

**Senator Evan J. Vickers** proposes the following substitute bill:

**CANNABINOID PRODUCT ACT**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: Brad M. Daw

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**LONG TITLE**

**General Description:**

This bill enacts and amends provisions related to cannabinoid products.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the cultivation, production, possession, use, and sale of cannabis and cannabinoid products under certain circumstances;
- ▶ provides for the creation of an electronic monitoring system for cannabinoid products;
- ▶ directs the Department of Agriculture and Food to issue cannabis producer licenses and enforce cannabis producer operating requirements;
- ▶ grants the Department of Agriculture and Food, the Division of Occupational and Professional Licensing, the Department of Financial Institutions, and the Department of Health rulemaking authority;
- ▶ directs the Department of Financial Institutions to issue cannabis payment processor licenses and enforce cannabis payment processor operating requirements;
- ▶ directs the Division of Occupational and Professional Licensing within the Department of Commerce to issue cannabinoid dispensary licenses and enforce cannabinoid dispensary operating requirements;



- 26           ▶ directs the Department of Health to issue cannabinoid cards to individuals under
- 27 certain circumstances;
- 28           ▶ creates an exemption from sales and use tax for sales of cannabinoid products;
- 29           ▶ imposes a special tax on the sale of cannabinoid products;
- 30           ▶ creates the Cannabinoid Product Restricted Account;
- 31           ▶ amends provisions related to driving with a measurable metabolite of cannabinoid
- 32 medicine;
- 33           ▶ prohibits a court from discriminating against a parent in a child custody case based
- 34 on the parent's legal use of cannabinoid medicine; and
- 35           ▶ prohibits a peace officer or child welfare worker from removing a child from an
- 36 individual's home on the basis of the individual's lawful use of cannabinoid
- 37 medicine.

**38 Money Appropriated in this Bill:**

39           None

**40 Other Special Clauses:**

41           None

**42 Utah Code Sections Affected:**

43 AMENDS:

- 44           **7-1-401**, as last amended by Laws of Utah 2015, Chapter 284
- 45           **41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333
- 46           **62A-4a-202.1**, as last amended by Laws of Utah 2012, Chapters 221 and 293
- 47           **78A-6-508**, as last amended by Laws of Utah 2014, Chapter 409

48 ENACTS:

- 49           **4-42-101**, Utah Code Annotated 1953
- 50           **4-42-102**, Utah Code Annotated 1953
- 51           **4-42-103**, Utah Code Annotated 1953
- 52           **4-42-104**, Utah Code Annotated 1953
- 53           **4-42-201**, Utah Code Annotated 1953
- 54           **4-42-202**, Utah Code Annotated 1953
- 55           **4-42-203**, Utah Code Annotated 1953
- 56           **4-42-204**, Utah Code Annotated 1953

- 57 [4-42-301](#), Utah Code Annotated 1953
- 58 [4-42-302](#), Utah Code Annotated 1953
- 59 [4-42-401](#), Utah Code Annotated 1953
- 60 [4-42-402](#), Utah Code Annotated 1953
- 61 [4-42-403](#), Utah Code Annotated 1953
- 62 [4-42-501](#), Utah Code Annotated 1953
- 63 [4-42-601](#), Utah Code Annotated 1953
- 64 [4-42-602](#), Utah Code Annotated 1953
- 65 [4-42-603](#), Utah Code Annotated 1953
- 66 [4-42-701](#), Utah Code Annotated 1953
- 67 [4-42-702](#), Utah Code Annotated 1953
- 68 [4-42-801](#), Utah Code Annotated 1953
- 69 [4-42-802](#), Utah Code Annotated 1953
- 70 [4-42-803](#), Utah Code Annotated 1953
- 71 [7-26-101](#), Utah Code Annotated 1953
- 72 [7-26-102](#), Utah Code Annotated 1953
- 73 [7-26-201](#), Utah Code Annotated 1953
- 74 [7-26-202](#), Utah Code Annotated 1953
- 75 [7-26-203](#), Utah Code Annotated 1953
- 76 [7-26-204](#), Utah Code Annotated 1953
- 77 [7-26-301](#), Utah Code Annotated 1953
- 78 [7-26-401](#), Utah Code Annotated 1953
- 79 [7-26-402](#), Utah Code Annotated 1953
- 80 [26-59-101](#), Utah Code Annotated 1953
- 81 [26-59-102](#), Utah Code Annotated 1953
- 82 [26-59-103](#), Utah Code Annotated 1953
- 83 [26-59-201](#), Utah Code Annotated 1953
- 84 [26-59-202](#), Utah Code Annotated 1953
- 85 [26-59-203](#), Utah Code Annotated 1953
- 86 [26-59-204](#), Utah Code Annotated 1953
- 87 [26-59-205](#), Utah Code Annotated 1953

- 88            **26-59-206**, Utah Code Annotated 1953
- 89            **58-37-3.6**, Utah Code Annotated 1953
- 90            **58-37-3.7**, Utah Code Annotated 1953
- 91            **58-37f-204**, Utah Code Annotated 1953
- 92            **58-67-807**, Utah Code Annotated 1953
- 93            **58-68-807**, Utah Code Annotated 1953
- 94            **58-87-101**, Utah Code Annotated 1953
- 95            **58-87-102**, Utah Code Annotated 1953
- 96            **58-87-201**, Utah Code Annotated 1953
- 97            **58-87-202**, Utah Code Annotated 1953
- 98            **58-87-203**, Utah Code Annotated 1953
- 99            **58-87-204**, Utah Code Annotated 1953
- 100           **58-87-301**, Utah Code Annotated 1953
- 101           **58-87-302**, Utah Code Annotated 1953
- 102           **58-87-401**, Utah Code Annotated 1953
- 103           **58-87-402**, Utah Code Annotated 1953
- 104           **58-87-403**, Utah Code Annotated 1953
- 105           **58-87-404**, Utah Code Annotated 1953
- 106           **58-87-501**, Utah Code Annotated 1953
- 107           **58-87-502**, Utah Code Annotated 1953
- 108           **59-12-104.7**, Utah Code Annotated 1953
- 109           **59-28-101**, Utah Code Annotated 1953
- 110           **59-28-102**, Utah Code Annotated 1953
- 111           **59-28-103**, Utah Code Annotated 1953
- 112           **59-28-104**, Utah Code Annotated 1953
- 113           **59-28-105**, Utah Code Annotated 1953
- 114           **59-28-106**, Utah Code Annotated 1953
- 115           **59-28-107**, Utah Code Annotated 1953
- 116           **59-28-108**, Utah Code Annotated 1953

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

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

120 **CHAPTER 1. CANNABIS PRODUCERS**

121 **Part 1. General Provisions**

122 **4-42-101. Title.**

123 This chapter is known as "Cannabis Producers."

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

125 **4-42-102. Definitions.**

126 As used in this chapter:

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

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

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

130 (a) sells cannabinoid medicine at retail; or

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

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

134 (5) "Cannabinoid Product Restricted Account" means the account created in Section  
135 [4-42-104](#).

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

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

138 (a) grows cannabis; or

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

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

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

142 (b) possesses a cannabinoid product with the intent to conduct a chemical or other  
143 analysis of the cannabinoid product.

144 (9) "Cannabis payment processor" means the same as that term is defined in Section  
145 [7-26-102](#).

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

147 (a) manufactures a cannabinoid product from cannabis;

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

- 150 (c) sells or intends to sell a cannabinoid product to a cannabinoid dispensary.
- 151 (11) "Electronic monitoring system" means the system described in Section 4-42-103.
- 152 (12) "Medical dosage form" means the same as that term is defined in Section
- 153 26-59-102.
- 154 (13) "Physician" means the same as that term is defined in Section 26-59-102.
- 155 (14) "Registered patient" means an individual with a valid cannabinoid medicine card
- 156 issued by the department under Section 26-59-201.

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

158 **4-42-103. Electronic monitoring system for cannabinoid products.**

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

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

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

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

- 169 (a) each registered patient;
- 170 (b) each physician who recommends a cannabinoid product to a registered patient; and
- 171 (c) each transaction involving a cannabinoid product.

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

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

179 (4) The electronic monitoring system shall track cannabis and cannabinoid products in  
180 real time, from the time that a cannabis plant is first planted as a seed or clone until the

181 cannabinoid product derived from the cannabis is sold by a cannabinoid dispensary.

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

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

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

188 (b) state or local law enforcement.

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

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

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

195 **4-42-104. Cannabinoid Product Restricted Account -- Creation.**

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

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

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

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

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

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

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

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

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

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

- 212 (4) The money in the account may only be used to fund, upon appropriation:
- 213 (a) the cost of state regulation of cannabinoid products under:
- 214 (i) Title 4, Chapter 42, Cannabis Producers;
- 215 (ii) Title 7, Chapter 26, Cannabis Payment Processors;
- 216 (iii) Title 26, Chapter 59, Cannabinoid Product Act;
- 217 (iv) Title 58, Chapter 87, Cannabinoid Dispensaries; and
- 218 (v) Title 59, Chapter 28, Cannabinoid Product Tax Act;
- 219 (b) the cost to the state for investigation and enforcement related to cannabinoid
- 220 products; and
- 221 (c) cannabis abuse prevention and cannabis education programs developed by the state.
- 222 (5) At the end of fiscal year 2019 and fiscal year 2020 the director of the Division of
- 223 Finance shall transfer into the General Fund from the Cannabinoid Product Restricted Account
- 224 an amount equal to the General Fund appropriation in fiscal year 2017 and fiscal year 2018 to
- 225 implement the programs described in Subsection (4).

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

227 **Part 2. Cannabis Producer License**

228 **4-42-201. Cannabis cultivator -- Cannabis processor -- Cannabis laboratory --**  
229 **License -- Renewal.**

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

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

- 235 (a) cannabis cultivator;
- 236 (b) cannabis processor; or
- 237 (c) cannabis laboratory.

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

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



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

245 (c) an application fee established by the department, in accordance with Section  
246 63J-1-504, in an amount equal to the amount necessary to cover the department's cost to  
247 implement this chapter; and

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

251 (i) security;

252 (ii) payment processing;

253 (iii) for a cannabis cultivator:

254 (A) pesticide and fertilizer use; and

255 (B) anticipated cannabis yield;

256 (iv) for a cannabis processor:

257 (A) cannabinoid extraction; and

258 (B) processing technique; and

259 (v) for a cannabis laboratory:

260 (A) testing method; and

261 (B) testing capability.

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

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

266 (a) that holds a license for or has an ownership interest in a cannabinoid medicine  
267 dispensary in the state; or

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

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

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

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

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

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

279 **4-42-202. Renewal.**

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

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

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

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

286 **4-42-203. Department may accept or deny a license -- Maximum number of**  
287 **licenses.**

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

290 (a) cannabis cultivator;

291 (b) cannabis processor; and

292 (c) cannabis laboratory.

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

295 (a) the population of the state; and

296 (b) the number of registered patients.

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

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

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

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

304 **4-42-204. Bond required for license -- Cannabis producer.**

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

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

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

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

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

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

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

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

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

318 (5) A cannabis producer may not withdraw any part of a bond posted under Subsection  
319 (1):

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

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

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

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

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

328 **Part 3. Cannabis Producer Agents**

329 **4-42-301. Cannabis producer agents.**

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

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

334 (a) January 1 of each year; and

335 (b) July 1 of each year.

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

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

341 (a) that the list is accurate; and

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

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

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

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

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

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

351 **4-42-302. Cannabis producer agents -- Criminal background checks.**

352 (1) Each cannabis producer agent shall:

353 (a) submit to the department:

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

355 (ii) a signed waiver in accordance with Subsection 53-10-108(4) indicating that the

356 agent's fingerprints are being registered in the Federal Bureau of Investigation Next Generation  
357 Identification System's Rap Back Service; and

358 (b) consent to a fingerprint background check by:

359 (i) the Bureau of Criminal Identification; and

360 (ii) the Federal Bureau of Investigation.

361 (2) The Bureau of Criminal Identification shall:

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

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

366 (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by

367 future submissions to the local and regional criminal records databases, including latent prints;

368 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next

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

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

371 latent prints; and

372 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives

373 notifications for an individual with whom the entity maintains an authorizing relationship.

374 (3) The department shall:

375 (a) assess an individual who submits fingerprints, in accordance with this section, a fee

376 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of

377 Criminal Identification or other authorized agency provides under this section; and

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

379 Identification.

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

381 **Part 4. Cannabis Producer General Operating Requirements**

382 **4-42-401. Cannabis producer -- General operating requirements.**

383 (1) (a) A cannabis producer shall operate in accordance with the operating plan the

384 cannabis producer provides to the department under Section [4-42-201](#).

385 (b) A cannabis producer shall notify the department within 30 days of any change in

386 the cannabis producer's operation plan.

387 (c) The department shall review a cannabis producer's operating plan for compliance

388 with state law and administrative rules.

389 (d) A cannabis producer may not operate under an operating plan until the operating

390 plan is reviewed and approved by the department under Subsection (1)(c).

391 (2) Except when determined by the Department of Financial Institutions under Section

392 [7-26-204](#), a cannabis producer may only transmit or accept payments for cannabinoid medicine

393 using a cannabis payment processor licensed under Section [7-26-201](#).

394 (3) The department shall establish physical facility standards for a cannabis producer

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

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

397 **4-42-402. Cannabis producer -- Inspection by department.**

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

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

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

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

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

406           **4-42-403. Cannabis or cannabinoid medicine transportation.**

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

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

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

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

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

419           (3) In addition to the requirements in Subsections (1) and (2), the department shall  
420 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
421 Rulemaking Act, requirements for transporting cannabis or cannabinoid medicine related to  
422 safety for human consumption of cannabinoid medicine.

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

425           (a) transports cannabis or cannabinoid medicine; and

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

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

429 fine.

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

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

434 **Part 5. Cannabis Cultivator Operating Requirements**

435 **4-42-501. Cannabis cultivator -- Operating requirements.**

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

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

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

440 (b) each unique harvest of cannabis plants.

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

443 (4) The department shall establish, by rule made in accordance with Title 63G, Chapter  
444 3, Utah Administrative Rulemaking Act:

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

446 (i) use of pesticides;

447 (ii) use of fertilizers; and

448 (iii) cultivation techniques; and

449 (b) physical facility standards for a cannabis cultivator.

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

451 **Part 6. Cannabis Processor Operating Requirements**

452 **4-42-601. Cannabis processor -- Operating requirements.**

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

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

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

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

460 **4-42-602. Cannabinoid product.**

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

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

464 **4-42-603. Cannabinoid medicine -- Labeling and packaging.**

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

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

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

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

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

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

476 **Part 7. Cannabis Laboratory Operating Requirements**

477 **4-42-701. Cannabis and cannabinoid product testing.**

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

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

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

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

486 (a) mold;

487 (b) fungus;

488 (c) pesticides;

489 (d) other microbial contaminants; or

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



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

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

496 (a) the origin of the cannabis;

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

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

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

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

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

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

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

508 **4-42-702. Reporting -- Inspections.**

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

511 (2) A cannabis laboratory shall determine if:

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

514 (b) using a stable isotope test, was not cultivated in accordance with this chapter.

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

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

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

525 (5) The department shall establish, by rule made in accordance with Title 63G, Chapter  
526 3, Utah Administrative Rulemaking Act, the amount of time that a cannabis laboratory is  
527 required to hold a batch under Subsection (3).

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

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

530 (i) cannabis or cannabinoid product test results; or

531 (ii) analytical method; or

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

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

534 **Part 8. Enforcement**

535 **4-42-801. Enforcement -- Fine -- Citation.**

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

537 (a) revoke the cannabis producer's license;

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

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

540 (d) take any other appropriate administrative action.

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

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

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

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

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

552 (b) If the department makes the determination about a person described in Subsection

553 (3)(a)(i), the department shall:

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

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

556 (iii) direct the person to appear before an adjudicative proceeding conducted under

557 Title 63G, Chapter 4, Administrative Procedures Act.

558 (c) If the department makes the determination about a person described in Subsection

559 (3)(a)(ii), the department may:

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

561 (ii) direct the person to appear before an adjudicative proceeding conducted under Title

562 63G, Chapter 4, Administrative Procedures Act.

563 (4) The department may, for a person subject to an uncontested citation, a stipulated

564 settlement, or a finding of a violation in an adjudicative proceeding under this section:

565 (a) assess the person a fine in an amount determined by the department in accordance

566 with Section 63J-1-504; or

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

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

569 (6) If, within 20 calendar days after the day on which a department serves a citation for

570 a violation of this chapter, the person that is the subject of the citation fails to request a hearing

571 to contest the citation, the citation becomes the basis of the department's final order.

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

573 section:

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

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

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

577 **4-42-802. Report to the Legislature.**

578 The department shall report, each year before November 1, to the Health and Human

579 Services Interim Committee, on the department's administration and enforcement of this

580 chapter.

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

582 **4-42-803. Fees -- Deposit into Cannabinoid Product Restricted Account.**

583 The department shall deposit fees the department collects under this chapter into the

584 Cannabinoid Product Restricted Account.

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

586 **7-1-401. Fees payable to commissioner.**

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

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

592 (b) at the following rates:

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

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

595 (B) \$500;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

617 (6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703,  
618 7-1-704, 7-1-713, 7-5-3, [or] 7-18a-202, or 7-26-201 shall pay:

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

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

622 (I) a depository institution;

623 (II) a trust company; or

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

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

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

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

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

631 (i) for each examiner; and

632 (ii) per hour worked.

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

637 (8) In addition to a fee under Subsection (5), a person registering under Section  
638 7-23-201 or 7-24-201 shall pay an original registration fee of \$300.

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

641 Section 24. Section 7-26-101 is enacted to read:

642 **CHAPTER 26. CANNABIS PAYMENT PROCESSOR**

643 **Part 1. General Provisions**

644 **7-26-101. Title.**

645 This chapter is known as "Cannabis Payment Processor."

646 Section 25. Section 7-26-102 is enacted to read:

647 **7-26-102. Definitions.**

648 As used in this chapter:

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

650 (2) "Cannabinoid dispensary" means the same as that term is defined in Section  
651 58-87-102.

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

653 (a) contains cannabis; and

654 (b) is intended for human medical use.

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

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

657 (a) without using cash;

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

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

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

661 cannabis laboratory; or

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

663 or

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

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

666 (7) "Electronic monitoring system" means the same as that term is defined in Section  
667 4-42-102.

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

670 Section 26. Section 7-26-201 is enacted to read:

671 **Part 2. Cannabis Payment Processor License**

672 **7-26-201. Cannabis payment processor -- License.**

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

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

676 (a) submit to the department:

- 677 (i) the applicant's name, business address, and place of incorporation;  
678 (ii) the name of each owner, officer, director, board member, shareholder, agent,  
679 employee, or volunteer of the applicant; and  
680 (iii) a fee in accordance with Section 7-1-401; and  
681 (b) present evidence to the department that:  
682 (i) the applicant is capable of electronically receiving funds from, and distributing  
683 funds to:  
684 (A) a cannabis producer;  
685 (B) a cannabinoid dispensary; and  
686 (C) a registered patient;  
687 (ii) the applicant has a partnership, service agreement, or service contract with a  
688 federally insured depository institution that agrees to clear cannabinoid product transactions;  
689 (iii) the applicant is able to interface with the electronic monitoring system to enable a  
690 registered patient to:  
691 (A) add funds, using a bank wire or a credit card, to an account with the applicant  
692 associated with the cannabinoid card; and  
693 (B) use the cannabinoid card to pay for a cannabinoid product at a cannabinoid  
694 dispensary using the funds in the individual's account with the cannabis payment processor;  
695 and  
696 (iv) the applicant is, at minimum:  
697 (A) a level one payment card industry data security standard-validated provider;  
698 (B) certified by Europay, MasterCard, and Visa; and  
699 (C) capable of integrating with 50 payment processors.  
700 (3) A license issued under this section is valid for two years.  
701 (4) The department may determine, by rule made in accordance with Title 63G,  
702 Chapter 3, Utah Administrative Rulemaking Act:  
703 (a) any additional information an applicant for a cannabis payment processor is  
704 required to submit to the department; and  
705 (b) procedural requirements for an applicant for a license under this chapter.  
706 (5) An applicant for a cannabis payment processor license under this section may  
707 request that the department treat information that the applicant submits to the department as

708 confidential under Section 7-1-802.

709 Section 27. Section **7-26-202** is enacted to read:

710 **7-26-202. Renewal -- Abandonment.**

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

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

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

715 (3) pays the department a license renewal fee in an amount that is the same as the

716 licensing fee determined by the department in accordance with Section 7-1-401.

717 Section 28. Section **7-26-203** is enacted to read:

718 **7-26-203. Number of licenses -- Criteria for awarding a license.**

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

721 (2) The department shall evaluate an applicant for a cannabis payment processor

722 license to determine to what extent the applicant has demonstrated:

723 (a) experience with:

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

725 (ii) operating a payment processing system;

726 (iii) complying with a regulatory environment; and

727 (iv) training, evaluating, and monitoring employees;

728 (b) connections to the local community;

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

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

731 processing cannabinoid product payments.

732 (3) After an appropriate supervisor reviews an applicant's application under Section

733 7-26-201 and evaluates the application for the criteria described in Subsection (2), the

734 appropriate supervisor shall submit the department's findings and recommendations to the

735 commissioner.

736 (4) After reviewing the findings and recommendations described in Subsection (3), the

737 commissioner shall make a final determination that awards or denies a cannabis payment

738 processor license to an applicant.



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

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

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

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

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

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

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

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

756 Section 29. Section **7-26-204** is enacted to read:

757 **7-26-204. Cash system if no cannabis payment processor available.**

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

760 (2) If the department makes the determination described in Subsection (1), the  
761 department shall issue a statement that a cannabis payment processor is not available and that a  
762 cannabis producer, cannabinoid dispensary, or registered patient may use cash to pay for  
763 products and services related to cannabinoid products.

764 Section 30. Section **7-26-301** is enacted to read:

765 **Part 3. Operating Requirements**

766 **7-26-301. Operating requirements.**

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

769 (2) A cannabis payment processor may not act as a cannabis payment processor for a

770 person unless the person is:

771 (a) a registered patient; or

772 (b) a person that is licensed under:

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

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

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

777 Section 31. Section 7-26-401 is enacted to read:

778 **Part 4. Enforcement**

779 **7-26-401. Examination -- Administrative action.**

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

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

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

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

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

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

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

794 (c) revoke the person's license.

795 Section 32. Section 7-26-402 is enacted to read:

796 **7-26-402. Fines -- Deposit into Cannabinoid Product Restricted Account.**

797 The department shall deposit fines that the department collects under this chapter into  
798 the Cannabinoid Product Restricted Account created in Section [4-42-104](#).

799 Section 33. Section 26-59-101 is enacted to read:

800 **CHAPTER 59. CANNABINOID PRODUCT ACT**

801 **Part 1. General Provisions**

802 **26-59-101. Title.**

803 This chapter is known as "Cannabinoid Product Act."

804 Section 34. Section **26-59-102** is enacted to read:

805 **26-59-102. Definitions.**

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

807 (2) "Cannabinoid card" means a card issued by the department under Section  
808 26-59-201 to a patient who qualifies for treatment with a cannabinoid product.

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

810 (a) sells a cannabinoid product; or

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

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

814 (5) "Cannabinoid Product Restricted Account" means the account created in Section  
815 4-42-104.

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

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

818 (8) "Cannabis payment processor" means the same as that term is defined in Section  
819 7-26-102.

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

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

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

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

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

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

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

832 Section 35. Section **26-59-103** is enacted to read:

833 **26-59-103. Medical dosage form.**

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

836 (a) a tablet;

837 (b) a capsule;

838 (c) a concentrated oil;

839 (d) an injectable;

840 (e) a transdermal preparation; and

841 (f) a sublingual preparation.

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

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

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

848 Section 36. Section **26-59-201** is enacted to read:

849 **Part 2. Cannabinoid Card**

850 **26-59-201. Cannabinoid card -- Application -- Renewal.**

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

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

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

856 (a) the individual is:

857 (i) at least 18 years old; and

858 (ii) a Utah resident; and

859 (b) a physician determines that the individual:

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

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

863 (4) An applicant for a cannabinoid card shall:

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

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

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

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

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

871 (b) pay the department a fee established by the department in accordance with Section  
872 63J-1-504.

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

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

877 Section 37. Section **26-59-202** is enacted to read:

878 **26-59-202. Cannabinoid card -- Designated caregiver -- Registration -- Renewal --**  
879 **Revocation.**

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

883 (2) An individual registered as a designated caregiver of a registered patient under this  
884 section may:

885 (a) carry the registered patient's cannabinoid card; and

886 (b) purchase and possess a cannabinoid product, in accordance with this chapter, on  
887 behalf of the designating patient.

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

890 (a) at least 18 years old; and

891 (b) a Utah resident.

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

893 **26-59-203. Cannabinoid card -- Patient and designated caregiver requirements.**

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

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

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

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

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

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

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

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

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

911 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a  
912 \$100 fine.

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

914 **26-59-204. Insurance coverage.**

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

917 Section 40. Section **26-59-205** is enacted to read:

918 **26-59-205. Report to the Legislature.**

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

922 Section 41. Section **26-59-206** is enacted to read:

923 **26-59-206. Fees -- Deposit.**

924 The department shall deposit any fee the department collects under this chapter into the

925 Cannabinoid Product Restricted Account created in Section 4-42-104.

926 Section 42. Section 41-6a-517 is amended to read:

927 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
928 **body -- Penalties -- Arrest without warrant.**

929 (1) As used in this section:

930 (a) "Controlled substance" has the same meaning as in Section 58-37-2.

931 (b) "Practitioner" has the same meaning as in Section 58-37-2.

932 (c) "Prescribe" has the same meaning as in Section 58-37-2.

933 (d) "Prescription" has the same meaning as in Section 58-37-2.

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

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

939 (a) involuntarily ingested by the accused;

940 (b) prescribed by a practitioner for use by the accused; [~~or~~]

941 (c) for a person who is a registered patient under Title 26, Chapter 59, Cannabinoid  
942 Product Act, a cannabinoid product recommended by a physician; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

978 (9) The Driver License Division shall subtract from any suspension or revocation  
979 period the number of days for which a license was previously suspended under Section  
980 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
981 which the record of conviction is based.

982 (10) The Driver License Division shall:

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

986 (b) deny, suspend, or revoke the operator's license of a person for the denial,



987 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

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

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

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

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

997 (b) completes a screening;

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

1000 (d) completes substance abuse treatment if it is found appropriate by the assessment  
1001 under Subsection (11)(c);

1002 (e) completes an educational series if substance abuse treatment is not required by the  
1003 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

1004 (f) has not been convicted of a violation of any motor vehicle law in which the person  
1005 was involved as the operator of the vehicle during the suspension period imposed under  
1006 Subsection (7)(a) or (8)(a);

1007 (g) has complied with all the terms of the person's probation or all orders of the court if  
1008 not ordered to probation; and

1009 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the  
1010 person has not consumed a controlled substance not prescribed by a practitioner for use by the  
1011 person or unlawfully consumed alcohol during the suspension period imposed under  
1012 Subsection (7)(a) or (8)(a); or

1013 (ii) is under 18 years of age and has the person's parent or legal guardian provide an  
1014 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's  
1015 knowledge the person has not consumed a controlled substance not prescribed by a practitioner  
1016 for use by the person or unlawfully consumed alcohol during the suspension period imposed  
1017 under Subsection (7)(a) or (8)(a).

1018 (12) If the court shortens a person's license suspension period in accordance with the  
1019 requirements of Subsection (11), the court shall forward the order shortening the person's  
1020 license suspension period prior to the completion of the suspension period imposed under  
1021 Subsection (7)(a) or (8)(a) to the Driver License Division.

1022 (13) (a) The court shall notify the Driver License Division if a person fails to:

1023 (i) complete all court ordered screening and assessment, educational series, and  
1024 substance abuse treatment; or

1025 (ii) pay all fines and fees, including fees for restitution and treatment costs.

1026 (b) Upon receiving the notification, the division shall suspend the person's driving  
1027 privilege in accordance with Subsections 53-3-221(2) and (3).

1028 (14) The court shall order supervised probation in accordance with Section 41-6a-507  
1029 for a person convicted under Subsection (2).

1030 Section 43. Section 58-37-3.6 is enacted to read:

1031 **58-37-3.6. Exemption for possession or use of cannabinoid medicine.**

1032 (1) As used in this section:

1033 (a) "Cannabinoid product" means a substance that:

1034 (i) contains cannabis; and

1035 (ii) is approved for a physician to recommend under Section 58-37-3.7.

1036 (b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

1037 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

1038 (d) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the  
1039 description in Subsection 58-37-4(2)(a)(iii)(AA).

1040 (2) Except as provided in Section 57-37-3.7, notwithstanding any other provision of  
1041 this chapter:

1042 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to  
1043 the penalties described in this title for the growth, possession, sale, or offer for sale of  
1044 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,  
1045 or offer for sale of cannabis complies with:

1046 (i) Title 4, Chapter 42, Cannabis Producers;

1047 (ii) Title 26, Chapter 59, Cannabinoid Product Act; and

1048 (iii) Title 58, Chapter 87, Cannabinoid Dispensaries;

1049 (b) an individual who possesses, sells, or offers to sell a cannabinoid product is not  
1050 subject to the penalties described in this title for the possession, sale, or offer for sale of  
1051 marijuana or tetrahydrocannabinol to the extent that the individual's possession, sale, or offer  
1052 for sale of the cannabinoid product complies with:

- 1053 (i) Title 4, Chapter 42, Cannabis Producers;  
1054 (ii) Title 26, Chapter 59, Cannabinoid Product Act; and  
1055 (iii) Title 58, Chapter 87, Cannabinoid Dispensaries; and

1056 (c) an individual who possesses, sells, or offers to sell a cannabinoid product is not  
1057 subject to the penalties described in this title for the possession, sale, or offer for sale of  
1058 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's growth,  
1059 possession, sale, or offer for sale of the cannabinoid product complies with:

- 1060 (i) Title 4, Chapter 42, Cannabis Producers;  
1061 (ii) Title 26, Chapter 59, Cannabinoid Product Act; and  
1062 (iii) Title 58, Chapter 87, Cannabinoid Dispensaries.

1063 Section 44. Section **58-37-3.7** is enacted to read:

1064 **58-37-3.7. Cannabinoid product -- Approval by Legislature.**

1065 (1) A substance that contains cannabis is only considered a cannabinoid product for the  
1066 purpose of Section [58-37-3.6](#) if the substance is expressly approved for a physician to  
1067 recommend for treatment of a patient's condition in this section.

1068 (2) A person may not, before a cannabinoid product is expressly approved in this  
1069 section, implement or take action in accordance with:

- 1070 (a) Title 4, Chapter 42, Cannabis Producers;  
1071 (b) Title 7, Chapter 26, Cannabis Payment Processors;  
1072 (c) Title 26, Chapter 59, Cannabinoid Product Act;  
1073 (d) Title 58, Chapter 87, Cannabinoid Dispensaries;  
1074 (e) Title 59, Chapter 28, Cannabinoid Product Tax Act;  
1075 (f) Section [58-37-3.6](#);  
1076 (g) Section [58-37f-204](#);  
1077 (h) Section [58-67-807](#); or  
1078 (i) Section [58-68-807](#).

1079 Section 45. Section **58-37f-204** is enacted to read:

1080 58-37f-204. Controlled substance database and cannabinoid products.

1081 (1) (a) The division shall establish a process for a cannabinoid dispensary agent to  
1082 submit, at a specified time during each 24-hour period, the information required by this section.

1083 (b) A cannabinoid dispensary shall comply with the process established by the division  
1084 under Subsection (1)(a).

1085 (2) A cannabinoid dispensary shall, each time the cannabinoid dispensary dispenses a  
1086 cannabinoid product to an individual with a medical cannabis card, submit to the division the  
1087 following information:

1088 (a) the name of the physician who recommended the cannabinoid product and the  
1089 unique number identifying the recommendation;

1090 (b) the date of the recommendation;

1091 (c) the date the cannabinoid product was dispensed;

1092 (d) the name of the individual with the medical cannabis card;

1093 (e) positive identification of the individual who receives the cannabinoid product,  
1094 including the type of identification and any identifying numbers on the identification;

1095 (f) the amount of cannabinoid product dispensed;

1096 (g) the dosage, quantity, and frequency recommended by the physician;

1097 (h) the name of the cannabinoid dispensary dispensing the cannabinoid product;

1098 (i) the name of the cannabinoid dispensary agent who dispensed the cannabinoid  
1099 product; and

1100 (j) any other information required by the division under Subsection (8).

1101 (3) If an individual's cannabinoid product record is in the controlled substance  
1102 database:

1103 (a) the individual may obtain the record by requesting the record from the division in  
1104 writing; and

1105 (b) the individual may request, in writing, with the individual's postal address included,  
1106 that the division correct any incorrect information about the individual contained in the  
1107 database.

1108 (4) For a request described in Subsection (3), the division shall:

1109 (a) grant or deny the request no later than 30 days after the day on which the division  
1110 receives the request; and

1111 (b) notify the individual who submitted the request of the division's decision by mail  
1112 postmarked no later than 35 days after the day on which the division received the request.

1113 (5) If the division denies a request described in Subsection (3), or does not respond to  
1114 the request within the time period described in Subsection (4), the individual who submitted  
1115 the request may, no later than 60 days after the day on which the individual's initial request is  
1116 postmarked, submit an appeal to the Department of Commerce.

1117 (6) The division shall ensure that the database system records and maintains for  
1118 reference:

1119 (a) the identity of and a form of identification for each individual who requests  
1120 information from the database;

1121 (b) the information accessed by the individual described in Subsection (6)(a); and

1122 (c) the date and time the individual described in Subsection (6)(a) made the request.

1123 (7) A cannabinoid dispensary agent may access the controlled substance database in the  
1124 same manner and for the same purpose as a pharmacist may access the database under  
1125 Subsection [58-37f-301\(2\)\(i\)](#).

1126 (8) The division shall establish, by rule made in accordance with Title 63G, Chapter 3,  
1127 Utah Administrative Rulemaking Act:

1128 (a) requirements for the form and manner of submission of information submitted to  
1129 the database under this section; and

1130 (b) for the purpose of collecting health data on cannabinoid products, additional  
1131 information that a cannabinoid dispensary is required to submit to the controlled substance  
1132 database.

1133 Section 46. Section **58-67-807** is enacted to read:

1134 **58-67-807. Recommendation of cannabinoid products -- Registration with**  
1135 **division and Department of Health.**

1136 (1) A physician may recommend the use of cannabinoid product to a patient in  
1137 accordance with Title 26, Chapter 59, Cannabinoid Product Act, if the physician:

1138 (a) registers with the division and the Department of Health as a physician who  
1139 recommends cannabinoid products; and

1140 (b) completes the training required under Subsection (3).

1141 (2) A physician who recommends a cannabinoid product shall:

1142 (a) recommend cannabinoid products to no more than an amount of patients  
1143 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,  
1144 Utah Administrative Rulemaking Act;

1145 (b) consult the controlled substance database before recommending cannabinoid  
1146 products to a patient to determine if the patient is abusing cannabinoid products;

1147 (c) report an adverse event experienced by a patient related to the patient's cannabinoid  
1148 product use to the Department of Health; and

1149 (d) report other data on cannabinoid products required by Title 26, Chapter 59,  
1150 Cannabinoid Product Act.

1151 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter  
1152 3, Utah Administrative Rulemaking Act, training requirements for a physician that  
1153 recommends cannabinoid products.

1154 (b) The division shall include, in the training requirements the division establishes  
1155 under Subsection (3)(a), training on using caution when recommending cannabinoid products  
1156 to avoid patient cannabinoid product abuse.

1157 (4) It is not a breach of the applicable standard of care for a physician to recommend  
1158 treatment with a cannabinoid product to an individual under this section and Title 26, Chapter  
1159 59, Cannabinoid Product Act.

1160 (5) A physician who recommends treatment with a cannabinoid product to an  
1161 individual under this section and Title 26, Chapter 59, Cannabinoid Product Act, may not,  
1162 solely based on that recommendation, be subject to:

1163 (a) civil liability;

1164 (b) criminal liability; or

1165 (c) licensure sanctions under this chapter.

1166 Section 47. Section **58-68-807** is enacted to read:

1167 **58-68-807. Recommendation of cannabinoid products -- Registration with**  
1168 **division and Department of Health.**

1169 (1) A physician may recommend the use of cannabinoid product to a patient in  
1170 accordance with Title 26, Chapter 59, Cannabinoid Product Act, if the physician:

1171 (a) registers with the division and the Department of Health as a physician who  
1172 recommends cannabinoid products; and

1173 (b) completes the training required under Subsection (3).  
1174 (2) A physician who recommends a cannabinoid product shall:  
1175 (a) recommend cannabinoid products to no more than an amount of patients  
1176 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,  
1177 Utah Administrative Rulemaking Act;  
1178 (b) consult the controlled substance database before recommending cannabinoid  
1179 products to a patient to determine if the patient is abusing cannabinoid products;  
1180 (c) report an adverse event experienced by a patient related to the patient's cannabinoid  
1181 product use to the Department of Health; and  
1182 (d) report other data on cannabinoid products required by Title 26, Chapter 59,  
1183 Cannabinoid Product Act.  
1184 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter  
1185 3, Utah Administrative Rulemaking Act, training requirements for a physician that  
1186 recommends cannabinoid products.  
1187 (b) The division shall include, in the training requirements the division establishes  
1188 under Subsection (3)(a), training on using caution when recommending cannabinoid products  
1189 to avoid patient cannabinoid product abuse.  
1190 (4) It is not a breach of the applicable standard of care for a physician to recommend  
1191 treatment with a cannabinoid product to an individual under this section and Title 26, Chapter  
1192 59, Cannabinoid Product Act.  
1193 (5) A physician who recommends treatment with a cannabinoid product to an  
1194 individual under this section and Title 26, Chapter 59, Cannabinoid Product Act, may not,  
1195 solely based on that recommendation, be subject to:  
1196 (a) civil liability;  
1197 (b) criminal liability; or  
1198 (c) licensure sanctions under this chapter.  
1199 Section 48. Section **58-87-101** is enacted to read:

**CHAPTER 87. CANNABINOID DISPENSARIES**

**Part 1. General Provisions**

**58-87-101. Title.**

This chapter is known as "Cannabinoid Dispensaries."

1204 Section 49. Section **58-87-102** is enacted to read:

1205 **58-87-102. Definitions.**

1206 As used in this chapter:

1207 (1) "Agent" means an employee or independent contractor of an entity.

1208 (2) "Cannabinoid card" means the same as that term is defined in Section [26-59-102](#).

1209 (3) "Cannabinoid dispensary" means a person that:

1210 (a) sells a cannabinoid product; or

1211 (b) purchases or possesses a cannabinoid product with the intent to sell the cannabinoid

1212 product.

1213 (4) "Cannabinoid product" means the same as that term is defined in Section [58-37-3.6](#).

1214 (5) "Cannabinoid Product Restricted Account" means the account created in Section

1215 [4-42-104](#).

1216 (6) "Cannabis" means any part of a cannabis plant, whether growing or not.

1217 (7) "Cannabis cultivator" means the same as that term is defined in Section [4-42-102](#).

1218 (8) "Cannabis laboratory" means the same as that term is defined in Section [4-42-102](#).

1219 (9) "Cannabis payment processor" means the same as that term is defined in Section

1220 [7-26-102](#).

1221 (10) "Cannabis processor" means the same as that term is defined in Section [4-42-102](#).

1222 (11) "Cannabis producer" means:

1223 (a) a cannabis cultivation facility;

1224 (b) a cannabis processor; or

1225 (c) a cannabis laboratory.

1226 (12) "Electronic monitoring system" means the system described in Section [4-42-103](#).

1227 (13) "Physician" means the same as that term is defined in Section [26-59-102](#).

1228 (14) "Registered patient" means an individual with a valid cannabinoid card issued by

1229 the department under Section [26-59-201](#).

1230 Section 50. Section **58-87-201** is enacted to read:

1231 **Part 2. Cannabinoid Dispensary License and Eligibility**

1232 **58-87-201. Cannabinoid dispensary -- License -- Eligibility.**

1233 (1) A person may not operate as a cannabinoid dispensary without a license from the

1234 division issued under this part.



- 1235 (2) A person may submit an application to the division for a license to act as a  
1236 cannabinoid dispensary.
- 1237 (3) An applicant for a license described in Subsection (2) shall submit to the division:  
1238 (a) an application in a form determined by the division that includes information  
1239 required by the division by rule made in accordance with Title 63G, Chapter 3, Utah  
1240 Administrative Rulemaking Act;
- 1241 (b) a bond, as required by Section 58-87-204, for each license for which the person  
1242 applies;
- 1243 (c) an application fee established by the division, in accordance with Section  
1244 63J-1-504, in an amount equal to the amount necessary to cover the division's cost to  
1245 implement this chapter; and
- 1246 (d) an operating plan that complies with minimum operating standards determined by  
1247 the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1248 Rulemaking Act, that includes a plan for:
- 1249 (i) security;  
1250 (ii) payment processing; and  
1251 (iii) the cannabinoid products that the cannabinoid dispensary intends to sell.
- 1252 (4) The division shall require a separate license and separate license fee for each  
1253 physical location of a cannabinoid dispensary.
- 1254 (5) The division may not issue a license to operate a cannabinoid dispensary to a  
1255 person:
- 1256 (a) that holds a license for or has an ownership interest in a cannabis cultivator or a  
1257 cannabis processor in the state; or
- 1258 (b) that otherwise has an interest in a cannabis cultivator or a cannabis processor, as  
1259 determined by the division.
- 1260 Section 51. Section **58-87-202** is enacted to read:
- 1261 **58-87-202. Renewal.**
- 1262 Except as provided in Subsection (2), the division shall renew the license of a  
1263 cannabinoid dispensary licensed under Section 58-87-201 if, at the time of renewal:
- 1264 (1) the cannabinoid dispensary meets the requirements of Section 58-87-201; and  
1265 (2) the cannabinoid dispensary pays the division a license renewal fee in an amount

1266 determined by the division in accordance with Section 63J-1-504.

1267 Section 52. Section **58-87-203** is enacted to read:

1268 **58-87-203. Division may accept or deny a license -- Maximum number of licenses.**

1269 (1) The division shall determine the number of cannabinoid dispensary licenses that the  
1270 division may issue at any given time.

1271 (2) The division shall determine the number of licenses available under Subsection (1)  
1272 by considering:

1273 (a) the population of the state; and

1274 (b) the number of registered patients.

1275 (3) The division may not issue more than, at any given time, a number of licenses  
1276 greater than the number available under Subsection (1).

1277 (4) The division is not required to issue an available license if the division determines  
1278 that no qualified applicant has applied.

1279 (5) A division decision to award or deny a license under this section is final and not  
1280 subject to judicial review.

1281 Section 53. Section **58-87-204** is enacted to read:

1282 **58-87-204. Bond for a cannabinoid medicine dispensary license.**

1283 (1) A cannabinoid dispensary licensed under Section 58-87-201 shall post a cash bond  
1284 or surety bond, payable to the division, in an amount equal to \$750,000.

1285 (2) A cannabinoid dispensary licensed under Section 58-87-201 shall maintain the  
1286 bond described in Subsection (1) for as long as the cannabinoid dispensary continues to  
1287 operate.

1288 (3) The division shall require a bond that a cannabinoid dispensary posts under this  
1289 section to be:

1290 (a) in a form approved by the attorney general; and

1291 (b) conditioned upon the cannabinoid dispensary's compliance with this chapter.

1292 (4) If a bond described in Subsection (1) is canceled due to a cannabinoid dispensary's  
1293 negligence, the division may assess the cannabinoid dispensary a \$300 reinstatement fee.

1294 (5) A cannabinoid dispensary may not withdraw any part of a bond posted under  
1295 Subsection (1):

1296 (a) during the period when the cannabinoid dispensary's license is in effect; or

1297 (b) while a license revocation proceeding is pending against the cannabinoid  
1298 dispensary.

1299 (6) A cannabinoid dispensary forfeits a bond posted under Subsection (1) if the  
1300 cannabinoid dispensary's license is revoked.

1301 (7) The division may, without revoking a license, make a claim against a bond posted  
1302 by a cannabinoid dispensary under Subsection (1) for money the cannabinoid dispensary owes  
1303 the division under this chapter.

1304 Section 54. Section **58-87-301** is enacted to read:

1305 **Part 3. Cannabinoid Dispensary Agents**

1306 **58-87-301. Cannabinoid dispensary agents.**

1307 (1) A cannabinoid dispensary licensed under Section [58-87-201](#) shall maintain a  
1308 current list of each agent of the cannabinoid dispensary.

1309 (2) A cannabinoid dispensary shall submit the list described in Subsection (1) to the  
1310 division before:

1311 (a) January 1 of each year; and

1312 (b) July 1 of each year.

1313 (3) In addition to the list described in Subsection (1), a cannabinoid dispensary licensed  
1314 under Section [58-87-201](#) shall require each agent to submit to a criminal background check in  
1315 accordance with Section [58-87-302](#).

1316 (4) The division may audit the list described in Subsection (1) at any time, at random in  
1317 order to determine:

1318 (a) that the list is accurate; and

1319 (b) that each agent has submitted to a criminal background check in accordance with  
1320 Section [58-87-302](#).

1321 (5) A cannabinoid dispensary is guilty of an infraction if the cannabinoid dispensary:

1322 (a) fails to maintain an accurate list of each agent of the cannabinoid dispensary in  
1323 accordance with this section; or

1324 (b) has an agent who has not submitted to a background check in accordance with  
1325 Section [58-87-302](#).

1326 (6) A physician may not act as an agent of a cannabinoid dispensary.

1327 Section 55. Section **58-87-302** is enacted to read:

1328           58-87-302. Cannabinoid medicine dispensary agents -- Criminal background  
1329 **checks.**

1330           (1) Each cannabinoid dispensary agent shall:

1331           (a) submit to the division:

1332           (i) a fingerprint card in a form acceptable to the Department of Public Safety; and  
1333           (ii) a signed waiver in accordance with Subsection 53-10-108(4) indicating that the  
1334 agent's fingerprints are being registered in the Federal Bureau of Investigation Next Generation  
1335 Identification System's Rap Back Service; and

1336           (b) consent to a fingerprint background check by:

1337           (i) the Bureau of Criminal Identification; and  
1338           (ii) the Federal Bureau of Investigation.

1339           (2) The Bureau of Criminal Identification shall:

1340           (a) check the fingerprints submitted under Subsection (1) against the applicable state,  
1341 regional, and national criminal records databases, including the Federal Bureau of  
1342 Investigation's Next Generation Identification system;

1343           (b) report the results of the background check to the division;

1344           (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by  
1345 future submissions to the local and regional criminal records databases, including latent prints;  
1346           (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
1347 Generation Identification System's Rap Back Service for search by future submissions to  
1348 national criminal records databases, including the Federal Bureau of Investigation Next  
1349 Generation Identification System and latent prints; and

1350           (e) establish a privacy risk mitigation strategy to ensure that the entity only receives  
1351 notifications for an individual with whom the entity maintains an authorizing relationship.

1352           (3) The division shall:

1353           (a) assess an individual who submits fingerprints, in accordance with this section, a fee  
1354 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of  
1355 Criminal Identification or other authorized agency provides under this section; and

1356           (b) remit a fee collected under Subsection (3)(a) to the Bureau of Criminal  
1357 Identification.

1358           Section 56. Section **58-87-401** is enacted to read:

1359 **Part 4. Cannabinoid Dispensary Operating Requirements**

1360 **58-87-401. Operating requirements -- General.**

1361 (1) (a) A cannabinoid dispensary shall operate in accordance with the operating plan  
1362 that the cannabinoid dispensary provides to the department under Section [58-87-201](#).

1363 (b) A cannabinoid dispensary shall notify the department within 30 days of any change  
1364 in the cannabinoid dispensary's operation plan.

1365 (c) The division shall review a cannabinoid dispensary's operating plan for compliance  
1366 with state law and administrative rules.

1367 (d) A cannabinoid dispensary may not operate under an operating plan until the  
1368 operating plan is reviewed and approved by the division under Subsection (1)(c).

1369 (2) Except when determined by the Department of Financial Institutions under Section  
1370 [7-26-204](#), a cannabinoid dispensary may only transmit or accept payment for a cannabinoid  
1371 product through a cannabis payment processor licensed under Section [7-26-201](#).

1372 (3) The division shall establish by rule made in accordance with Title 63G, Chapter 3,  
1373 Utah Administrative Rulemaking Act:

1374 (a) additional operating requirements for a cannabinoid dispensary; and

1375 (b) physical facility standards for a cannabinoid dispensary.

1376 Section 57. Section **58-87-402** is enacted to read:

1377 **58-87-402. Dispensing -- Amount a cannabinoid dispensary may dispense --**  
1378 **Reporting -- Form of cannabis or cannabinoid product.**

1379 (1) A cannabinoid dispensary may only sell, subject to this chapter:

1380 (a) cannabinoid products; or

1381 (b) educational materials related to the use of cannabinoid products.

1382 (2) A cannabinoid dispensary may only sell a cannabinoid product that has been  
1383 inspected by a cannabis laboratory in accordance with Section [4-42-701](#).

1384 (3) A cannabinoid dispensary may only sell a cannabinoid product to:

1385 (a) an individual with a cannabinoid card issued by the department; or

1386 (b) an individual with a valid hemp extract registration card issued under Title 26,  
1387 Chapter 56, Hemp Extract Registration Act.

1388 (4) A cannabinoid dispensary may not dispense on behalf of any one registered patient,  
1389 in any one 90-day period, an amount of cannabinoid products that exceeds a 90-day supply of

1390 the dosage recommended by the registered patient's physician.

1391 (5) A registered patient may not purchase more cannabinoid products than the amounts  
1392 designated in Subsection (4).

1393 (6) A designated caregiver designated by a registered patient may not purchase, for the  
1394 registered patient, an amount of cannabinoid products that exceeds the amounts designated in  
1395 Subsection (4).

1396 (7) A cannabinoid dispensary shall submit a record to the electronic monitoring system  
1397 of each time the cannabinoid dispensary dispenses a cannabinoid product to a registered  
1398 patient.

1399 Section 58. Section **58-87-403** is enacted to read:

1400 **58-87-403. Cannabinoid dispensary -- Inspection by division.**

1401 (1) The division shall inspect, in accordance with Subsection (2), a cannabinoid  
1402 dispensary's facility and records in order to determine if the cannabinoid dispensary complies  
1403 with the requirements of this chapter.

1404 (2) The division may inspect the records and facility of a cannabinoid dispensary:

1405 (a) as many as four times per year, scheduled or unscheduled; and

1406 (b) if the division has reason to believe that the cannabinoid dispensary has violated the  
1407 law, at any time, scheduled or unscheduled.

1408 Section 59. Section **58-87-404** is enacted to read:

1409 **58-87-404. Cannabinoid transportation.**

1410 An agent of a cannabinoid dispensary shall transport cannabinoid medicine in  
1411 accordance with Section [4-42-403](#).

1412 Section 60. Section **58-87-501** is enacted to read:

1413 **Part 5. Enforcement**

1414 **58-87-501. Enforcement -- Fine -- Citation.**

1415 (1) The division may, for a violation of this chapter by a cannabinoid dispensary:

1416 (a) revoke the cannabinoid dispensary's license;

1417 (b) refuse to renew the cannabinoid dispensary's license;

1418 (c) assess the cannabinoid dispensary an administrative penalty; or

1419 (d) take any other appropriate administrative action.

1420 (2) The division shall deposit an administrative penalty imposed under this section into

1421 the General Fund as a dedicated credit to be used by the division to administer and enforce this  
1422 chapter.

1423 (3) The division may, for a person subject to an uncontested citation, a stipulated  
1424 settlement, or a finding of a violation in an adjudicative proceeding under this section:

1425 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to  
1426 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance  
1427 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1428 (b) order the person to cease and desist from the action that creates a violation.

1429 (4) The division may not revoke a cannabinoid dispensary's license via a citation.

1430 (5) If within 20 calendar days after the day on which a division serves a citation for a  
1431 violation of this chapter, the person that is the subject of the citation fails to request a hearing  
1432 to contest the citation, the citation becomes the basis of the division's final order.

1433 (6) The division may, for a person who fails to comply with a citation under this  
1434 section:

1435 (a) refuse to issue or renew the person's license; or

1436 (b) suspend, revoke, or place on probation the person's license.

1437 Section 61. Section **58-87-502** is enacted to read:

1438 **58-87-502. Fees -- Deposit into Cannabinoid Product Restricted Account.**

1439 The division shall deposit fees the division collects under this chapter into the  
1440 Cannabinoid Product Restricted Account created in Section [4-42-104](#).

1441 Section 62. Section **59-12-104.7** is enacted to read:

1442 **59-12-104.7. Exemption from sales tax for cannabinoid products.**

1443 (1) As used in this section:

1444 (a) "Cannabinoid dispensary" means the same as that term is defined in Section  
1445 [58-87-102](#).

1446 (b) "Cannabinoid product" means the same as that term is defined in Section [58-37-3.6](#).

1447 (2) In addition to the exemptions described in Section [59-12-104](#), the sale by a licensed  
1448 cannabinoid dispensary of a cannabinoid product is not subject to the taxes imposed by this  
1449 chapter.

1450 Section 63. Section **59-28-101** is enacted to read:

1451 **CHAPTER 28. CANNABINOID PRODUCT TAX ACT**

1452 **Part 1. General Provisions**

1453 **59-28-101. Title.**

1454 This chapter is known as the "Cannabinoid Product Tax Act."

1455 Section 64. Section **59-28-102** is enacted to read:

1456 **59-28-102. Definitions.**

1457 As used in this chapter:

1458 (1) "Cannabinoid dispensary" means the same as that term is defined in Section

1459 26-59-102.

1460 (2) "Cannabinoid product" means the same as that term is defined in Section 58-37-3.6.

1461 (3) "Cannabinoid Product Restricted Account" means the account created in Section

1462 4-42-104.

1463 Section 65. Section **59-28-103** is enacted to read:

1464 **59-28-103. Imposition of tax -- Rate -- Administration.**

1465 (1) There is imposed a tax on the retail purchaser of a cannabinoid product at a  
1466 cannabinoid dispensary in the state that is licensed under Section 58-87-201, in an amount  
1467 equal to 5.77% of amounts paid or charged for the cannabinoid product.

1468 (2) The commission shall administer, collect, and enforce the tax authorized under this  
1469 chapter in accordance with the provisions of Title 59, Chapter 1, General Taxation Policies.

1470 Section 66. Section **59-28-104** is enacted to read:

1471 **59-28-104. Collection of tax.**

1472 A cannabinoid dispensary shall:

1473 (1) collect the tax imposed by Section 59-28-103 from a cannabinoid product  
1474 purchaser; and

1475 (2) pay the tax collected under Subsection (1):

1476 (a) to the commission quarterly on or before the last day of the month immediately  
1477 following the last day of the previous quarter; and

1478 (b) using a form prescribed by the commission.

1479 Section 67. Section **59-28-105** is enacted to read:

1480 **59-28-105. Deposit of tax revenue.**

1481 The commission shall deposit revenues generated by the tax imposed by this chapter  
1482 into the Cannabinoid Product Restricted Account created in Section 4-42-104.



1483 Section 68. Section **59-28-106** is enacted to read:

1484 **59-28-106. Records.**

1485 (1) A cannabinoid dispensary shall maintain any record typically deemed necessary to  
1486 determine the amount of tax that the cannabinoid dispensary is required to remit to the  
1487 commission under this chapter.

1488 (2) The commission may require a cannabinoid dispensary to keep any record the  
1489 commission reasonably considers necessary to constitute sufficient evidence of the amount of  
1490 tax the cannabinoid dispensary is required to remit to the commission under this chapter:

1491 (a) by notice served upon the cannabinoid dispensary; or

1492 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1493 Rulemaking Act.

1494 (3) Upon notice by the commission, a cannabinoid dispensary shall open the  
1495 cannabinoid dispensary's records for examination by the commission.

1496 Section 69. Section **59-28-107** is enacted to read:

1497 **59-28-107. Rulemaking authority.**

1498 The commission may make rules in accordance with Title 63G, Chapter 3, Utah  
1499 Administrative Rulemaking Act, to:

1500 (1) implement the tax imposed by this chapter; and

1501 (2) enforce payment of the tax imposed by this chapter.

1502 Section 70. Section **59-28-108** is enacted to read:

1503 **59-28-108. Penalties and interest.**

1504 A cannabinoid dispensary that fails to comply with any provision of this chapter is  
1505 subject to penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

1506 Section 71. Section **62A-4a-202.1** is amended to read:

1507 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**  
1508 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**  
1509 **emergency placement.**

1510 (1) A peace officer or child welfare worker may not:

1511 (a) enter the home of a child who is not under the jurisdiction of the court, remove a  
1512 child from the child's home or school, or take a child into protective custody unless authorized  
1513 under Subsection [78A-6-106\(2\)](#); or

1514 (b) remove a child from the child's home or take a child into custody under this section  
1515 solely on the basis of:

1516 (i) educational neglect, truancy, or failure to comply with a court order to attend  
1517 school[-]; or

1518 (ii) the possession or use of a cannabinoid product in the home, if the use and  
1519 possession of the cannabinoid product complies with Title 26, Chapter 59, Cannabinoid  
1520 Product Act.

1521 (2) A child welfare worker within the division may take action under Subsection (1)  
1522 accompanied by a peace officer, or without a peace officer when a peace officer is not  
1523 reasonably available.

1524 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child  
1525 into protective custody, the child welfare worker shall also determine whether there are  
1526 services available that, if provided to a parent or guardian of the child, would eliminate the  
1527 need to remove the child from the custody of the child's parent or guardian.

1528 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be  
1529 utilized.

1530 (c) In determining whether the services described in Subsection (3)(a) are reasonably  
1531 available, and in making reasonable efforts to provide those services, the child's health, safety,  
1532 and welfare shall be the child welfare worker's paramount concern.

1533 (4) (a) A child removed or taken into custody under this section may not be placed or  
1534 kept in a secure detention facility pending court proceedings unless the child is detainable  
1535 based on guidelines promulgated by the Division of Juvenile Justice Services.

1536 (b) A child removed from the custody of the child's parent or guardian but who does  
1537 not require physical restriction shall be given temporary care in:

1538 (i) a shelter facility; or

1539 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

1540 (c) When making a placement under Subsection (4)(b), the Division of Child and  
1541 Family Services shall give priority to a placement with a noncustodial parent, relative, or  
1542 friend, in accordance with Section [62A-4a-209](#).

1543 (d) If the child is not placed with a noncustodial parent, a relative, or a designated  
1544 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor

1545 explaining why a different placement was in the child's best interest.

1546 (5) When a child is removed from the child's home or school or taken into protective  
1547 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

1548 (a) the parent's rights under this part, including the right to be present and participate in  
1549 any court proceeding relating to the child's case;

1550 (b) that it may be in the parent's best interest to contact an attorney and that, if the  
1551 parent cannot afford an attorney, the court will appoint one;

1552 (c) the name and contact information of a division employee the parent may contact  
1553 with questions;

1554 (d) resources that are available to the parent, including:

1555 (i) mental health resources;

1556 (ii) substance abuse resources; and

1557 (iii) parenting classes; and

1558 (e) any other information considered relevant by the division.

1559 (6) The pamphlet or flier described in Subsection (5) shall be:

1560 (a) evaluated periodically for its effectiveness at conveying necessary information and  
1561 revised accordingly;

1562 (b) written in simple, easy-to-understand language; and

1563 (c) available in English and other languages as the division determines to be  
1564 appropriate and necessary.

1565 Section 72. Section **78A-6-508** is amended to read:

1566 **78A-6-508. Evidence of grounds for termination.**

1567 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
1568 evidence of abandonment that the parent or parents:

1569 (a) although having legal custody of the child, have surrendered physical custody of the  
1570 child, and for a period of six months following the surrender have not manifested to the child  
1571 or to the person having the physical custody of the child a firm intention to resume physical  
1572 custody or to make arrangements for the care of the child;

1573 (b) have failed to communicate with the child by mail, telephone, or otherwise for six  
1574 months;

1575 (c) failed to have shown the normal interest of a natural parent, without just cause; or

1576 (d) have abandoned an infant, as described in Subsection 78A-6-316(1).

1577 (2) In determining whether a parent or parents are unfit or have neglected a child the  
1578 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

1579 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the  
1580 parent unable to care for the immediate and continuing physical or emotional needs of the child  
1581 for extended periods of time;

1582 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive  
1583 nature;

1584 (c) habitual or excessive use of intoxicating liquors, controlled substances, or  
1585 dangerous drugs that render the parent unable to care for the child;

1586 (d) repeated or continuous failure to provide the child with adequate food, clothing,  
1587 shelter, education, or other care necessary for the child's physical, mental, and emotional health  
1588 and development by a parent or parents who are capable of providing that care;

1589 (e) whether the parent is incarcerated as a result of conviction of a felony, and the  
1590 sentence is of such length that the child will be deprived of a normal home for more than one  
1591 year;

1592 (f) a history of violent behavior; or

1593 (g) whether the parent has intentionally exposed the child to pornography or material  
1594 harmful to a minor, as defined in Section 76-10-1201.

1595 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent  
1596 because of the parent's possession or consumption of a cannabinoid product, in accordance  
1597 with Title 26, Chapter 59, Cannabinoid Product Act.

1598 [~~3~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not  
1599 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit  
1600 parent.

1601 [~~4~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful  
1602 or unfit because of a health care decision made for a child by the child's parent unless the state  
1603 or other party to the proceeding shows, by clear and convincing evidence, that the health care  
1604 decision is not reasonable and informed.

1605 (b) Nothing in Subsection [~~4~~] (5)(a) may prohibit a parent from exercising the right to  
1606 obtain a second health care opinion.

1607            [~~(5)~~] (6) If a child has been placed in the custody of the division and the parent or  
1608 parents fail to comply substantially with the terms and conditions of a plan within six months  
1609 after the date on which the child was placed or the plan was commenced, whichever occurs  
1610 later, that failure to comply is evidence of failure of parental adjustment.

1611            [~~(6)~~] (7) The following circumstances constitute prima facie evidence of unfitness:

1612            (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any  
1613 child, due to known or substantiated abuse or neglect by the parent or parents;

1614            (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
1615 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
1616 child's physical, mental, or emotional health and development;

1617            (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
1618 of the child;

1619            (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
1620 commit murder or manslaughter of a child or child abuse homicide; or

1621            (e) the parent intentionally, knowingly, or recklessly causes the death of another parent  
1622 of the child, without legal justification.