

INDUSTRIAL HEMP AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: Evan J. Vickers

LONG TITLE**Committee Note:**

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 5 absent

General Description:

This bill modifies and enacts provisions related to industrial hemp.

Highlighted Provisions:

This bill:

- defines terms;
- modifies serving size requirements;
- modifies provisions to allow the transportation of transportable industrial hemp concentrate under certain circumstances;
- repeals provisions related to the industrial hemp laboratory permit;
- repeals provisions related to the registration fee of a cannabinoid product;
- allows a local health department to notify the Department of Agriculture and Food regarding violations related to cannabinoid products;
- exempts a sale of a cannabinoid product from sales and use tax;
- enacts the Cannabinoid Product Licensing and Tax Act;
- authorizes the State Tax Commission to disclose to the Department of Agriculture information related to retailers that are licensed to sell and collect tax on a sale of a



cannabinoid product;

- ▶ creates a grant program to encourage the production of industrial hemp products;
- ▶ requires law enforcement to conduct underage buying investigations regarding the sale of cannabinoid products that contain THC or a THC analog; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 4-41-102**, as last amended by Laws of Utah 2023, Chapter 146
- 4-41-103.1**, as last amended by Laws of Utah 2023, Chapter 146
- 4-41-103.4**, as last amended by Laws of Utah 2023, Chapter 146
- 4-41-104**, as last amended by Laws of Utah 2023, Chapter 146
- 4-41-105**, as last amended by Laws of Utah 2023, Chapter 146
- 4-41-106**, as last amended by Laws of Utah 2023, Chapter 146
- 4-41-403**, as last amended by Laws of Utah 2023, Chapter 146
- 26A-1-114**, as last amended by Laws of Utah 2023, Chapters 90, 327
- 58-37-2**, as last amended by Laws of Utah 2022, Chapters 165, 415
- 58-37-3.6**, as last amended by Laws of Utah 2023, Chapter 329
- 59-1-306**, as last amended by Laws of Utah 2020, Chapter 294
- 59-1-403**, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329
- 59-12-104**, as last amended by Laws of Utah 2023, Chapters 213, 518
- 77-39-101**, as last amended by Laws of Utah 2021, Chapter 291

ENACTS:

- 59-31-101**, Utah Code Annotated 1953
- 59-31-201**, Utah Code Annotated 1953
- 59-31-202**, Utah Code Annotated 1953
- 59-31-203**, Utah Code Annotated 1953
- 59-31-301**, Utah Code Annotated 1953

59 **59-31-302**, Utah Code Annotated 1953
60 **59-31-401**, Utah Code Annotated 1953
61 **59-31-402**, Utah Code Annotated 1953
62 **63N-3-1301**, Utah Code Annotated 1953
63 **63N-3-1302**, Utah Code Annotated 1953

64

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

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

67 **4-41-102. Definitions.**

68 As used in this chapter:

69 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may
70 be injurious to human health, including:

- 71 (a) pesticides;
- 72 (b) heavy metals;
- 73 (c) solvents;
- 74 (d) microbial life;
- 75 (e) artificially derived cannabinoids;
- 76 (f) toxins; or
- 77 (g) foreign matter.

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

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

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

86 (3) "Cannabidiol" or "CBD" means the cannabinoid identified as CAS# 13956-29-1.

87 (4) "Cannabidiolic acid" or "CBDA" means the cannabinoid identified as CAS#
88 1244-58-2.

89 (5) "Cannabinoid processor license" means a license that the department issues to a

person for the purpose of processing a cannabinoid product.

(6) "Cannabinoid product" means a product that:

(a) contains or is represented to contain one or more naturally occurring cannabinoids;

(b) contains less than the cannabinoid product THC level, by dry weight;

(c) contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content; ~~and~~

(d) does not exceed a total of THC and any THC analog that is greater than:

(i) 5 milligrams per serving; and

(ii) 150 milligrams per package~~[-]; and~~

(e) unless the product is in an oil based suspension, has a serving size that:

(i) is an integer; and

(ii) is a discrete unit of the cannabinoid product.

(7) "Cannabinoid product class" means a group of cannabinoid products that:

(a) have all ingredients in common; and

(b) are produced by or for the same company.

(8) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

(9) "Cannabis" means the same as that term is defined in Section [26B-4-201](#).

~~[(9)]~~ (10) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.

~~[(10)]~~ (11) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

~~[(11)] "Industrial hemp laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp.]~~

(12) "Industrial hemp producer registration" means a registration that the department issues to a person for the purpose of processing industrial hemp or an industrial hemp product.

(13) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells any viable industrial hemp seed or cannabinoid product.

(14) (a) "Industrial hemp product" means a product made by processing industrial hemp plants or industrial hemp parts.

(b) "Industrial hemp product" does not include cannabinoid material.

(15) "Key participant" means any of the following:

(a) a licensee;

(b) an operation manager;

(c) a site manager; or

(d) an employee who has access to any industrial hemp material with a THC concentration above 0.3%.

~~[(16) "Laboratory permittee" means a person possessing an industrial hemp laboratory permit that the department issues under this chapter.]~~

~~[(17)]~~ (16) "Licensee" means a person possessing a cannabinoid processor license that the department issues under this chapter.

~~[(18)]~~ (17) "Non-compliant material" means:

(a) a hemp plant that does not comply with this chapter, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

~~[(19)]~~ (18) "Permittee" means a person possessing a permit that the department issues under this chapter.

~~[(20)]~~ (19) "Person" means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

~~[(21)]~~ (20) "Retailer permittee" means a person possessing an industrial hemp retailer permit that the department issues under this chapter.

~~[(22)]~~ (21) "Tetrahydrocannabinol" or "THC" means a delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS# 1972-08-3.

~~[(23)]~~ (22) (a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:

(i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;
(ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;
(iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;
(iv) cannabidivanol (CBDV), the cannabinoid identified as CAS# 24274-48-4;
(v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;
(vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;
(vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;
(viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;
(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or
(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.

~~[(24)]~~ (23) "Total cannabidiol" or "total CBD" means the combined amounts of cannabidiol and cannabidiolic acid, calculated as "total CBD = CBD + (CBDA x 0.877)".

~~[(25)]~~ (24) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC, tetrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)".

(25) "Transportable industrial hemp concentrate" means any amount of a natural cannabinoid in a purified state that:

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

(b) is derived from a cannabis plant that, based on sampling that was collected no more than 30 days before the day on which the cannabis plant was harvested, contains a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis;

(c) has a THC and THC analog concentration total that is less than 20% when concentrated from the cannabis plant to the purified state; and

(d) is intended to be processed into a cannabinoid product.

Section 2. Section 4-41-103.1 is amended to read:

4-41-103.1. Authority to regulate production, sale, and testing of cannabinoid products and industrial hemp -- Information sharing with the State Tax Commission.

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

(a) establish requirements for a cannabinoid processor license to process cannabinoid products;

(b) establish requirements for an industrial hemp retailer permit to market or sell industrial hemp products;

(c) establish the standards, methods, practices, and procedures a laboratory must use ~~[to qualify for a permit to test]~~ when:

(i) testing industrial hemp, transportable industrial hemp concentrate, and cannabinoid products; and [to dispose]

(ii) disposing of non-compliant material; [and]

(d) establish requirements for registration of processors of non-cannabinoid industrial hemp products~~[-]; and~~

(e) establish standards for transporting transportable industrial hemp concentrate into and out of the state.

(2) The department shall maintain a list of each licensee and permittee.

(3) The department shall provide to the State Tax Commission:

(a) a regularly updated list of every retailer permittee that sells a cannabinoid product;

(b) any information obtained by the department regarding a person who is not a retailer permittee and is selling a cannabinoid product; and

(c) the tax identification number;

(i) for a retailer permittee described in Subsection (3)(a); and

(ii) a person described in Subsection (3)(b).

Section 3. Section **4-41-103.4** is amended to read:

4-41-103.4. Industrial hemp laboratory testing.

(1) The department or a laboratory ~~[permittee of]~~ contracted with the department may test industrial hemp and cannabinoid products.

(2) The department or a laboratory ~~[permittee of]~~ contracted with the department may dispose of non-compliant material.

~~[(3) A laboratory seeking an industrial hemp laboratory permit shall:]~~

~~[(a) demonstrate to the department that:]~~

~~[(i) the laboratory and laboratory staff possess the professional certifications required by department rule;]~~

214 ~~[(ii) the laboratory has the ability to test industrial hemp and industrial hemp products~~
215 ~~using the standards, methods, practices, and procedures required by department rule;]~~

216 ~~[(iii) the laboratory has the ability to meet the department's minimum standards of~~
217 ~~performance for detecting concentration levels of THC and any cannabinoid known to be~~
218 ~~present; and]~~

219 ~~[(iv) the laboratory has a plan that complies with the department's rule for the safe~~
220 ~~disposal of non-compliant material; and]~~

221 ~~[(b) provide to the department written consent allowing a representative of the~~
222 ~~department and local law enforcement to enter all premises where the laboratory tests,~~
223 ~~processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the~~
224 ~~purpose of:]~~

225 ~~[(i) conducting a physical inspection; or]~~

226 ~~[(ii) ensuring compliance with the requirements of this chapter.]~~

227 ~~[(4) An individual who has been convicted of a drug-related felony within the last 10~~
228 ~~years is not eligible to obtain a license under this chapter.]~~

229 ~~[(5) The department may set a fee in accordance with Subsection 4-2-103(2) for the~~
230 ~~application for an industrial hemp laboratory permit.]~~

231 Section 4. Section **4-41-104** is amended to read:

232 **4-41-104. Product registration required for distribution -- Application -- Fees --**
233 **Renewal.**

234 (1) A cannabinoid product class or cannabinoid product that is not registered with the
235 department may not be distributed in this state.

236 (2) A person seeking registration for a cannabinoid product class or cannabinoid
237 product shall ~~[(a)]~~ apply to the department on forms provided by the department ~~[, and]~~ for a
238 registration for each cannabinoid product class or cannabinoid product the person intends to
239 distribute in the state.

240 ~~[(b) submit an annual registration fee, determined by the department pursuant to~~
241 ~~Subsection 4-2-103(2), for each cannabinoid product class or cannabinoid product the person~~
242 ~~intends to distribute in this state.]~~

243 (3) The department may conduct tests, or require test results, to ensure that any claim
244 made by an applicant about a cannabinoid product class or cannabinoid product is accurate.

(4) Upon receipt by the department of a proper application [~~and payment of the appropriate fee~~], as described in Subsection (2), the department shall issue a registration to the applicant allowing the applicant to distribute the registered cannabinoid product class or cannabinoid product in the state for one year from the date [~~of the payment of the fee~~] on which the application is approved, subject to suspension or revocation for cause.

(5) The department shall mail, either through the postal service or electronically, forms for the renewal of a registration to a registrant at least 30 days before the day on which the registrant's registration expires.

Section 5. Section **4-41-105** is amended to read:

4-41-105. Unlawful acts.

(1) It is unlawful for a person to handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate license or permit issued by the department under this chapter.

(2) (a) It is unlawful for any person to:

~~[(a)]~~ (i) distribute, sell, or market a cannabinoid product that is:

~~[(i)]~~ (A) not registered with the department under Section **4-41-104**; or

~~[(ii)]~~ (B) noncompliant material;

~~[(b)]~~ (ii) except is provided in Subsection (2)(b), transport into or out of the state extracted material or final product that contains 0.3% or more of total THC and any THC analog;

~~[(c)]~~ (iii) sell or use a cannabinoid product that is:

~~[(i)]~~ (A) added to a conventional food or beverage, as the department further defines in rules described in Section **4-41-403**;

~~[(ii)]~~ (B) marketed or manufactured to be enticing to children, as further defined in rules described in Section **4-41-403**; or

~~[(iii)]~~ (C) smokable flower; or

~~[(d)]~~ (iv) knowingly or intentionally sell or give a cannabinoid product that contains THC or a THC analog in the course of business to an individual who is not at least 21 years old.

(b) A person may transport transportable industrial hemp concentrate if the person:

(i) complies with rules created by the department under Section **4-41-103.1** related to

276 transportable industrial hemp concentrate; and

277 (ii) (A) has an industrial hemp producer registration; or

278 (B) the equivalent to an industrial hemp producer registration from another state.

279 (3) The department may seize and destroy non-compliant material.

280 (4) Nothing in this chapter authorizes any person to violate federal law, regulation, or
281 any provision of this title.

282 Section 6. Section **4-41-106** is amended to read:

283 **4-41-106. Enforcement -- Fine -- Citation.**

284 (1) If a person violates this part, the department may:

285 (a) revoke the person's license or permit;

286 (b) decline to renew the person's license or permit; or

287 (c) assess the person a civil penalty that the department establishes in accordance with
288 Section [4-2-304](#).

289 (2) Except for a fine that the department assesses for an unlicensed processor, an
290 unregistered product, or the sale of a cannabinoid product to an individual younger than 21
291 years old, the department shall deposit a penalty imposed under this section into the General
292 Fund.

293 (3) The department may take an action described in Subsection (4) if the department
294 concludes, upon investigation, that a person has violated this chapter, a rule made under this
295 chapter, or an order issued under this chapter.

296 (4) If the department makes the conclusion described in Subsection (3), the department
297 shall:

298 (a) issue the person a written administrative citation;

299 (b) attempt to negotiate a stipulated settlement;

300 (c) seize, embargo, or destroy the industrial hemp batch or unregistered product;

301 (d) order the person to cease the violation; and

302 (e) if a stipulated settlement cannot be reached, conduct an adjudicative proceeding
303 under Title 63G, Chapter 4, Administrative Procedures Act.

304 (5) The department may, for a person, other than an individual, that is subject to an
305 uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative
306 proceeding under this section, for a fine amount not already specified in law, assess the person

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.

(6) The department may not revoke a cannabinoid processor license~~;~~ or an industrial hemp retailer's permit~~;~~ ~~or an industrial hemp laboratory permit~~ without first giving the person the opportunity to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(7) If, within 30 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.

(8) 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 processor license~~;~~ or retailer permit~~;~~ ~~or laboratory permit~~; or

(b) suspend, revoke, or place on probation the person's processor license~~;~~ or retailer permit~~;~~ ~~or laboratory permit~~.

Section 7. Section ~~4-41-403~~ is amended to read:

~~4-41-403~~. Standards for registration.

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

(i) to determine standards for a registered cannabinoid product, including standards for:

(A) testing to ensure the product is safe for human consumption; and

(B) accurate labeling;

(ii) governing an entity that manufactures cannabinoid products, including standards for health and safety;

(iii) to determine when and how a cannabinoid processor's cannabinoid must be tested by the department at the expense of the cannabinoid processor;

(iv) regarding what constitutes:

(A) a conventional food or beverage; and

(B) a product that is marketed or manufactured to be enticing to children; ~~and~~

(v) regarding any other issue the department considers necessary for the safe

production and sale of cannabinoid products[-]; and

(vi) for a cannabinoid product that is not in an oil based suspension, prohibiting a serving size that is less than the full portion of a discrete unit of the cannabinoid product.

(b) Notwithstanding Subsection (1)(a), the department may not prohibit a sugar coating on a cannabinoid product to mask the product's taste, subject to the limitations described in Subsection (1)(a)(iv) or (v).

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to immediately ban or limit the presence of any substance in a cannabinoid product after receiving a recommendation to do so from a public health authority as defined in Section 26B-1-102.

~~[(3) The department shall set a fee for a registered cannabinoid product, in accordance with Section 4-2-103.]~~

~~[(4) (a) A producer, manufacturer, or distributor of a cannabinoid product may pay the fee described in Subsection (3).]~~

~~[(b) A cannabinoid product may not be registered with the department until the fee described in Subsection (3) is paid.]~~

~~[(5)]~~ (3) The department shall set ~~[an administrative fine, larger than the fee described in Subsection (3).]~~ a fine of not more than \$5,000 for a person who sells a cannabinoid product that is not registered by the department.

Section 8. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

369 (c) establish and maintain medical, environmental, occupational, and other laboratory
370 services considered necessary or proper for the protection of the public health;

371 (d) establish and operate reasonable health programs or measures not in conflict with
372 state law which:

373 (i) are necessary or desirable for the promotion or protection of the public health and
374 the control of disease; or

375 (ii) may be necessary to ameliorate the major risk factors associated with the major
376 causes of injury, sickness, death, and disability in the state;

377 (e) close theaters, schools, and other public places and prohibit gatherings of people
378 when necessary to protect the public health;

379 (f) abate nuisances or eliminate sources of filth and infectious and communicable
380 diseases affecting the public health and bill the owner or other person in charge of the premises
381 upon which this nuisance occurs for the cost of abatement;

382 (g) make necessary sanitary and health investigations and inspections on the local
383 health department's own initiative or in cooperation with the Department of Health and Human
384 Services or the Department of Environmental Quality, or both, as to any matters affecting the
385 public health;

386 (h) pursuant to county ordinance or interlocal agreement:

387 (i) establish and collect appropriate fees for the performance of services and operation
388 of authorized or required programs and duties;

389 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
390 property, services, or materials for public health purposes; and

391 (iii) make agreements not in conflict with state law which are conditional to receiving a
392 donation or grant;

393 (i) prepare, publish, and disseminate information necessary to inform and advise the
394 public concerning:

395 (i) the health and wellness of the population, specific hazards, and risk factors that may
396 adversely affect the health and wellness of the population; and

397 (ii) specific activities individuals and institutions can engage in to promote and protect
398 the health and wellness of the population;

399 (j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321;
[and]

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities[-]; and

(q) when conducting routine inspections of businesses regulated by the local health department, notify the Department of Agriculture and Food of a potential violation of Title 4, Chapter 41, Hemp and Cannabinoid Act.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

431 (i) recognizes that the Department of Environmental Quality and local health
432 departments are the foundation for providing environmental health programs in the state;
433 (ii) delineates the responsibilities of the department and each local health department
434 for the efficient delivery of environmental programs using federal, state, and local authorities,
435 responsibilities, and resources;
436 (iii) provides for the delegation of authority and pass through of funding to local health
437 departments for environmental programs, to the extent allowed by applicable law, identified in
438 the plan, and requested by the local health department; and

439 (iv) is reviewed and updated annually.

440 (3) The local health department has the following duties regarding public and private
441 schools within the local health department's boundaries:

442 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
443 persons attending public and private schools;

444 (b) exclude from school attendance any person, including teachers, who is suffering
445 from any communicable or infectious disease, whether acute or chronic, if the person is likely
446 to convey the disease to those in attendance; and

447 (c) (i) make regular inspections of the health-related condition of all school buildings
448 and premises;

449 (ii) report the inspections on forms furnished by the department to those responsible for
450 the condition and provide instructions for correction of any conditions that impair or endanger
451 the health or life of those attending the schools; and

452 (iii) provide a copy of the report to the department at the time the report is made.

453 (4) If those responsible for the health-related condition of the school buildings and
454 premises do not carry out any instructions for corrections provided in a report in Subsection
455 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
456 persons responsible.

457 (5) The local health department may exercise incidental authority as necessary to carry
458 out the provisions and purposes of this part.

459 (6) Nothing in this part may be construed to authorize a local health department to
460 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
461 monoxide detector in a residential dwelling against anyone other than the occupant of the

dwelling.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) (i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

493 (i) the local health department or the chief executive officer of the relevant county
494 finding that the threat or danger has passed or the public health emergency reduced to the
495 extent that emergency conditions no longer exist;

496 (ii) 30 days after the date on which the local health department declared the public
497 health emergency; or

498 (iii) the day on which the public health emergency is terminated by majority vote of the
499 county governing body.

500 (b) (i) The relevant county legislative body, by majority vote, may extend a public
501 health emergency for a time period designated by the county legislative body.

502 (ii) If the county legislative body extends a public health emergency as described in
503 Subsection (8)(b)(i), the public health emergency expires on the date designated by the county
504 legislative body.

505 (c) Except as provided in Subsection (8)(d), if a public health emergency declared by a
506 local health department expires as described in Subsection (8)(a), the local health department
507 may not declare a public health emergency for the same illness or occurrence that precipitated
508 the previous public health emergency declaration.

509 (d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local
510 health department finds that exigent circumstances exist, after providing notice to the county
511 legislative body, the department may declare a new public health emergency for the same
512 illness or occurrence that precipitated a previous public health emergency declaration.

513 (ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in
514 accordance with Subsection (8)(a) or (b).

515 (e) For a public health emergency declared by a local health department under this
516 chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures
517 for Communicable Diseases, the Legislature may terminate by joint resolution a public health
518 emergency that was declared based on exigent circumstances or that has been in effect for more
519 than 30 days.

520 (f) If the Legislature or county legislative body terminates a public health emergency
521 declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health
522 department may not declare a new public health emergency for the same illness, occurrence, or
523 exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any

other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

(12) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Section 9. Section 58-37-2 is amended to read:

58-37-2. Definitions.

(1) As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;

or

(ii) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a motor carrier, public warehouseman, or employee of any of them.

(c) "Consumption" means ingesting or having any measurable amount of a controlled substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

(d) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.

(e) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.

(f) (i) "Controlled substance" means a drug or substance:

(A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

(B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,

617 Title II, P.L. 91-513;

618 (C) that is a controlled substance analog; or

619 (D) listed in Section 58-37-4.2.

620 (ii) "Controlled substance" does not include:

621 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B,

622 Alcoholic Beverage Control Act;

623 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or

624 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,

625 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,

626 transferred, or furnished as an over-the-counter medication without prescription; or

627 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances

628 including concentrates or extracts, which:

629 (I) are not otherwise regulated by law; and

630 (II) may contain naturally occurring amounts of chemical or substances listed in this

631 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking

632 Act.

633 (g) (i) "Controlled substance analog" means:

634 (A) a substance the chemical structure of which is substantially similar to the chemical

635 structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance

636 listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act,

637 Title II, P.L. 91-513;

638 (B) a substance which has a stimulant, depressant, or hallucinogenic effect on the

639 central nervous system substantially similar to the stimulant, depressant, or hallucinogenic

640 effect on the central nervous system of controlled substances listed in Schedules I and II of

641 Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and

642 II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

643 (C) A substance which, with respect to a particular individual, is represented or

644 intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system

645 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central

646 nervous system of controlled substances listed in Schedules I and II of Section 58-37-4,

647 substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal

Controlled Substances Act, Title II, P.L. 91-513.

(ii) "Controlled substance analog" does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act; or

(ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act.

(i) "Counterfeit substance" means:

(i) any controlled substance or container or labeling of any controlled substance that:

(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled substance; or

(ii) any substance other than under Subsection (1)(i)(i) that:

(A) is falsely represented to be any legally or illegally manufactured controlled substance; and

(B) a reasonable person would believe to be a legal or illegal controlled substance.

(j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

(k) "Department" means the Department of Commerce.

(l) "Depressant or stimulant substance" means:

(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

(ii) a drug which contains any quantity of:

(A) amphetamine or any of its optical isomers;

(B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

(C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;

(iii) lysergic acid diethylamide; or

(iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found

to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

(n) "Dispenser" means a pharmacist who dispenses a controlled substance.

(o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

(p) "Distributor" means a person who distributes controlled substances.

(q) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(r) (i) "Drug" means:

(A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i)(A), (B), and (C).

(ii) "Drug" does not include dietary supplements.

(s) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety, or welfare, or who is so dependent upon the use of controlled substances as to have lost the power of self-control with reference to the individual's dependency.

(t) "Food" means:

(i) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

(ii) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including but not limited to the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food. Any particular use of a food is a special dietary use regardless of the nutritional purposes.

(u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(v) "Indian" means a member of an Indian tribe.

(w) "Indian religion" means any religion:

(i) the origin and interpretation of which is from within a traditional Indian culture or community; and

(ii) which is practiced by Indians.

(x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.

(y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(z) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus,

whether growing or not, including:

(A) seeds;

(B) resin extracted from any part of the plant, including the resin extracted from the mature stalks;

(C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, seeds, or resin;

(D) any synthetic equivalents of the substances contained in the plant *cannabis sativa* or any other species of the genus *cannabis* which are chemically indistinguishable and pharmacologically active; and

(E) any component part or cannabinoid extracted or isolated from the plant, including extracted or isolated tetrahydrocannabinols.

(ii) "Marijuana" does not include:

(A) the mature stalks of the plant;

(B) fiber produced from the stalks;

(C) oil or cake made from the seeds of the plant;

(D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;

(E) the sterilized seed of the plant which is incapable of germination; ~~or~~

(F) any compound, mixture, or preparation approved by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in Section 58-37-4 or in the federal Controlled Substances Act, Title II, P.L. 91-513~~[-]~~; or

(G) transportable industrial hemp concentrate as that term is defined in Section 4-41-102.

(bb) "Money" means officially issued coin and currency of the United States or any foreign country.

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, coca leaves, and opiates;

(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or

803 opiates;

804 (iii) opium poppy and poppy straw; or

805 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the

806 substance, which is chemically identical with any of the substances referred to in Subsection

807 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or

808 extracts of coca leaves which do not contain cocaine or ecgonine.

809 (dd) "Negotiable instrument" means documents, containing an unconditional promise

810 to pay a sum of money, which are legally transferable to another party by endorsement or

811 delivery.

812 (ee) "Opiate" means any drug or other substance having an addiction-forming or

813 addiction-sustaining liability similar to morphine or being capable of conversion into a drug

814 having addiction-forming or addiction-sustaining liability.

815 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the

816 seeds of the plant.

817 (gg) "Person" means any corporation, association, partnership, trust, other institution or

818 entity or one or more individuals.

819 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after

820 mowing.

821 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,

822 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,

823 or consumption, as distinguished from distribution, of controlled substances and includes

824 individual, joint, or group possession or use of controlled substances. For a person to be a

825 possessor or user of a controlled substance, it is not required that the person be shown to have

826 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that

827 the person jointly participated with one or more persons in the use, possession, or control of

828 any substances with knowledge that the activity was occurring, or the controlled substance is

829 found in a place or under circumstances indicating that the person had the ability and the intent

830 to exercise dominion and control over it.

831 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,

832 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or

833 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use

in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(kk) "Prescribe" means to issue a prescription:

(i) orally or in writing; or

(ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(ll) "Prescription" means an order issued:

(i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

(oo) "State" means the state of Utah.

(pp) "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or a member of the person's household.

(2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

Section 10. Section **58-37-3.6** is amended to read:

58-37-3.6. Exemption for possession or distribution of a cannabinoid product, expanded cannabinoid product, or transportable industrial hemp concentrate.

(1) As used in this section:

(a) "Cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

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

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

(d) "Expanded cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(e) "Hemp cannabinoid product" means a product that:

(i) contains or is represented to contain one or more naturally occurring cannabinoids;

(ii) contains less than the cannabinoid product THC level, by dry weight;

(iii) contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content;

(iv) does not exceed a total of THC and any THC analog that is greater than five milligrams per serving and 150 milligrams per package; and

(v) unless the product is in an oil based suspension, has a serving size that is an integer.

(f) "Transportable industrial hemp concentrate" means any amount of a natural cannabinoid in a purified state that:

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

(ii) is derived from a cannabis plant that, based on sampling that was collected no more than 30 days before the day on which the cannabis plant was harvested, contains a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis; and

(iii) has a THC and THC analog concentration total less than 20% when concentrated from the cannabis plant to the purified state.

~~(e)~~ (g) "Medicinal dosage form" means:

(i) a tablet;

(ii) a capsule;

(iii) a concentrated oil;

(iv) a liquid suspension;

(v) a transdermal preparation; or

(vi) a sublingual preparation.

~~(f)~~ (h) "Tetrahydrocannabinol" means a substance derived from cannabis that meets

the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(3) Notwithstanding any other provision of this chapter, a person who possesses and distributes transportable industrial hemp concentrate is not subject to the penalties described in this chapter for the possession or distribution of transportable industrial hemp concentrate if the transportable industrial hemp concentrate is handled in accordance with the rules established under Subsection 4-41-103.1(1)(e) or is destroyed.

Section 11. Section 59-1-306 is amended to read:

59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenue into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

- (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- (c) Section 19-6-714;
- (d) Section 19-6-805;
- (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
- (f) Section 59-27-105;
- (g) Chapter 31, Cannabinoid Licensing and Tax Act;
- ~~[(g)]~~ (h) Section 63H-1-205; or
- ~~[(h)]~~ (i) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges.

(2) There is created a restricted account within the General Fund known as the "State

Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of [~~revenues~~] revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

(a) 1.5%; or

(b) an equal percentage of [~~revenues~~] revenue the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section 12. Section **59-1-403** is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section [19-6-805](#);

(E) Section [63H-1-205](#); or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township;

(ii) the military installation development authority created in Section [63H-1-201](#); or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

989 (iii) against whom the state has an unsatisfied money judgment.

990 (4) (a) Notwithstanding Subsection (2) and for purposes of administration, the
991 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
992 Rulemaking Act, provide for a reciprocal exchange of information with:

993 (i) the United States Internal Revenue Service; or

994 (ii) the revenue service of any other state.

995 (b) Notwithstanding Subsection (2) and for all taxes except individual income tax and
996 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
997 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
998 other written statements with the federal government, any other state, any of the political
999 subdivisions of another state, or any political subdivision of this state, except as limited by
1000 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
1001 government grant substantially similar privileges to this state.

1002 (c) Notwithstanding Subsection (2) and for all taxes except individual income tax and
1003 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
1004 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
1005 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
1006 due.

1007 (d) Notwithstanding Subsection (2), the commission shall provide to the director of the
1008 Division of Environmental Response and Remediation, as defined in Section 19-6-402, as
1009 requested by the director of the Division of Environmental Response and Remediation, any
1010 records, returns, or other information filed with the commission under Chapter 13, Motor and
1011 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
1012 participation fee.

1013 (e) Notwithstanding Subsection (2), at the request of any person the commission shall
1014 provide that person sales and purchase volume data reported to the commission on a report,
1015 return, or other information filed with the commission under:

1016 (i) Chapter 13, Part 2, Motor Fuel; or

1017 (ii) Chapter 13, Part 4, Aviation Fuel.

1018 (f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer,
1019 as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing

1051 that support obligation.

1052 (m) (i) Notwithstanding Subsection (2), upon request from the state court
1053 administrator, the commission shall provide to the state court administrator, the name, address,
1054 telephone number, county of residence, and social security number on resident returns filed
1055 under Chapter 10, Individual Income Tax Act.

1056 (ii) The state court administrator may use the information described in Subsection
1057 (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

1058 (n) (i) As used in this Subsection (4)(n):

1059 (A) "GO Utah office" means the Governor's Office of Economic Opportunity created in
1060 Section 63N-1a-301.

1061 (B) "Income tax information" means information gained by the commission that is
1062 required to be attached to or included in a return filed with the commission under Chapter 7,
1063 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

1064 (C) "Other tax information" means information gained by the commission that is
1065 required to be attached to or included in a return filed with the commission except for a return
1066 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual
1067 Income Tax Act.

1068 (D) "Tax information" means income tax information or other tax information.

1069 (ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection
1070 (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the
1071 GO Utah office all income tax information.

1072 (B) For purposes of a request for income tax information made under Subsection
1073 (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the
1074 GO Utah office a person's address, name, social security number, or taxpayer identification
1075 number.

1076 (C) In providing income tax information to the GO Utah office, the commission shall
1077 in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

1078 (iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection
1079 (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO
1080 Utah office other tax information.

1081 (B) Before providing other tax information to the GO Utah office, the commission

1082 shall redact or remove any name, address, social security number, or taxpayer identification
1083 number.

1084 (iv) The GO Utah office may provide tax information received from the commission in
1085 accordance with this Subsection (4)(n) only:

1086 (A) as a fiscal estimate, fiscal note information, or statistical information; and

1087 (B) if the tax information is classified to prevent the identification of a particular
1088 return.

1089 (v) (A) A person may not request tax information from the GO Utah office under Title
1090 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO
1091 Utah office received the tax information from the commission in accordance with this
1092 Subsection (4)(n).

1093 (B) The GO Utah office may not provide to a person that requests tax information in
1094 accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the
1095 GO Utah office provides in accordance with Subsection (4)(n)(iv).

1096 (o) Notwithstanding Subsection (2), the commission may provide to the governing
1097 board of the agreement or a taxing official of another state, the District of Columbia, the United
1098 States, or a territory of the United States:

1099 (i) the following relating to an agreement sales and use tax:

1100 (A) information contained in a return filed with the commission;

1101 (B) information contained in a report filed with the commission;

1102 (C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

1103 (D) a document filed with the commission; or

1104 (ii) a report of an audit or investigation made with respect to an agreement sales and
1105 use tax.

1106 (p) Notwithstanding Subsection (2), the commission may provide information
1107 concerning a taxpayer's state income tax return or state income tax withholding information to
1108 the Driver License Division if the Driver License Division:

1109 (i) requests the information; and

1110 (ii) provides the commission with a signed release form from the taxpayer allowing the
1111 Driver License Division access to the information.

1112 (q) Notwithstanding Subsection (2), the commission shall provide to the Utah

Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service

Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb) (i) As used in this Subsection (4)(bb), "unclaimed property administrator" means

the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii) (A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(aa).

(cc) Notwithstanding Subsection (2), the commission may provide the Department of Agriculture and Food with information from a return filed in accordance with Chapter 31, Cannabinoid Licensing and Tax Act.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative

1206 Organization, an individual described in Subsection (2):
1207 (i) is not guilty of a class A misdemeanor; and
1208 (ii) is not subject to:
1209 (A) dismissal from office in accordance with Subsection (6)(b); or
1210 (B) disqualification from holding public office in accordance with Subsection (6)(b).
1211 (7) Except as provided in Section 59-1-404, this part does not apply to the property tax.
1212 Section 13. Section 59-12-104 is amended to read:
1213 **59-12-104. Exemptions.**
1214 Exemptions from the taxes imposed by this chapter are as follows:
1215 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1216 under Chapter 13, Motor and Special Fuel Tax Act;
1217 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1218 subdivisions; however, this exemption does not apply to sales of:
1219 (a) construction materials except:
1220 (i) construction materials purchased by or on behalf of institutions of the public
1221 education system as defined in Utah Constitution, Article X, Section 2, provided the
1222 construction materials are clearly identified and segregated and installed or converted to real
1223 property which is owned by institutions of the public education system; and
1224 (ii) construction materials purchased by the state, its institutions, or its political
1225 subdivisions which are installed or converted to real property by employees of the state, its
1226 institutions, or its political subdivisions; or
1227 (b) tangible personal property in connection with the construction, operation,
1228 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1229 providing additional project capacity, as defined in Section 11-13-103;
1230 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
1231 (i) the proceeds of each sale do not exceed \$1; and
1232 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1233 the cost of the item described in Subsection (3)(b) as goods consumed; and
1234 (b) Subsection (3)(a) applies to:
1235 (i) food and food ingredients; or
1236 (ii) prepared food;

1237 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
1238 (i) alcoholic beverages;
1239 (ii) food and food ingredients; or
1240 (iii) prepared food;
1241 (b) sales of tangible personal property or a product transferred electronically:
1242 (i) to a passenger;
1243 (ii) by a commercial airline carrier; and
1244 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
1245 (c) services related to Subsection (4)(a) or (b);
1246 (5) sales of parts and equipment for installation in an aircraft operated by a common
1247 carrier in interstate or foreign commerce;
1248 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1249 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1250 exhibitor, distributor, or commercial television or radio broadcaster;
1251 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
1252 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
1253 personal property is not assisted cleaning or washing of tangible personal property;
1254 (b) if a seller that sells at the same business location assisted cleaning or washing of
1255 tangible personal property and cleaning or washing of tangible personal property that is not
1256 assisted cleaning or washing of tangible personal property, the exemption described in
1257 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1258 or washing of the tangible personal property; and
1259 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1260 Utah Administrative Rulemaking Act, the commission may make rules:
1261 (i) governing the circumstances under which sales are at the same business location;
1262 and
1263 (ii) establishing the procedures and requirements for a seller to separately account for
1264 sales of assisted cleaning or washing of tangible personal property;
1265 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1266 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1267 fulfilled;

1268 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1269 this state if:

1270 (a) the sale is not from the vehicle's lessor to the vehicle's lessee;

1271 (b) the vehicle is not registered in this state; and

1272 (c) (i) the vehicle is not used in this state; or

1273 (ii) the vehicle is used in this state:

1274 (A) if the vehicle is not used to conduct business, for a time period that does not
1275 exceed the longer of:

1276 (I) 30 days in any calendar year; or

1277 (II) the time period necessary to transport the vehicle to the borders of this state; or

1278 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1279 the vehicle to the borders of this state;

1280 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1281 (i) the item is intended for human use; and

1282 (ii) (A) a prescription was issued for the item; or

1283 (B) the item was purchased by a hospital or other medical facility; and

1284 (b) (i) Subsection (10)(a) applies to:

1285 (A) a drug;

1286 (B) a syringe; or

1287 (C) a stoma supply; and

1288 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1289 commission may by rule define the terms:

1290 (A) "syringe"; or

1291 (B) "stoma supply";

1292 (11) purchases or leases exempt under Section [19-12-201](#);

1293 (12) (a) sales of an item described in Subsection (12)(c) served by:

1294 (i) the following if the item described in Subsection (12)(c) is not available to the
1295 general public:

1296 (A) a church; or

1297 (B) a charitable institution; or

1298 (ii) an institution of higher education if:

1299 (A) the item described in Subsection (12)(c) is not available to the general public; or
1300 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
1301 offered by the institution of higher education; or
1302 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
1303 (i) a medical facility; or
1304 (ii) a nursing facility; and
1305 (c) Subsections (12)(a) and (b) apply to:
1306 (i) food and food ingredients;
1307 (ii) prepared food; or
1308 (iii) alcoholic beverages;
1309 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
1310 or a product transferred electronically by a person:
1311 (i) regardless of the number of transactions involving the sale of that tangible personal
1312 property or product transferred electronically by that person; and
1313 (ii) not regularly engaged in the business of selling that type of tangible personal
1314 property or product transferred electronically;
1315 (b) this Subsection (13) does not apply if:
1316 (i) the sale is one of a series of sales of a character to indicate that the person is
1317 regularly engaged in the business of selling that type of tangible personal property or product
1318 transferred electronically;
1319 (ii) the person holds that person out as regularly engaged in the business of selling that
1320 type of tangible personal property or product transferred electronically;
1321 (iii) the person sells an item of tangible personal property or product transferred
1322 electronically that the person purchased as a sale that is exempt under Subsection (25); or
1323 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
1324 this state in which case the tax is based upon:
1325 (A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or
1326 vessel being sold; or
1327 (B) in the absence of a bill of sale, lease agreement, or other written evidence of value,
1328 the fair market value of the vehicle or vessel being sold at the time of the sale as determined by
1329 the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or

1361 replacement parts, or materials in:

1362 (A) the production process to produce an item sold as tangible personal property, as the
1363 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1364 Administrative Rulemaking Act;

1365 (B) research and development, as the commission may define that phrase in accordance
1366 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1367 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
1368 produced from mining;

1369 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
1370 mining; or

1371 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

1372 (c) an establishment, as the commission defines that term in accordance with Title
1373 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1374 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
1375 American Industry Classification System of the federal Executive Office of the President,
1376 Office of Management and Budget;

1377 (ii) is located in the state; and

1378 (iii) uses or consumes the machinery, equipment, normal operating repair or
1379 replacement parts, or materials in the operation of the web search portal;

1380 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1381 (i) tooling;

1382 (ii) special tooling;

1383 (iii) support equipment;

1384 (iv) special test equipment; or

1385 (v) parts used in the repairs or renovations of tooling or equipment described in
1386 Subsections (15)(a)(i) through (iv); and

1387 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1388 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1389 performance of any aerospace or electronics industry contract with the United States
1390 government or any subcontract under that contract; and

1391 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1392 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1393 by:

1394 (A) a government identification tag placed on the tooling, equipment, or parts; or

1395 (B) listing on a government-approved property record if placing a government

1396 identification tag on the tooling, equipment, or parts is impractical;

1397 (16) sales of newspapers or newspaper subscriptions;

1398 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

1399 product transferred electronically traded in as full or part payment of the purchase price, except

1400 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

1401 trade-ins are limited to other vehicles only, and the tax is based upon:

1402 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1403 vehicle being traded in; or

1404 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1405 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1406 commission; and

1407 (b) Subsection (17)(a) does not apply to the following items of tangible personal
1408 property or products transferred electronically traded in as full or part payment of the purchase
1409 price:

1410 (i) money;

1411 (ii) electricity;

1412 (iii) water;

1413 (iv) gas; or

1414 (v) steam;

1415 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1416 or a product transferred electronically used or consumed primarily and directly in farming
1417 operations, regardless of whether the tangible personal property or product transferred
1418 electronically:

1419 (A) becomes part of real estate; or

1420 (B) is installed by a farmer, contractor, or subcontractor; or

1421 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
1422 product transferred electronically if the tangible personal property or product transferred

1423 electronically is exempt under Subsection (18)(a)(i); and
1424 (b) amounts paid or charged for the following are subject to the taxes imposed by this
1425 chapter:
1426 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
1427 supplies if used in a manner that is incidental to farming; and
1428 (B) tangible personal property that is considered to be used in a manner that is
1429 incidental to farming includes:
1430 (I) hand tools; or
1431 (II) maintenance and janitorial equipment and supplies;
1432 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
1433 transferred electronically if the tangible personal property or product transferred electronically
1434 is used in an activity other than farming; and
1435 (B) tangible personal property or a product transferred electronically that is considered
1436 to be used in an activity other than farming includes:
1437 (I) office equipment and supplies; or
1438 (II) equipment and supplies used in:
1439 (Aa) the sale or distribution of farm products;
1440 (Bb) research; or
1441 (Cc) transportation; or
1442 (iii) a vehicle required to be registered by the laws of this state during the period
1443 ending two years after the date of the vehicle's purchase;
1444 (19) sales of hay;
1445 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
1446 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1447 garden, farm, or other agricultural produce is sold by:
1448 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1449 agricultural produce;
1450 (b) an employee of the producer described in Subsection (20)(a); or
1451 (c) a member of the immediate family of the producer described in Subsection (20)(a);
1452 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1453 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1454 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1455 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1456 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1457 manufacturer, processor, wholesaler, or retailer;

1458 (23) a product stored in the state for resale;

1459 (24) (a) purchases of a product if:

1460 (i) the product is:

1461 (A) purchased outside of this state;

1462 (B) brought into this state:

1463 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

1464 (II) by a nonresident person who is not living or working in this state at the time of the
1465 purchase;

1466 (C) used for the personal use or enjoyment of the nonresident person described in
1467 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

1468 (D) not used in conducting business in this state; and

1469 (ii) for:

1470 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
1471 the product for a purpose for which the product is designed occurs outside of this state;

1472 (B) a boat, the boat is registered outside of this state; or

1473 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1474 outside of this state;

1475 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1476 (i) a lease or rental of a product; or

1477 (ii) a sale of a vehicle exempt under Subsection (33); and

1478 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1479 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
1480 following:

1481 (i) conducting business in this state if that phrase has the same meaning in this
1482 Subsection (24) as in Subsection (63);

1483 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
1484 as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a)

1547 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
1548 amusement, entertainment, or recreation for the assisted amusement devices; and

1549 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
1550 Utah Administrative Rulemaking Act, the commission may make rules:

1551 (i) governing the circumstances under which sales are at the same business location;
1552 and

1553 (ii) establishing the procedures and requirements for a seller to separately account for
1554 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
1555 assisted amusement devices;

1556 (41) (a) sales of photocopies by:

1557 (i) a governmental entity; or

1558 (ii) an entity within the state system of public education, including:

1559 (A) a school; or

1560 (B) the State Board of Education; or

1561 (b) sales of publications by a governmental entity;

1562 (42) amounts paid for admission to an athletic event at an institution of higher
1563 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1564 20 U.S.C. Sec. 1681 et seq.;

1565 (43) (a) sales made to or by:

1566 (i) an area agency on aging; or

1567 (ii) a senior citizen center owned by a county, city, or town; or

1568 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1569 (44) sales or leases of semiconductor fabricating, processing, research, or development
1570 materials regardless of whether the semiconductor fabricating, processing, research, or
1571 development materials:

1572 (a) actually come into contact with a semiconductor; or

1573 (b) ultimately become incorporated into real property;

1574 (45) an amount paid by or charged to a purchaser for accommodations and services
1575 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
1576 59-12-104.2;

1577 (46) the lease or use of a vehicle issued a temporary sports event registration certificate

1578 in accordance with Section 41-3-306 for the event period specified on the temporary sports
1579 event registration certificate;

1580 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
1581 adopted by the Public Service Commission only for purchase of electricity produced from a
1582 new alternative energy source built after January 1, 2016, as designated in the tariff by the
1583 Public Service Commission; and

1584 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
1585 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
1586 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
1587 customer would have paid absent the tariff;

1588 (48) sales or rentals of mobility enhancing equipment if a person presents a
1589 prescription for the mobility enhancing equipment;

1590 (49) sales of water in a:

1591 (a) pipe;

1592 (b) conduit;

1593 (c) ditch; or

1594 (d) reservoir;

1595 (50) sales of currency or coins that constitute legal tender of a state, the United States,
1596 or a foreign nation;

1597 (51) (a) sales of an item described in Subsection (51)(b) if the item:

1598 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

1599 (ii) has a gold, silver, or platinum content of 50% or more; and

1600 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

1601 (i) ingot;

1602 (ii) bar;

1603 (iii) medallion; or

1604 (iv) decorative coin;

1605 (52) amounts paid on a sale-leaseback transaction;

1606 (53) sales of a prosthetic device:

1607 (a) for use on or in a human; and

1608 (b) (i) for which a prescription is required; or

1609 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
1610 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
1611 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
1612 or equipment is primarily used in the production or postproduction of the following media for
1613 commercial distribution:
1614 (i) a motion picture;
1615 (ii) a television program;
1616 (iii) a movie made for television;
1617 (iv) a music video;
1618 (v) a commercial;
1619 (vi) a documentary; or
1620 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
1621 commission by administrative rule made in accordance with Subsection (54)(d); or
1622 (b) purchases, leases, or rentals of machinery or equipment by an establishment
1623 described in Subsection (54)(c) that is used for the production or postproduction of the
1624 following are subject to the taxes imposed by this chapter:
1625 (i) a live musical performance;
1626 (ii) a live news program; or
1627 (iii) a live sporting event;
1628 (c) the following establishments listed in the 1997 North American Industry
1629 Classification System of the federal Executive Office of the President, Office of Management
1630 and Budget, apply to Subsections (54)(a) and (b):
1631 (i) NAICS Code 512110; or
1632 (ii) NAICS Code 51219; and
1633 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1634 commission may by rule:
1635 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
1636 or
1637 (ii) define:
1638 (A) "commercial distribution";
1639 (B) "live musical performance";

1640 (C) "live news program"; or
1641 (D) "live sporting event";
1642 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
1643 on or before June 30, 2027, of tangible personal property that:
1644 (i) is leased or purchased for or by a facility that:
1645 (A) is an alternative energy electricity production facility;
1646 (B) is located in the state; and
1647 (C) (I) becomes operational on or after July 1, 2004; or
1648 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1649 2004, as a result of the use of the tangible personal property;
1650 (ii) has an economic life of five or more years; and
1651 (iii) is used to make the facility or the increase in capacity of the facility described in
1652 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
1653 transmission grid including:
1654 (A) a wind turbine;
1655 (B) generating equipment;
1656 (C) a control and monitoring system;
1657 (D) a power line;
1658 (E) substation equipment;
1659 (F) lighting;
1660 (G) fencing;
1661 (H) pipes; or
1662 (I) other equipment used for locating a power line or pole; and
1663 (b) this Subsection (55) does not apply to:
1664 (i) tangible personal property used in construction of:
1665 (A) a new alternative energy electricity production facility; or
1666 (B) the increase in the capacity of an alternative energy electricity production facility;
1667 (ii) contracted services required for construction and routine maintenance activities;
1668 and
1669 (iii) unless the tangible personal property is used or acquired for an increase in capacity
1670 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

1671 acquired after:

1672 (A) the alternative energy electricity production facility described in Subsection

1673 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

1674 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

1675 in Subsection (55)(a)(iii);

1676 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

1677 on or before June 30, 2027, of tangible personal property that:

1678 (i) is leased or purchased for or by a facility that:

1679 (A) is a waste energy production facility;

1680 (B) is located in the state; and

1681 (C) (I) becomes operational on or after July 1, 2004; or

1682 (II) has its generation capacity increased by one or more megawatts on or after July 1,

1683 2004, as a result of the use of the tangible personal property;

1684 (ii) has an economic life of five or more years; and

1685 (iii) is used to make the facility or the increase in capacity of the facility described in

1686 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

1687 transmission grid including:

1688 (A) generating equipment;

1689 (B) a control and monitoring system;

1690 (C) a power line;

1691 (D) substation equipment;

1692 (E) lighting;

1693 (F) fencing;

1694 (G) pipes; or

1695 (H) other equipment used for locating a power line or pole; and

1696 (b) this Subsection (56) does not apply to:

1697 (i) tangible personal property used in construction of:

1698 (A) a new waste energy facility; or

1699 (B) the increase in the capacity of a waste energy facility;

1700 (ii) contracted services required for construction and routine maintenance activities;

1701 and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities;

and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated

pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider;

and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

1764 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1765 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
1766 purchases of tangible personal property or a product transferred electronically that are used in
1767 the research and development of alternative energy technology;

1768 (63) (a) purchases of tangible personal property or a product transferred electronically
1769 if:

1770 (i) the tangible personal property or product transferred electronically is:

1771 (A) purchased outside of this state;

1772 (B) brought into this state at any time after the purchase described in Subsection
1773 (63)(a)(i)(A); and

1774 (C) used in conducting business in this state; and

1775 (ii) for:

1776 (A) tangible personal property or a product transferred electronically other than the
1777 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
1778 for a purpose for which the property is designed occurs outside of this state; or

1779 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1780 outside of this state and not required to be registered in this state under Section 41-1a-202 or
1781 73-18-9 based on residency;

1782 (b) the exemption provided for in Subsection (63)(a) does not apply to:

1783 (i) a lease or rental of tangible personal property or a product transferred electronically;

1784 or

1785 (ii) a sale of a vehicle exempt under Subsection (33); and

1786 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1787 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
1788 following:

1789 (i) conducting business in this state if that phrase has the same meaning in this
1790 Subsection (63) as in Subsection (24);

1791 (ii) the first use of tangible personal property or a product transferred electronically if
1792 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

1793 (iii) a purpose for which tangible personal property or a product transferred
1794 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

1795 Subsection (24);
1796 (64) sales of disposable home medical equipment or supplies if:
1797 (a) a person presents a prescription for the disposable home medical equipment or
1798 supplies;
1799 (b) the disposable home medical equipment or supplies are used exclusively by the
1800 person to whom the prescription described in Subsection (64)(a) is issued; and
1801 (c) the disposable home medical equipment and supplies are listed as eligible for
1802 payment under:
1803 (i) Title XVIII, federal Social Security Act; or
1804 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
1805 (65) sales:
1806 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
1807 District Act; or
1808 (b) of tangible personal property to a subcontractor of a public transit district, if the
1809 tangible personal property is:
1810 (i) clearly identified; and
1811 (ii) installed or converted to real property owned by the public transit district;
1812 (66) sales of construction materials:
1813 (a) purchased on or after July 1, 2010;
1814 (b) purchased by, on behalf of, or for the benefit of an international airport:
1815 (i) located within a county of the first class; and
1816 (ii) that has a United States customs office on its premises; and
1817 (c) if the construction materials are:
1818 (i) clearly identified;
1819 (ii) segregated; and
1820 (iii) installed or converted to real property:
1821 (A) owned or operated by the international airport described in Subsection (66)(b); and
1822 (B) located at the international airport described in Subsection (66)(b);
1823 (67) sales of construction materials:
1824 (a) purchased on or after July 1, 2008;
1825 (b) purchased by, on behalf of, or for the benefit of a new airport:

1826 (i) located within a county of the second class; and
1827 (ii) that is owned or operated by a city in which an airline as defined in Section
1828 59-2-102 is headquartered; and
1829 (c) if the construction materials are:
1830 (i) clearly identified;
1831 (ii) segregated; and
1832 (iii) installed or converted to real property:
1833 (A) owned or operated by the new airport described in Subsection (67)(b);
1834 (B) located at the new airport described in Subsection (67)(b); and
1835 (C) as part of the construction of the new airport described in Subsection (67)(b);
1836 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
1837 common carrier that is a railroad for use in a locomotive engine;
1838 (69) purchases and sales described in Section 63H-4-111;
1839 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
1840 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
1841 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
1842 lists a state or country other than this state as the location of registry of the fixed wing turbine
1843 powered aircraft; or
1844 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
1845 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
1846 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
1847 lists a state or country other than this state as the location of registry of the fixed wing turbine
1848 powered aircraft;
1849 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
1850 (a) to a person admitted to an institution of higher education; and
1851 (b) by a seller, other than a bookstore owned by an institution of higher education, if
1852 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
1853 textbook for a higher education course;
1854 (72) a license fee or tax a municipality imposes in accordance with Subsection
1855 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
1856 level of municipal services;

1857 (73) amounts paid or charged for construction materials used in the construction of a
1858 new or expanding life science research and development facility in the state, if the construction
1859 materials are:

1860 (a) clearly identified;

1861 (b) segregated; and

1862 (c) installed or converted to real property;

1863 (74) amounts paid or charged for:

1864 (a) a purchase or lease of machinery and equipment that:

1865 (i) are used in performing qualified research:

1866 (A) as defined in Section 41(d), Internal Revenue Code; and

1867 (B) in the state; and

1868 (ii) have an economic life of three or more years; and

1869 (b) normal operating repair or replacement parts:

1870 (i) for the machinery and equipment described in Subsection (74)(a); and

1871 (ii) that have an economic life of three or more years;

1872 (75) a sale or lease of tangible personal property used in the preparation of prepared
1873 food if:

1874 (a) for a sale:

1875 (i) the ownership of the seller and the ownership of the purchaser are identical; and

1876 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

1877 tangible personal property prior to making the sale; or

1878 (b) for a lease:

1879 (i) the ownership of the lessor and the ownership of the lessee are identical; and

1880 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

1881 personal property prior to making the lease;

1882 (76) (a) purchases of machinery or equipment if:

1883 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

1884 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

1885 System of the federal Executive Office of the President, Office of Management and Budget;

1886 (ii) the machinery or equipment:

1887 (A) has an economic life of three or more years; and

1888 (B) is used by one or more persons who pay admission or user fees described in
1889 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
1890 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
1891 (A) amounts paid or charged as admission or user fees described in Subsection
1892 59-12-103(1)(f); and
1893 (B) subject to taxation under this chapter; and
1894 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1895 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
1896 previous calendar quarter is:
1897 (i) amounts paid or charged as admission or user fees described in Subsection
1898 59-12-103(1)(f); and
1899 (ii) subject to taxation under this chapter;
1900 (77) purchases of a short-term lodging consumable by a business that provides
1901 accommodations and services described in Subsection 59-12-103(1)(i);
1902 (78) amounts paid or charged to access a database:
1903 (a) if the primary purpose for accessing the database is to view or retrieve information
1904 from the database; and
1905 (b) not including amounts paid or charged for a:
1906 (i) digital audio work;
1907 (ii) digital audio-visual work; or
1908 (iii) digital book;
1909 (79) amounts paid or charged for a purchase or lease made by an electronic financial
1910 payment service, of:
1911 (a) machinery and equipment that:
1912 (i) are used in the operation of the electronic financial payment service; and
1913 (ii) have an economic life of three or more years; and
1914 (b) normal operating repair or replacement parts that:
1915 (i) are used in the operation of the electronic financial payment service; and
1916 (ii) have an economic life of three or more years;
1917 (80) sales of a fuel cell as defined in Section 54-15-102;
1918 (81) amounts paid or charged for a purchase or lease of tangible personal property or a

1919 product transferred electronically if the tangible personal property or product transferred
1920 electronically:

1921 (a) is stored, used, or consumed in the state; and
1922 (b) is temporarily brought into the state from another state:

1923 (i) during a disaster period as defined in Section 53-2a-1202;
1924 (ii) by an out-of-state business as defined in Section 53-2a-1202;
1925 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
1926 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

1927 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
1928 in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation
1929 Program;

1930 (83) amounts paid or charged for a purchase or lease of molten magnesium;
1931 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
1932 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
1933 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
1934 parts:

1935 (a) are used in:

1936 (i) the operation of the qualifying data center; or
1937 (ii) the occupant's operations in the qualifying data center; and
1938 (b) have an economic life of one or more years;

1939 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
1940 vehicle that includes cleaning or washing of the interior of the vehicle;

1941 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
1942 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
1943 or consumed:

1944 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
1945 in Section 79-6-701 located in the state;

1946 (b) if the machinery, equipment, normal operating repair or replacement parts,
1947 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

1948 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
1949 added to gasoline or diesel fuel;

1950 (ii) research and development;

1951 (iii) transporting, storing, or managing raw materials, work in process, finished

1952 products, and waste materials produced from refining gasoline or diesel fuel, or adding

1953 blendstock to gasoline or diesel fuel;

1954 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in

1955 refining; or

1956 (v) preventing, controlling, or reducing pollutants from refining; and

1957 (c) if the person holds a valid refiner tax exemption certification as defined in Section

1958 [79-6-701](#);

1959 (87) amounts paid to or charged by a proprietor for accommodations and services, as

1960 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax

1961 imposed under Section [63H-1-205](#);

1962 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal

1963 operating repair or replacement parts, or materials, except for office equipment or office

1964 supplies, by an establishment, as the commission defines that term in accordance with Title

1965 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1966 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North

1967 American Industry Classification System of the federal Executive Office of the President,

1968 Office of Management and Budget;

1969 (b) is located in this state; and

1970 (c) uses the machinery, equipment, normal operating repair or replacement parts, or

1971 materials in the operation of the establishment;

1972 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#);

1973 (90) sales of a note, leaf, foil, or film, if the item:

1974 (a) is used as currency;

1975 (b) does not constitute legal tender of a state, the United States, or a foreign nation; and

1976 (c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any

1977 transparent polymer holder, coating, or encasement;

1978 (91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or

1979 surfing facility, if a trained instructor:

1980 (a) is present with the participant, in person or by video, for the duration of the activity;

1981 and

1982 (b) actively instructs the participant, including providing observation or feedback;

1983 (92) amounts paid or charged in connection with the construction, operation,

1984 maintenance, repair, or replacement of facilities owned by or constructed for:

1985 (a) a distribution electrical cooperative, as defined in Section 54-2-1; or

1986 (b) a wholesale electrical cooperative, as defined in Section 54-2-1;

1987 (93) amounts paid by the service provider for tangible personal property, other than

1988 machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

1989 (a) is consumed in the performance of a service that is subject to tax under Subsection

1990 59-12-103(1)(b), (f), (g), (h), (i), or (j);

1991 (b) has to be consumed for the service provider to provide the service described in

1992 Subsection (93)(a); and

1993 (c) will be consumed in the performance of the service described in Subsection (93)(a),

1994 to one or more customers, to the point that the tangible personal property disappears or cannot

1995 be used for any other purpose;

1996 (94) sales of rail rolling stock manufactured in Utah; ~~and~~

1997 (95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement

1998 products, or construction materials between establishments, as the commission defines that

1999 term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

2000 (a) the establishments are related directly or indirectly through 100% common

2001 ownership or control; and

2002 (b) each establishment is described in one of the following subsectors of the 2022

2003 North American Industry Classification System of the federal Executive Office of the

2004 President, Office of Management and Budget:

2005 (i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

2006 (ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing[-]; and

2007 (96) amounts paid or charged for sales of a cannabinoid product as that term is defined

2008 in Section 4-41-102.

2009 Section 14. Section 59-31-101 is enacted to read:

2010 **CHAPTER 31. CANNABINOID LICENSING AND TAX ACT**

2011 **Part 1. General Provisions.**

59-31-101. Definitions.

As used in this chapter:

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

(2) "Licensee" means a retailer that holds a valid license under Part 2, Licensing, to sell a cannabinoid product.

(3) "Retail price" means the amount charged by a retailer for a cannabinoid product.

(4) "Retailer" means a person that sells a cannabinoid product to a consumer for personal use.

Section 15. Section **59-31-201** is enacted to read:

Part 2. Licensing.**59-31-201. Prohibition on sale of cannabinoid product without license.**

(1) A person may not sell, offer to sell, or distribute a cannabinoid product in this state without first:

(a) obtaining a license from the commission under Section [59-31-202](#); and

(b) complying with the bonding requirement described in Section [59-31-202](#).

(2) It is a class B misdemeanor for a person to violate Subsection (1).

Section 16. Section **59-31-202** is enacted to read:

59-31-202. Issuance of license.

(1) The commission shall issue a license to sell a cannabinoid product to a retailer that submits an application, on a form created by the commission, that includes:

(a) the retailer's name;

(b) the address of the location permitted under Section [4-41-103.3](#) where the retailer sells the cannabinoid product; and

(c) any other information the commission requires to implement this chapter.

(2) A license is:

(a) valid at only one fixed business address;

(b) valid for three years;

(c) valid only for a physical location; and

(d) renewable if a licensee meets the criteria for licensing described in Subsection (1).

(3) (a) The commission shall require a retailer that is responsible under this part for the collection of tax on a cannabinoid product to post a bond.

(b) Subject to Subsection (3)(c), the commission shall determine the form and amount of the bond.

(c) The minimum amount of the bond shall be \$500.

(4) In accordance with Title 63G, Chapter 3, Utah Rulemaking Authority, the commission may make rules to establish the additional information described in Subsection (1)(c) that a retailer shall provide in the application described in Subsection (1).

(5) The commission may not charge a fee for a license under this section.

(6) The license under this section is in addition to a license required under Section 4-41-103.3.

(7) (a) The commission shall maintain a public list that includes the identity of each person licensed under this section.

(b) The list shall:

(i) include the type of license possessed; and

(ii) be updated by the commission at least once per quarter.

Section 17. Section **59-31-203** is enacted to read:

59-31-203. License revocation and reinstatement.

(1) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.

(2) A license may not be reissued to a licensee described in Subsection (1) until the licensee has complied with the requirements of this chapter, including paying any:

(a) tax due under Part 3, Tax;

(b) penalty as provided in Section 59-1-401; and

(c) interest as provided in Section 59-1-402.

Section 18. Section **59-31-301** is enacted to read:

Part 3. Tax

59-31-301. Taxation of cannabinoid product.

(1) A tax is imposed on a cannabinoid product at a rate of .10 multiplied by the retail price.

(2) (a) A licensee shall collect the tax imposed under Subsection (1) from a purchaser at the time the cannabinoid product is sold.

(b) A consumer that purchases or receives an untaxed cannabinoid product shall pay

2074 the tax at the time the cannabinoid product is first received in this state.

2075 Section 19. Section **59-31-302** is enacted to read:

2076 **59-31-302. Remittance of tax.**

2077 (1) (a) The licensee that collects the tax imposed on a cannabinoid product shall remit
2078 to the commission, in an electronic format approved by the commission:

2079 (i) the tax due in the previous quarter; and

2080 (ii) the tax return.

2081 (b) The tax collected and the return are due on or before the last day of April, July,
2082 October, and January.

2083 (2) A licensee that sells a cannabinoid product to a purchaser shall maintain records to
2084 determine the amount of tax due under this part for a period of three years.

2085 (3) (a) A consumer that receives or purchases an untaxed cannabinoid product for use
2086 or other consumption shall:

2087 (i) file with the commission, on a form provided by the commission, a statement
2088 showing the quantity and description of the cannabinoid product subject to tax under this part;
2089 and

2090 (ii) pay the tax imposed by this part on the cannabinoid product.

2091 (b) The consumer shall file the statement described in Subsection (3)(a) and pay the tax
2092 due on or before the last day of the month immediately following the month during which the
2093 consumer purchased an untaxed cannabinoid product.

2094 (c) A consumer shall maintain records necessary to determine the amount of tax the
2095 consumer is liable to pay under this part for a period of three years after the day on which the
2096 consumer filed the statement required by this section.

2097 (4) A tourist who imports an untaxed cannabinoid product into the state does not need
2098 to file the statement described in Subsection (3) or pay the tax if the cannabinoid product is for
2099 the tourist's own use or consumption while in this state.

2100 (5) In addition to the tax required by this part, a person shall pay a penalty as provided
2101 in Section [59-1-401](#), plus interest at the rate and in the manner provide in Section [59-1-402](#), if a
2102 person subject to this section fails to:

2103 (a) pay the tax imposed by this part;

2104 (b) pay the tax on time; or

(c) file a return or statement required by this part.

(6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner provided in Section 59-1-402.

(7) (a) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue generated by the tax under this part.

(b) The commission shall deposit the remaining revenue generated by the tax imposed by this part into the Cannabinoid Proceeds Restricted Account created in Section 59-31-401.

Section 20. Section 59-31-401 is enacted to read:

Part 4. Miscellaneous Provisions.

59-31-401. Cannabinoid Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Cannabinoid Proceeds Restricted Account."

(2) The Cannabinoid Proceeds Restricted Account consists of:

(a) revenue collected from the tax imposed by Section 59-31-301; and

(b) amounts appropriated by the Legislature.

(3) Money in the account may be used for the following:

(a) enforcement of Title 4, Chapter 41, Hemp and Cannabinoid Act by the Department of Agriculture and Food;

(b) investigations described in Section 77-39-101, regarding cannabinoid products;

(c) the Industrial Hemp Grant Program created in Section 63N-3-1302; and

(d) provided to counties, cities, and towns in proportion to the county's, city's, or town's distribution under Section 59-12-205 for the preceding fiscal year.

Section 21. Section 59-31-402 is enacted to read:

59-31-402. Report to Department of Agriculture and Food of illegal cannabinoid product.

If the commission suspects that a cannabinoid product is being sold in the state in violation of a law other than a law described in this chapter, the commission shall report the name and tax identification number of the seller and the cannabinoid product:

(1) to the Department of Agriculture and Food; and

(2) within 30 days after the day on which the commission becomes aware of the sale.

Section 22. Section 63N-3-1301 is enacted to read:

Part 13. Industrial Hemp Grant Program**63N-3-1301. Definitions.**

As used in this part;

(1) "Cannabinoid processor license" means the same as that term is defined in Section

4-41-102.

(2) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

(3) "Industrial hemp" means the same as that term is defined in Section 4-41-102.

(4) "Industrial hemp producer registration" means the same as that term is defined in Section 4-41-102.

Section 23. Section **63N-3-1302** is enacted to read:

63N-3-1302. Industrial Hemp Grant Program.

(1) (a) There is created the Industrial Hemp Grant Program to be administered by the office.

(b) The purpose of the program is to award grants to existing Utah businesses that have a cannabinoid processor license or an industrial hemp producer registrations to develop industrial hemp products.

(2) (a) An entity that submits a proposal for a grant to the office shall include details in the proposal regarding:

(i) how the entity plans to use the grant to fulfill the purpose described in Subsection (1)(b);

(ii) any plan to use funding sources in addition to a grant for the proposal; and

(iii) any existing or planned partnerships between the entity and another individual or entity to implement the proposal.

(b) In evaluating a proposal for a grant, the office shall consider:

(i) the likelihood the proposal will accomplish the purpose described in Subsection (1)(b);

(ii) the extent to which any additional funding sources or existing or planned partnerships will benefit the proposal; and

(iii) the viability and sustainability of the proposal.

(c) In determining a grant award, the office:

(i) shall consult with the Department of Agriculture and Food; and

(ii) may prioritize a business that is committed to switching from producing cannabinoid products to industrial hemp products.

(3) Before receiving the grant, a grant recipient shall enter into a written agreement with the office that specifies:

(a) the grant amount;

(b) the time period and structure for distribution of the grant, including any terms and conditions the recipient is required to meet to receive a distribution; and

(c) the expenses for which the recipient may use the grant.

(4) Subject to Subsection (2), the office may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

(a) the form and process for submitting a proposal to the office for a grant;

(b) which entities are eligible to apply for a grant;

(c) the method and formula for determining a grant amount; and

(d) the reporting requirements for a grant recipient.

Section 24. Section **77-39-101** is amended to read:

77-39-101. Investigation of sales of alcohol, tobacco products, electronic cigarette products, nicotine products, and cannabinoid products to underage individuals.

(1) As used in this section:

(a) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

~~(b)~~ "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

~~(b)~~ (c) "Nicotine product" means the same as that term is defined in Section

76-10-101.

~~(c)~~ (d) "Peace officer" means the same as the term is described in Section 53-13-109.

~~(d)~~ (e) "Tobacco product" means the same as that term is defined in Section

76-10-101.

(2) (a) A peace officer may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment; ~~[or]~~

(ii) Section 76-10-114 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase from a retail establishment of:

2198 (A) a tobacco product;
2199 (B) an electronic cigarette product; or
2200 (C) a nicotine product[-]; or
2201 (iii) Subsection 4-41-105(2)(d) by requesting an individual under 21 years old to enter
2202 into and attempt to purchase or make a purchase of a cannabinoid product that contains THC or
2203 a THC analog from a retail establishment.
2204 (b) A peace officer who is present at the site of a proposed purchase shall direct,
2205 supervise, and monitor the individual requested to make the purchase.
2206 (c) Immediately following a purchase or attempted purchase or as soon as practical the
2207 supervising peace officer shall inform the cashier and the proprietor or manager of the retail
2208 establishment that the attempted purchaser was under the legal age to purchase:
2209 (i) alcohol; ~~or~~
2210 (ii) (A) a tobacco product;
2211 (B) an electronic cigarette product; or
2212 (C) a nicotine product[-]; or
2213 (iii) a cannabinoid product that contains THC or a THC analog.
2214 (d) If a citation or information is issued, the citation or information shall be issued
2215 within seven days after the day on which the purchase occurs.
2216 (3) (a) If an individual under 18 years old is requested to attempt a purchase, a written
2217 consent of that individual's parent or guardian shall be obtained before the individual
2218 participates in any attempted purchase.
2219 (b) An individual requested by the peace officer to attempt a purchase may:
2220 (i) be a trained volunteer; or
2221 (ii) receive payment, but may not be paid based on the number of successful purchases
2222 of alcohol, tobacco products, electronic cigarette products, ~~or~~ nicotine products, or
2223 cannabinoid products that contain THC or a THC analog.
2224 (4) The individual requested by the peace officer to attempt a purchase and anyone
2225 accompanying the individual attempting a purchase may use false identification in attempting
2226 the purchase if:
2227 (a) the Department of Public Safety created in Section 53-1-103 provides the false
2228 identification;

2229 (b) the false identification:

2230 (i) accurately represents the individual's age; and

2231 (ii) displays a current photo of the individual; and

2232 (c) the peace officer maintains possession of the false identification at all times outside

2233 the attempt to purchase.

2234 (5) An individual requested to attempt to purchase or make a purchase pursuant to this

2235 section is immune from prosecution, suit, or civil liability for the purchase of, attempted

2236 purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product, [or] a

2237 nicotine product, or a cannabinoid product that contains THC or a THC analog if a peace

2238 officer directs, supervises, and monitors the individual.

2239 (6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section

2240 shall be conducted within a 12-month period:

2241 (i) on a random basis at any one retail establishment location, not more often than four

2242 times for the attempted purchase of alcohol; ~~and~~

2243 (ii) a minimum of two times at a retail establishment that sells tobacco products,

2244 electronic cigarette products, or nicotine products for the attempted purchase of a tobacco

2245 product, an electronic cigarette product, or a nicotine product[-]; and

2246 (iii) a minimum of one time at a retail establishment that sells a cannabinoid product

2247 that contains THC or a THC analog.

2248 (b) This section does not prohibit an investigation or an attempt to purchase alcohol, a

2249 tobacco product, an electronic cigarette product, or a nicotine product under this section if:

2250 (i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a

2251 tobacco product, an electronic cigarette product, [or] a nicotine product, or a cannabinoid

2252 product that contains THC or a THC analog to an individual under the age established by

2253 Section 32B-4-403, [or] Section 76-10-114, or Subsection 4-41-105(2)(d); and

2254 (ii) the supervising peace officer makes a written record of the grounds for the

2255 reasonable suspicion.

2256 (7) (a) The peace officer exercising direction, supervision, and monitoring of the

2257 attempted purchase shall make a report of the attempted purchase, whether or not a purchase

2258 was made.

2259 (b) The report required by this Subsection (7) shall include:

- 2260 (i) the name of the supervising peace officer;
2261 (ii) the name of the individual attempting the purchase;
2262 (iii) a photograph of the individual attempting the purchase showing how that
2263 individual appeared at the time of the attempted purchase;
2264 (iv) the name and description of the cashier or proprietor from whom the individual
2265 attempted the purchase;
2266 (v) the name and address of the retail establishment; and
2267 (vi) the date and time of the attempted purchase.

2268 Section 25. **Effective date.**

2269 (1) Except as provided in Subsection (2), this bill takes effect on January 1, 2025.

2270 (2) The actions affecting the following sections take effect on May 1, 2024:

2271 (a) Section [4-41-102](#);

2272 (b) Section [4-41-103.4](#);

2273 (c) Section [4-41-105](#);

2274 (d) Section [4-41-106](#);

2275 (e) Section [26A-1-114](#);

2276 (f) Section [58-37-2](#); and

2277 (g) Section [58-37-3.6](#).