

MEDICAL CANNABIS REGULATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis production.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ removes the cap on licenses for independent testing laboratories that test medical cannabis;
- ▶ repeals provisions related to industrial hemp waste;
- ▶ modifies labeling requirements including requiring additional warning labels for certain products;
- ▶ allows a cannabis production establishment to maintain a liquid cash account instead of a surety bond;
- ▶ requires heavy metal testing for medical cannabis vaporizer cartridges;
- ▶ allows the Department of Agriculture and Food to ban ingredients found in medical cannabis upon the recommendation of a public health authority;
- ▶ removes the requirement that a cannabis production establishment agent be employed by a cannabis production establishment in order to hold a cannabis production establishment agent registration card; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **4-41a-102**, as last amended by Laws of Utah 2022, Chapters 290, 452

34 **4-41a-201**, as last amended by Laws of Utah 2022, Chapter 290

35 **4-41a-301**, as last amended by Laws of Utah 2021, Chapter 350

36 **4-41a-404**, as last amended by Laws of Utah 2020, Chapter 12

37 **4-41a-501**, as last amended by Laws of Utah 2022, Chapter 290

38 **4-41a-602**, as last amended by Laws of Utah 2022, Chapter 290

39 **4-41a-603**, as last amended by Laws of Utah 2022, Chapter 290

40 **4-41a-701**, as last amended by Laws of Utah 2022, Chapter 290



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

43 Section 1. Section **4-41a-102** is amended to read:

44 **4-41a-102. Definitions.**

45 As used in this chapter:

46 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may

47 be injurious to health, including:

48 (a) pesticides;

49 (b) heavy metals;

50 (c) solvents;

51 (d) microbial life;

52 (e) artificially derived cannabinoid;

53 [~~e~~] (f) toxins; or

54 [~~f~~] (g) foreign matter.

55 (2) (a) "Artificially derived cannabinoid" means a chemical substance that is created by

56 a chemical reaction that changes the molecular structure of any chemical substance derived
57 from the cannabis plant.

58 (b) "Artificially derived cannabinoid" does not include:

59 (i) a naturally occurring chemical substance that is separated from the cannabis plant
60 by a chemical or mechanical extraction process; or

61 (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring
62 cannabinoid acid without the use of a chemical catalyst.

63 ~~[(2)]~~ (3) "Cannabis Research Review Board" means the Cannabis Research Review
64 Board created in Section 26-61-201.

65 ~~[(3)]~~ (4) "Cannabis" means the same as that term is defined in Section 26-61a-102.

66 ~~[(4)]~~ (5) "Cannabis concentrate" means:

67 (a) the product of any chemical or physical process applied to naturally occurring
68 biomass that concentrates or isolates the cannabinoids contained in the biomass; and

69 (b) any amount of a natural~~[, derivative, or synthetic cannabinoid in the synthetic~~
70 ~~cannabinoid's purified state]~~ cannabinoid or artificially derived cannabinoid in an artificially
71 derived cannabinoid's purified state.

72 ~~[(5)]~~ (6) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is
73 not intended to be sold as a cannabis plant product.

74 ~~[(6)]~~ (7) "Cannabis cultivation facility" means a person that:

75 (a) possesses cannabis;

76 (b) grows or intends to grow cannabis; and

77 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
78 processing facility, or a medical cannabis research licensee.

79 ~~[(7)]~~ (8) "Cannabis cultivation facility agent" means an individual who~~[:]~~

80 ~~[(a) is an employee of a cannabis cultivation facility; and]~~

81 ~~[(b)]~~ holds a valid cannabis production establishment agent registration card with a
82 cannabis cultivation facility designation.

83 ~~[(8)]~~ (9) "Cannabis derivative product" means a product made using cannabis
84 concentrate.

85 ~~[(9)]~~ (10) "Cannabis plant product" means any portion of a cannabis plant intended to
86 be sold in a form that is recognizable as a portion of a cannabis plant.

87 ~~[(10)]~~ (11) "Cannabis processing facility" means a person that:

88 (a) acquires or intends to acquire cannabis from a cannabis production establishment;

89 (b) possesses cannabis with the intent to manufacture a cannabis product;

90 (c) manufactures or intends to manufacture a cannabis product from unprocessed
91 cannabis or a cannabis extract; and

92 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
93 medical cannabis research licensee.

94 ~~[(11)]~~ (12) "Cannabis processing facility agent" means an individual who~~[:]~~

95 ~~[(a) is an employee of a cannabis processing facility; and]~~

96 ~~[(b)]~~ holds a valid cannabis production establishment agent registration card with a
97 cannabis processing facility designation.

98 ~~[(12)]~~ (13) "Cannabis product" means the same as that term is defined in Section
99 [26-61a-102](#).

100 ~~[(13)]~~ (14) "Cannabis production establishment" means a cannabis cultivation facility,
101 a cannabis processing facility, or an independent cannabis testing laboratory.

102 ~~[(14)]~~ (15) "Cannabis production establishment agent" means a cannabis cultivation
103 facility agent, a cannabis processing facility agent, or an independent cannabis testing
104 laboratory agent.

105 ~~[(15)]~~ (16) "Cannabis production establishment agent registration card" means a
106 registration card that the department issues that:

107 (a) authorizes an individual to act as a cannabis production establishment agent; and

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

110 ~~[(16)]~~ (17) "Community location" means a public or private elementary or secondary
111 school, a church, a public library, a public playground, or a public park.

112 ~~[(17)]~~ (18) "Cultivation space" means, quantified in square feet, the horizontal area in
113 which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area
114 if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above
115 other plants in multiple levels.

116 ~~[(18)]~~ (19) "Department" means the Department of Agriculture and Food.

117 ~~[(19) "Derivative cannabinoid" means any cannabinoid that has been intentionally
118 created using a process to convert a naturally occurring cannabinoid into another cannabinoid.]~~

119 (20) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling,
120 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
121 sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

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

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

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

126 (b) "Independent cannabis testing laboratory" includes a laboratory that the department
127 or a research university operates in accordance with Subsection [4-41a-201](#)(14).

128 (22) "Independent cannabis testing laboratory agent" means an individual who[:]

129 ~~[(a) is an employee of an independent cannabis testing laboratory; and]~~

130 ~~[(b)]~~ holds a valid cannabis production establishment agent registration card with an
131 independent cannabis testing laboratory designation.

132 ~~[(23) "Industrial hemp waste" means:]~~

133 ~~[(a) a cannabinoid concentrate; or]~~

134 ~~[(b) industrial hemp biomass.]~~

135 ~~[(24)]~~ (23) "Inventory control system" means a system described in Section [4-41a-103](#).

136 ~~[(25)]~~ (24) "Licensing board" or "board" means the Cannabis Production Establishment

137 Licensing Advisory Board created in Section [4-41a-201.1](#).

138 ~~[(26)]~~ (25) "Medical cannabis" means the same as that term is defined in Section
139 [26-61a-102](#).

140 ~~[(27)]~~ (26) "Medical cannabis card" means the same as that term is defined in Section
141 [26-61a-102](#).

142 ~~[(28)]~~ (27) "Medical cannabis pharmacy" means the same as that term is defined in
143 Section [26-61a-102](#).

144 ~~[(29)]~~ (28) "Medical cannabis pharmacy agent" means the same as that term is defined
145 in Section [26-61a-102](#).

146 ~~[(30)]~~ (29) "Medical cannabis research license" means a license that the department
147 issues to a research university for the purpose of obtaining and possessing medical cannabis for
148 academic research.

149 ~~[(31)]~~ (30) "Medical cannabis research licensee" means a research university that the
150 department licenses to obtain and possess medical cannabis for academic research, in
151 accordance with Section [4-41a-901](#).

152 ~~[(32)]~~ (31) "Medical cannabis treatment" means the same as that term is defined in
153 Section [26-61a-102](#).

154 ~~[(33)]~~ (32) "Medicinal dosage form" means the same as that term is defined in Section
155 [26-61a-102](#).

156 ~~[(34)]~~ (33) "Qualified medical provider" means the same as that term is defined in
157 Section [26-61a-102](#).

158 ~~[(35)]~~ (34) "Qualified Production Enterprise Fund" means the fund created in Section
159 [4-41a-104](#).

160 ~~[(36)]~~ (35) "Recommending medical provider" means the same as that term is defined
161 in Section [26-61a-102](#).

162 ~~[(37)]~~ (36) "Research university" means the same as that term is defined in Section
163 [53B-7-702](#) and a private, nonprofit college or university in the state that:

164 (a) is accredited by the Northwest Commission on Colleges and Universities;
165 (b) grants doctoral degrees; and
166 (c) has a laboratory containing or a program researching a schedule I controlled
167 substance described in Section 58-37-4.

168 ~~[(38)]~~ (37) "State electronic verification system" means the system described in Section
169 26-61a-103.

170 ~~[(39) "Synthetic cannabinoid" means any cannabinoid that:]~~

171 ~~[(a) was chemically synthesized from starting materials other than a naturally occurring~~
172 ~~cannabinoid; and]~~

173 ~~[(b) is not a derivative cannabinoid.]~~

174 ~~[(40)]~~ (38) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in
175 Section 4-41-102.

176 ~~[(41)]~~ (39) "THC analog" means the same as that term is defined in Section 4-41-102.

177 ~~[(42)]~~ (40) "Total composite tetrahydrocannabinol" means all detectable forms of
178 tetrahydrocannabinol.

179 ~~[(43)]~~ (41) "Total tetrahydrocannabinol" or "total THC" means the same as that term is
180 defined in Section 4-41-102.

181 Section 2. Section 4-41a-201 is amended to read:

182 **4-41a-201. Cannabis production establishment -- License.**

183 (1) Except as provided in Subsection (14), a person may not operate a cannabis
184 production establishment without a license that the department issues under this chapter.

185 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a
186 licensing process that the department initiates after March 17, 2021, the department, through
187 the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.

188 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
189 department shall make rules to specify a transparent and efficient process to:

190 (A) solicit applications for a license under this section;

- 191 (B) allow for comments and questions in the development of applications;
- 192 (C) timely and objectively evaluate applications;
- 193 (D) hold public hearings that the department deems appropriate; and
- 194 (E) select applicants to receive a license.
- 195 (iii) The department may not issue a license to operate a cannabis production
- 196 establishment to an applicant who is not eligible for a license under this section.
- 197 (b) An applicant is eligible for a license under this section if the applicant submits to
- 198 the licensing board:
- 199 (i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis
- 200 cultivation facility, addresses of no more than two facility locations, located in a zone described
- 201 in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production
- 202 establishment;
- 203 (ii) the name and address of any individual who has:
- 204 (A) for a publicly traded company, a financial or voting interest of 2% or greater in the
- 205 proposed cannabis production establishment;
- 206 (B) for a privately held company, a financial or voting interest in the proposed cannabis
- 207 production establishment; or
- 208 (C) the power to direct or cause the management or control of a proposed cannabis
- 209 production establishment;
- 210 (iii) an operating plan that:
- 211 (A) complies with Section 4-41a-204;
- 212 (B) includes operating procedures that comply with this chapter and any law the
- 213 municipality or county in which the person is located adopts that is consistent with Section
- 214 4-41a-406; and
- 215 (C) the department or licensing board approves;
- 216 (iv) a statement that the applicant will obtain and maintain a liquid cash account with a
- 217 financial institution or a performance bond that a surety authorized to transact surety business

218 in the state issues in an amount of at least:

219 (A) \$100,000 for each cannabis cultivation facility for which the applicant applies; or

220 (B) \$50,000 for each cannabis processing facility or independent cannabis testing

221 laboratory for which the applicant applies;

222 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the

223 department sets in accordance with Section 63J-1-504; and

224 (vi) a description of any investigation or adverse action taken by any licensing

225 jurisdiction, government agency, law enforcement agency, or court in any state for any

226 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations

227 or businesses.

228 (c) (i) A person may not locate a cannabis production establishment:

229 (A) within 1,000 feet of a community location; or

230 (B) in or within 600 feet of a district that the relevant municipality or county has zoned

231 as primarily residential.

232 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured

233 from the nearest entrance to the cannabis production establishment by following the shortest

234 route of ordinary pedestrian travel to the property boundary of the community location or

235 residential area.

236 (iii) The licensing board may grant a waiver to reduce the proximity requirements in

237 Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably

238 feasible for the applicant to site the proposed cannabis production establishment without the

239 waiver.

240 (iv) An applicant for a license under this section shall provide evidence of compliance

241 with the proximity requirements described in Subsection (2)(c)(i).

242 (3) If the licensing board approves an application for a license under this section and

243 Section 4-41a-201.1:

244 (a) the applicant shall pay the department:

245 (i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the
246 department sets in accordance with Section 63J-1-504; or

247 (ii) a fee for a 120-day limited license to operate as a cannabis processing facility
248 described in Subsection (3)(b) that is equal to 33% of the initial license fee described in
249 Subsection (3)(a)(i); and

250 (b) the department shall notify the Department of Public Safety of the license approval
251 and the names of each individual described in Subsection (2)(b)(ii).

252 (4) (a) Except as provided in Subsection (4)(b), a cannabis production establishment
253 shall obtain a separate license for each type of cannabis production establishment and each
254 location of a cannabis production establishment.

255 (b) The licensing board may issue a cannabis cultivation facility license and a cannabis
256 processing facility license to a person to operate at the same physical location or at separate
257 physical locations.

258 (5) If the licensing board receives more than one application for a cannabis production
259 establishment within the same city or town, the licensing board shall consult with the local land
260 use authority before approving any of the applications pertaining to that city or town.

261 (6) The licensing board may not issue a license to operate an independent cannabis
262 testing laboratory to a person who:

263 (a) holds a license or has an ownership interest in a medical cannabis pharmacy, a
264 cannabis processing facility, or a cannabis cultivation facility;

265 (b) has an owner, officer, director, or employee whose family member holds a license
266 or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or
267 a cannabis cultivation facility; or

268 (c) proposes to operate the independent cannabis testing laboratory at the same physical
269 location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis
270 cultivation facility.

271 (7) The licensing board may not issue a license to operate a cannabis production

272 establishment to an applicant if any individual described in Subsection (2)(b)(ii):

273 (a) has been convicted under state or federal law of:

274 (i) a felony; or

275 (ii) after December 3, 2018, a misdemeanor for drug distribution;

276 (b) is younger than 21 years old; or

277 (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.

278 (8) (a) If an applicant for a cannabis production establishment license under this

279 section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing

280 board may not give preference to the applicant based on the applicant's status as a holder of the

281 license.

282 (b) If an applicant for a license to operate a cannabis cultivation facility under this

283 section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a,

284 Utah Medical Cannabis Act, the licensing board:

285 (i) shall consult with the Department of Health regarding the applicant; and

286 (ii) may give consideration to the applicant based on the applicant's status as a holder

287 of a medical cannabis pharmacy license if:

288 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
289 result from the applicant's vertical integration than from a more competitive marketplace; and

290 (B) the licensing board finds multiple other factors, in addition to the existing license,
291 that support granting the new license.

292 (9) The licensing board may revoke a license under this part:

293 (a) if the cannabis production establishment does not begin cannabis production

294 operations within one year after the day on which the licensing board issues the initial license;

295 (b) after the third of the same violation of this chapter in any of the licensee's licensed
296 cannabis production establishments or medical cannabis pharmacies;

297 (c) if any individual described in Subsection (2)(b) is convicted, while the license is
298 active, under state or federal law of:

299 (i) a felony; or
300 (ii) after December 3, 2018, a misdemeanor for drug distribution;
301 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
302 the time of application, or fails to supplement the information described in Subsection
303 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
304 application within 14 calendar days after the licensee receives notice of the investigation or
305 adverse action;
306 (e) if the cannabis production establishment demonstrates a willful or reckless
307 disregard for the requirements of this chapter or the rules the department makes in accordance
308 with this chapter;
309 (f) if, after a change of ownership described in Subsection (15)(b), the board
310 determines that the cannabis production establishment no longer meets the minimum standards
311 for licensure and operation of the cannabis production establishment described in this chapter;
312 or
313 (g) for an independent cannabis testing laboratory, if the independent cannabis testing
314 laboratory fails to substantially meet the performance standards described in Subsection
315 (14)(b).
316 (10) (a) A person who receives a cannabis production establishment license under this
317 chapter, if the municipality or county where the licensed cannabis production establishment
318 will be located requires a local land use permit, shall submit to the licensing board a copy of
319 the licensee's approved application for the land use permit within 120 days after the day on
320 which the licensing board issues the license.
321 (b) If a licensee fails to submit to the licensing board a copy of the licensee's approved
322 land use permit application in accordance with Subsection (10)(a), the licensing board may
323 revoke the licensee's license.
324 (11) The department shall deposit the proceeds of a fee that the department imposes
325 under this section into the Qualified Production Enterprise Fund.

326 (12) The department shall begin accepting applications under this part on or before
327 January 1, 2020.

328 (13) (a) The department's authority, and consequently the licensing board's authority, to
329 issue a license under this section is plenary and is not subject to review.

330 (b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a
331 license to an applicant is not subject to:

332 (i) Title 63G, Chapter 6a, Part 16, Protests; or

333 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

334 (14) (a) Notwithstanding this section, the department:

335 ~~[(i) may not issue more than four licenses to operate an independent cannabis testing~~
336 ~~laboratory;]~~

337 ~~[(ii)]~~ (i) may operate or partner with a research university to operate an independent
338 cannabis testing laboratory;

339 ~~[(iii)]~~ (ii) if the department operates or partners with a research university to operate an
340 independent cannabis testing laboratory, may not cease operating or partnering with a research
341 university to operate the independent cannabis testing laboratory unless:

342 (A) the department issues at least two licenses to independent cannabis testing
343 laboratories; and

344 (B) the department has ensured that the licensed independent cannabis testing
345 laboratories have sufficient capacity to provide the testing necessary to support the state's
346 medical cannabis market; and

347 ~~[(iv)]~~ (iii) after ceasing department or research university operations under Subsection
348 (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

349 (A) fewer than two licensed independent cannabis testing laboratories are operating; or

350 (B) the licensed independent cannabis testing laboratories become, in the department's
351 determination, unable to fully meet the market demand for testing.

352 (b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

353 Administrative Rulemaking Act, to establish performance standards for the operation of an
354 independent cannabis testing laboratory, including deadlines for testing completion.

355 (ii) A license that the department issues to an independent cannabis testing laboratory
356 is contingent upon substantial satisfaction of the performance standards described in
357 Subsection (14)(b)(i), as determined by the board.

358 (15) (a) A cannabis production establishment license is not transferrable or assignable.

359 (b) If the ownership of a cannabis production establishment changes by 50% or more:

360 (i) the cannabis production establishment shall submit a new application described in
361 Subsection (2)(b), subject to Subsection (2)(c);

362 (ii) within 30 days of the submission of the application, the board shall:

363 (A) conduct the application review described in Section 4-41a-201.1; and

364 (B) award a license to the cannabis production establishment for the remainder of the
365 term of the cannabis production establishment's license before the ownership change if the
366 cannabis production establishment meets the minimum standards for licensure and operation of
367 the cannabis production establishment described in this chapter; and

368 (iii) if the board approves the license application, notwithstanding Subsection (3), the
369 cannabis production establishment shall pay a license fee that the department sets in
370 accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the
371 application review.

372 Section 3. Section 4-41a-301 is amended to read:

373 **4-41a-301. Cannabis production establishment agent -- Registration.**

374 (1) An individual may not act as a cannabis production establishment agent unless the
375 department registers the individual as a cannabis production establishment agent, regardless of
376 whether the individual is a seasonal, temporary, or permanent employee.

377 (2) The following individuals, regardless of the individual's status as a qualified
378 medical provider, may not serve as a cannabis production establishment agent, have a financial
379 or voting interest of 2% or greater in a cannabis production establishment, or have the power to

380 direct or cause the management or control of a cannabis production establishment:

381 (a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

382 (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
383 Practice Act;

384 (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
385 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

386 (d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
387 Act.

388 (3) An independent cannabis testing laboratory agent may not act as an agent for a
389 medical cannabis pharmacy, a medical cannabis courier, a cannabis processing facility, or a
390 cannabis cultivation facility.

391 (4) (a) The department shall, within 15 business days after the day on which the
392 department receives a complete application from [~~a cannabis production establishment on~~
393 ~~behalf of~~] a prospective cannabis production establishment agent, register and issue a cannabis
394 production establishment agent registration card to the prospective agent if [~~the cannabis~~
395 ~~production establishment~~] the prospective agent:

396 (i) provides to the department:

397 (A) the prospective agent's name and address;

398 (B) [~~the name and location of a licensed cannabis production establishment where the~~
399 ~~prospective agent will act as the cannabis production establishment's agent~~] which cannabis
400 production establishment agent designations the applicant desires; and

401 (C) the submission required under Subsection (4)(b); and

402 (ii) pays a fee to the department in an amount that, subject to Subsection [4-41a-104\(5\)](#),
403 the department sets in accordance with Section [63J-1-504](#).

404 (b) [~~Except for an applicant reapplying for a cannabis production establishment agent~~
405 ~~registration card within less than one year after the expiration of the applicant's previous~~
406 ~~cannabis production establishment agent registration card, each~~] Each prospective agent

407 described in Subsection (4)(a) shall:

408 (i) submit to the department:

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

410 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

411 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next

412 Generation Identification System's Rap Back Service; and

413 (ii) consent to a fingerprint background check by:

414 (A) the Bureau of Criminal Identification; and

415 (B) the Federal Bureau of Investigation.

416 (c) The Bureau of Criminal Identification shall:

417 (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against

418 the applicable state, regional, and national criminal records databases, including the Federal

419 Bureau of Investigation Next Generation Identification System;

420 (ii) report the results of the background check to the department;

421 (iii) maintain a separate file of fingerprints that prospective agents submit under

422 Subsection (4)(b) for search by future submissions to the local and regional criminal records

423 databases, including latent prints;

424 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next

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

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

427 latent prints; and

428 (v) establish a privacy risk mitigation strategy to ensure that the department only

429 receives notifications for an individual with whom the department maintains an authorizing

430 relationship.

431 (d) The department shall:

432 (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an

433 amount that the department sets in accordance with Section 63J-1-504 for the services that the

434 Bureau of Criminal Identification or another authorized agency provides under this section; and
435 (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal
436 Identification.

437 (5) (a) The department shall designate, on an individual's cannabis production
438 establishment agent registration card[;]

439 ~~[(a) the name of the cannabis production establishment where the individual is~~
440 ~~registered as an agent; and]~~

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

443 (b) When issuing a card under Subsection (5)(a) the department:

444 (i) may issue a cannabis production establishment agent registration card that contains
445 both a cannabis processing facility designation and a cannabis cultivator facility designation;
446 and

447 (ii) if the cannabis production establishment agent registration card will contain an
448 independent cannabis testing laboratory designation, may not include any other designations.

449 (6) A cannabis production establishment agent shall comply with:

450 (a) a certification standard that the department develops; or

451 (b) a certification standard that the department has reviewed and approved.

452 (7) (a) The department shall ensure that the certification standard described in
453 Subsection (6) includes training:

454 (i) in Utah medical cannabis law;

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

456 (iii) for a cannabis processing facility agent, in cannabis processing, manufacturing
457 safety procedures for items for human consumption, and sanitation best practices; and

458 (iv) for an independent cannabis testing laboratory agent, in cannabis testing best
459 practices.

460 (b) The department shall review the training described in Subsection (7)(a) annually or

461 as often as necessary to ensure compliance with this section.

462 (8) For an individual who holds or applies for a cannabis production establishment
463 agent registration card:

464 (a) the department may revoke or refuse to issue the card if the individual violates the
465 requirements of this chapter; and

466 (b) the department shall revoke or refuse to issue the card if the individual is convicted
467 under state or federal law of:

468 (i) a felony; or

469 (ii) after December 3, 2018, a misdemeanor for drug distribution.

470 (9) (a) A cannabis production establishment agent registration card expires two years
471 after the day on which the department issues the card.

472 (b) A cannabis production establishment agent may renew the agent's registration card
473 if the agent:

474 (i) is eligible for a cannabis production establishment registration card under this
475 section;

476 (ii) certifies to the department in a renewal application that the information in
477 Subsection (4)(a) is accurate or updates the information; and

478 (iii) pays to the department a renewal fee in an amount that:

479 (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section
480 63J-1-504; and

481 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
482 comparison to the original application process.

483 (10) A cannabis production establishment shall:

484 (a) maintain a list of each employee that holds a cannabis production establishment
485 agent registration card; and

486 (b) provide the list to the department upon request.

487 Section 4. Section 4-41a-404 is amended to read:

488 **4-41a-404. Medical cannabis transportation.**

489 (1) (a) Only the following individuals may transport cannabis or a cannabis product
490 under this chapter:

491 (i) a [~~registered~~] cannabis production establishment agent; or

492 (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment
493 that the cardholder is authorized to possess under this chapter.

494 (b) Only an agent of a cannabis cultivation facility, when the agent is transporting
495 cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory,
496 may transport unprocessed cannabis outside of a medicinal dosage form.

497 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter
498 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment, an
499 individual transporting cannabis or a cannabis product shall:

500 (a) be employed by the entity licensed under this chapter that is authorizing the
501 transportation of the cannabis or cannabis product; and

502 (b) possess a transportation manifest that:

503 [~~(a)~~] (i) includes a unique identifier that links the cannabis or cannabis product to a
504 relevant inventory control system;

505 [~~(b)~~] (ii) includes origin and destination information for any cannabis or cannabis
506 product that the individual is transporting; and

507 [~~(c)~~] (iii) identifies the departure and arrival times and locations of the individual
508 transporting the cannabis or cannabis product.

509 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
510 establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
511 Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or
512 cannabis product remains safe for human consumption.

513 (b) The transportation described in Subsection (3)(a) is limited to transportation:

514 (i) between a cannabis production establishment and another cannabis production

515 establishment; and

516 (ii) between a cannabis processing facility and a medical cannabis pharmacy.

517 (4) (a) It is unlawful for a registered cannabis production establishment agent to make a
518 transport described in this section with a manifest that does not meet the requirements of this
519 section.

520 (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

521 (i) guilty of an infraction; and

522 (ii) subject to a \$100 fine.

523 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
524 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
525 underlying the violation described in Subsection (4)(b).

526 (d) If the agent described in Subsection (4)(a) is transporting more cannabis or
527 cannabis product than the manifest identifies, except for a de minimis administrative error:

528 (i) the penalty described in Subsection (4)(b) does not apply; and

529 (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled
530 Substances Act.

531 (5) Nothing in this section prevents the department from taking administrative
532 enforcement action against a cannabis production establishment or another person for failing to
533 make a transport in compliance with the requirements of this section.

534 (6) An individual other than an individual described in Subsection (1) may transport a
535 medical cannabis device within the state if the transport does not also contain medical
536 cannabis.

537 Section 5. Section **4-41a-501** is amended to read:

538 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

539 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the
540 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation
541 facility perimeter.

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

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

546 (b) each unique harvest of cannabis plants;

547 (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a
548 cannabis processing facility, or an independent cannabis testing laboratory; and

549 (d) any excess, contaminated, or deteriorated cannabis of which the cannabis
550 cultivation facility disposes.

551 (3) A cannabis cultivation facility shall identify cannabis biomass as cannabis
552 byproduct or cannabis plant product before transferring the cannabis biomass from the facility.

553 (4) A cannabis cultivation facility shall either:

554 (a) ensure that a cannabis processing facility chemically or physically processes
555 cannabis cultivation byproduct to produce a cannabis concentrate for incorporation into
556 cannabis derivative products; or

557 (b) destroy cannabis cultivation byproduct in accordance with Section 4-41a-405.

558 ~~[(5) A cannabis cultivation facility may not purchase or otherwise receive industrial
559 hemp waste, except under limited circumstances in which the department determines there is a
560 minimal risk of safety or security concern, as the department specifies in rules that the
561 department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
562 Act.]~~

563 Section 6. Section 4-41a-602 is amended to read:

564 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

565 (1) For any cannabis product that a cannabis processing facility processes or produces
566 and for any raw cannabis that the facility packages, the facility shall:

567 (a) label the cannabis or cannabis product with a label that:

568 (i) clearly and unambiguously states that the cannabis product or package contains

569 cannabis;

570 (ii) clearly displays the amount of total composite tetrahydrocannabinol, cannabidiol,
571 and any known cannabinoid [~~described in Subsection 4-41a-701(4) in the labeled container~~]
572 that is greater than 1% of the total cannabinoids contained in the cannabis or cannabis product
573 as determined under Subsection 4-41a-701(4);

574 (iii) has a unique identification number that:

575 (A) is connected to the inventory control system; and

576 (B) identifies the unique cannabis product manufacturing process the cannabis
577 processing facility used to manufacture the cannabis product;

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

580 (v) does not display an image, word, or phrase that the facility knows or should know
581 appeals to children; and

582 (vi) discloses each active or potentially active ingredient, in order of prominence, and
583 possible allergen; and

584 (b) package the raw cannabis or cannabis product in a medicinal dosage form in a
585 container that:

586 (i) is tamper evident and tamper resistant;

587 (ii) does not appeal to children;

588 (iii) does not mimic a candy container;

589 (iv) complies with child-resistant effectiveness standards that the United States
590 Consumer Product Safety Commission establishes; [~~and~~]

591 (v) includes a warning label that states:

592 (A) for a container labeled before July 1, 2021, "WARNING: Cannabis has
593 intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its
594 influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use
595 only as directed by a qualified medical provider."; [~~or~~]

596 (B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has
597 intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its
598 influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use
599 only as directed by a recommending medical provider."[-]; or

600 (C) for a container labeled on or after January 1, 2024, "WARNING: Cannabis has
601 intoxicating effects, may be addictive, and may increase risk of mental illness. Do not operate a
602 vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This
603 product is for medical use only. Use only as directed by a recommending medical provider.";
604 and

605 (vi) for raw cannabis or a cannabis product sold in a vaporizer cartridge labeled on or
606 after May 3, 2023, includes a warning label that states:

607 (A) "WARNING: Vaping of cannabis-derived products has been associated with lung
608 injury."; and

609 (B) "WARNING: Inhalation of cannabis smoke has been associated with lung injury.".

610 (2) For any cannabis or cannabis product that the cannabis processing facility processes
611 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular
612 cuboid shape, the facility shall:

613 (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or
614 other image of the content of the container; and

615 (b) include on the label described in Subsection (1)(a) a warning about the risks of
616 over-consumption.

617 (3) For any cannabis product that contains [~~any derivative cannabinoid or synthetic~~
618 ~~cannabinoid~~] an artificially derived cannabinoid, the cannabis processing facility shall ensure
619 that the label clearly:

620 (a) identifies each [~~derivative cannabinoid or synthetic cannabinoid~~] artificially derived
621 cannabinoid; and

622 (b) identifies that each [~~derivative or synthetic cannabinoid is a derivative or synthetic~~

623 ~~cannabinoid]~~ artificially derived cannabinoid is an artificially derived cannabinoid.

624 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
625 department:

626 (a) shall make rules to establish:

627 (i) a standard labeling format that:

628 (A) complies with the requirements of this section; and

629 (B) ensures inclusion of a pharmacy label; and

630 (ii) additional requirements on packaging for cannabis and cannabis products to ensure
631 safety and product quality; and

632 (b) may make rules to further define standards regarding images, words, phrases, or
633 containers that may appeal to children under Subsection (1)(a)(v) or (1)(b)(ii).

634 Section 7. Section ~~4-41a-603~~ is amended to read:

635 **4-41a-603. Cannabis product -- Product quality.**

636 (1) A cannabis processing facility:

637 (a) may not produce a cannabis product in a physical form that:

638 (i) the facility knows or should know appeals to children;

639 (ii) is designed to mimic or could be mistaken for a candy product; or

640 (iii) for a cannabis product used in vaporization, includes a candy-like flavor or another
641 flavor that the facility knows or should know appeals to children; ~~and]~~

642 (b) notwithstanding Subsection (1)(a)(iii), may produce a concentrated oil with a flavor
643 that the department approves to facilitate minimizing the taste or odor of cannabis~~[-]; and~~ and

644 (c) shall ensure that batch heavy metal testing is conducted on any vaporizer cartridge
645 that is used with a cannabis product.

646 (2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile
647 by up to 10% of the indicated amount of a given cannabinoid, by weight.

648 (3) A cannabis processing facility shall isolate ~~[derivative cannabinoids and synthetic~~
649 ~~cannabinoids]~~ any artificially derived cannabinoid to a purity of greater than 95%, as

650 determined by an independent cannabis testing laboratory using liquid chromatography-mass
651 spectroscopy or an equivalent method.

652 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
653 Administrative Rulemaking Act, to:

654 (a) adopt human safety standards for the manufacturing of cannabis products that are
655 consistent with best practices for the use of cannabis; and

656 (b) further define standards regarding products that may appeal to children under
657 Subsection (1)(a).

658 (5) Nothing in this section prohibits a sugar coating on a gelatinous cube, gelatinous
659 rectangular cuboid, or lozenge to mask the product's taste, subject to the limitations on form
660 and appearance described in Subsections (1)(a) and (4)(b).

661 Section 8. Section **4-41a-701** is amended to read:

662 **4-41a-701. Cannabis and cannabis product testing.**

663 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
664 department may make rules to:

665 (a) determine required adulterant tests for a cannabis plant product, cannabis
666 concentrate, or cannabis product;

667 (b) determine the amount of any adulterant that is safe for human consumption;

668 (c) immediately ban or limit the presence of any ingredient in a medical cannabis
669 product after receiving a recommendation to do so from a public health authority under Section
670 [26B-1-102](#);

671 [~~(c)~~] (d) establish protocols for a recall of cannabis or a cannabis product by a cannabis
672 production establishment; or

673 [~~(d)~~] (e) allow the propagation of testing results forward to derived product if the
674 processing steps the cannabis production establishment uses to produce the product are
675 unlikely to change the results of the test.

676 (2) The department may require testing for a toxin if:

- 677 (a) the department receives information indicating the potential presence of a toxin; or
678 (b) the department's inspector has reason to believe a toxin may be present based on the
679 inspection of a facility.
- 680 (3) (a) A cannabis production establishment may not:
- 681 (i) incorporate cannabis concentrate into a cannabis derivative product until an
682 independent cannabis testing laboratory tests the cannabis concentrate in accordance with
683 department rule; or
- 684 (ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an
685 independent cannabis testing laboratory tests a representative sample of the cannabis or
686 cannabis product in accordance with department rule.
- 687 (b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for
688 sale unless an independent cannabis testing laboratory has tested a representative sample of the
689 cannabis or cannabis product in accordance with department rule.
- 690 (4) Before the sale of a cannabis product, an independent cannabis testing laboratory
691 shall identify and quantify any cannabinoid known to be present in a cannabis product.
- 692 (5) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
693 Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the
694 testing of cannabis and cannabis products by independent cannabis testing laboratories.
- 695 (6) The department may require an independent cannabis testing laboratory to
696 participate in a proficiency evaluation that the department conducts or that an organization that
697 the department approves conducts.