

**Effective 12/3/2018**

**Chapter 41a  
Cannabis Production Establishments**

**Part 1  
General Provisions**

**4-41a-101 Title.**

This chapter is known as "Cannabis Production Establishments."

Renumbered and Amended by Chapter 1, 2018 Special Session 3

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

As used in this chapter:

- (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:
  - (a) pesticides;
  - (b) heavy metals;
  - (c) solvents;
  - (d) microbial life;
  - (e) toxins; or
  - (f) foreign matter.
- (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in Section 26-61-201.
- (3) "Cannabis" means the same as that term is defined in Section 26-61a-102.
- (4) "Cannabis concentrate" means:
  - (a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and
  - (b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.
- (5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.
- (6) "Cannabis cultivation facility" means a person that:
  - (a) possesses cannabis;
  - (b) grows or intends to grow cannabis; and
  - (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.
- (7) "Cannabis cultivation facility agent" means an individual who:
  - (a) is an employee of a cannabis cultivation facility; and
  - (b) holds a valid cannabis production establishment agent registration card.
- (8) "Cannabis derivative product" means a product made using cannabis concentrate.
- (9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.
- (10) "Cannabis processing facility" means a person that:
  - (a) acquires or intends to acquire cannabis from a cannabis production establishment;
  - (b) possesses cannabis with the intent to manufacture a cannabis product;

- (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
  - (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
- (11) "Cannabis processing facility agent" means an individual who:
- (a) is an employee of a cannabis processing facility; and
  - (b) holds a valid cannabis production establishment agent registration card.
- (12) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- (13) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- (14) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- (15) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
- (a) authorizes an individual to act as a cannabis production establishment agent; and
  - (b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.
- (16) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.
- (17) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.
- (18) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-03, the primary psychotropic cannabinoid in cannabis.
- (19) "Department" means the Department of Agriculture and Food.
- (20) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.
- (21) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.
- (22)
- (a) "Independent cannabis testing laboratory" means a person that:
    - (i) conducts a chemical or other analysis of cannabis or a cannabis product; or
    - (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.
  - (b) "Independent cannabis testing laboratory" includes a laboratory that the department operates in accordance with Subsection 4-41a-201(14).
- (23) "Independent cannabis testing laboratory agent" means an individual who:
- (a) is an employee of an independent cannabis testing laboratory; and
  - (b) holds a valid cannabis production establishment agent registration card.
- (24) "Industrial hemp waste" means:
- (a) a cannabinoid extract above 0.3% total THC derived from verified industrial hemp biomass; or
  - (b) verified industrial hemp biomass with a total THC concentration of less than 0.3% by dry weight.
- (25) "Inventory control system" means a system described in Section 4-41a-103.
- (26) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

- (27) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.
- (28) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.
- (29) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.
- (30) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.
- (31) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.
- (32) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.
- (33) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.
- (34) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.
- (35) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.
- (36) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.
- (37) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.
- (38) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:
  - (a) is accredited by the Northwest Commission on Colleges and Universities;
  - (b) grants doctoral degrees; and
  - (c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.
- (39) "State electronic verification system" means the system described in Section 26-61a-103.
- (40) "Synthetic cannabinoid" means any cannabinoid that:
  - (a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and
  - (b) is not a derivative cannabinoid.
- (41) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).
- (42) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.
- (43) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC and tetrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)."

Amended by Chapter 337, 2021 General Session

Amended by Chapter 350, 2021 General Session

#### **4-41a-103 Inventory control system.**

- (1) Each cannabis production establishment and each medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.
- (2) A cannabis production establishment and a medical cannabis pharmacy shall ensure that the inventory control system maintained by the establishment or pharmacy:
  - (a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;
  - (b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;

- (c) includes a video recording system that:
  - (i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;
  - (ii) is tamper proof; and
  - (iii) stores a video record for at least 45 days; and
- (d) preserves compatibility with the state electronic verification system described in Section 26-61a-103.
- (3) A cannabis production establishment and a medical cannabis pharmacy shall allow the following to access the cannabis production establishment's or the medical cannabis pharmacy's inventory control system at any time:
  - (a) the department;
  - (b) the Department of Health; and
  - (c) a financial institution that the Division of Finance validates, in accordance with Subsection (6).
- (4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5)
  - (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.
  - (b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.
- (6)
  - (a) The Division of Finance shall, in consultation with the state treasurer:
    - (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:
      - (A) establish a process for validating financial institutions for access to an inventory control system in accordance with Subsections (3)(c) and (6)(b); and
      - (B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);
    - (ii) review applications the Division of Finance receives in accordance with the process established under Subsection (6)(a)(i);
    - (iii) validate a financial institution that meets the qualifications described in Subsection (6)(a)(i); and
    - (iv) provide a list of validated financial institutions to the department and the Department of Health.
  - (b) A financial institution that the Division of Finance validates under Subsection (6)(a):
    - (i) may only access an inventory control system for the purpose of reconciling transactions and other financial activity of cannabis production establishments, medical cannabis pharmacies, and medical cannabis couriers that use financial services that the financial institution provides;
    - (ii) may only access information related to financial transactions; and
    - (iii) may not access any identifying patient information.

Amended by Chapter 12, 2020 General Session

**4-41a-104 Qualified Production Enterprise Fund -- Creation -- Revenue neutrality.**

- (1) There is created an enterprise fund known as the "Qualified Production Enterprise Fund."
- (2) The fund created in this section is funded from:

- (a) money the department deposits into the fund under this chapter;
  - (b) appropriations the Legislature makes to the fund; and
  - (c) the interest described in Subsection (3).
- (3) Interest earned on the Qualified Production Enterprise Fund shall be deposited into the fund.
- (4) The department may only use money in the fund to fund the department's implementation of this chapter.
- (5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Enacted by Chapter 1, 2018 Special Session 3

**4-41a-105 Agreement with a tribe.**

- (1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.
- (2)
- (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a cannabis production establishment on tribal land located within the state.
  - (b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.
  - (c) The governor shall ensure that an agreement described in Subsection (2)(a):
    - (i) is in writing;
    - (ii) is signed by:
      - (A) the governor; and
      - (B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;
    - (iii) states the effective date of the agreement;
    - (iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and
    - (v) includes any accommodation that the tribe makes:
      - (A) to which the tribe agrees; and
      - (B) that is reasonably related to the agreement.
  - (d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.
  - (e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:
    - (i) the chairs of the Native American Legislative Liaison Committee; and
    - (ii) the Office of Legislative Research and General Counsel.

Enacted by Chapter 1, 2018 Special Session 3

**4-41a-106 Severability clause.**

- (1) If a final decision of a court of competent jurisdiction holds invalid any provision of this title or Laws of Utah 2018, Third Special Session, Chapter 1 or the application of any provision of this title or Laws of Utah 2018, Third Special Session, Chapter 1 to any person or circumstance, the remaining provisions of this title and Laws of Utah 2018, Third Special Session, Chapter 1 remain effective without the invalidated provision or application.

- (2) The provisions of this title and Laws of Utah 2018, Third Special Session, Chapter 1 are severable.

Enacted by Chapter 1, 2018 Special Session 3

**4-41a-107 Notice to prospective and current public employees.**

- (1)
- (a) A state employer or a political subdivision employer shall take the action described in Subsection (1)(b) before:
    - (i) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or
    - (ii) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.
  - (b) The employer described in Subsection (1)(a) shall give the employee or prospective employee described in Subsection (1)(a) a written notice that notifies the employee or prospective employee:
    - (i) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and
    - (ii) that in accepting a job or undertaking a duty described in Subsection (1)(a), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.
- (2) The Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (1).
- (3) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (1) may not:
  - (a) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or
  - (b) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.
- (4) An employer of an employee who has signed the notice described in Subsection (1) may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (1).

Amended by Chapter 344, 2021 General Session

**Part 2**  
**Cannabis Production Establishment**

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

- (1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.
- (2)
- (a)

- (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a licensing process that the department initiates after the effective date of this bill, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.
  - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:
    - (A) solicit applications for a license under this section;
    - (B) allow for comments and questions in the development of applications;
    - (C) timely and objectively evaluate applications;
    - (D) hold public hearings that the department deems appropriate; and
    - (E) select applicants to receive a license.
  - (iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.
- (b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:
- (i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;
  - (ii) the name and address of any individual who has:
    - (A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;
    - (B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or
    - (C) the power to direct or cause the management or control of a proposed cannabis production establishment;
  - (iii) an operating plan that:
    - (A) complies with Section 4-41a-204;
    - (B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and
    - (C) the department or licensing board approves;
  - (iv) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:
    - (A) \$100,000 for each cannabis cultivation facility for which the applicant applies; or
    - (B) \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;
  - (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
  - (vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.
- (c)
- (i) A person may not locate a cannabis production establishment:
    - (A) within 1,000 feet of a community location; or
    - (B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

- (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.
  - (iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.
  - (iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).
- (3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:
- (a) the applicant shall pay the department:
    - (i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; or
    - (ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i); and
  - (b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).
- (4)
- (a) Except as provided in Subsection (4)(b), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.
  - (b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.
- (5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.
- (6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:
- (a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;
  - (b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or
  - (c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.
- (7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):
- (a) has been convicted under state or federal law of:
    - (i) a felony; or
    - (ii) after December 3, 2018, a misdemeanor for drug distribution;
  - (b) is younger than 21 years old; or
  - (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.
- (8)



- (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.
- (b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act, the licensing board:
  - (i) shall consult with the Department of Health regarding the applicant; and
  - (ii) may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:
    - (A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and
    - (B) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.
- (9) The licensing board may revoke a license under this part:
  - (a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;
  - (b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;
  - (c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:
    - (i) a felony; or
    - (ii) after December 3, 2018, a misdemeanor for drug distribution;
  - (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action; or
  - (e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter.
- (10)
  - (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.
  - (b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.
- (11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.
- (12) The department shall begin accepting applications under this part on or before January 1, 2020.
- (13)
  - (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.
  - (b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:
    - (i) Title 63G, Chapter 6a, Part 16, Protests; or

- (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.
- (14) Notwithstanding this section, the department:
  - (a) may not issue more than four licenses to operate an independent cannabis testing laboratory;
  - (b) may operate an independent cannabis testing laboratory;
  - (c) if the department operates an independent cannabis testing laboratory, may not cease operating the independent cannabis testing laboratory unless:
    - (i) the department issues at least two licenses to independent cannabis testing laboratories; and
    - (ii) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and
  - (d) after ceasing operations under Subsection (14)(d)(ii) shall resume independent cannabis testing laboratory operations at any time if:
    - (i) fewer than two licensed independent cannabis testing laboratories are operating; or
    - (ii) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

Amended by Chapter 350, 2021 General Session

**4-41a-201.1 Cannabis Production Establishment Licensing Advisory Board -- Composition -- Duties.**

- (1) There is created within the department the Cannabis Production Establishment Licensing Advisory Board.
- (2) The commissioner shall:
  - (a) appoint the members of the board;
  - (b) submit the name of each individual that the commissioner appoints under Subsection (2)(a) to the governor for confirmation or rejection; and
  - (c) if the governor rejects an appointee that the commissioner submits under Subsection (2)(b), appoint another individual in accordance with this Subsection (2).
- (3)
  - (a) Except as provided in Subsection (3)(c), the board shall consist of the following six members:
    - (i) the following five voting members whom the commissioner appoints:
      - (A) one member of the public;
      - (B) one member with knowledge and experience in the pharmaceutical or nutraceutical manufacturing industry;
      - (C) one member representing law enforcement;
      - (D) one member whom an organization representing medical cannabis patients recommends; and
      - (E) a chemist who has experience with cannabis and who is associated with a research university; and
    - (ii) the commissioner or the commissioner's designee as a non-voting member, except to cast a deciding vote in the event of a tie.
  - (b) The commissioner may appoint a seventh member to the board who has a background in the cannabis cultivation and processing industry.
  - (c) The commissioner or the commissioner's designee shall serve as the chair of the board.
  - (d) An individual is not eligible for appointment to be a member of the board if the individual:
    - (i) has any commercial or ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier;

- (ii) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier; or
  - (iii) is employed or contracted to lobby on behalf of any cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier.
- (4)
- (a) Except as provided in Subsection (4)(b), a voting board member shall serve a term of four years, beginning July 1 and ending June 30.
  - (b) Notwithstanding Subsection (4)(a), for the initial appointments to the board, the commissioner shall stagger the length of the terms of board members to ensure that the commissioner appoints two or three board members every two years.
  - (c) As a board member's term expires:
    - (i) the board member is eligible for reappointment; and
    - (ii) the commissioner shall make an appointment, in accordance with Subsection (2), for the new term before the end of the member's term.
  - (d) When a vacancy occurs on the board for any reason other than the expiration of a board member's term, the commissioner shall appoint a replacement to the vacant position, in accordance with Subsection (2), for the unexpired term.
  - (e) In making appointments, the commissioner shall ensure that no two members of the board are employed by or represent the same company or nonprofit organization.
  - (f) The commissioner may remove a board member for cause, neglect of duty, inefficiency, or malfeasance.
- (5)
- (a)
    - (i) Four members of the board constitute a quorum of the board.
    - (ii) An action of the majority of the board members when a quorum is present constitutes an action of the board.
  - (b) The department shall provide staff support to the board.
  - (c) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
    - (i) Section 63A-3-106;
    - (ii) Section 63A-3-107; and
    - (iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
- (6) The board shall:
- (a) meet as called by the chair to review cannabis production establishment license applications;
  - (b) review each license application for compliance with:
    - (i) this chapter; and
    - (ii) department rules;
  - (c) conduct a public hearing to consider the license application;
  - (d) approve the department's license application forms and checklists; and
  - (e) make a determination on each license application.
- (7) The board shall hold a public hearing to review a cannabis production establishment's license if the establishment:
- (a) changes ownership by an interest of 20% or more;
  - (b) changes or adds a location;
  - (c) upgrades to a different licensing tier under department rule;
  - (d) changes extraction or formulation standard operating procedures;

- (e) adds an industrial hemp processing or cultivation license to the same location as the cannabis production establishment's processing facility; or
  - (f) as necessary based on the recommendation of the department.
- (8)
- (a) The board shall meet annually in December to consider cannabis production establishment license renewal applications.
  - (b) During the meeting described in Subsection (8)(a):
    - (i) a representative from each applicant for renewal shall:
      - (A) attend in person or electronically; or
      - (B) submit information before the meeting, as the board may require, for the board's consideration; and
    - (ii) the board shall consider, for each cannabis cultivation facility seeking renewal, information including:
      - (A) the amount of biomass the licensee produced during the current calendar year;
      - (B) the amount of biomass the licensee projects to produce during the following year;
      - (C) the amount of hemp waste the licensee currently holds;
      - (D) the current square footage or acres of growing area the licensee uses; and
      - (E) the square footage or acres of growing area the licensee projects to use in the following year; and
    - (iii) the board shall consider, for each cannabis processing facility seeking renewal, information including:
      - (A) methods and procedures for extraction;
      - (B) standard operating procedures; and
      - (C) a complete listing of the medical dosage forms that the licensee produces.
  - (c) The information a licensee or license applicant provides to the board for a license determination constitutes a protected record under Subsection 63G-2-305(1) or (2) if the applicant or licensee provides the board with the information regarding business confidentiality required in Section 63G-2-309.

Enacted by Chapter 350, 2021 General Session

**4-41a-202 Cannabis production establishment owners and directors -- Criminal background checks.**

- (1) Each applicant for a license as a cannabis production establishment shall submit to the department, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
  - (a) a fingerprint card in a form acceptable to the Department of Public Safety;
  - (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
  - (c) consent to a fingerprint background check by:
    - (i) the Utah Bureau of Criminal Identification; and
    - (ii) the Federal Bureau of Investigation.
- (2) The Bureau of Criminal Identification shall:
  - (a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

- (b) report the results of the background check to the department;
  - (c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;
  - (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
  - (e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (3) The department shall:
- (a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
  - (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

**4-41a-203 Renewal.**

The department shall renew a license issued under Section 4-41a-201 every year if:

- (1) the licensee meets the requirements of Section 4-41a-201 at the time of renewal;
- (2) the board does not identify:
  - (a) a significant failure of compliance with this chapter or department rules in the review described in Section 4-41a-201.1; or
  - (b) grounds for revocation described in Subsections 4-41a-201(9)(b) through (e);
- (3) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
- (4) if the cannabis production establishment changes the operating plan described in Section 4-41a-204 that the department or licensing board approved under Subsection 4-41a-201(2)(b) (iii), the department approves the new operating plan.

Amended by Chapter 350, 2021 General Session

**4-41a-204 Operating plan.**

- (1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:
  - (a) a description of the physical characteristics of the proposed facility or, for a cannabis cultivation facility, no more than two facility locations, including a floor plan and an architectural elevation;
  - (b) a description of the credentials and experience of:
    - (i) each officer, director, and owner of the proposed cannabis production establishment; and
    - (ii) any highly skilled or experienced prospective employee;
  - (c) the cannabis production establishment's employee training standards;
  - (d) a security plan;
  - (e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;

- (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;
  - (g) for a cannabis cultivation facility, the information described in Subsection (2);
  - (h) for a cannabis processing facility, the information described in Subsection (3); and
  - (i) for an independent cannabis testing laboratory, the information described in Subsection (4).
- (2)
- (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:
    - (i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and
    - (ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.
  - (b) Except as provided in Subsection (2)(c)(i) or (d)(ii), a cannabis cultivation facility may not:
    - (i) for a facility that cultivates cannabis only indoors, use more than 100,000 total square feet of cultivation space;
    - (ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and
    - (iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).
  - (c)
    - (i) Each licensee may apply to the department for:
      - (A) a one-time, permanent increase of up to 20% of the limitation on the cannabis cultivation facility's cultivation space; or
      - (B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the cannabis cultivation facility's cultivation space.
    - (ii) After conducting a review equivalent to the review described in Subsection 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the department may:
      - (A) grant the one-time, permanent increase described in Subsection (2)(c)(i)(A); or
      - (B) grant the short-term increase described in Subsection (2)(c)(i)(B).
  - (d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation.
  - (e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:
    - (i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and
    - (ii) allows a cannabis cultivation facility to operate both indoors and outdoors.
  - (f)
    - (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.
    - (ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).
- (3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

- (a) offered variety of cannabis product;
  - (b) cannabinoid extraction method;
  - (c) cannabinoid extraction equipment;
  - (d) processing equipment;
  - (e) processing techniques; and
  - (f) sanitation and manufacturing safety procedures for items for human consumption.
- (4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:
- (a) cannabis and cannabis product testing capability;
  - (b) cannabis and cannabis product testing equipment; and
  - (c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.
- (5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

Amended by Chapter 350, 2021 General Session

**4-41a-205 Number of licenses -- Cannabis cultivation facilities.**

- (1) Except as provided in Subsection (2)(a), the department shall issue at least five but not more than eight licenses to operate a cannabis cultivation facility.
- (2)
- (a) The department may issue a number of licenses to operate a cannabis cultivation facility that, in addition to the licenses described in Subsection (1), does not cause the total number of licenses to exceed 15 if the department determines, in consultation with the Department of Health and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.
  - (b) If the recipient of one of the initial licenses described in Subsection (1) ceases operations for any reason or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).
- (3) If there are more qualified applicants than the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:
- (a) experience with establishing and successfully operating a business that involves:
    - (i) complying with a regulatory environment;
    - (ii) tracking inventory; and
    - (iii) training, evaluating, and monitoring employees;
  - (b) an operating plan that will best ensure the safety and security of patrons and the community;
  - (c) positive connections to the local community; and
  - (d) the extent to which the applicant can increase efficiency and reduce the cost to patients of medical cannabis.
- (4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Amended by Chapter 12, 2020 General Session

### **Part 3 Cannabis Production Establishments Agents**

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

- (1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent, regardless of whether the individual is a seasonal, temporary, or permanent employee.
- (2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:
  - (a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
  - (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
  - (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
  - (d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.
- (3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.
- (4)
  - (a) The department shall, within 15 business days after the day on which the department receives a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the cannabis production establishment:
    - (i) provides to the department:
      - (A) the prospective agent's name and address;
      - (B) the name and location of a licensed cannabis production establishment where the prospective agent will act as the cannabis production establishment's agent; and
      - (C) the submission required under Subsection (4)(b); and
    - (ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.
  - (b) Except for an applicant reapplying for a cannabis production establishment agent registration card within less than one year after the expiration of the applicant's previous cannabis production establishment agent registration card, each prospective agent described in Subsection (4)(a) shall:
    - (i) submit to the department:
      - (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
      - (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
    - (ii) consent to a fingerprint background check by:
      - (A) the Bureau of Criminal Identification; and
      - (B) the Federal Bureau of Investigation.



- (c) The Bureau of Criminal Identification shall:
  - (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
  - (ii) report the results of the background check to the department;
  - (iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;
  - (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
  - (v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (d) The department shall:
  - (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
  - (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.
- (5) The department shall designate, on an individual's cannabis production establishment agent registration card:
  - (a) the name of the cannabis production establishment where the individual is registered as an agent; and
  - (b) the type of cannabis production establishment for which the individual is authorized to act as an agent.
- (6) A cannabis production establishment agent shall comply with:
  - (a) a certification standard that the department develops; or
  - (b) a certification standard that the department has reviewed and approved.
- (7)
  - (a) The department shall ensure that the certification standard described in Subsection (6) includes training:
    - (i) in Utah medical cannabis law;
    - (ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;
    - (iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and
    - (iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.
  - (b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.
- (8) For an individual who holds or applies for a cannabis production establishment agent registration card:
  - (a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and
  - (b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:
    - (i) a felony; or
    - (ii) after December 3, 2018, a misdemeanor for drug distribution.

- (9)
  - (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.
  - (b) A cannabis production establishment agent may renew the agent's registration card if the agent:
    - (i) is eligible for a cannabis production establishment registration card under this section;
    - (ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and
    - (iii) pays to the department a renewal fee in an amount that:
      - (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
      - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Amended by Chapter 350, 2021 General Session

**4-41a-302 Cannabis production establishment agent registration card -- Rebuttable presumption.**

- (1) A cannabis production establishment agent whom the department registers under Section 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the agent at all times when:
  - (a) the agent is on the premises of a cannabis production establishment where the agent is registered;
  - (b) the agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between:
    - (i) two cannabis production establishments; or
    - (ii) a cannabis production establishment and a medical cannabis pharmacy; and
  - (c) if the cannabis production establishment agent is an agent of a cannabis cultivation facility, the agent is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory.
- (2) If a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis production establishment, or transporting the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):
  - (a) there is a rebuttable presumption that the agent possesses the cannabis, cannabis product, or medical cannabis device legally; and
  - (b) a law enforcement officer does not have probable cause, based solely on the agent's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.
- (3)
  - (a) A cannabis production establishment agent who fails to carry the agent's cannabis production establishment agent registration card in accordance with Subsection (1) is:
    - (i) for a first or second offense in a two-year period:
      - (A) guilty of an infraction; and
      - (B) subject to a \$100 fine; or
    - (ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a \$750 fine.

(b)

(i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Amended by Chapter 5, 2019 Special Session 1

## Part 4

### General Cannabis Production Establishment Operating Requirements

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

(1)

(a) A cannabis production establishment shall operate in accordance with the operating plan described in Sections 4-41a-201 and 4-41a-204.

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

(c)

(i) If a cannabis production establishment changes the cannabis production establishment's operating plan, the establishment shall ensure that the new operating plan complies with this chapter.

(ii) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to:

(A) review a change notification described in Subsection (1)(b);

(B) identify for the cannabis production establishment each point of noncompliance between the new operating plan and this chapter;

(C) provide an opportunity for the cannabis production establishment to address each identified point of noncompliance; and

(D) suspend or revoke a license if the cannabis production establishment fails to cure the noncompliance.

(2) A cannabis production establishment shall operate:

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

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

(3) A cannabis production establishment may not employ an individual who is younger than 21 years old.

(4) A cannabis production establishment may not employ an individual who has been convicted, under state or federal law, of:

- (a) a felony; or
  - (b) after December 3, 2018, a misdemeanor for drug distribution.
- (5) A cannabis production establishment may authorize an individual who is at least 18 years old and is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment:
- (a) tracks and monitors the individual at all times while the individual is at the cannabis production establishment; and
  - (b) maintains a record of the individual's access, including arrival and departure.
- (6) A cannabis production establishment shall operate in a facility that has:
- (a) a single, secure public entrance;
  - (b) a security system with a backup power source that:
    - (i) detects and records entry into the cannabis production establishment; and
    - (ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and
  - (c) a lock or equivalent restrictive security feature on any area where the cannabis production establishment stores cannabis or a cannabis product.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

**4-41a-402 Inspections.**

- (1) The department may inspect the records and facility of a cannabis production establishment at any time during business hours to determine if the cannabis production establishment complies with this chapter.
- (2)
- (a) An inspection under this section may include:
    - (i) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;
    - (ii) questioning of any relevant individual;
    - (iii) observation of an independent cannabis testing laboratory's methods, standards, practices, and procedures;
    - (iv) the taking of a specimen of cannabis or cannabis products sufficient for testing purposes; or
    - (v) inspection of equipment, an instrument, a tool, or machinery, including a container or label.
  - (b) Notwithstanding Section 4-41a-404, an authorized department employee may possess and transport a specimen of cannabis or cannabis products for testing described in Subsection (2) (a).
- (3) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.
- (4) Failure to provide the department or the department's authorized agents immediate access to records and facilities during business hours in accordance with this section may result in:
- (a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
  - (b) license or registration suspension or revocation; or
  - (c) an immediate cessation of operations under a cease and desist order that the department issues.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

**4-41a-403 Advertising.**

- (1) Except as provided in this section, a cannabis production establishment may not advertise to the general public in any medium.
- (2) A cannabis production establishment may advertise an employment opportunity at the cannabis production establishment.
- (3) A cannabis production establishment may maintain a website that:
  - (a) contains information about the establishment and employees; and
  - (b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.
- (4)
  - (a) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:
    - (i) includes only:
      - (A) in accordance with Subsection (4)(b), the cannabis production establishment's name, logo, and hours of operation; and
      - (B) a green cross; and
    - (ii) complies with local ordinances regulating signage.
  - (b) The department shall define standards for a cannabis production establishment's name and logo to ensure a medical rather than recreational disposition.
- (5)
  - (a) A cannabis production establishment may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).
  - (b) A cannabis production establishment may not include in an educational event described in Subsection (5)(a):
    - (i) any topic that conflicts with this chapter or Title 26, Chapter 61a, Utah Medical Cannabis Act;
    - (ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;
    - (iii) any marketing for a specific product from the cannabis production establishment or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or
    - (iv) a presenter other than the following:
      - (A) a cannabis production establishment agent;
      - (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
      - (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
      - (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
      - (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or
      - (F) a state employee.
  - (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

Amended by Chapter 350, 2021 General Session

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

- (1)
  - (a) Only the following individuals may transport cannabis or a cannabis product under this chapter:
    - (i) a registered cannabis production establishment agent; or
    - (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.
  - (b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.
- (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall possess a transportation manifest that:
  - (a) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;
  - (b) includes origin and destination information for any cannabis or cannabis product that the individual is transporting; and
  - (c) identifies the departure and arrival times and locations of the individual transporting the cannabis or cannabis product.
- (3)
  - (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or cannabis product remains safe for human consumption.
  - (b) The transportation described in Subsection (3)(a) is limited to transportation:
    - (i) between a cannabis production establishment and another cannabis production establishment; and
    - (ii) between a cannabis processing facility and a medical cannabis pharmacy.
- (4)
  - (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.
  - (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:
    - (i) guilty of an infraction; and
    - (ii) subject to a \$100 fine.
  - (c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).
  - (d) If the agent described in Subsection (4)(a) is transporting more cannabis or cannabis product than the manifest identifies, except for a de minimis administrative error:
    - (i) the penalty described in Subsection (4)(b) does not apply; and
    - (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.
- (5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.
- (6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Amended by Chapter 12, 2020 General Session

**4-41a-405 Excess and disposal.**

- (1) As used in this section, "medical cannabis waste" means waste and unused material from the cultivation and production of medical cannabis.
- (2) A cannabis production establishment shall:
  - (a) render medical cannabis waste unusable and unrecognizable before transporting the medical cannabis waste from the cannabis production establishment; and
  - (b) dispose of medical cannabis waste in accordance with:
    - (i) federal and state laws, rules, and regulations related to hazardous waste;
    - (ii) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
    - (iii) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
    - (iv) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) An individual may not transport or dispose of medical cannabis waste other than as provided in this section.

Enacted by Chapter 1, 2018 Special Session 3

**4-41a-406 Local control.**

- (1) As used in this section:
  - (a) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.
  - (b) "Land use permit" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.
  - (c) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.
- (2)
  - (a) If a municipality's or county's zoning ordinances provide for an industrial zone, the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.
  - (b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.
  - (c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.
- (3) A municipality or county may not:
  - (a) on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis, deny or revoke:
    - (i) a land use permit to operate a cannabis production facility; or
    - (ii) a business license to operate a cannabis production facility;
  - (b) require a certain distance between a cannabis production establishment and:
    - (i) another cannabis production establishment;
    - (ii) a medical cannabis pharmacy;

- (iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or
  - (iv) an outlet, as that term is defined in Section 32B-1-202; or
  - (c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a cannabis production establishment that was not in effect on the day on which the cannabis production establishment submitted a complete land use application.
- (4) An applicant for a land use permit to operate a cannabis production establishment shall comply with the land use requirements and application process described in:
- (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and
  - (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Amended by Chapter 5, 2019 Special Session 1

## **Part 5**

### **Cannabis Cultivation Facility Operating Requirements**

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

- (1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.
- (2) A cannabis cultivation facility shall use a unique identifier that is connected to the facility's inventory control system to identify:
  - (a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;
  - (b) each unique harvest of cannabis plants;
  - (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and
  - (d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.
- (3) A cannabis cultivation facility shall identify cannabis biomass as cannabis byproduct or cannabis plant product before transferring the cannabis biomass from the facility.
- (4) A cannabis cultivation facility shall either:
  - (a) ensure that a cannabis processing facility chemically or physically processes cannabis cultivation byproduct to produce a cannabis concentrate for incorporation into cannabis derivative products; or
  - (b) destroy cannabis cultivation byproduct in accordance with Section 4-41a-405.
- (5)
  - (a)
    - (i) A cannabis cultivation facility may not purchase or otherwise receive industrial hemp waste unless the waste meets department cannabis testing standards, as determined by an independent cannabis testing laboratory, before the transfer of the waste to the cannabis cultivation facility.
    - (ii) Upon receipt of the industrial hemp waste described in Subsection (5)(a)(i), the cannabis cultivation facility shall assign a unique identifier to the industrial hemp waste that is connected to the facility's inventory control system.



- (iii) Industrial hemp waste described in this Subsection (5)(a) is considered to be cannabis for all testing and regulatory purposes of the department.
- (b) Except as provided in Subsection (5)(a), a cannabis production establishment or agent may not receive industrial hemp waste for entry into the medical cannabis program.
- (c) A cannabis cultivation facility may not produce more than 120 kilograms of cannabis concentrate from industrial hemp waste in a single license year.

Amended by Chapter 350, 2021 General Session

**4-41a-502 Cannabis -- Labeling and child-resistant packaging.**

For any cannabis that a cannabis cultivation facility cultivates or otherwise produces and subsequently ships to another cannabis production establishment, the facility shall:

- (1) label the cannabis with a label that has a unique batch identification number that is connected to the inventory control system; and
- (2) package the cannabis in a container that is:
  - (a) tamper evident; and
  - (b) not appealing to children.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

**Part 6**  
**Cannabis Processing Facility Operating Requirements**

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

A cannabis processing facility shall ensure that a cannabis product the cannabis processing facility sells complies with the requirements of this part.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

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

- (1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:
  - (a) label the cannabis or cannabis product with a label that:
    - (i) clearly and unambiguously states that the cannabis product or package contains cannabis;
    - (ii) clearly displays the amount of total composite tetrahydrocannabinol and cannabidiol in the labeled container;
    - (iii) has a unique identification number that:
      - (A) is connected to the inventory control system; and
      - (B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;
    - (iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;
    - (v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and
    - (vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and

- (b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:
  - (i) is tamper evident and tamper resistant;
  - (ii) does not appeal to children;
  - (iii) does not mimic a candy container;
  - (iv) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes; and
  - (v) includes a warning label that states:
    - (A) for a container labeled before July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."; or
    - (B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider.".
- (2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:
  - (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and
  - (b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.
- (3) For any cannabis product that contains any derivative cannabinoid or synthetic cannabinoid, the cannabis processing facility shall ensure that the label clearly identifies each derivative cannabinoid or synthetic cannabinoid.
- (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act to establish:
  - (a) a standard labeling format that:
    - (i) complies with the requirements of this section; and
    - (ii) ensures inclusion of a pharmacy label; and
  - (b) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality.

Amended by Chapter 337, 2021 General Session  
Amended by Chapter 350, 2021 General Session

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

- (1) A cannabis processing facility:
  - (a) may not produce a cannabis product in a physical form that:
    - (i) the facility knows or should know appeals to children;
    - (ii) is designed to mimic or could be mistaken for a candy product; or
    - (iii) for a cannabis product used in vaporization, includes a candy-like flavor or another flavor that the facility knows or should know appeals to children; and
  - (b) notwithstanding Subsection (1)(a)(iii), may produce a concentrated oil with a flavor that the department approves to facilitate minimizing the taste or odor of cannabis.
- (2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

- (3) A cannabis processing facility shall isolate derivative cannabinoids and synthetic cannabinoids to a purity of greater than 95%, as determined by an independent cannabis testing laboratory using liquid chromatography-mass spectroscopy or an equivalent method.
- (4) The department shall adopt by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human safety standards for the manufacturing of cannabis products that are consistent with best practices for the use of cannabis.

Amended by Chapter 350, 2021 General Session

## **Part 7**

### **Independent Cannabis Testing Laboratories**

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

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:
  - (a) determine required adulterant tests for a cannabis plant product, cannabis concentrate, or cannabis product;
  - (b) determine the amount of any adulterant that is safe for human consumption;
  - (c) establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment; or
  - (d) allow the propagation of testing results forward to derived product if the processing steps the cannabis production establishment uses to produce the product are unlikely to change the results of the test.
- (2) The department may require testing for a toxin if:
  - (a) the department receives information indicating the potential presence of a toxin; or
  - (b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.
- (3)
  - (a) A cannabis production establishment may not:
    - (i) incorporate cannabis concentrate into a cannabis derivative product until an independent cannabis testing laboratory tests the cannabis concentrate in accordance with department rule; or
    - (ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an independent cannabis testing laboratory tests a representative sample of the cannabis or cannabis product in accordance with department rule.
  - (b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product in accordance with department rule.
- (4) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.
- (5) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Amended by Chapter 350, 2021 General Session

**4-41a-702 Reporting -- Inspections -- Seizure by the department.**

- (1) If an independent cannabis testing laboratory determines that the results of a lab test indicate that a cannabis or cannabis product batch may be unsafe for human use:
  - (a) the independent cannabis testing laboratory shall report the results and the cannabis or cannabis product batch to:
    - (i) the department; and
    - (ii) the cannabis production establishment that prepared the cannabis or cannabis product batch;
  - (b) the department shall place a hold on the cannabis or cannabis product batch to:
    - (i) investigate the cause of the defective batch; and
    - (ii) make a determination; and
  - (c) the cannabis production establishment that prepared the cannabis or cannabis product batch may appeal the determination described in Subsection (1)(b)(ii) to the department.
- (2) If the department determines, under Subsection (1)(b)(ii) or following an appeal under Subsection (1)(c), that a cannabis or cannabis product prepared by a cannabis production establishment is unsafe for human consumption, the department may seize, embargo, or destroy, in the same manner as a cannabis production establishment under Section 4-41a-405, the cannabis or cannabis product batch.
- (3) If an independent cannabis testing laboratory determines that the results of a lab test indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more than 10% from the amounts the label indicates, the cannabis processing facility may not sell the cannabis or cannabis product batch unless the facility replaces the incorrect label with a label that correctly indicates the cannabinoid content.

Amended by Chapter 350, 2021 General Session

**Part 8  
Enforcement and Report**

**4-41a-801 Enforcement -- Fine -- Citation.**

- (1) If a person that is a cannabis production establishment or a cannabis production establishment agent violates this chapter, the department may:
  - (a) revoke the person's license or cannabis production establishment agent registration card;
  - (b) decline to renew the person's license or cannabis production establishment agent registration card; or
  - (c) assess the person an administrative penalty that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) The department shall deposit an administrative penalty imposed under this section into the General Fund.
- (3)
  - (a) The department may take an action described in Subsection (3)(b) if the department concludes, upon investigation, that, for a person that is a cannabis production establishment or a cannabis production establishment agent:
    - (i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or

- (ii) the person produced cannabis or a cannabis product batch that contains a substance, other than cannabis, that poses a significant threat to human health.
- (b) If the department makes the determination about a person described in Subsection (3)(a), the department shall:
  - (i) issue the person a written administrative citation;
  - (ii) attempt to negotiate a stipulated settlement;
  - (iii) seize, embargo, or destroy the cannabis or cannabis product batch;
  - (iv) order the person to cease and desist from the action that creates a violation; and
  - (v) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- (4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person, who is not an individual, a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) The department may not revoke a cannabis production establishment's license without first directing the cannabis production establishment to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- (6) If within 20 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.
- (7) The department may, for a person who fails to comply with a citation under this section:
  - (a) refuse to issue or renew the person's license or cannabis production establishment agent registration card; or
  - (b) suspend, revoke, or place on probation the person's license or cannabis production establishment registration card.
- (8)
  - (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual:
    - (i) violates a provision of this chapter, the individual is:
      - (A) guilty of an infraction; and
      - (B) subject to a \$100 fine; or
    - (ii) intentionally or knowingly violates a provision of this chapter or violates this chapter three or more times, the individual is:
      - (A) guilty of a class B misdemeanor; and
      - (B) subject to a \$1,000 fine.
  - (b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).
- (9) Nothing in this section prohibits the department from referring potential criminal activity to law enforcement.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

**4-41a-802 Report.**

- (1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

- (a) the number of applications and renewal applications that the department receives under this chapter;
  - (b) the number of each type of cannabis production facility that the department licenses in each county;
  - (c) the amount of cannabis that licensees grow;
  - (d) the amount of cannabis that licensees manufacture into cannabis products;
  - (e) the number of licenses the department revokes under this chapter;
  - (f) the department's operation of an independent cannabis testing laboratory under Section 4-41a-201, including:
    - (i) the cannabis and cannabis products the department tested; and
    - (ii) the results of the tests the department performed; and
  - (g) the expenses incurred and revenues generated under this chapter.
- (2) The department may not include personally identifying information in the report described in this section.

Amended by Chapter 148, 2020 General Session

## **Part 9**

### **Academic Medical Cannabis Research**

#### **4-41a-901 Academic medical cannabis research -- License.**

- (1) A medical cannabis research licensee may, subject to department rules described in Subsection (4), obtain from a cannabis production establishment or a medical cannabis pharmacy, and possess cannabis for academic medical cannabis research.
- (2) The department shall license a research university to obtain and possess cannabis for the purpose of academic medical cannabis research if the research university submits to the department:
  - (a) the location where the research university intends to conduct the research;
  - (b) the research university's research plan; and
  - (c) the name of the principal investigator of the research university who will:
    - (i) supervise the procurement, possession, and security of cannabis and cannabis product; and
    - (ii) oversee the academic research.
- (3) The department shall maintain a list of each medical cannabis research licensee.
- (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
  - (a) establish requirements for a licensee to:
    - (i) participate in academic medical cannabis research;
    - (ii) obtain from a cannabis production establishment, and possess, cannabis for academic medical cannabis research; and
  - (b) set sampling and testing procedures.
- (5) A medical cannabis research licensee shall provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the licensee possesses or stores cannabis for the purpose of:
  - (a) conducting a physical inspection; or
  - (b) ensuring compliance with the requirements of this chapter.

- (6) An individual who has been convicted of a drug related felony within the last 10 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis research licensee's license under this part.
- (7) The department may set a fee, in accordance with Subsection 4-2-103(2), for the application for a medical cannabis research license.

Amended by Chapter 350, 2021 General Session

**4-41a-902 Cannabis production establishment product for academic research.**

A cannabis production establishment may sell cannabis and cannabis products to a medical cannabis research licensee for the purpose of academic research.

Enacted by Chapter 5, 2019 Special Session 1

**4-41a-903 Unlawful acts.**

- (1) It is unlawful for a person who is not operating under the license of a medical cannabis research licensee to obtain or possess cannabis for academic medical cannabis research.
- (2) It is unlawful for a cannabis production establishment to offer, sell, or otherwise provide cannabis or cannabis products for the purpose of academic research to an entity that is not a medical cannabis research licensee.
- (3) The department may seize from a medical cannabis research licensee and destroy cannabis or cannabis products that do not comply with this chapter.

Enacted by Chapter 5, 2019 Special Session 1