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MEDICAL CANNABIS REVISIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the processing and dispensing of medical cannabis.

Highlighted Provisions:

This bill:

- prohibits the inclusion of a certain oil in medical cannabis products;
- requires the inclusion of synthetic additives on the label of a medical cannabis product;
- addresses allowed delivery of medical cannabis shipments by a medical cannabis pharmacy; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-41a-602, as last amended by Laws of Utah 2020, Chapter 12

4-41a-603, as last amended by Laws of Utah 2020, Chapter 12

26-61a-305, as last amended by Laws of Utah 2020, Chapter 12

H.B. 435

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

Section 1. Section **4-41a-602** is amended to read:

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

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

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

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

(ii) clearly displays the amount of total composite tetrahydrocannabinol and cannabidiol in the labeled container;

(iii) has a unique identification number that:

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

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

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

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

(vi) discloses each:

(A) active or potentially active ingredient, in order of prominence[,];

(B) synthetic additive; and

(C) possible allergen; and

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

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

(iv) is opaque;

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

(vi) includes a warning label that states: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."

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

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and

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

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

(a) a standard labeling format that:

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

(ii) ensures inclusion of a pharmacy label; and

(b) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality.

Section 2. Section **4-41a-603** is amended to read:

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

(1) As used in this section, "MCT oil" means a supplement made from medium-chain triglycerides.

[~~(1)~~] (2) A cannabis processing facility:

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

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

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

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

(b) may not include MCT oil in a medical cannabis product; and

[~~(b)~~] (c) notwithstanding Subsection [~~(1)~~] (2)(a)(iii), may produce a concentrated oil with a flavor that the department approves to facilitate minimizing the taste or odor of

cannabis.

[~~(2)~~] (3) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

[~~(3)~~] (4) The department shall adopt by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human safety standards for the manufacturing of cannabis products that are consistent with best practices for the use of cannabis.

Section 3. Section **26-61a-305** is amended to read:

26-61a-305. Maximum number of licenses -- Home delivery medical cannabis pharmacies.

(1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue 14 medical cannabis pharmacy licenses in accordance with this section.

(b) If fewer than 14 qualified applicants apply for a medical cannabis pharmacy license, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in two phases in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with this Subsection (1)(c), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license

is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i);

(B) before November 30, 2020, report on the rules described in Subsection (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

(C) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

(F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give

increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(i) safely conduct transactions for medical cannabis shipments;

(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(iii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the

secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.

(d) A home delivery medical cannabis pharmacy may not deliver a medical cannabis shipment within a 35-mile radius of a home delivery medical cannabis pharmacy that is located within a county of the third through sixth class.