Subsection (2).
Section 57. Section 26-61a-401, which is renumbered from Section 26-60b-401 is
renumbered and amended to read:

Part 4. Cannabis Dispensary Agents

26-61a-401. Cannabis dispensary agent -- Registration.
(1) An individual may not serve as a cannabis dispensary agent of a cannabis
dispensary unless the individual is registered by the department as a cannabis dispensary agent.
(2) A physician may not act as a cannabis dispensary agent.
(3) The department shall, within 15 days after receiving a complete application from a
cannabis dispensary on behalf of a prospective cannabis dispensary agent, register and issue a
cannabis dispensary agent registration card to an individual who:
(a) provides to the department the individual's name and address and the name and
location of the licensed cannabis dispensary where the individual seeks to act as the cannabis
dispensary agent; and
(b) pays a fee to the department, in an amount determined by the department in
accordance with Section 63J-1-504, that is necessary to cover the department's cost to
implement this part.
(4) The department shall designate, on an individual's cannabis dispensary agent
registration card, the name of the cannabis dispensary where the individual is registered as an
agent.
(5) A cannabis dispensary agent shall comply with a certification standard developed
by the department, or a third party certification standard designated by the department, by rule
made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(6) The certification standard described in Subsection (5) shall include training in:
(a) Utah medical cannabis law; and
(b) cannabis dispensary best practices.
(7) The department may revoke or refuse to issue the cannabis dispensary agent registration card of an individual who:
(a) violates the requirements of this chapter; or
(b) is convicted of an offense that is a felony under state or federal law.
Section 58. Section 26-61a-402, which is renumbered from Section 26-60b-402 is renumbered and amended to read:

(1) Each applicant shall submit, at the time of application, from each individual who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
(a) a fingerprint card in a form acceptable to the department; and
(b) consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation.
(2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each individual described in Subsection (1).
Section 59. Section 26-61a-403, which is renumbered from Section 26-60b-403 is renumbered and amended to read:

(1) A cannabis dispensary agent who is registered with the department under [section][26-60b-401] Section 26-61a-401 shall carry the individual's cannabis dispensary agent registration card with the individual at all times when:
(a) the individual is on the premises of a cannabis dispensary; and
(b) the individual is transporting cannabis, a cannabis product, or a medical cannabis device between two cannabis production establishments or between a cannabis production establishment and a cannabis dispensary.
(2) If an individual handling cannabis, a cannabis product, or a medical cannabis
device at a cannabis dispensary, or transporting cannabis, a cannabis product, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

(a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) a law enforcement officer does not have probable cause, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) An individual who violates Subsection (1) is:

(a) guilty of an infraction; and

(b) is subject to a $100 fine.

Section 60. Section 26-61a-501, which is renumbered from Section 26-60b-501 is renumbered and amended to read:

Part 5. Cannabis Dispensary Operation


(1) (a) A cannabis dispensary shall operate in accordance with the operating plan provided to the department under Section 26-61a-303.

(b) A cannabis dispensary shall notify the department before a change in the cannabis dispensary's operating plan.

(2) A cannabis dispensary shall operate:

(a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis dispensary agent registration card or a medical cannabis card; and

(b) at the physical address provided to the department under Section 26-61a-301.

(3) A cannabis dispensary may not employ any person who is younger than 21 years of age.

(4) A cannabis dispensary shall conduct a background check into the criminal history of every person who will become an agent of the cannabis dispensary and may not employ any person who has been convicted of an offense that is a felony under either state or federal law.

(5) A cannabis dispensary may authorize an individual who is not a cannabis
dispensary agent to access the cannabis dispensary if the cannabis dispensary tracks and
monitors the individual at all times while the individual is at the cannabis dispensary and
maintains a record of the individual's access.

(6) A cannabis dispensary shall operate in a facility that has:
   (a) a single, secure public entrance;
   (b) a security system with a backup power source that:
       (i) detects and records entry into the cannabis dispensary; and
       (ii) provides notice of an unauthorized entry to law enforcement when the cannabis
dispensary is closed; and
   (c) a lock on any area where the cannabis dispensary stores cannabis or a cannabis
product.

(7) A cannabis dispensary shall post, clearly and conspicuously in the cannabis
dispensary, the limit on the purchase of cannabis described in Subsection [26-60b-502(3)]
26-61a-502(3).

(8) A cannabis dispensary may not allow any individual to consume cannabis on the
property or premises of the cannabis dispensary.

(9) A cannabis dispensary may not sell cannabis or a cannabis product without first
indicating on the cannabis or cannabis product label the name of the cannabis dispensary.

Section 61. Section 26-61a-502, which is renumbered from Section 26-60b-502 is
renumbered and amended to read:

26-61a-502. Dispensing -- Amount a cannabis dispensary
may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) A cannabis dispensary may only sell, subject to this chapter:
   (a) cannabis;
   (b) a cannabis product;
   (c) a medical cannabis device; or
   (d) educational materials related to the medical use of cannabis.

(2) A cannabis dispensary may only sell the items listed in Subsection (1) to an
individual with a medical cannabis card issued by the department.

(3) A cannabis dispensary may not dispense on behalf of any one individual with a
medical cannabis card, in any one 14-day period:
(a) an amount of unprocessed cannabis that exceeds two ounces by weight; or
(b) an amount of cannabis products that contains, in total, greater than 10 grams of tetrahydrocannabinol or cannabidiol.

(4) An individual with a medical cannabis card may not purchase more cannabis or cannabis products than the amounts designated in Subsection (3) in any one 14-day period.

(5) A cannabis dispensary shall:
(a) access the electronic verification system before dispensing cannabis or a cannabis product to an individual with a medical cannabis card in order to determine if the individual has met the maximum amount of cannabis or cannabis products described in Subsection (3); and
(b) submit a record to the electronic verification system each time the cannabis dispensary dispenses cannabis or a cannabis product to an individual with a medical cannabis card.

(6) (a) Except as provided in Subsection (6)(b), a cannabis dispensary may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.
(b) A cannabis dispensary may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(7) A cannabis dispensary may give to an individual with a medical cannabis card, at no cost, a product that the cannabis dispensary is allowed to sell under Subsection (1).
advertise in any medium.

(2) A cannabis dispensary may use signage on the outside of the cannabis dispensary that includes only:

(a) the cannabis dispensary's name and hours of operation; and
(b) a green cross.

(3) A cannabis dispensary may maintain a website that includes information about:

(a) the location and hours of operation of the cannabis dispensary;
(b) the products and services available at the cannabis dispensary;
(c) personnel affiliated with the cannabis dispensary;
(d) best practices that the cannabis dispensary upholds; and
(e) educational materials related to the medical use of cannabis.

Section 64. Section 26-61a-505, which is renumbered from Section 26-60b-505 is renumbered and amended to read:

[26-60b-505]. 26-61a-505. Cannabis, cannabis product, or medical cannabis device transportation.

(1) Except for an individual with a valid medical cannabis card, an individual may not transport cannabis, a cannabis product, or a medical cannabis device unless the individual is:

(a) a registered cannabis production establishment agent; or
(b) a registered cannabis dispensary agent.

(2) Except for an individual with a valid medical cannabis card, an individual transporting cannabis, a cannabis product, or a medical cannabis device shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;
(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device the individual is transporting; and
(c) indicates the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) In addition to the requirements in Subsections (1) and (2), the department may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical cannabis device.
cannabis device that are related to safety for human cannabis or cannabis product consumption.

(4) An individual who transports cannabis, a cannabis product, or a medical cannabis device with a manifest that does not meet the requirements of Subsection (2) is:

(a) guilty of an infraction; and

(b) subject to a $100 fine.

Section 65. Section 26-61a-506, which is renumbered from Section 26-60b-506 is renumbered and amended to read:

26-61a-506. Local control.

(1) A municipality or county may not enact a zoning ordinance that prohibits a cannabis dispensary from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis dispensary is a cannabis dispensary.

(2) A municipality or county may not deny or revoke a permit or license to operate a cannabis dispensary on the sole basis that the applicant or cannabis dispensary violates a law of the United States.

(3) A municipality or county may enact ordinances not in conflict with this chapter governing the time, place, and manner of cannabis dispensary operations in the municipality or county.

Section 66. Section 26-61a-601, which is renumbered from Section 26-60b-601 is renumbered and amended to read:

Part 6. Enforcement

26-61a-601. Enforcement -- Fine -- Citation.

(1) The department may, for a violation of this chapter by a person who is a cannabis dispensary or cannabis dispensary agent:

(a) revoke the person's license or cannabis dispensary agent registration card;

(b) refuse to renew the person's license or cannabis dispensary agent registration card;

or

(c) assess the person an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section [in the general fund] into the General Fund.

(3) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section:
(a) assess the person a fine, established in accordance with Section 63J-1-504, of up to $5,000 per violation, in accordance with a fine schedule established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

(4) The department may not revoke a cannabis dispensary's license without first directing the cannabis dispensary to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues 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 department's final order.

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

(a) refuse to issue or renew the person's license or cannabis dispensary agent registration card; or

(b) suspend, revoke, or place on probation the person's license or cannabis dispensary agent registration card.

(7) If the department makes a final determination under this section that an individual violated a provision of this chapter, the individual is guilty of an infraction.

Section 67. Section 26-61a-602, which is renumbered from Section 26-60b-602 is renumbered and amended to read:


(1) The department shall report annually to the Health and Human Services Interim Committee on the number of applications and renewal applications filed for medical cannabis cards, the number of qualifying patients and designated caregivers, the nature of the debilitating medical conditions of the qualifying patients, the age and county of residence of cardholders, the number of medical cannabis cards revoked, the number of practitioners providing recommendations for qualifying patients, the number of license applications and renewal license applications received, the number of licenses issued in each county, the number of licenses revoked, and the expenses incurred and revenues generated from the medical cannabis program.

(2) The department may not include personally identifying information in the report.
Section 68. Section 30-3-10 is amended to read:

30-3-10. Custody of children in case of separation or divorce -- Custody consideration.

1. If a husband and wife married couple having one or more children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

2. In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either the mother or father parent solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:

   a. the past conduct and demonstrated moral standards of each of the parties;
   b. which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent;
   c. the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child;
   d. whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; and
   e. those factors outlined in Section 30-3-10.2.

There shall be a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

   a. domestic violence in the home or in the presence of the child;
   b. special physical or mental needs of a parent or child, making joint legal custody unreasonable;
   c. physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or
   d. any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.
(d) The children may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(e) The court may inquire of a child and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the custody or parent-time otherwise. The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) If an interview with a child is conducted by the court pursuant to Subsection (1)(e), the interview shall be conducted by the judge in camera. The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.

(4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing specific findings that:

(i) the disability significantly or substantially inhibits the parent's
ability to provide for the physical and emotional needs of the child at issue; and
(ii) the parent with a disability [has lacks] sufficient human, monetary, or other
resources available to supplement the parent's ability to provide for the physical and emotional
needs of the child at issue.
(c) Nothing in this section may be construed to apply to adoption proceedings under
Title 78B, Chapter 6, Part 1, Utah Adoption Act.
(5) This section establishes neither a preference nor a presumption for or against joint
physical custody or sole physical custody, but allows the court and the family the widest
discretion to choose a parenting plan that is in the best interest of the child.
(6) When an issue before the court involves custodial responsibility in the event of a
deployment of one or both parents who are servicemembers, and the servicemember has not yet
been notified of deployment, the court shall resolve the issue based on the standards in Sections
78B-20-306 through 78B-20-309.
[(6)] (7) In considering the past conduct and demonstrated moral standards of each of
the parties as described under Subsection (1)(a)(i), a court may not discriminate against a
parent because of the parent's possession or consumption of cannabis, a cannabis product, or a
medical cannabis device, in accordance with Title 26, Chapter [60b] 61a, Medical Cannabis
Act, or because of the parent's status as a cannabis production establishment agent in
accordance with Title 4, Chapter [41b] 41a, Cannabis Production Establishments, a cannabis
dispensary agent in accordance with Title 26, Chapter [60b] 61a, Medical Cannabis Act, or a
medical cannabis card holder in accordance with Title 26, Chapter [60b] 61a, Medical
Cannabis Act.

Section 69. Section 58-20b-101 is enacted to read:

CHAPTER 20b. ENVIRONMENTAL HEALTH SCIENTIST ACT


58-20b-101. Title.
This chapter is known as the "Environmental Health Scientist Act."

Section 70. Section 58-20b-102 is enacted to read:

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Accredited program" means a degree-offering program from:
an institution, college, or university that is accredited by the Department of
Education or the Council for Higher Education Accreditation; or

(b) a non-accredited institution, college, or university that offers education equivalent
to Department of Education-accredited programs, as determined by a third party selected by the
board.

(2) "Board" means the Environmental Health Scientist Board created in Section
58-20b-201.

(3) "General supervision" means the supervising environmental health scientist is
available for immediate voice communication with the person he or she is supervising.

(4) "Practice of environmental health science" means:

(a) the enforcement of, the issuance of permits required by, or the inspection for the
purpose of enforcing state and local public health laws in the following areas:

(i) air quality;

(ii) food quality;

(iii) solid, hazardous, and toxic substances disposal;

(iv) consumer product safety;

(v) housing;

(vi) noise control;

(vii) radiation protection;

(viii) water quality;

(ix) vector control;

(x) drinking water quality;

(xi) milk sanitation;

(xii) rabies control;

(xiii) public health nuisances;

(xiv) indoor clean air regulations;

(xv) institutional and residential sanitation; or

(xvi) recreational facilities sanitation; or

(b) representing oneself in any manner as, or using the titles "environmental health
scientist," "environmental health scientist-in-training," or "registered sanitarian."

(5) "Unlawful conduct" means the same as that term is defined in Section 58-1-501.
Section 71. Section 58-20b-201 is enacted to read:

**Part 2. Board**

**58-20b-201. Board.**

(1) There is created the Environmental Health Scientist Board consisting of four environmental health scientists in good standing and one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in the investigation of the complaint is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 72. Section 58-20b-301 is enacted to read:

**Part 3. Licensing**

**58-20b-301. Licensure required -- License classifications.**

(1) A person shall hold a license under this chapter in order to engage in the practice of environmental health science while employed by any of the following, except as specifically exempted in Section 58-20b-305 or 58-1-307:

(a) a local health department;

(b) the state Department of Health;

(c) the state Department of Human Services;

(d) the Department of Agriculture and Food as a food and dairy compliance officer; or

(e) a local health department as its director of environmental health services.

(2) Any other individual not subject to Subsection (1) may also be licensed under this chapter upon compliance with all requirements.

(3) The division shall issue to persons who qualify under this chapter a license in the
Section 73. Section 58-20b-302 is enacted to read:


(1) Except as provided in Subsection (2), an applicant for licensure as an environmental health scientist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;

(e) pass an examination as determined by division rule in collaboration with the board; and

(f) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division.

(2) An applicant for licensure as an environmental health scientist-in-training shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;

(e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and

(f) present evidence acceptable to the division and the board that the applicant, when licensed, will practice as an environmental health scientist-in-training only under the general supervision of a supervising environmental health scientist licensed under this chapter.

Section 74. Section 58-20b-303 is enacted to read:


(1) (a) The division shall issue each license for an environmental health scientist in accordance with a two-year renewal cycle established by rule.
(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) Each license for an environmental health scientist-in-training shall be issued for a term of two years and may not be renewed.

(3) Each license issued under this chapter automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Section 75. Section 58-20b-304 is enacted to read:


Each person holding a license under this chapter as an environmental health scientist or an environmental health scientist-in-training shall complete in each two-year period of licensure not fewer than 30 hours of professional continuing education in accordance with standards defined by division rule.

Section 76. Section 58-20b-305 is enacted to read:

58-20b-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, a person is exempt from the licensure requirements of this chapter if:

(1) the person's practice of environmental health science is limited to inspecting in order to enforce compliance with an inspection and maintenance program established pursuant to Section 41-6a-1642 or to issuing permits under that program;

(2) the person is a laboratory staff person employed by the Department of Agriculture and Food or the Department of Health, and in the person's employment inspects, permits, certifies, or otherwise enforces laboratory standards in laboratories regulated by state or local public health laws; or

(3) the person is the local health officer of a local public health department, which employs a director of environmental health services licensed under this chapter.

Section 77. Section 58-20b-401 is enacted to read:

Part 4. License Denial and Discipline


Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and
desist order shall be in accordance with Section 58-1-401.

Section 78. Section 58-20b-501 is enacted to read:

Part 5. Unprofessional Conduct


"Unprofessional conduct" includes:

(1) acting dishonestly or fraudulently in the performance of professional duties as an environmental health scientist or environmental health scientist-in-training;

(2) intentionally filing a false report or record in the performance of professional duties as an environmental health scientist or environmental health scientist-in-training; and

(3) willfully impeding or obstructing another person from filing a report in the performance of professional duties as an environmental health scientist or environmental health scientist-in-training.

Section 79. Section 58-37-3.7 is amended to read:


(1) Before July 1, 2020, it is an affirmative defense to criminal charges against an individual for the use, possession, or manufacture of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter that the individual would be eligible for a medical cannabis card, and that the individuals conduct would have been lawful, after July 1, 2020.

(2) It is an affirmative defense to criminal charges against an individual for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) the individual is a not a resident of Utah or has been a resident of Utah for less than 45 days and was issued a currently valid medical cannabis identification card or its equivalent under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(b) the individual has been diagnosed with a qualifying illness as described in Section 26-61a-105.

(3) A court shall, for charges that the court dismisses under Subsection (1) or (2), dismiss the charges without prejudice.

Section 80. Section 58-37-3.9 is amended to read:
58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.
(b) "Cannabis dispensary" means the same as that term is defined in Section [26-60b-102] 26-61a-102.

(c) "Cannabis product" means a product that:
(i) is intended for human ingestion; and
(ii) contains cannabis or tetrahydrocannabinol.
(d) "Designated caregiver" means the same as that term is defined in Section [26-60b-102] 26-61a-102.

(e) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
(f) "Marijuana" means the same as that term is defined in Section 58-37-2.
(g) "Medical cannabis card" means the same as that term is defined in Section [26-60b-102] 26-61a-102.

(h) (i) "Medical cannabis device" means a device that an individual uses to ingest cannabis or a cannabis product.
(ii) "Medical cannabis device" does not include a device that facilitates cannabis combustion at a temperature of greater than 750 degrees Fahrenheit.
(i) "Qualifying illness" means the same as that term is defined in Section 26-60b-102.
(j) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual who possesses, produces, manufactures, dispenses, distributes, sells, or offers to sell cannabis or a cannabis product or who possesses with intent to produce, manufacture, dispense, distribute, sell, or offer to sell cannabis or a cannabis product is not subject to the penalties described in this title for the conduct to the extent that the individual's conduct complies with:

(i) Title 4, Chapter [41b] 41a, Cannabis Production [Establishment] Establishments; and
1979     (ii) Title 26, Chapter [60b] 61a, Medical Cannabis Act; and
1980     (b) an individual who possesses, manufactures, distributes, sells, or offers to sell a
1981 medical cannabis device or who possesses with intent to manufacture, distribute, sell, or offer
1982 to sell a medical cannabis device is authorized and is not subject to the penalties described in
1983 this title for the possession, manufacture, distribution, sale, or offer for sale of drug
1984 paraphernalia to the extent that the individual's conduct complies with:
1985     (i) Title 4, Chapter [41a] 41a, Cannabis Production Establishments; and
1986     and
1987     (ii) Title 26, Chapter [60b] 61a, Medical Cannabis Act.
1988     (3) For purposes of state law, except as otherwise provided in this section, activities
1989 related to cannabis shall be considered lawful and any cannabis consumed shall be considered
1990 legally ingested, as long as the conduct is in accordance with:
1991     (a) Title 4, Chapter [41a] 41a, Cannabis Production Establishments; and
1992     (b) Title 26, Chapter [60b] 61a, Medical Cannabis Act.
1993     (4) It is not lawful for a medical cannabis card holder to smoke cannabis or to use a
1994 device to facilitate the smoking of cannabis. An individual convicted of violating this section is
1995 guilty of an infraction. For purposes of this section, smoking does not include a means of
1996 administration that involves cannabis combustion at a temperature that is not greater than 750
1997 degrees Fahrenheit and that does not involve using a flame.
1998     (5) An individual is not exempt from the penalties described in this title for ingesting
1999 cannabis or a cannabis product while operating a motor vehicle.
2000     (6) An individual who is assessed a penalty or convicted of an infraction under Title 4,
2001 Chapter [41a] 41a, Cannabis Production Establishments, or Title 26, Chapter
2002 [60b] 61a, Medical Cannabis Act, is not subject to the penalties described in this chapter for:
2003     (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis
2004 product; or
2005     (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.
2006 Section 81. Section 59-12-104.10 is enacted to read:
2007 59-12-104.10. Exemption from sales tax for medical cannabis.
2008     (1) As used in this section:
2009     (a) "Cannabis" means the same as that term is defined in Section 58-37-3.8.
(b) "Cannabis dispensary" means the same as that term is defined in Section 26-61a-102.

(c) "Cannabis product" means the same as that term is defined in Section 58-37-3.8.

(d) "Medical cannabis device" means the same as that term is defined in Section 58-37-3.8.

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

Section 82. 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 cannabis, a cannabis product, or a medical cannabis device in the home, if the use and possession of the cannabis, cannabis product, or medical cannabis device is in compliance with Title 26, Chapter 61a, Medical Cannabis Act.

(2) A child welfare worker within the division may take action under Subsection [(10)](1) accompanied by a peace officer, or without a peace officer when a peace officer is not reasonably available.

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

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

(4) (a) A child removed or taken into custody under this section may not be placed or kept in a secure detention facility pending court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.
(b) A child removed from the custody of the child's parent or guardian but who does not require physical restriction shall be given temporary care in:
(i) a shelter facility; or
(ii) an emergency placement in accordance with Section 62A-4a-209.
(c) When making a placement under Subsection (4)(b), the Division of Child and Family Services shall give priority to a placement with a noncustodial parent, relative, or friend, in accordance with Section 62A-4a-209.
(d) If the child is not placed with a noncustodial parent, a relative, or a designated friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor explaining why a different placement was in the child's best interest.

(5) When a child is removed from the child's home or school or taken into protective custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:
(a) the parent's rights under this part, including the right to be present and participate in any court proceeding relating to the child's case;
(b) that it may be in the parent's best interest to contact an attorney and that, if the parent cannot afford an attorney, the court will appoint one;
(c) the name and contact information of a division employee the parent may contact with questions;
(d) resources that are available to the parent, including:
(i) mental health resources;
(ii) substance abuse resources; and
(iii) parenting classes; and
(e) any other information considered relevant by the division.

(6) The pamphlet or flier described in Subsection (5) shall be:
(a) evaluated periodically for its effectiveness at conveying necessary information and revised accordingly;
(b) written in simple, easy-to-understand language; and
(c) available in English and other languages as the division determines to be appropriate and necessary.

Section 83. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.
(1) Section 26-1-40 is repealed July 1, 2019.
[(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.]
(2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.
[(3) Section 26-10-11 is repealed July 1, 2020.]
(3) Section 26-21-23, Licensing of non-Medicaid nursing facility beds, is repealed July 1, 2018.]
(4) Subsection 26-18-417(3) is repealed July 1, 2020.
[(5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.]
(5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
[(6) Title 26, Chapter 36a 36d, Hospital Provider Assessment Act, is repealed July 1, 2019.]
(6) Title 26, Chapter 36a 36d, Hospital Provider Assessment Act, is repealed July 1, 2019.
(7) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.
(8) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.
[(9) Section 26-38-2.5 is repealed July 1, 2017.]
(9) Section 26-38-2.5 is repealed July 1, 2017.
[(10) Section 26-38-2.6 is repealed July 1, 2017.]
(10) Section 26-38-2.6 is repealed July 1, 2017.
[(11) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.]
(11) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.
(12) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

Section 84. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.
(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.
(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2028.

(4) Section 58-37-4.3 is repealed January 1, 2020.

(5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

(13) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

(14) The following sections are repealed on July 1, 2019:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

Section 85. Section 78A-6-508 (Superseded 07/01/19) is amended to read:

78A-6-508 (Superseded 07/01/19). 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 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 cannabis, a cannabis product, or a medical cannabis device, in accordance with Title 26, Chapter [60b] 61a, Medical Cannabis Act.
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.

(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 (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(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.

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

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

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

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

Section 86. Section 78A-6-508 (Effective 07/01/19) is amended to read:

78A-6-508 (Effective 07/01/19). 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
2196 custody or to make arrangements for the care of the child;
2197 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
2198 months;
2199 (c) failed to have shown the normal interest of a natural parent, without just cause; or
2200 (d) have abandoned an infant, as described in Subsection 78A-6-316(1).
2201 (2) In determining whether a parent or parents are unfit or have neglected a child the
2202 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:
2203 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
2204 parent unable to care for the immediate and continuing physical or emotional needs of the child
2205 for extended periods of time;
2206 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
2207 nature;
2208 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
2209 dangerous drugs that render the parent unable to care for the child;
2210 (d) repeated or continuous failure to provide the child with adequate food, clothing,
2211 shelter, education, or other care necessary for the child's physical, mental, and emotional health
2212 and development by a parent or parents who are capable of providing that care;
2213 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
2214 sentence is of such length that the child will be deprived of a normal home for more than one
2215 year;
2216 (f) a history of violent behavior; or
2217 (g) whether the parent has intentionally exposed the child to pornography or material
2218 harmful to a minor, as defined in Section 76-10-1201.
2219 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent
2220 because of the parent's possession or consumption of cannabis, a cannabis product, or a
2221 medical cannabis device, in accordance with Title 26, Chapter [60b] 61a, Medical Cannabis
2222 Act.
2223 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide
2224 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.
2225 (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or
2226 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 (5)(a) may prohibit a parent from exercising the right to
obtain a second health care opinion.

(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.

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

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

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

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

Section 87. **Repealer.**

This bill repeals:

Section 59-12-104.7 (Repealed 01/01/19), Reporting by purchaser of certain sales
and use tax exempt purchases.

Section 88. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect
upon approval by the governor, or the day following the constitutional time limit of Utah
Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
the date of veto override.