

## SB0091S01 compared with SB0091

~~text~~ shows text that was in SB0091 but was deleted in SB0091S01.

text shows text that was not in SB0091 but was inserted into SB0091S01.

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Senator Evan J. Vickers proposes the following substitute bill:

### MEDICAL CANNABIS REGULATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: ~~\_\_\_\_\_~~ Walt Brooks

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#### 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;

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- ▶ 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

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

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

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

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

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

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

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

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

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

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

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

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

As used in this chapter:

- (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:
- (a) pesticides;
  - (b) heavy metals;
  - (c) solvents;

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- (d) microbial life;
- (e) artificially derived cannabinoid;
- ~~[(e)]~~ (f) toxins; or
- ~~[(f)]~~ (g) foreign matter.

(2) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

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

- (i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or
- (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

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

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

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

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

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

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

~~[(6)]~~ (7) "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 a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

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

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

~~[(b)]~~ holds a valid cannabis production establishment agent registration card with a

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### cannabis cultivation facility designation.

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

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

~~[(10)]~~ (11) "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 or a cannabis extract; and
- (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

~~[(11)]~~ (12) "Cannabis processing facility agent" means an individual who ~~[(1)]~~

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

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

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

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

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

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

- (a) authorizes an individual to act as a cannabis production establishment agent; and
- (b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

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

~~[(17)]~~ (18) "Cultivation space" means, quantified in square feet, the horizontal area in

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which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

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

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

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

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

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

(ii) 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.

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

(22) "Independent cannabis testing laboratory agent" means an individual who ~~[(a)]~~

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

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

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

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

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

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

~~[(25)]~~ (24) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(40)]~~ (38) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in

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Section 4-41-102.

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

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

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

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

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

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

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

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

- (A) solicit applications for a license under this section;
- (B) allow for comments and questions in the development of applications;
- (C) timely and objectively evaluate applications;
- (D) hold public hearings that the department deems appropriate; and
- (E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:

(i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;

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(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

(C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a liquid cash account with a financial institution or a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

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

(B) \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

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

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

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

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

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



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Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:

(a) the applicant shall pay the department:

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

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

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

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

(b) The licensing board 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.

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

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

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

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

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

(7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act, the licensing board:

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

(ii) may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

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

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

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

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;

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

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

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(i) a felony; or

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

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection (15)(b), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; or

(g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b).

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.

(b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

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

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

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

- (i) Title 63G, Chapter 6a, Part 16, Protests; or
- (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

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

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

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

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

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

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

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

- (A) fewer than two licensed independent cannabis testing laboratories are operating; or
- (B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

(b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.

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

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

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

(i) the cannabis production establishment shall submit a new application described in

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Subsection (2)(b), subject to Subsection (2)(c);

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) (a) The department shall, within 15 business days after the day on which the

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department receives 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 the prospective agent if ~~[the cannabis production establishment]~~ the prospective agent:

(i) provides to the department:

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

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

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

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

(b) ~~[Except for an applicant reapplying for a cannabis production establishment agent registration card within less than one year after the expiration of the applicant's previous cannabis production establishment agent registration card, each]~~ Each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

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

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records

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databases, including latent prints;

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

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

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.

(5) (a) 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.~~

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

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

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

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

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

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

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

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(i) in Utah medical cannabis law;  
(ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;  
(iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and  
(iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.

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

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

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

(i) a felony; or

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

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

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

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

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

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

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

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

(10) A cannabis production establishment shall:

(a) maintain a list of each employee that holds a cannabis production establishment



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agent registration card; and

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

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

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

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

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

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

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

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment ~~{ shall}~~, an

individual transporting cannabis or a cannabis product shall:

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

(b) possess a transportation manifest that:

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

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

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

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

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

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

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

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

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

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

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

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

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

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

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

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

Section ~~3-5~~5. Section **4-41a-501** is amended to read:

### **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 from the ground level of the cannabis cultivation facility perimeter.

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

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

(b) each unique harvest of cannabis plants;

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

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

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

(4) A cannabis cultivation facility shall either:

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

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

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

Section ~~{4}~~6. Section **4-41a-602** is amended to read:

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

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

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

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

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

(iii) has a unique identification number that:

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

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

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

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

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

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

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

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

(v) includes a warning label that states:

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

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

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

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

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

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

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or

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other image of the content of the container; and

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

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

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

(b) identifies that each [~~derivative or synthetic cannabinoid is a derivative or synthetic cannabinoid~~] artificially derived cannabinoid is an artificially derived cannabinoid.

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

(a) shall make rules to establish:

(i) a standard labeling format that:

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

(B) ensures inclusion of a pharmacy label; and

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

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

Section ~~5~~7. Section **4-41a-603** is amended to read:

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

(1) A cannabis processing facility:

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

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

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

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

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

(c) shall ensure that batch heavy metal testing is conducted on any vaporizer cartridge

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that is used with a cannabis product.

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

(3) A cannabis processing facility shall isolate [~~derivative cannabinoids and synthetic cannabinoids~~] any artificially derived cannabinoid to a purity of greater than 95%, as determined by an independent cannabis testing laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

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

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

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

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

Section ~~63~~8. Section **4-41a-701** is amended to read:

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

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

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

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

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

~~(d)~~ (d) establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment; or

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

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

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(3) (a) A cannabis production establishment may not:

(i) incorporate cannabis concentrate into a cannabis derivative product until an independent cannabis testing laboratory tests the cannabis concentrate in accordance with department rule; or

(ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an independent cannabis testing laboratory tests a representative sample of the cannabis or cannabis product in accordance with department rule.

(b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product in accordance with department rule.

(4) Before the sale of a cannabis product, an independent cannabis testing laboratory shall identify and quantify any cannabinoid known to be present in a cannabis product.

(5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

(6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.