

CANNABIDIOL PRODUCT ACT

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts and amends provisions related to cannabidiol products.

Highlighted Provisions:

This bill:

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



28 on the parent's legal use of a cannabidiol product.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill provides a special effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 [4-41-101](#), as enacted by Laws of Utah 2014, Chapter 25

36 [4-41-102](#), as enacted by Laws of Utah 2014, Chapter 25

37 [41-6a-517](#), as last amended by Laws of Utah 2017, Chapter 446

38 [58-37-3.6](#), as enacted by Laws of Utah 2017, Chapter 398

39 [58-37f-203](#), as last amended by Laws of Utah 2015, Chapters 89 and 326

40 [78A-6-508](#), as last amended by Laws of Utah 2014, Chapter 409

41 ENACTS:

42 [4-41-201](#), Utah Code Annotated 1953

43 [4-41-202](#), Utah Code Annotated 1953

44 [4-41-203](#), Utah Code Annotated 1953

45 [4-41-204](#), Utah Code Annotated 1953

46 [4-43-101](#), Utah Code Annotated 1953

47 [4-43-102](#), Utah Code Annotated 1953

48 [4-43-201](#), Utah Code Annotated 1953

49 [4-43-202](#), Utah Code Annotated 1953

50 [4-43-203](#), Utah Code Annotated 1953

51 [4-43-301](#), Utah Code Annotated 1953

52 [4-43-401](#), Utah Code Annotated 1953

53 [4-43-402](#), Utah Code Annotated 1953

54 [4-43-501](#), Utah Code Annotated 1953

55 [4-43-502](#), Utah Code Annotated 1953

56 [4-43-503](#), Utah Code Annotated 1953

57 [4-43-601](#), Utah Code Annotated 1953

58 [4-43-602](#), Utah Code Annotated 1953

- 59 **4-43-701**, Utah Code Annotated 1953
- 60 **4-43-702**, Utah Code Annotated 1953
- 61 **4-43-703**, Utah Code Annotated 1953
- 62 **4-43-801**, Utah Code Annotated 1953
- 63 **26-62-101**, Utah Code Annotated 1953
- 64 **26-62-102**, Utah Code Annotated 1953
- 65 **26-62-103**, Utah Code Annotated 1953
- 66 **26-62-201**, Utah Code Annotated 1953
- 67 **26-62-202**, Utah Code Annotated 1953
- 68 **58-67-808**, Utah Code Annotated 1953
- 69 **58-68-808**, Utah Code Annotated 1953
- 70 **58-88-101**, Utah Code Annotated 1953
- 71 **58-88-102**, Utah Code Annotated 1953
- 72 **58-88-103**, Utah Code Annotated 1953
- 73 **58-88-104**, Utah Code Annotated 1953
- 74 **59-12-104.8**, Utah Code Annotated 1953
- 75 **59-29-101**, Utah Code Annotated 1953
- 76 **59-29-102**, Utah Code Annotated 1953
- 77 **59-29-103**, Utah Code Annotated 1953
- 78 **59-29-104**, Utah Code Annotated 1953
- 79 **59-29-105**, Utah Code Annotated 1953
- 80 **59-29-106**, Utah Code Annotated 1953
- 81 **59-29-107**, Utah Code Annotated 1953
- 82 **59-29-108**, Utah Code Annotated 1953



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

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

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

87 **Part 1. Industrial Hemp Research**

88 **4-41-101. Title.**

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

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

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

92 **4-41-102. Definitions.**

93 For purposes of this chapter:

94 (1) "Cannabidiol product" means a chemical compound extracted from a hemp product
95 that:

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

97 (b) contains no tetrahydrocannabinol.

98 ~~[(1)]~~ (2) "Industrial hemp" means any part of a cannabis plant, whether growing or not,
99 with a concentration of less than 0.3% tetrahydrocannabinol by weight.

100 ~~[(2)]~~ (3) "Industrial hemp certificate" means a certificate issued by the department to a
101 higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

102 (4) "Medicinal dosage form" means the same as that term is defined in Section
103 26-62-102.

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

105 **Part 2. Cannabidiol Product Act**

106 **4-41-201. Title.**

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

108 Section 4. Section **4-41-202** is enacted to read:

109 **4-41-202. Cannabidiol sales and use authorized.**

110 (1) The sale or use of a cannabidiol product is prohibited, except as provided in this
111 chapter.

112 (2) The department shall keep a list of registered cannabidiol products that the
113 department has determined, pursuant to Section 4-41-203, are safe for human consumption.

114 (3) A person may sell or use a cannabidiol product that is in the list of registered
115 cannabidiol products described in Subsection (2).

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

117 **4-41-203. Standards for registration.**

118 (1) The department shall determine by rule, made in accordance with Title 63G,
119 Chapter 3, Utah Administrative Rulemaking Act, standards for a registered cannabidiol
120 product, including standards for:

- 121 (a) testing to ensure the product is safe for human consumption;
- 122 (b) accurate labeling; and
- 123 (c) any other issue the department considers necessary.

124 (2) The department shall set a fee for a registered cannabidiol product, in accordance
 125 with Section 4-2-103.

126 (3) The fee described in Subsection (2) may be paid by a producer, manufacturer, or
 127 distributor of a cannabidiol product, but a cannabidiol product may not be registered with the
 128 department until the fee is paid.

129 (4) The department shall set an administrative fine, larger than the fee described in
 130 Subsection (2), for a person who sells a cannabidiol product that is not registered by the
 131 department.

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

133 **4-41-204. Department duties.**

134 (1) The department shall work with the state's federal congressional delegation and
 135 relevant federal agencies to seek a federal waiver from the Controlled Substances Act, in
 136 whatever form that waiver may take, for a cannabidiol product produced in:

- 137 (a) compliance with the rules established pursuant to Subsection 4-41-203(1); or
- 138 (b) another state with similarly stringent rules, as determined by the department, to the
 139 rules established pursuant to Subsection 4-41-203(1).

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

- 141 (a) on the rules established pursuant to Subsection 4-41-203(1) by October 31, 2018;
- 142 and
- 143 (b) in the event the department is successful in procuring a federal waiver.

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

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

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

149 **CHAPTER 43. CANNABIDIOL PRODUCERS**

150 **Part 1. General Provisions**

151 **4-43-101. Title.**

152 This chapter is known as "Cannabidiol Producers."

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

154 **4-43-102. Definitions.**

155 As used in this chapter:

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

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

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

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

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

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

163 (b) purchases or possesses a hemp-grade product with the intent to manufacture a
164 cannabidiol product; or

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

166 (4) "Cannabidiol product" means a chemical compound extracted from a hemp product
167 that:

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

169 (b) contains no tetrahydrocannabinol.

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

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

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

175 (6) "Cannabinoid Product Restricted Account" means the account created in Section
176 [4-43-801](#).

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

178 (8) "Medical dosage form" means the same as that term is defined in Section
179 [26-62-102](#).

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

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

182 **Part 2. Cannabidiol Producer License**

183 **4-43-201. Cannabidiol processor -- Cannabidiol laboratory -- License -- Renewal.**

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

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

189 (a) cannabidiol processor; or

190 (b) cannabidiol laboratory.

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

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

196 (b) a bond, as required by Section [4-43-203](#), for each license for which the person
197 applies;

198 (c) an application fee established by the department, in accordance with Section
199 [63J-1-504](#), in an amount equal to the amount necessary to cover the department's cost to
200 implement this chapter; and

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

204 (i) security;

205 (ii) a cannabidiol processor:

206 (A) cannabidiol extraction; and

207 (B) processing technique; and

208 (iii) a cannabidiol laboratory:

209 (A) testing method; and

210 (B) testing capability.

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

213 (5) The department may not issue a license to operate a hemp cultivator or a hemp

214 producer to a person:

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

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

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

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

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

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

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

228 **4-43-202. Renewal.**

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

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

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

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

237 **4-43-203. Bond required for license.**

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

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

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

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

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

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

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

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

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

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

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

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

260 **Part 3. Hemp Producer Agents**

261 **4-43-301. Cannabidiol processor and laboratory agents.**

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

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

267 (a) January 1 of each year; and

268 (b) July 1 of each year.

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

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

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

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

276 **General Operating Requirements**

277 **4-43-401. Cannabidiol processor or cannabidiol laboratory -- General operating**
278 **requirements.**

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

281 (b) A cannabidiol processor or cannabidiol laboratory shall notify the department
282 within 30 days of any change in the cannabidiol processor or cannabidiol laboratory operation
283 plan.

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

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

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

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

293 **4-43-402. Cannabidiol processor or cannabidiol laboratory -- Inspection by**
294 **department.**

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

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

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

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

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

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

305 **4-43-501. Cannabidiol processor -- Operating requirements.**

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

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

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

311 (3) The department shall establish, by rule made in accordance with Title 63G, Chapter
312 3, Utah Administrative Rulemaking Act, physical facility standards for a cannabidiol processor.

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

314 **4-43-502. Cannabidiol product.**

315 A cannabidiol processor may only produce a cannabidiol product in a medicinal dosage
316 form.

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

318 **4-43-503. Cannabidiol medicine -- Labeling and packaging.**

319 (1) A cannabidiol processor shall ensure that any cannabidiol product that the
320 cannabidiol processor distributes to a cannabidiol-qualified pharmacy has a label or package
321 that:

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

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

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

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

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

330 **4-43-601. Hemp and cannabidiol product testing.**

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

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

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

337 (a) mold;

- 338 (b) fungus;
- 339 (c) pesticides;
- 340 (d) other microbial contaminants; or
- 341 (e) another harmful substance identified by the department under Subsection (5).
- 342 (4) For a cannabidiol product that is manufactured using a process that involves
- 343 extraction using hydrocarbons, a cannabidiol laboratory shall test the cannabidiol product for
- 344 residual solvents.

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

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

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

353 **4-43-602. Reporting -- Inspections.**

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

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

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

362 (4) (a) If the department determines that a cannabidiol product batch is unsafe for
363 human consumption, the department shall destroy the product batch.

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

367 (5) The department shall establish, by rule made in accordance with Title 63G, Chapter
368 3, Utah Administrative Rulemaking Act, the amount of time that a cannabidiol laboratory is

369 required to hold a batch under Subsection (3).

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

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

372 (i) cannabidiol product test results; or

373 (ii) analytical method; or

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

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

376 **Part 7. Enforcement**

377 **4-43-701. Enforcement -- Fine -- Citation.**

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

380 (a) revoke a license;

381 (b) refuse to renew a license;

382 (c) assess an administrative penalty; or

383 (d) take any other appropriate administrative action.

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

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

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

390 (ii) the person prepared a cannabidiol product batch in a manner, or such that the batch
391 contains a substance, that poses a threat to human health.

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

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

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

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

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

400 (i) seize, embargo, or destroy a hemp or cannabidiol product batch; and
401 (ii) direct the person to appear before an adjudicative proceeding conducted under Title
402 63G, Chapter 4, Administrative Procedures Act.

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

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

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

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

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

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

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

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

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

418 **4-43-702. Report to the Legislature.**

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

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

423 **4-43-703. Fees -- Deposit into Cannabinoid Product Restricted Account.**

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

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

427 **4-43-801. Cannabinoid Product Restricted Account -- Creation.**

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

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

- 431 (a) money deposited by the State Tax Commission under Title 59, Chapter 29,
- 432 Cannabidiol Product Tax Act;
- 433 (b) money deposited into the account by the Department of Agriculture and Food under
- 434 Title 4, Chapter 43, Cannabidiol Producers;
- 435 (c) appropriations made to the account by the Legislature; and
- 436 (d) the interest described in Subsection (3).
- 437 (3) Interest earned on the account is deposited into the account.
- 438 (4) The money in the account may only be used to fund, upon appropriation:
- 439 (a) the cost of state regulation of cannabidiol products under:
- 440 (i) Title 4, Chapter 43, Cannabidiol Producers;
- 441 (ii) Title 26, Chapter 62, Cannabidiol Product Act;
- 442 (iii) Title 59, Chapter 29, Cannabidiol Product Tax Act; and
- 443 (b) the cost to the state for investigation and enforcement related to cannabinoid
- 444 products.
- 445 (5) At the end of fiscal year 2020 and fiscal year 2021, the director of the Division of
- 446 Finance shall transfer into the General Fund from the Cannabinoid Product Restricted Account
- 447 an amount equal to the General Fund appropriation in fiscal year 2018 and fiscal year 2019 to
- 448 implement the programs described in Subsection (4).

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

450 **CHAPTER 62. CANNABIDIOL PRODUCT ACT**

451 **Part 1. General Provisions**

452 **26-62-101. Title.**

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

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

455 **26-62-102. Definitions.**

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

457 (2) "Cannabidiol laboratory" means the same as that term is defined in Section
458 4-43-102.

459 (3) "Cannabidiol product" means the same as that term is defined in Section 4-43-102.

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

462 (5) "Cannabinoid Product Restricted Account" means the account created in Section
463 4-43-801.

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

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

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

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

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

471 **26-62-103. Medicinal dosage form.**

472 (1) For the purpose of this chapter, any of the following is a qualifying medicinal
473 dosage form for a cannabidiol product:

474 (a) a tablet;

475 (b) a capsule;

476 (c) a concentrated oil;

477 (d) a liquid suspension;

478 (e) a transdermal preparation; and

479 (f) a sublingual preparation.

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

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

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

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

487 **Part 2. Miscellaneous**

488 **26-62-201. Insurance coverage.**

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

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

492 **26-62-202. Report to the Legislature.**

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

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

497 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
498 **body -- Penalties -- Arrest without warrant.**

499 (1) As used in this section:

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

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

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

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

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

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

509 (a) involuntarily ingested by the accused;

510 (b) prescribed by a practitioner for use by the accused or recommended by a physician
511 for use by the accused; or

512 (c) otherwise legally ingested.

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

515 (b) A person who violates this section is subject to conviction and sentencing under
516 both this section and any applicable offense under Section [58-37-8](#).

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

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

523 (a) suspend, for a period of 120 days, the driver license of a person convicted under

524 Subsection (2) of an offense committed on or after July 1, 2009; or

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

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

527 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

528 and within a period of 10 years after the date of the prior violation.

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

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

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

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

537 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

538 and within a period of 10 years after the date of the prior violation.

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

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

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

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

545 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

546 and within a period of 10 years after the date of the prior violation.

547 (9) The Driver License Division shall subtract from any suspension or revocation
548 period the number of days for which a license was previously suspended under Section
549 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
550 which the record of conviction is based.

551 (10) The Driver License Division shall:

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

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

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

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

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

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

566 (b) completes a screening;

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

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

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

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

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

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

582 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
583 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
584 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
585 for use by the person or unlawfully consumed alcohol during the suspension period imposed

586 under Subsection (7)(a) or (8)(a).

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

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

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

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

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

597 (14) The court:

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

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

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

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

609 (c) The court shall notify the Driver License Division if a person fails to complete all
610 requirements of a 24-7 sobriety program.

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

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

614 **58-37-3.6. Exemption for possession or distribution of a cannabinoid product or**
615 **expanded cannabinoid product pursuant to an approved study.**

616 (1) As used in this section:

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

618 [~~(a)~~] (b) "Cannabinoid product" means a product intended for human ingestion that:

- 619 (i) contains an extract or concentrate that is obtained from cannabis;
- 620 (ii) is prepared in a medicinal dosage form; and
- 621 (iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

622 [~~(b)~~] (c) "Cannabis" means any part of the plant cannabis sativa, whether growing or
623 not.

624 [~~(c)~~] (d) "Drug paraphernalia" means the same as that term is defined in Section
625 [58-37a-3](#).

626 [~~(d)~~] (e) "Expanded cannabinoid product" means a product intended for human
627 ingestion that:

- 628 (i) contains an extract or concentrate that is obtained from cannabis;
- 629 (ii) is prepared in a medicinal dosage form; and
- 630 (iii) contains less than 10 units of cannabidiol for every one unit of
631 tetrahydrocannabinol.

632 [~~(e)~~] (f) "Medicinal dosage form" means:

- 633 (i) a tablet;
- 634 (ii) a capsule;
- 635 (iii) a concentrated oil;
- 636 (iv) a liquid suspension;
- 637 (v) a transdermal preparation; or
- 638 (vi) a sublingual preparation.

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

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

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

647 (b) an individual who grows, processes, possesses, transports, or distributes

648 cannabidiol for medicinal use or a hemp-grade product that is intended to be processed into
649 cannabidiol for medicinal use, is not subject to the penalties described in this title to the extent
650 that the individual's growth, processing, possession, transportation, or distribution of the
651 cannabidiol or hemp-grade product is in compliance with Title 4, Chapter 43, Cannabidiol
652 Producers; and

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

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

656 (ii) the person is an individual whose physician has recommended use of the
657 cannabidiol and the individual purchased the cannabidiol from a cannabidiol-qualified
658 pharmacy.

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

660 **58-37f-203. Submission, collection, and maintenance of data.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

688 (a) the name of the prescribing practitioner;

689 (b) the date of the prescription;

690 (c) the date the prescription was filled;

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

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

694 (f) the name of the controlled substance;

695 (g) the quantity of the controlled substance prescribed;

696 (h) the strength of the controlled substance;

697 (i) the quantity of the controlled substance dispensed;

698 (j) the dosage quantity and frequency as prescribed;

699 (k) the name of the drug outlet dispensing the controlled substance; [~~and~~]

700 (l) the name of the pharmacist dispensing the controlled substance[~~;~~]; and

701 (m) in the case of a cannabidiol-qualified pharmacy dispensing a cannabidiol product:

702 (i) the name of the recommending physician;

703 (ii) the date of the recommendation;

704 (iii) the date the recommendation was filled by the cannabidiol-qualified pharmacy;

705 (iv) the name of the individual for whom the recommendation was written; and

706 (v) any other information the division requires by rule, made in accordance with Title
707 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

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

716 (c) If the division denies a request under this Subsection (5) or does not respond within
717 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days
718 after the postmark date of the patient's letter making a request for a correction under this
719 Subsection (5).

720 (6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
721 Administrative Rulemaking Act, to establish submission requirements under this part,
722 including the electronic format in which the information required under this section shall be
723 submitted to the division.

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

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

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

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

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

731 **58-67-808. Recommendation of cannabidiol products.**

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

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

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

737 (a) civil liability;

738 (b) criminal liability; or

739 (c) licensure sanctions under this title.

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

741 **58-68-808. Recommendation of cannabidiol products.**

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

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

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

747 (a) civil liability;

748 (b) criminal liability; or

749 (c) licensure sanctions under this title.

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

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

752 **Part 1. General Provisions**

753 **58-88-101. Title.**

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

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

756 **58-88-102. Definitions.**

757 As used in this chapter:

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

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

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

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

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

765 **58-88-103. Cannabidiol-qualified pharmacy requirements.**

766 (1) A pharmacy licensed in this state may become a cannabidiol-qualified pharmacy if
767 it:

768 (a) registers with the division, on a form and in a manner prescribed by the division;

769 and

770 (b) complies with all rules issued by the division under Section [58-88-104](#).

771 (2) A cannabidiol-qualified pharmacy may sell a cannabidiol product to a patient if the

772 patient produces a written recommendation from the patient's physician.

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

774 **58-88-104. Division to make rules.**

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

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

779 (a) the requirements for a pharmacy to become a cannabidiol-qualified pharmacy,
780 including:

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

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

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

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

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

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

790 **59-12-104.8. Exemption from sales tax for cannabinoid products.**

791 (1) As used in this section:

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

793 (b) "Cannabidiol-qualified pharmacy" means the same as that term is defined in
794 Section [58-88-102](#).

795 (2) In addition to the exemptions described in Section [59-12-104](#), the sale by a
796 cannabinoid-qualified pharmacy of a cannabidiol product is not subject to the taxes imposed by
797 this chapter.

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

799 **CHAPTER 29. CANNABIDIOL PRODUCT TAX ACT**

800 **Part 1. General Provisions**

801 **59-29-101. Title.**

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

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

804 **59-29-102. Definitions.**

805 As used in this chapter:

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

807 (2) "Cannabidiol-qualified pharmacy" means the same as that term is defined in
808 Section [58-88-102](#).

809 (3) "Cannabinoid Product Restricted Account" means the account created in Section
810 [4-43-801](#).

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

812 **59-29-103. Imposition of tax -- Rate -- Administration.**

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

816 (2) The commission shall administer, collect, and enforce the tax authorized under this
817 chapter in accordance with the provisions of Chapter 1, General Taxation Policies, and Chapter
818 12, Sales and Use Tax Act.

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

820 **59-29-104. Collection of tax.**

821 A cannabidiol-qualified pharmacy shall:

822 (1) collect the tax imposed by Section [59-29-103](#) from a cannabidiol product
823 purchaser; and

824 (2) file a return with the commission and pay the tax calculated on the return to the
825 commission:

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

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

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

832 (b) monthly on or before the last day of the month immediately following the last day
833 of the previous calendar month if the cannabidiol-qualified pharmacy is required to file a

834 monthly sales and use tax return with the commission under Section 59-12-108.

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

836 **59-29-105. Deposit of tax revenue.**

837 The commission shall deposit revenues generated by the tax imposed by this chapter
838 into the Cannabinoid Product Restricted Account created in Section 4-43-801.

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

840 **59-29-106. Records.**

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

844 (2) The commission may require a cannabidiol-qualified pharmacy to keep any record
845 the commission reasonably considers necessary to constitute sufficient evidence of the amount
846 of tax the cannabidiol-qualified pharmacy is required to remit to the commission under this
847 chapter:

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

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

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

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

854 **59-29-107. Rulemaking authority.**

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

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

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

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

860 **59-29-108. Penalties and interest.**

861 A cannabidiol-qualified pharmacy that fails to comply with any provision of this
862 chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

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

864 **78A-6-508. Evidence of grounds for termination.**

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

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

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

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

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

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

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

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

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

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

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

890 (f) a history of violent behavior; or

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

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

896 ~~[(3)]~~ (4) A parent who, legitimately practicing the parent's religious beliefs, does not
897 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit
898 parent.

899 ~~[(4)]~~ (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful
900 or unfit because of a health care decision made for a child by the child's parent unless the state
901 or other party to the proceeding shows, by clear and convincing evidence, that the health care
902 decision is not reasonable and informed.

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

905 ~~[(5)]~~ (6) If a child has been placed in the custody of the division and the parent or
906 parents fail to comply substantially with the terms and conditions of a plan within six months
907 after the date on which the child was placed or the plan was commenced, whichever occurs
908 later, that failure to comply is evidence of failure of parental adjustment.

909 ~~[(6)]~~ (7) The following circumstances constitute prima facie evidence of unfitness:

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

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

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

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

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

921 Section 48. **Contingent effective date.**

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

923 (2) The following sections take effect on July 1, 2019 or the day on which the
924 Department of Agriculture and Food receives a federal waiver as described in Section
925 4-41-203, whichever comes first:

926 (a) Section [4-43-101](#);

- 927 (b) Section 4-43-102;
- 928 (c) Section 4-43-201;
- 929 (d) Section 4-43-202;
- 930 (e) Section 4-43-203;
- 931 (f) Section 4-43-301;
- 932 (g) Section 4-43-401;
- 933 (h) Section 4-43-402;
- 934 (i) Section 4-43-501;
- 935 (j) Section 4-43-502;
- 936 (k) Section 4-43-503;
- 937 (l) Section 4-43-601;
- 938 (m) Section 4-43-602;
- 939 (n) Section 4-43-701;
- 940 (o) Section 4-43-702;
- 941 (p) Section 4-43-703;
- 942 (q) Section 4-43-801;
- 943 (r) Section 26-62-101;
- 944 (s) Section 26-62-102;
- 945 (t) Section 26-62-103;
- 946 (u) Section 26-62-201;
- 947 (v) Section 26-62-202;
- 948 (w) Section 41-6a-517;
- 949 (x) Section 58-37-3.6;
- 950 (y) Section 58-37f-203;
- 951 (z) Section 58-67-808;
- 952 (aa) Section 58-68-808;
- 953 (bb) Section 58-88-101;
- 954 (cc) Section 58-88-102;
- 955 (dd) Section 58-88-103;
- 956 (ee) Section 58-88-104;
- 957 (ff) Section 59-12-104.8;

- 958 (gg) Section 59-29-101;
- 959 (hh) Section 59-29-102;
- 960 (ii) Section 59-29-103;
- 961 (jj) Section 59-29-104;
- 962 (kk) Section 59-29-105;
- 963 (ll) Section 59-29-106;
- 964 (mm) Section 59-29-107;
- 965 (nn) Section 59-29-108; and
- 966 (oo) Section 78A-6-508.

Legislative Review Note
Office of Legislative Research and General Counsel