

Department of Consumer Affairs, Bureau of Cannabis Control
Proposed Trailer Bill Legislation

200 – Cannabis Regulation

FACT SHEET

Justification for Proposed Law Changes: The first priority of the Administration in implementing the new regulatory system that will govern the cannabis industry in California is to protect public and consumer safety. The Administration also seeks to safeguard local control over the industry and that the industry complies with all of California’s environmental laws. Implementing a new state regulatory system for medicinal cannabis is a significant undertaking that was made more complicated by the legalization of adult use cannabis this past November (Proposition 64) that overlays a separate and different regulatory structure for the cannabis industry.

As the state moves forward with the regulation of both medicinal cannabis and adult use, one regulatory structure for cannabis activities across California is needed to maximize public and consumer safety. Furthermore, implementing the statutes separately would result in duplicative costs and inevitable confusion among licensees, regulatory agencies and the public. While many components of the regulatory structure are proposed to be harmonized, the administration proposes to preserve the integrity and separation of the medicinal and adult use industry by maintaining these as two separate categories of license types with the same regulatory requirements for each. The amendments proposed by the administration seek to clarify and enhance both Proposition 215 and AUMA as passed by the voters by allowing for a clear regulatory structure and eliminating ambiguity.

Although California has chosen to legalize cannabis, federally it remains an illegal Schedule I drug. Protecting against illegal diversion of cannabis inside and outside of the state is an important public safety issue, which is why the state is implementing a robust track and trace program that will track all cannabis from seed to sale.

Furthermore, to protect public health and safety the state has assumed some food and drug responsibilities that would normally fall to the federal government. These duties range from creating pesticide use guidelines for cannabis to standardizing tetrahydrocannabinol (THC) levels in a product. The safety of the product is not dependent on whether it is purchased for adult use or medicinal purposes. This distinction becomes important only at the point of sale where different age restrictions and sales taxes apply.

Background: In 1996, voters approved Proposition 215, which legalized the use of medicinal cannabis in California. Since the proposition was passed most regulation was done by local governments.

In 2015, California enacted three bills —AB 243 (Wood, Chapter 688); AB 266 (Bonta, Chapter 689); and SB 643 (McGuire, Chapter 719)—that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery and testing of medicinal cannabis in California. This regulatory scheme is known as the Medical Cannabis Regulation and Safety Act (MCRSA). Senate Bill 837 (Committee on Budget, Chapter 32, Statutes of 2016) built upon the MCRSA framework and added comprehensive environmental safeguards that require the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife, to adopt principles and guidelines governing the use of water for cannabis cultivation with the goal of protecting streams and rivers from illegal diversion.

In November of 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). Under Proposition 64, adults 21 years of age or older can legally grow, possess, and use cannabis for non-medicinal purposes, with certain restrictions. In addition, beginning on January 1, 2018, AUMA makes it legal to sell and distribute cannabis through a regulated business.

Summary of Changes: Below are some of the key differences between AUMA and MCRSA and the Administration's proposed solutions for addressing these issues:

Dual State and Local Licensing:

Under MCRSA, a local permit, license, or other authorization is a prerequisite for obtaining a state license. Under this law, the applicant is responsible for providing proof of compliance with these local requirements to state licensing authorities.

Under Proposition 64, adult-use cannabis businesses must be in compliance with any local ordinance or regulation in order to obtain a license, but the burden is on the state licensing authorities to determine whether or not businesses are in fact in compliance.

Proposed solution:

With 58 counties and 482 cities, it is unrealistic to expect the licensing entities to verify that each applicant is in compliance with any local law or regulation. The proposed solution does the following:

- 1) Since, the state licensing authorities cannot require applicants to show proof of a local permit, new language will require the Bureau to work with local jurisdictions to collect all the ordinances that govern cannabis in the state, including those that have bans. Also, local jurisdictions shall be responsible for providing the contact for their jurisdiction, so that state licensing entities know who to call when questions arise about an applicant.
- 2) Authorizes an applicant to voluntarily submit a copy of the permit, license, or local authorization to the state licensing entities for jurisdictions that have taken action to regulate cannabis and have completed a programmatic Environmental Impact Report (EIR) in order to issue local permits.
- 3) In instances where a local jurisdiction allows cannabis business to operate, but does not issue permits, then the applicant will be responsible for submitting the EIR for certification to the state licensing entity. This will be similar to how a land developer has to work on their own EIR before a project moves forward.
- 4) As an incentive for locals to take on more of the environmental compliance work, a narrow CEQA streamlining is proposed for local jurisdictions that moves forward to regulate.

The proposed solution maintains local autonomy of zoning and planning decisions while providing state regulators with local compliance information in a timely manner.

Vertical Integration:

MCRSA places restrictions on the number and type of licenses cannabis business may acquire. There are 17 license classifications and six licensure categories (cultivation, manufacturing, testing, dispensary, distributor, and transporter). Under MRCSA licensees can hold up to two separate license categories, with the exception of testing and distribution. The restrictions seek

to limit the ability of one entity to control multiple steps in the cultivation, distribution, and retail chain.

AUMA does not include prohibitions against holding multiple licenses. The only exception is that a testing licensee cannot hold a license or ownership interest in any other category.

Proposed Solution:

The Administration proposes to maintain AUMA's vertically integrated licensing structure for both adult use and medicinal cannabis licensees. Overly restrictive vertical integration stifles new business models and does not enhance public and consumer safety. AUMA has restrictions to protect against the over concentration of licenses in areas as well as monopolies. It also requires that testing licensees to be independent of all licensees in other categories.

Distribution:

Under MCRSA, all medicinal cannabis and medicinal cannabis products are required to go through a third-party distributor. The distributor is responsible for arranging testing of the flower or cannabis product prior to it going to market. A distributor can hold a transportation license, but is precluded from holding any other license type.

Under AUMA, a distribution license regulates only transportation activities and allows a distributor to hold any other license except for a testing license. Proposition 64 allows for both third-party and in-house distributors owned by licensed cultivators, manufacturers, and retailers. Under AUMA, the responsibility for testing cannabis or cannabis product falls on the licensee taking the product to market.

Proposed solution:

The Administration proposes to maintain the AUMA's open distribution model. Allowing for a business to hold multiple licenses including a distribution license will make it easier for businesses to enter the market, encourage innovation, and strengthen compliance with state law. To ensure the integrity of the testing is maintained, all distributors must arrange for an independent licensed testing laboratory to select a random sample, transport it to a laboratory, and test the product.

Ownership:

The definition of an applicant varies in MCRSA and AUMA depending on the level of ownership. MCRSA defines applicant as any person having decision making authority or an ownership or financial interest. Under MCRSA, all applicants and those having a five percent interest or more in a publicly-traded company are required to pass a background check.

AUMA only requires a background check for licensees having at least a 20 percent ownership and having direct management authority.

Proposed Solution:

The administration proposes two separate definitions for applicant and owner. For ease of administration, only one designee will be required as the applicant. Owners must pass a

background check under both systems. The administration proposes to adopt the AUMA definition of owner of having at least 20 percent ownership, or any person with the power to impact management decisions. In addition, with the exception of publicly traded companies, licensees must disclose the identity of all investors to the licensing authorities.

Cultivation limits:

MCRSA includes a limit on the scale of cultivation and the number of medium size (Type 3) licenses than can be issued. Most cultivation licenses authorize a maximum of 1 acre of cultivation. The Type 10A multiple-cultivation license allows a maximum of 4 acres of cultivation, although the 4 acre limit sunsets on January 1, 2026.

AUMA added a new cultivation license type not included in MCRSA, the Type 5, which allows large size cultivation of over 1 acre or greater than 22,000 square feet indoors. This license type cannot be issued until January 1, 2023. AUMA does not limit the number of medium size (Type 3) licenses that can be issued.

Proposed Solution:

In furtherance of the intent of Proposition 64 to prevent illegal production and avoid illegal diversion to other states, the administration proposes to limit the number of Type 3 licenses consistent with MCRSA.

Microbusinesses:

AUMA establishes a new license type called microbusiness which was not included in the MCRSA. A microbusiness is authorized to engage in activities in four market segments: cultivation, manufacturing using non-volatile solvents, distribution, and retail. Unlike other license types, a microbusiness would only require a license from the Bureau.

Proposed Solution:

In order to protect the public health and safety and compliance with state environmental laws, the California Department of Food and Agriculture and the Department of Public Health must also review microbusiness licensees. The Administration proposes a process whereby licensing authorities shall establish a process to ensure that a microbusiness applicant and licensee can demonstrate compliance with all the requirements under the law for the activity or activities they conduct.

Environmental Protections:

Senate Bill 837 (SB 837), Committee on Budget, Chapter 32, Statutes of 2016, was legislation that clarified the roles of the appropriate state environmental entities, all of which must coordinate with the California Department of Food and Agriculture (CDFA) before a cultivation license is issued. For example, SB 837 requires that all CDFA licenses include a pending application, registration, or other water right documentation that has been filed with the State Water Resources Control Board. SB 837 clarifies that the State Water Board has enforcement authority if water is diverted or illegally used for cannabis cultivation.

Proposed Solution:

Due to the timing of the passage of the above legislation, the drafters of the AUMA were unable to conform to the changes made in SB 837. The administration proposes to amend the AUMA to include the same environmental protection requirements as MCRSA.

Appeals Panel:

AUMA establishes a Marijuana Control Appeals Panel (Panel), consisting of three members appointed by the Governor and subject to the confirmation by the Senate. Any applicant or licensee can appeal to the Panel to review a penalty, a license issuance, denial, or other adverse action by any of the licensing authorities. This panel was not contemplated in MCRSA.

Proposed Solution:

The administration proposes to extend the review of the panel to all licensing decisions relating to cannabis. The Panel will streamline the appeals process and bring needed expertise and due process to the review of any licensing decision. The language allows a party to appeal a Panel decision directly to the Court of Appeals, which is similar to how the Alcoholic Beverage Control Appeals Board works.

Appellation:

Appellation of origin is a legally-defined and protected geographic indication usually used for wine and certain food. Appellation of origin is typically determined by the federal government.

Because the federal government will not establish appellations, MCRSA authorizes the California Department of Food and Agriculture to establish appellations of origin for cannabis.

The AUMA also addresses appellation of origin, but instead requires the Bureau to establish standards by of January 1, 2018.

Proposed Solution:

In order to provide sufficient time and expertise to establish and set standards for appellations of origin, the initiative should be amended to transfer the responsibility to establish appellation of origin from the Bureau to the California Department of Food and Agriculture and extend the deadline to accomplish this to January 1, 2020.

Other Changes:

Deletion of requirement for state issued medicinal ID cards:

SB 420 (Chapter 875, Statutes of 2003) established a voluntary registry identification card system, maintained by Department of Health Services, for patients that have a recommendation from their doctor to use medicinal cannabis. The card was intended to provide some protection to the cardholder from arrest and prosecution for possession, transportation, and cultivation of marijuana for medicinal purposes.

Approximately 80 percent of cannabis patients do not currently use medical cannabis identification cards, but instead use their physician recommendation to purchase medical cannabis. The identification card in its current form cannot be used to confirm the identity of any individual as it contains no identifying information other than a photo and the name of the

county from which it was obtained. The photo and county name is also the only information maintained by the state.

Proposed Solution:

The administration proposes to delete the requirement for state issued medicinal ID cards and provides the county with the authority to issue local cards.

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Chapter 3.5 of Division 8 is hereby repealed.

SECTION 1. TITLE.

This measure shall be known as the ~~Control, Regulate and Tax Adult Use of Marijuana Act ("the Adult Use of Marijuana Act")~~. Medicinal and Adult-Use Cannabis Regulation and Safety Act.

SECTION 4. PERSONAL USE.

Sections 11018, 11018.1 and 11018.2 of the Health and Safety Code is hereby amended to read:

11018. Marijuana Cannabis

"~~marijuana cannabis~~" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include

- (a) industrial hemp, as defined in Section 11018.5; or
- (b) The weight of any other ingredient combined with ~~marijuana cannabis~~ to prepare topical or oral administrations, food, drink, or other product.

11018.1. Marijuana Cannabis Products

"~~Marijuana Cannabis~~ products" means ~~marijuana cannabis~~ that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing ~~marijuana cannabis~~ or concentrated cannabis and other ingredients.

11018.2. Marijuana Cannabis Accessories

"~~Marijuana Cannabis~~ accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing ~~marijuana cannabis~~, or for ingesting, inhaling, or otherwise introducing ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products into the human body.

Sections 11362.1 through 11362.45 of the Health and Safety Code are amended to read:

11362.1.

(a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:

- (1) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of ~~marijuana cannabis~~ not in the form of concentrated cannabis;
- (2) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of ~~marijuana cannabis~~ in the form of concentrated cannabis, including as contained in ~~marijuana cannabis~~ products;
- (3) Possess, plant, cultivate, harvest, dry, or process not more than six living ~~marijuana cannabis~~ plants and possess the ~~marijuana cannabis~~ produced by the plants;
- (4) Smoke or ingest ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products; and
- (5) Possess, transport, purchase, obtain, use, manufacture, or give away ~~marijuana cannabis~~ accessories to persons 21 years of age or older without any compensation whatsoever.

(b) Paragraph (5) of subdivision (a) is intended to meet the requirements of subdivision (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. § 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute ~~marijuana~~ cannabis accessories.

(c) ~~Marijuana Cannabis~~ and ~~marijuana cannabis~~ products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.

11362.2.

(a) Personal cultivation of ~~marijuana cannabis~~ under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

(1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b) of this section.

(2) The living plants and any ~~marijuana cannabis~~ produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.

(3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

(b)(1) A city, county, or city and county may enact and enforce reasonable regulations to reasonably regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.

(2) Notwithstanding paragraph (1), no city, county, or city and county may completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

(3) Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.

(4) Paragraph (3) of this subdivision shall become inoperable upon a determination by the California Attorney General that nonmedical use of ~~marijuana cannabis~~ is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) shall be deemed repealed upon the date of such determination by the California Attorney General.

(5) For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

11362.3.

(a) Nothing in Section 11362.1 shall be construed to permit any person to:

(1) Smoke or ingest ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products in any public place, except in accordance with Section 26200 of the Business and Professions Code.

(2) Smoke ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products in a location where smoking tobacco is prohibited.

(3) Smoke ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products within 1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code ~~or Chapter 3.5 of Division 8 of the Business and Professions Code~~ and only if such smoking is not detectable by others on the grounds of such a school, day Care center, or youth center while children are present.

(4) Possess an open container or open package of ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

- (5) Possess, smoke or ingest ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products in or upon the grounds of a school, day care center, or youth center while children are present.
- (6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under ~~this division~~ Chapter 3.5 of Division 8 or Division 10 of the Business and Professions Code.
- (7) Smoke or ingest ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.
- (8) Smoke or ingest ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under the age of 21 years are present.
- (b) For purposes of this section, "day care center" has the same meaning as in Section 1596.76.
- (c) For purposes of this section, "smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.
- ~~(d) For purposes of this section, "volatile solvent" means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Isopropyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro ethylene.~~
- (e) For purposes of this section, "youth center" has the same meaning as in Section 11353.1.
- (f) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

11362.4.

- (a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one hundred dollar (\$100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.
- (b) A person who engages in the conduct described in paragraphs (2) through (4) of subdivision (a) of Section 11362.3 shall be guilty of an infraction punishable by no more than a two hundred and fifty dollar (\$250) fine, unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.
- (c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivisions (c) or (d) of Section 11357.
- (d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.
- (e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two hundred and fifty dollar (\$250) fine.
- (f) Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.

(g)(1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

(2) The drug education program required by this section for persons under the age of 18 must be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of ~~marijuana~~ cannabis and other controlled substances.

(h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

11362.45.

Nothing in section 11362.1 shall be construed or interpreted to amend, repeal, affect, restrict, or preempt:

(a) Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.

(b) Laws prohibiting the sale, administering, furnishing, or giving away of marijuana, ~~marijuana~~ cannabis products, or ~~marijuana~~ cannabis accessories, or the offering to sell, administer, furnish, or give away ~~marijuana~~ cannabis, ~~marijuana~~ cannabis products, or ~~marijuana~~ cannabis accessories to a person younger than 21 years of age.

(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.

(d) Laws pertaining to smoking or ingesting ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

(e) Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products.

(f) The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of ~~marijuana~~ cannabis in the workplace, or affect the ability of employers to have policies prohibiting the use of ~~marijuana~~ cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

(g) The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.

(h) The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entities privately owned property.

(i) Laws pertaining to the Compassionate Use Act of 1996.

SECTION 5. USE OF MARIJUANA FOR MEDICAL PURPOSES.

Sections 11362.712, 11362.713, 11362.84 and 11362.85 of the Health and Safety Code, and 11362.755 of the Health and Safety Code is amended to read:

11362.712.

(a) Commencing on January 1, 2018, a qualified patient must possess a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code. Failure to comply with this requirement shall not, however, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.

(b) A county health department or the county's designee ~~shall~~ may develop protocols to ensure that, commencing upon January 1, 2018, all identification cards issued pursuant to ~~Section 11362.71~~ local regulations or ordinances are supported by a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code.

11362.713.

(a) Information identifying the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, ~~received and contained in the records of the Department of Public Health and by any county public health department~~ are hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Civil Code § 56, et seq.) and shall not be disclosed ~~by the Department or by any county public health department~~ except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.

~~(b) Within 24 hours of receiving any request to disclose the name, address, or social security number of a patient, their medical condition, or the name of their primary caregiver, the Department of Public Health or any county public health agency shall contact the patient and inform the patient of the request and if the request was made in writing, a copy of the request.~~

~~(c) Notwithstanding Section 56.10 of the Civil Code, neither the Department of Public Health, nor any county public health agency, shall disclose, nor shall they be ordered by agency or court to disclose, the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, sooner than the 10th day after which the patient whose records are sought to be disclosed has been contacted.~~

~~(d) No identification card application system or database used or maintained by the Department of Public Health or by any county department of public health or the county's designee as provided in Section 11362.71 shall contain any personal information of any qualified patient, including but not limited to, the patient's name, address, social security number, medical conditions, or the names of their primary caregivers. Such an application system or database may only contain a unique user identification number, and when that number is entered, the only information that may be provided is whether the card is valid or invalid.~~

Section 11362.85 of the Health and Safety Code is amended to read:

11362.85.

Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify ~~marijuana~~ cannabis, the Legislature may amend or repeal the provisions of the Health and Safety Code, as necessary, to conform state law to such changes in federal law.

Section 11362.7 of the Health and Safety Code is amended to read:

11362.7.

For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

(b) "Department" means the State Department of Public Health Services.

~~(c) "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.~~

(d) "Primary caregiver" means the individual, designated by a qualified patient ~~or by a person with an identification card~~, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

(1) In any case in which a qualified patient ~~or person with an identification card~~ receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient ~~or person with an identification card~~.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient ~~or person with an identification card~~, if every qualified patient ~~or person with an identification card~~ who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

(3) An individual who has been designated as a primary caregiver by a qualified patient ~~or person with an identification card~~ who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient ~~or person with an identification card~~.

(e) A primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient ~~or a person with an identification card~~ or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, ~~but who does not have an identification card issued pursuant to this article.~~

~~(g) "Identification card" means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.~~

(h) "Serious medical condition" means all of the following medical conditions:

- (1) Acquired immune deficiency syndrome (AIDS).
- (2) Anorexia.
- (3) Arthritis.
- (4) Cachexia.
- (5) Cancer.
- (6) Chronic pain.
- (7) Glaucoma.
- (8) Migraine.
- (9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.
- (10) Seizures, including, but not limited to, seizures associated with epilepsy.
- (11) Severe nausea.
- (12) Any other chronic or persistent medical symptom that either:

(A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).

(B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

~~(i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.~~

Section 11362.71 of the Health and Safety Code is amended to read:

11362.71.

~~(a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.~~

~~(2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.~~

~~(b) Every county health department, or the county's designee, shall do all of the following:~~

~~(1) Provide applications upon request to individuals seeking to join the identification card program.~~

~~(2) Receive and process completed applications in accordance with Section 11362.72.~~

~~(3) Maintain records of identification card programs.~~

~~(4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).~~

~~(5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.~~

~~(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes marijuana.~~

~~(d) The department shall develop all of the following:~~

~~(1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.~~

~~(2) Application forms that shall be issued to requesting applicants.~~

~~(3) An identification card that identifies a person authorized to engage in the medical use of marijuana and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.~~

~~(e) No person or designated primary caregiver in possession of a valid physician's recommendation or a county issued identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medical marijuana in an amount established pursuant to this article, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.~~

~~(f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.~~

—

Section 11362.715 of the Health and Safety Code is amended to read:

11362.715.

~~(a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department: A qualified patient shall possess a physician's recommendation that provides the following:~~

~~(1) The name of the person, and proof of his or her residency within the county.~~

~~(2) Written documentation by the attending physician in the person's medical records stating that the person has been diagnosed with a serious medical condition and that the medical use of marijuana is appropriate.~~

~~(3) The name, office address, office telephone number, and California medical license number of the person's attending physician.~~

~~(4) The name and the duties of the primary caregiver.~~

~~(5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.~~

~~(b) If the person applying for an identification card qualified patient lacks the capacity to make medical decisions, the application may be made physician's recommendation may be maintained by the person's legal representative, including, but not limited to, any of the following:~~

~~(1) A conservator with authority to make medical decisions.~~

- (2) An attorney-in-fact under a durable power of attorney for health care or surrogate decision maker authorized under another advanced health care directive.
- (3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.
- (c) ~~The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.~~
- (d) ~~The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.~~

**Section 11362.72 of the Health and Safety Code is deleted:
11362.72.**

- (a) ~~Within 30 days of receipt of an application for an identification card, a county health department or the county's designee shall do all of the following:~~
 - (1) ~~For purposes of processing the application, verify that the information contained in the application is accurate. If the person is less than 18 years of age, the county health department or its designee shall also contact the parent with legal authority to make medical decisions, legal guardian, or other person or entity with legal authority to make medical decisions, to verify the information.~~
 - (2) ~~Verify with the Medical Board of California or the Osteopathic Medical Board of California that the attending physician has a license in good standing to practice medicine or osteopathy in the state.~~
 - (3) ~~Contact the attending physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. When contacted by a county health department or the county's designee, the attending physician shall confirm or deny that the contents of the medical records are accurate.~~
 - (4) ~~Take a photograph or otherwise obtain an electronically transmissible image of the applicant and of the designated primary caregiver, if any.~~
 - (5) ~~Approve or deny the application. If an applicant who meets the requirements of Section 11362.715 can establish that an identification card is needed on an emergency basis, the county or its designee shall issue a temporary identification card that shall be valid for 30 days from the date of issuance. The county, or its designee, may extend the temporary identification card for no more than 30 days at a time, so long as the applicant continues to meet the requirements of this paragraph.~~
- (b) ~~If the county health department or the county's designee approves the application, it shall, within 24 hours, or by the end of the next working day of approving the application, electronically transmit the following information to the department:~~
 - (1) ~~A unique user identification number of the applicant.~~
 - (2) ~~The date of expiration of the identification card.~~
 - (3) ~~The name and telephone number of the county health department or the county's designee that has approved the application.~~
- (c) ~~The county health department or the county's designee shall issue an identification card to the applicant and to his or her designated primary caregiver, if any, within five working days of approving the application.~~
- (d) ~~In any case involving an incomplete application, the applicant shall assume responsibility for rectifying the deficiency. The county shall have 14 days from the receipt of information from the applicant pursuant to this subdivision to approve or deny the application.~~

**Section 11362.735 of the Health and Safety Code is deleted:
11362.735.**

- (a) ~~An identification card issued by the county health department shall be serially numbered and shall contain all of the following:~~
 - (1) ~~A unique user identification number of the cardholder.~~
 - (2) ~~The date of expiration of the identification card.~~
 - (3) ~~The name and telephone number of the county health department or the county's designee that has approved the application.~~

~~(4) A 24-hour, toll-free telephone number, to be maintained by the department, that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of the card.~~

~~(5) Photo identification of the cardholder.~~

~~(b) A separate identification card shall be issued to the person's designated primary caregiver, if any, and shall include a photo identification of the caregiver.~~

Section 11362.74 of the Health and Safety Code is deleted:

11362.74.

~~(a) The county health department or the county's designee may deny an application only for any of the following reasons:~~

~~(1) The applicant did not provide the information required by Section 11362.715, and upon notice of the deficiency pursuant to subdivision (d) of Section 11362.72, did not provide the information within 30 days.~~

~~(2) The county health department or the county's designee determines that the information provided was false.~~

~~(3) The applicant does not meet the criteria set forth in this article.~~

~~(b) Any person whose application has been denied pursuant to subdivision (a) may not reapply for six months from the date of denial unless otherwise authorized by the county health department or the county's designee or by a court of competent jurisdiction.~~

~~(c) Any person whose application has been denied pursuant to subdivision (a) may appeal that decision to the department. The county health department or the county's designee shall make available a telephone number or address to which the denied applicant can direct an appeal.~~

Section 11362.745 of the Health and Safety Code is amended to read:

11362.745.

~~(a) An identification card *A physician's recommendation* shall be valid for a period of one year.~~

~~(b) Upon annual renewal of an identification card, the county health department or its designee shall verify all new information and may verify any other information that has not changed.~~

~~(c) The county health department or the county's designee shall transmit its determination of approval or denial of a renewal to the department.~~

Section 11362.755 of the Health and Safety Code deleted:

11362.755.

~~(a) Each county health department or the county's designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.~~

~~(b) In no event shall the amount of the fee charged by a county health department exceed \$100 per application or renewal.~~

~~(c) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.~~

~~(d) Upon satisfactory proof that a qualified patient, or the legal guardian of a qualified patient under the age of 18, is a medically indigent adult who is eligible for and participates in the County Medical Services Program, the fee established pursuant to this section shall be waived.~~

~~(e) In the event the fees charged and collected by a county health department are not sufficient to pay for the administrative costs incurred in discharging the county health department's duties with respect to the mandatory identification card system, the Legislature, upon request by the county health department, shall reimburse the county health department for those reasonable administrative costs in excess of the fees charged and collected by the county health department.~~

Section 11362.76 of the Health and Safety Code is deleted:

11362.76.

~~(a) A person who possesses an identification card shall:~~

~~(1) Within seven days, notify the county health department or the county's designee of any change in the person's attending physician or designated primary caregiver, if any.~~

~~(2) Annually submit to the county health department or the county's designee the following:~~

~~(A) Updated written documentation of the person's serious medical condition.~~

~~(B) The name and duties of the person's designated primary caregiver, if any, for the forthcoming year.~~

~~(b) If a person who possesses an identification card fails to comply with this section, the card shall be deemed expired. If an identification card expires, the identification card of any designated primary caregiver of the person shall also expire.~~

~~(c) If the designated primary caregiver has been changed, the previous primary caregiver shall return his or her identification card to the department or to the county health department or the county's designee.~~

~~(d) If the owner or operator or an employee of the owner or operator of a provider has been designated as a primary caregiver pursuant to paragraph (1) of subdivision (d) of Section 11362.7, of the qualified patient or person with an identification card, the owner or operator shall notify the county health department or the county's designee, pursuant to Section 11362.715, if a change in the designated primary caregiver has occurred.~~

**Section 11362.765 of the Health and Safety Code is amended to read:
11362.765.**

(a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. However, nothing in this section shall authorize the individual to smoke or otherwise consume marijuana unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit.

(b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with ~~an identification card~~ physician's recommendation who transports or processes marijuana for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away marijuana for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, ~~or to the person with an identification card~~ who has designated the individual as a primary caregiver.

(3) Any individual who provides assistance to a qualified patient ~~or a person with an identification card~~, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient ~~or person with an identification card~~ to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360.

**Section 11362.77 of the Health and Safety Code is amended to read:
11362.77.**

(a) A qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature marijuana plants per qualified patient.

(b) If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs.

(c) Counties and cities may retain or enact medical marijuana guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

(d) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section.

~~(e) The Attorney General may recommend modifications to the possession or cultivation limits set forth in this section. These recommendations, if any, shall be made to the Legislature no later than December 1, 2005, and may be made only after public comment and consultation with interested organizations, including, but not limited to, patients, health care professionals, researchers, law enforcement, and local governments. Any recommended modification shall be consistent with the intent of this article and shall be based on currently available scientific research.~~

(f) A qualified patient ~~or a person holding a valid identification card~~, or the designated primary caregiver of that qualified patient or person, may possess amounts of marijuana consistent with this article.

**Section 11362.775 of the Health and Safety Code is amended to read:
11362.775**

(a) Subject to subdivision (d), qualified patients, ~~persons with valid identification cards~~, and the designated primary caregivers of qualified patients ~~and persons with identification cards~~, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

(b) A collective or cooperative that operates pursuant to this section and manufactures medical cannabis products shall not, solely on the basis of that fact, be subject to state criminal sanctions under Section 11379.6 if the collective or cooperative abides by all of the following requirements:

(1) The collective or cooperative does either or both of the following:

(A) Utilizes only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(B) Utilizes only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:

(i) The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(ii) The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.

(iii) A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).

(iv) The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

(2) The collective or cooperative receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility.

(3) The collective or cooperative meets required fire, safety, and building code requirements in one or more of the following:

(A) The California Fire Code.

(B) The National Fire Protection Association (NFPA) standards.

(C) International Building Code (IBC).

(D) The International Fire Code (IFC).

(E) Other applicable standards, including complying with all applicable fire, safety, and building codes in processing, handling, and storage of solvents or gasses.

(4) The collective or cooperative is in possession of a valid seller's permit issued by the State Board of Equalization.

(5) The collective or cooperative is in possession of a valid local license, permit, or other authorization specific to the manufacturing of medical cannabis products, and in compliance with any additional conditions imposed by the city or county issuing the local license, permit, or other authorization.

(c) For purposes of this section, “manufacturing” means compounding, converting, producing, deriving, processing, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, medical cannabis products.

(d) This section shall remain in effect only until one year after the Bureau of Medical Cannabis Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medical Cannabis Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code).

(e) This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (d).

Section 11362.78 of the Health and Safety Code is amended to read:

11362.78.

A state or local law enforcement agency or officer shall not refuse to accept an identification card issued by ~~the department~~ a county department or a physician recommendation unless the state or local law enforcement agency or officer has reasonable cause to believe that the information contained in the ~~card~~ document is false or fraudulent, or the identification card or physician’s recommendation ~~card~~ is being used fraudulently.

Section 11362.785 of the Health and Safety Code is amended to read:

11362.785.

(a) Nothing in this article shall require any accommodation of any medical use of marijuana on the property or premises of any place of employment or during the hours of employment or on the property or premises of any jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

~~(b) Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.~~

(c) Nothing in this article shall prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has a physician’s recommendation ~~an identification card~~, to use ~~marijuana~~ cannabis for medical purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

(d) Nothing in this article shall require a governmental, private, or any other health insurance provider or health care service plan to be liable for any claim for reimbursement for the medical use of marijuana.

Section 11362.79 of the Health and Safety Code is amended to read:

11362.79.

Nothing in this article shall authorize a qualified patient ~~or person with an identification card~~ to engage in the smoking of medical marijuana under any of the following circumstances:

(a) In any place where smoking is prohibited by law.

(b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medical use occurs within a residence.

(c) On a schoolbus.

(d) While in a motor vehicle that is being operated.

(e) While operating a boat.

Section 11362.8 of the Health and Safety Code is amended to read:

11362.8.

No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee’s role as a designated primary caregiver to a person who is a qualified patient ~~or who possesses a lawful identification card issued pursuant to Section 11362.72~~. However, this section shall not

apply to acts performed by a physician relating to the discussion or recommendation of the medical use of marijuana to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

Section 11362.81 of the Health and Safety Code is amended to read:

11362.81.

(a) A person specified in subdivision (b) shall be subject to the following penalties:

(1) For the first offense, imprisonment in the county jail for no more than six months or a fine not to exceed one thousand dollars (\$1,000), or both.

(2) For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars (\$1,000), or both.

(b) Subdivision (a) applies to any of the following:

(1) A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining physician's recommendation ~~an identification card~~.

(2) A person who steals or fraudulently uses any person's physician's recommendation ~~identification card~~ in order to acquire, possess, cultivate, transport, use, produce, or distribute cannabis ~~marijuana~~.

(3) A person who counterfeits, tampers with, or fraudulently produces physician's recommendation ~~an identification card~~.

~~(4) A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.~~

(c) In addition to the penalties prescribed in subdivision (a), any person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, physician's recommendation ~~an identification card~~ for a period of up to six months at the discretion of the court.

(d) In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of cannabis ~~marijuana~~ grown for medical use by patients qualified under the Compassionate Use Act of 1996.

SECTION 6. ~~MARIJUANA~~ CANNABIS REGULATION AND SAFETY.

Division 10 is hereby added to the Business and Professions Code to read as follows:

Division 10. ~~Marijuana~~ Cannabis

Chapter 1. General Provisions and Definitions

Section 26000 of the Business and Professions Code is amended to read:

26000.

(a) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of:

(1) Medicinal cannabis and medicinal cannabis products for patients with a valid physician's recommendation

(2) ~~nonmedical marijuana~~ Non-medical cannabis and ~~marijuana~~ non-medical cannabis products for adults 21 years of age and over.

(b) In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the ~~medical~~ medicinal cannabis industry ~~under Chapter 3.5 of Division 8~~ to include the power and duty to control and regulate the commercial medicinal and nonmedicinal ~~nonmedical marijuana~~ cannabis industry.

(c) The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

**Section 26001 of the Business and Professions Code is amended to read:
26001.**

For purposes of this division, the following definitions shall apply:

(a) "A-license" means a state license issued under this division for cannabis or cannabis products that are intended for adults 21 years of age and over who do not possess a physician's recommendation.

(b) "A-licensee" means any person or entity holding a license under this division for cannabis or cannabis products that are intended for adults 21 years of age and over who do not possess a physician's recommendation.

(c) "Applicant" means ~~the following:~~ an owner applying for a state license pursuant to this division.

(1) ~~The owner or owners of a proposed licensee. "Owner" means all persons having (A) an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 20 percent or more in the licensee and (B) the power to direct or cause to be directed, the management or control of the licensee.~~

(2) ~~If the applicant is a publicly traded company, "owner" includes the chief executive officer and any member of the board of directors and any person or entity with an aggregate ownership interest in the company of 20 percent or more. If the applicant is a nonprofit entity, "owner" means both the chief executive officer and any member of the board of directors.~~

(d) "Batch" means a specific quantity of homogeneous medicinal cannabis or medicinal cannabis product and is one of the following types:

(1) "Harvest batch" means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time.

(2) "Manufactured cannabis batch" means either:

(A) An amount of cannabis concentrate or extract produced in one production cycle using the same extraction methods and standard operating procedures, and is from the same harvest batch.

(B) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.

(e) "Bureau" means the ~~Bureau of Marijuana Control~~ Bureau of Cannabis Control within the Department of Consumer Affairs, ~~formerly named the Bureau of Medical Cannabis Regulation and Bureau of Medical Marijuana Regulation.~~

(f) "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

"Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(g) "Cannabis accessories" has the same meaning as marijuana accessories in Section 11018.2 of the Health and Safety Code.

(h) Cannabis concentrate means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes, used in manufacturing, is a concentrate for purposes of this chapter. Residue from a cannabis plant that is collected as a byproduct of the cultivation or cleaning process that contains granular trichomes is not a concentrate for purposes of this

chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(i) "Cannabis products" has the same meaning as marijuana products in Section 11018.1 of the Health and Safety Code, ~~except that it does not include marijuana product manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.~~

(j) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

(k) "Commercial ~~marijuana~~ cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products as provided for in this division.

(l) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of ~~marijuana~~ cannabis.

(m) "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

(n) "Customer" means a natural person 21 years of age or over.

(o) "Day care center" shall have the same meaning as in Section 1596. 76 of the Health and Safety Code.

(p) "Delivery" means the commercial transfer of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer. ~~or independently licensed under this division that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.~~

(q) "Director" means the Director of the Department of Consumer Affairs.

(r) "Distribution" means the procurement, sale, and transport of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products between entities licensed pursuant to this division.

(s) "Dried flower" means all dried cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(t) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

(u) "Fund" means the ~~Marijuana~~ Cannabis Control Fund established pursuant to Section 26210.

(v) "Kind" means applicable type or designation regarding a particular ~~marijuana~~ cannabis variant or ~~marijuana~~ cannabis product type, including, but not limited to, strain name or other grower trademark, or growing area designation.

(w) "Labeling" means any label or other written, printed, or graphic matter upon a medical cannabis product, or upon its container or wrapper, or that accompanies any medical cannabis product.

(x) "License" means a state license issued under this division and includes both an A-license and an M-license.

(y) "Licensee" means any person or entity holding a license under this division, regardless it is an A-license and an M-license.

(z) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the Licensee.

(aa) "Live plants" means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(bb) "Local jurisdiction" means a city, county, or city and county.

(cc) "Lot" means a batch or a specifically identified portion of a batch.

(dd) "M-license" means a state license issued under this division for cannabis or cannabis products that are intended for use solely by an individual who possesses a physician's recommendation.

- (ee) "M-licensee" means any person or entity holding a license under this division for cannabis or cannabis products that are intended for use solely by an individual who possesses a physician's recommendation.
- (ff) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a ~~marijuana~~ cannabis product.
- (gg) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products or labels or re-labels its container, that holds a state license pursuant to this division.
- (hh) ~~"Marijuana" has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana cannabis that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.~~
- (ii) ~~"Marijuana Cannabis accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.~~
- (jj) ~~"Marijuana products" has the same meaning as in Section 11018.1 of the Health and Safety Code, except that it does not include marijuana product manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.~~
- (kk) "Medicinal cannabis," "medicinal cannabis product," means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- (ll) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of ~~marijuana~~ cannabis.
- (mm) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products.
- (nn) "Owner" means any of the following:
- (1) All persons with an aggregate ownership interest of 20 percent or more in the person applying for a license, unless such interest is solely a security, lien, or encumbrance;
 - (2) The chief executive officer of an entity or nonprofit;
 - (3) All members of the board of directors of a nonprofit; or
 - (4) An individual that will be participating in the direction, control, or management of the licensed commercial cannabis business.
- (oo) "Package" means any container or receptacle used for holding ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products.
- (pp) "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, Limited Liability Company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (qq) "Physician's recommendation" means a recommendation that a patient use cannabis provided in accordance with Section 11362.5 of the Health and Safety Code.
- (rr) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products.
- (ss) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to ~~marijuana~~ cannabis is transferred from one person to another, and includes the delivery of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of ~~marijuana~~ cannabis or

~~marijuana cannabis~~ products by a licensee to the licensee from whom such ~~marijuana cannabis~~ or ~~marijuana cannabis~~ product was purchased.

(tt) "Testing laboratory service" means a laboratory, facility, or entity in the state, that offers or performs tests of ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products, ~~including the equipment provided by such laboratory, facility, or entity,~~ and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial ~~marijuana cannabis~~ activity in the state.

(2) ~~Registered with the Department of Public Health~~ Licensed by the bureau.

(uu) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.

(vv) "Unique identifier" means an alphanumeric code or designation used for reference to cannabis associated with a license ~~a specific plant on licensed premises.~~

~~(uu) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.~~

(ww) "Youth center" shall have the same meaning as in Section 11353.1 of the Health and Safety Code.

Chapter 2. Administration

Section 26009 is added to Business and Professions Code:

26009.

There is in the Department of Consumer Affairs the Bureau of Cannabis Control, under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter related to the bureau.

Section 26010 of the Business and Professions Code is amended to read:

26010

(a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

(b) Every power granted to or duty imposed upon the Director of Consumer Affairs under this division may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to conditions and limitations that the director may prescribe. In addition to every power granted or duty imposed with this chapter, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.

(c) The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations. The Governor may also appoint a deputy chief and an assistant chief counsel to the bureau. These positions shall hold office at the pleasure of the Governor.

(d) The bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial cannabis activity as provided by this division.

(e) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction formally vested in the Bureau of Medical Marijuana Cannabis Regulation under Chapter 3.5 of Division 8 as amended by Chapter 32, Statutes of 2016.

(f) Upon the effective date of this section, whenever "Bureau of Medical Cannabis Regulation" or Bureau of Medical Control" appears in statute, or regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

~~26010.~~

~~(a) The Bureau of Medical Marijuana Regulation established in Section 19302 in Chapter 3.5 of Division 8 is hereby renamed the Bureau of Marijuana Control. The director shall administer and enforce the provisions of this division in addition to the provisions of Chapter 3.5 of Division 8. The director shall have the same power and authority as provided by subdivisions (b) and (c) of Section 19302.1 for purposes of this division.~~

~~(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Cannabis Regulation under Chapter 3.5 of Division 8.~~

~~(c) In addition to the powers, duties, purposes, responsibilities, and jurisdiction referenced in subdivision (b), the bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in this division.~~

~~(d) Upon the effective date of this section, whenever "Bureau of Medical Marijuana Cannabis Regulation" appears in any statute, regulation it shall be construed to refer to the bureau.~~

**Section 26011 of the Business and Professions Code is amended to read:
26011.**

Neither the chief of the bureau nor any member of the Marijuana Cannabis Control Appeals Panel established under Section 26040 shall have nor do any of the following:

- (a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division ~~or Chapter 3.5 of Division 8.~~
- (b) Engage or have any interest in the sale or any insurance covering a licensee's business or premises.
- (c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial marijuana cannabis activity.
- (d) Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.
- (e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

**Section 26012 of the Business and Professions Code is amended to read:
26012.**

- (a) It being a matter of statewide concern, except as otherwise authorized in this division:
 - (1) The ~~Department of Consumer Affairs~~ Bureau of Cannabis Control shall have the sole ~~exclusive~~ authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for ~~the~~ microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of marijuana cannabis and cannabis products within the state.
 - (2) The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of marijuana cannabis. The Department of Food and Agriculture shall have the authority to create, issue, deny, and suspend or revoke cultivation licenses for violations of this division.
 - (3) The Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing ~~and testing~~ of marijuana cannabis products. The Department of Public Health shall have the authority to create, issue, deny, and suspend or revoke manufacturing ~~and testing~~ licenses for violations of this division.
- (b) The licensing authorities ~~and the bureau~~ shall have the authority to collect fees in connection with activities they regulate concerning marijuana cannabis. The ~~bureau~~ licensing authorities may create licenses in addition to those identified in this division that the ~~bureau~~ licensing authorities deems necessary to effectuate ~~its~~ their duties under this division.
- (c) Licensing authorities shall begin issuing licenses under this division by January 1, 2018.
- (d) If a licensing authority takes an enforcement action against a licensee, the licensing authority shall notify the other licensing entities.

Section 26013 of the Business and Professions Code is amended to read:

26013.

(a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Such rules and regulations shall be consistent with the purposes and intent of the Medicinal and Adult Use Cannabis Regulation and Safety Act. ~~Control, Regulate and Tax Adult Use of Marijuana Act.~~ For the performance of its duties, each licensing authority has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.

(b) Each licensing authority may adopt emergency regulations to implement this division.

(1) Each licensing authority may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted by this section. Any such readoption shall be limited to one time for each regulation.

(2) Notwithstanding any other law, the initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall be each submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

~~(b) Licensing authorities may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under this division. Any emergency regulation prescribed, adopted or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.~~

(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology; or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance so onerous that the operation of a cannabis establishment is not worthy of being carried out in practice by a reasonably prudent business person ~~unreasonably impracticable.~~

Section 26013.5 is added to the Business and Professions Code:

26013.5

Notice of any action of a licensing authority required by this division to be given may be signed and given by the director of the licensing authority or an authorized employee of the licensing authority and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure, or in the manner prescribed by Section 124 of this code.

Section 26014 of the Business and Professions Code is amended to read:

26014.

(a) The bureau shall convene an advisory committee to advise the ~~bureau and~~ licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial ~~marijuana~~ cannabis activity that does not impose such ~~unreasonably impracticable~~ barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for ~~marijuana~~ cannabis.

(b) The advisory committee members shall include, but not be limited to, representatives of the ~~marijuana~~ cannabis industry, including medicinal cannabis, representatives of labor organizations, appropriate state and local agencies, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in

regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

(c) Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the bureau and licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the ~~bureau or~~ licensing authorities.

Chapter 3. Enforcement

Section 26030 of the Business and Professions Code is amended to read: 26030.

Grounds for disciplinary action include *but are not limited to*:

- (a) Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.
- (b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 ~~2~~ (commencing with Section ~~480~~ 499) of Division 1.5. or discipline of a license pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.
- (c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.
- (d) Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.
- (e) Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.
- (f) Failure to comply with the requirement of a local ordinance regulating commercial ~~marijuana~~ cannabis activity.
- (g) The intentional and knowing sale of ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products by an A-licensee to a person under 21 years of age ~~the legal age to purchase or possess.~~
- (h) The intentional and knowing sale of medicinal cannabis or medicinal cannabis products by an M-licensee to a person without a physician's recommendation.
- (i) Failure to maintain safe conditions for inspection by a licensing authority.
- (j) Failure to comply with any operating procedure submitted to the licensing authority pursuant to subdivision (b) of Section 26050.5

Section 26031 of the Business and Professions Code is amended to read: 26031.

- (a) Each licensing authority may suspend, ~~or revoke licenses,~~ place on probation with terms and conditions, or otherwise discipline licenses issued by that licensing authority and fine a licensee, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.
- (b) A licensing authority may revoke a license when a local agency has notified the licensing authority that a licensee or applicant or any of its owners within its jurisdiction is in violation of state rules and regulation relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for revocation of the license.
- (c) Each licensing authority may take disciplinary action and assess fines against a licensee for any violation of this division when the violation was committed by the licensee's officers, directors, owners, agents or employees while acting on behalf of the licensee or engaged in commercial cannabis activity.
- (d) A licensing authority may recover the costs of investigation and enforcement of a disciplinary proceeding pursuant to Section 125.3 of the Business and Professions Code.

(e) Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.

Section 26032 of the Business and Professions Code is deleted:

26032.

~~Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial marijuana activity.~~

Section 26033 of the Business and Professions Code is deleted:

26033.

~~Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.~~

Section 26034 of the Business and Professions Code is amended to read:

26034.

Accusations against licensees under this division shall be filed within the same time limits as specified in Section 19314 or as otherwise provided by law.

All accusations against licensees shall be filed by the licensing authority within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within five years after such discovery.

Section 26036 of the Business and Professions Code is amended to read:

26036.

(a) Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the Fish and Game Code, the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, the Water Code, or the application of those laws.

(b) Nothing in this division shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(c) Nothing in this division shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

Section 26038 of the Business and Professions Code is amended to read:

26038.

(a) A person engaging in commercial ~~marijuana~~ cannabis activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of ~~marijuana~~ cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b). A violator shall be responsible for the cost of the destruction of cannabis and remediation associated with his or her violation, in addition to any amount covered by a bond required as a condition of licensure.

(b) If an action for civil penalties is brought against a licensee pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General

Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the Action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial ~~marijuana~~ cannabis activity in violation of this division.

Chapter 4. Appeals

Section 26040 of the Business and Professions Code is amended to read: 26040.

(a) There is established in state government a ~~Marijuana~~ Cannabis Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, corruption or incompetency.

(c) A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if five Members of the Senate, or ten Members of the Assembly, join as authors.

Section 26043 of the Business and Professions Code is amended to read: 26043.

(a) After proceedings pursuant to Sections 26031, Section 26058, or Chapters 2 or Chapter 3 of Division 1.5, any person aggrieved by the decision of a licensing authority denying the person's application for any license, denying the person's renewal of any license, placing any license on probation, imposing any condition on any license, imposing any fine on any license, assessing any penalty on any license, or cancelling, suspending, revoking or otherwise disciplining any license as provided for under this division, may appeal the licensing authority's written decision to the panel.

~~(b) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division,~~

(c) The panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered ~~by the bureau or~~ the licensing authority.

(d) Review by the panel of a decision of ~~the bureau or~~ a licensing authority shall be limited to the following questions:

- (1) Whether the ~~bureau or any~~ licensing authority has proceeded without or in excess of its jurisdiction.
- (2) Whether the ~~bureau or any~~ licensing authority has proceeded in the manner required by law.
- (3) Whether the decision is supported by the findings.
- (4) Whether the findings are supported by substantial evidence in the light of the whole record.

Section 26044 of the Business and Professions Code is amended to read: 26044.

(a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing

before the ~~bureau or~~ licensing authority, it may enter an order remanding the matter to the ~~bureau or~~ licensing authority for reconsideration in the light of such evidence.

(b) Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the ~~bureau or~~ licensing authority. When the order reverses the decision of the ~~bureau or~~ licensing authority, the board may direct the reconsideration of the matter in the light of its order and may direct the ~~bureau or~~ licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the ~~bureau or~~ licensing authority.

**Section 26045 of the Business and Professions Code is amended to read:
26045.**

~~Orders of the panel shall be subject to judicial review under Section 1094.5 of the Code of Civil Procedure upon petition by the bureau or licensing authority or any party aggrieved by such order.~~

(a) No court of this state, except the Supreme Court and the courts of appeal to the extent specified in this article, shall have jurisdiction to review, affirm, reverse, correct, or annul any order, rule, or decision of a licensing authority or to suspend, stay, or delay the operation or execution thereof, or to restrain, enjoin, or interfere with the department in the performance of its duties, but a writ of mandate shall lie from the Supreme Court or the courts of appeal in any proper case

(b) Any person affected by a final order of the panel including a licensing authority, may apply to the Supreme Court or to the court of appeal for the appellate district in which the proceeding arose for a writ of review of such final order.

(c) The application for writ or review shall be made within 30 days after the filing of the final order.

(d) The provisions of the Code of Civil Procedure relating to writs of review shall, insofar as applicable, apply to proceedings in the courts as provided by this article. A copy of every pleading filed pursuant to this article shall be served on the panel, the licensing authority, and on each party who entered an appearance before the panel.

(e) No decision of a licensing authority which has been appealed to the panel and no final order of the panel shall become effective during the period in which application may be made for a writ of review, as provided by Section 26045.1.

(f) The filing of a petition for, or the pendency of, a writ of review shall not of itself stay or suspend the operation of any order, rule, or decision of the licensing authority, but the court before which the petition is filed may stay or suspend, in whole or in part, the operation of the order, rule, or decision of the licensing authority subject to review, upon the terms and conditions which it by order directs.

**Section 26046 is added to the Business and Professions Code:
26046.**

(a) The review by the court shall not extend further than to determine, based on the whole record of the licensing authority as certified by the board, whether:

(1) The licensing authority has proceeded without or in excess of its jurisdiction.

(2) The licensing authority has proceeded in the manner required by law.

(3) The decision of the licensing authority is supported by the findings.

(4) The findings in the licensing authority's decision are supported by substantial evidence in the light of the whole record.

(5) There is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the licensing authority.

(b) Nothing in this article shall permit the court to hold a trial de novo, to take evidence, or to exercise its independent judgment on the evidence.

**Section 26047 is added to the Business and Professions Code:
26047.**

The findings and conclusions of the licensing authority on questions of fact are conclusive and final and are not subject to review. Such questions of fact shall include ultimate facts and the findings and conclusions of

the licensing authority. The board, the licensing authority, and each party to the action or proceeding before the board shall have the right to appear in the review proceeding. Following the hearing, the court shall enter judgment either affirming or reversing the decision of the licensing authority, or the court may remand the case for further proceedings before or reconsideration by the licensing authority.

Chapter 5. Licensing

Section 26050 of the Business and Professions Code is amended to read:

26050.

(a) The license classification pursuant to this division shall, at a minimum, be as follows:

- (1) Type 1 = Cultivation; Specialty outdoor; Small.
- (2) Type 1 A = Cultivation; Specialty indoor; Small.
- (3) Type 1B = Cultivation; Specialty mixed-light; Small.
- (4) Type 1C = Cultivation; Specialty Cottage
- (5) Type 2 = Cultivation; Outdoor; Small.
- (6) Type 2A = Cultivation; Indoor; Small.
- (7) Type 2B = Cultivation; Mixed-light; Small.
- (8) Type 3 = Cultivation; Outdoor; Medium.
- (9) Type 3A = Cultivation; Indoor; Medium.
- (10) Type 3B = Cultivation; Mixed-light; Medium.
- (11) Type 4 = Cultivation; Nursery.
- (12) Type 5 = Cultivation; Outdoor; Large.
- (13) Type 5A = Cultivation; Indoor; Large.
- (14) Type 5B = Cultivation; Mixed-light; Large.
- (15) Type 6 = Manufacturer 1.
- (16) Type 7 = Manufacturer 2.
- (17) Type 8 = Testing Laboratory.
- (18) Type 10 = Retailer
- (19) Type 11 = Distributor.
- (20) Type 12 = Microbusiness.

(b) With the exception of testing licenses, which may be used to test cannabis and cannabis products regardless of whether they are intended for use by individuals who possesses a physician's recommendation, all licenses issued under this division shall bear a clear designation indicating that whether the license is for commercial ~~adult-use marijuana~~ cannabis activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 of Division 8 by prominently affixing an "A" or "M" respectively. Examples of such a designation include, but are not limited to, "Type 1 - Nonmedical," or "Type 1NM" "A-Type 1" or "M- Type 1" Except as specifically specified in this division, the requirements for A-licenses and M-licenses shall be the same.

(c) A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.

(d) Each licensing authority shall establish procedures for the issuance and renewal of licenses.

(e) Notwithstanding subdivision (c), a licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operable on January 1, 2019.

Section 26050.5 is added to the Business and Professions Code:

26050.1

(a) A licensing authority may, in its sole discretion, issue a temporary license if all of the following conditions are met:

(1) The applicant submits a written request to the licensing authority in a manner prescribed by the licensing authority.

(2) A copy of a valid the license, permit, or other authorization, issued by a local jurisdiction, that enables the applicant to conduct commercial cannabis activity at the location requested for the temporary license.
(3) The applicant submits a temporary license application fee required by the licensing authority, if any.
(b) Temporary licenses issued pursuant to this section are subject to the following conditions:
(1) Except as provided for in subdivision (4) below, the temporary license shall be valid for a period of 120 days and may be extended for additional 90-day periods at the discretion of the licensing authority. Temporary licenses shall only be eligible for an extension of the expiration date if the applicant has submitted a complete application for licensure pursuant to regulations adopted under this division.
(2) A temporary license is a conditional license and authorizes the holder thereof to engage in commercial cannabis activity as would be permitted under the privileges of the license for which the applicant has submitted to the licensing authority.
(3) Refusal by the licensing authority to issue or extend a temporary license shall not entitle the applicant to a hearing or appeal of the decision. Chapter 2 of Division 1.5 and Chapter 4 of Division 10 of the Business and Professions Code shall not apply to temporary licenses.
(4) A temporary license does not obligate the licensing authority to issue a non-temporary license nor does the temporary license create a vested right in the holder to either an extension of the temporary license or to the granting of a subsequent non-temporary license.

Section 26050.5 is added to the Business and Professions Code:

26050.5

(a) An applicant for any type of state license issued pursuant to this division shall do all of the following:
(1) Require that each owner electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.
(A) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.
(B) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.
(C) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.
(2) Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, testing, transporter, or retail license, provide a statement from the landowner of real property or their agent where the cultivation, distribution, manufacturing, testing, transport, or dispensing of commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation, distribution, manufacturing, testing, transport, or retailer activities to be conducted on the property by the tenant applicant.
(3) If the application is for a cultivator or a retailer, provide evidence that the proposed location is located beyond at least a 600-foot radius from a school, as required by Section 11362.768 of the Health and Safety Code.
(4) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.
(5) (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.
(B) For the purposes of this paragraph, "employee" does not include a supervisor.
(C) For purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(6) Provide the applicant's valid seller's permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code or indicate that the applicant is currently applying for a seller's permit.

(7) Provide any other information required by the licensing authority.

(8) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

(9) Pay all applicable fees required for licensure by the licensing authority.

(10) Provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements.

(b) An application for a license under this division shall include evidence that the proposed location meets the restriction in subdivision (b) of Section 26054; and

(c) For applicants seeking licensure to cultivate, distribute, test, sell, or manufacture nonmedicinal cannabis or cannabis products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

(1) Cultivation

(2) Extraction and infusion methods.

(3) The transportation process.

(4) The inventory process.

(5) Quality control procedures.

(6) Security protocols.

(7) For cultivators, ~~the~~ source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law cultivation as provided in subdivisions (a) through (c) described in Section 26060.1. For purposes of this paragraph, "cultivation" as used in Section 26060.1 shall have the same meaning as defined in Section 26001. The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this paragraph.

(b) The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and individual square footage of separate cultivation areas, if any.

(c) Provide a complete list of every person with a financial interest in the person applying for the license as required by the licensing authority.

**Section 26051 of the Business and Professions Code is deleted to read:
26051.**

~~(a) In determining whether to grant, deny, or renew a license authorized under this division. A licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:~~

~~(1) allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;~~

~~(2) perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;~~

~~(3) encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;~~

~~(4) result in an excessive concentration of licensees in a given city, county, or both;~~

~~(5) present an unreasonable risk of minors being exposed to marijuana or marijuana products; or~~

~~(6) Result in violations of any environmental protection laws.~~

~~(b) A licensing authority may deny a license or renewal of a license based upon the considerations in subdivision (a).~~

~~(b) For purposes of this section, "excessive concentration" means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:~~

~~(1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.~~

~~(2) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.~~

**Section 26052 of the Business and Professions Code is amended to read:
26052.**

(a) No licensee shall perform any of the following acts, or permit any such acts to be performed by any employee, agent, or contractor of such licensee:

(1) Make any contract in restraint of trade in violation of Section 16600;

(2) Form a trust or other prohibited organization in restraint of trade in violation of Section 16720;

(3) Make a sale or contract for the sale of marijuana cannabis or marijuana cannabis products, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of such seller, where the effect of such sale, contract, condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce;

(4) Sell any marijuana cannabis or marijuana cannabis products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers;

(5) Discriminate between different sections, communities, or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this state, by selling or furnishing marijuana cannabis or marijuana cannabis products at a lower price in one section, community, or city or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition; or

(6) Sell any marijuana cannabis or marijuana cannabis products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.

(b) Any person who, either as director, officer or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, assists or aids, directly or indirectly, in such violation is responsible therefor equally with the person, firm or corporation for which such person acts.

~~(c) A licensing authority may enforce this section by appropriate regulation.~~

(d) Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.

**Section 26053 of the Business and Professions Code is amended to read:
26053.**

~~(a) The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under Chapter 3.5 of Division 8~~

(b) ~~Notwithstanding subdivision (a),~~ A person or entity that holds a state testing license under this division ~~or Chapter 3.5 of Division 8~~ is prohibited from licensure for any other activity, except testing, as authorized under this division.

- (c) Except as provided in subdivision (b), a person ~~or entity~~ may apply for and be issued more than one license under this division, provided the licensed premises are separate and distinct. The licensee may conduct either adult use commercial cannabis or commercial medical cannabis activity at the licensed premises, but not both types of activities, unless otherwise specified in regulation.
- (d) Each applicant or licensee shall apply for, and if approved, shall obtain a separate license for each location where it engages in commercial cannabis activity.
- (e) No testing laboratory licensee shall employ a person also employed by any other licensee who does not hold a license as a testing laboratory.

**Section 26054 of the Business and Professions Code is amended to read:
26054.**

- (a) A licensee shall not ~~also be licensed as a retailer of alcoholic beverages under Division 9 or of tobacco products~~ sell alcoholic beverages or tobacco products on or at any premises licensed under this division.
- (b) No ~~licensee~~ premises licensed under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in paragraph (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.
- (c) It shall ~~be lawful under state and local law, and shall not be a violation of state or local law,~~ for a business engaged in the manufacture of ~~marijuana cannabis~~ accessories to possess, transport, purchase or otherwise obtain small amounts of ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products as necessary to conduct research and development related to such ~~marijuana cannabis~~ accessories, provided such ~~marijuana cannabis~~ and ~~marijuana cannabis~~ products are obtained from a person or entity licensed under this division ~~or Chapter 3.5 of Division 8~~ permitted to provide or deliver such ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products.
- (d) It shall not be a violation of state or local law, for an agent of a licensing authority to possess, transport, or obtain cannabis or cannabis products as necessary to conduct activities reasonably related to the duties of the licensing authority.

**Section 26054.1 of the Business and Professions Code is deleted:
26054.1**

- (a) ~~No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.~~
- (b) ~~Subdivision (a) shall cease to be operable on December 31, 2019 unless reenacted prior thereto by the Legislature.~~

**Section 26054.2 of the Business and Professions Code is amended to read:
26054.2**

- (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, ~~or currently operates in compliance with Chapter 3.5 of Division 8.~~
- (b) ~~The bureau~~ licensing authorities shall request that local jurisdictions identify for the ~~bureau~~ licensing authorities the potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any applicable local laws. ~~The bureau shall make the requested information available to licensing authorities.~~

- (c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence as deemed appropriate by the licensing authority to demonstrate operation in compliance with the Compassionate Use Act ~~or Chapter 3.5 of Division 8~~. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).
- (d) This section shall cease to be operable on December 31, 2019 unless otherwise provided by law.

**Section 26055 of the Business and Professions Code is amended to read:
26055.**

- (a) Licensing authorities may issue state licenses only to qualified applicants.
- (b) ~~Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation~~
- (c) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate pursuant to that license within California until ~~the licensing authority reinstates or reissues the state license~~ a new license is obtained.
- (d) ~~After issuance or transfer of a license, no~~ No licensee shall change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until ~~prior written approval~~ assent of ~~by the licensing authority or bureau~~ has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.
- (e) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.
- (f) An applicant may voluntarily provide proof of a license, permit, or authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction.
- (g) Before January 1, 2018, each local jurisdictions shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau. The bureau will share the information required by this subdivision with the other licensing authorities.
- (h) In instances where a local jurisdiction allows cannabis business to operate, but does not issue permits, licenses, or local authorizations, the applicant will be responsible for ensuring compliance with division 13 of the Public Resources Code.
- (f) Without limiting any other statutory exemption or categorical exemption, division 13 of the Public Resources Code does not apply to the adoption of an ordinance, rule or regulation by a city, county, or city and county that authorizes discretionary review and approval of permits, licenses, or authorizations to engage in commercial cannabis activity. To qualify for this exemption, any such law, ordinance, rule, or regulation shall set forth requirements that ensure that such proposed activities are not permitted, licensed, or authorized unless they follow strict environmental standards. Nothing in this subdivision shall preclude a city, county, or city and county from preparing and certifying a programmatic environmental impact report, as described in Public Resources Code sections 21093 and 21094, to assist in the discretionary review of later commercial cannabis activity pursuant to the adopted ordinance, rule or regulation.
- (i) A local or state public agency may charge and collect a fee from a person proposing a project pursuant to subdivision (a) of section 21089 of the Public Resources Code.

Section 26056 of the Business and Professions Code is deleted:

~~26056.~~

~~An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in Section 19322 of Chapter 3.5 of Division 8 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:~~

~~(a) notwithstanding paragraph (2) of subdivision (a) of Section 19322 of Chapter 3.5 of Division 8, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;~~
~~(d) an application for a license under this division shall include evidence that the proposed location meets the restriction in subdivision (b) of Section 26054; and~~

~~(e) For applicants seeking licensure to cultivate, distribute, , or manufacture nonmedical marijuana s or marijuana products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:~~

~~(1) Cultivation~~

~~(2) Extraction and infusion methods.~~

~~(3) The transportation process.~~

~~(4) The inventory process.~~

~~(5) Quality control procedures.~~

~~(6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.~~

~~The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and individual square footage of separate cultivation areas, if any.~~

Section 26056.1 of the Business and Professions Code is deleted:

~~26056.5.~~

~~The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), the California Endangered Species Act (Fish and Game Code, Section 2800 et. seq.), lake or streambed alteration agreements (Fish and Game Code, Section 1600 et. seq.), the Clean Water Act, the Porter Cologne Water Quality Control Act, timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.~~

Section 26057 of the Business and Professions Code is amended to read:

26057.

(a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, including but not limited to, ~~or~~ any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow and water quality.

(2) Conduct that constitutes grounds for denial of licensure under Chapter 2 of Division 1.5, except as otherwise specified in this section and Section 26059.

(3) Failure to provide information required by the licensing authority.

- (4) The applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:
- (A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
 - (B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
 - (C) A felony conviction involving fraud, deceit, or embezzlement.
 - (D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
 - (E) A felony conviction for drug trafficking with enhancements pursuant to Health and Safety Code Sections 11370.4 or 11379.8.
- (5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.
- (6) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Sections 12025 or 12025.1 of the Fish and Game Code.
- (7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial ~~marijuana~~ cannabis activities or commercial medical cannabis activities, has had a license revoked under this division ~~or Chapter 3.5 of Division 8~~ in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under Sections 12025 or 12025.1 of the Fish and Game Code.
- (8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
- (9) Any other condition specified in law.

Section 26058 of the Business and Professions Code is amended to read:
26058.

Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein. Any appeal from a final decision of the licensing authority shall be conducted in accordance with Chapter 4.

Chapter 6. Licensed Cultivation Sites

Section 26060 of the Business and Professions Code is amended to read:
26060.

- (a) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this division, including regulations governing the licensing of indoor, outdoor, mixed-light cultivation site, nursery, and special cottage. Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, nursery, special cottage, and mixed-light cultivation sites shall apply to licensed cultivators under this Division.
- (b) The regulations shall do all of the following:
- (1) Provide that weighing or measuring devices used in connection with the sale or distribution of cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).
 - (2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws.
 - (3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Chapter 6.5 of this division. All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.
 - (4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Chapter 6.5 of this division.
- (c) The Department of Food and Agriculture shall serve as the lead agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) related to the licensing of cannabis cultivation.
- ~~(b) Standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis shall apply to licensed cultivators under this division.~~
- (d) The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.
- (e) (1) Pursuant to Section 13149 of the Water Code, the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife and the Department of Food and Agriculture, shall ensure that individual and cumulative effects of water diversion and discharge associated with cultivation of cannabis do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.
- (2) The Department of Food and Agriculture shall include the conditions provided for in subdivisions (d), (e) and (f) of Section 26060.1 in each license for cultivation. For purposes of this paragraph, "cultivation" as used in Section 26060.1 shall have the same meaning as defined in Section 26001. The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this paragraph. ~~requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. The Department of Food and Agriculture is not responsible for enforcing the conditions imposed by the Department of Fish and Wildlife and State Water Resources Control Board. Upon finding a violation of the conditions, the Department of Fish and Wildlife and State Water Resources Control Board will notify the Department of Food and Agriculture, which may take appropriate action with respect to the licensee in accordance with Chapter 3.~~
- (f) The regulations promulgated by the Department of Food and Agriculture under this division shall, at a minimum, address in relation to commercial marijuana cannabis activity, ~~the same matters described in subdivision (e) of Section 19332 subdivision (c) through (f) of Section 26060.1 of Chapter 3.5 of Division 8.~~
- (j) ~~The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that shall require that the application of pesticides or other pest control in connection with the indoor, outdoor, nursery, specialty cottage, or mixed light cultivation of marijuana cannabis meets standards equivalent to~~ complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

Section 26060.1 is added to the Business and Professions Code:

26060.1

(a) An application for a license for cultivation shall identify the source of water supply.

(1) (A) If water will be supplied by a retail water supplier, as defined in Section 13575 of the Water Code, the application shall identify the retail water supplier.

(B) Paragraphs (2) and (3) shall not apply to any water subject to subparagraph (A) unless the retail water supplier has 10 or fewer customers, the applicant receives 10 percent or more of the water supplied by the retail water supplier, 25 percent or more of the water delivered by the retail water supplier is used for cannabis cultivation, or the applicant and the retail water supplier are affiliates, as defined in Section 2814.20 of Title 23 of the California Code of Regulations.

(2) If the water supply includes a diversion within the meaning of Section 5100 of the Water Code, the application shall identify the point of diversion and maximum amount to be diverted.

(3) If water will be supplied from a groundwater extraction not subject to paragraph (2), the application shall identify the location of the extraction and the maximum amount to be diverted for cannabis cultivation in any year.

(b) An application for a cultivation license issued by the Department of Food and Agriculture that identifies the sources of the water as a diversion within the meaning of Section 5100 of the Water Code and that will be submitted before January 1, 2019, shall include one of the following:

(1) A copy of a small irrigation use registration certificate, permit, or license issued under Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(2) A copy of a statement of water diversion and use, filed with the State Water Resources Control Board before July 1, 2017, that covers the diversion and specifies the amount of water used for cannabis cultivation.

(3) A copy of a pending application for a permit to appropriate water, filed with the State Water Resources Control before July 1, 2017.

(4) Documentation, submitted to the State Water Resources Control Board before July 1, 2017, demonstrating that the diversion is subject to subdivision (a), (c), (d) or (e) of Section 5101 of the Water Code.

(5) Documentation, submitted to the State Water Resources Control Board before July 1, 2017, demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in Section 5103, subdivision (a)-(d) and (f) of the Water Code. The documentation shall also include a general description of the area in which the water will be used as outlined in Section 5103, subdivision (g) of the Water Code and the year in which the diversion is planned to commence.

(c) An application for a cultivation license issued by the Department of Food and Agriculture that identifies the source of water as diversion within the meaning of Section 5100 of the Water Code and that will be submitted after December 31, 2018, shall include one of the following:

(1) A copy of a small irrigation use registration certificate, permit, or license issued under Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(2) A copy of a statement of water diversion and use, filed with the State Water Resources Control Board, that covers the diversion and specifies the amount of water used for cannabis cultivation.

(3) Documentation, submitted to the State Water Resources Control Board, ~~establishing~~ that the diversion is subject to subdivision (a), (c), (d) or (e) of Section 5101 of the Water Code.

(4) Documentation, submitted to the State Water Resources Control Board, ~~establishing~~ that the diversion is authorized under a riparian right and that no diversion occurred in any calendar year between January 1, 2010, and the calendar year in which the application is submitted. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in Section 5103, subdivisions (a)-(d) and (f) of the Water Code. The documentation shall also include a general description of the area in which the water will be used as outlined in Section 5103, subdivision (g) of the Water Code and the year in which the diversion is planned to commence.

(d) The Department of Food and Agriculture shall include in any license for cultivation requirements for compliance with applicable principles, guidelines, and requirements established under Section 13149 of the Water Code.

(e) The Department of Food and Agriculture shall include in any license for cultivation any relevant mitigation requirements the Department of Food and Agriculture identifies as part of its approval of the final environmental documentation for the cannabis cultivation licensing program as requirements that should be included in a license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the identification of these mitigation measures.

(f) Every license for cultivation shall include a condition that the license shall not be effective until the licensee has complied with Section 1602 of the Fish and Game Code or receives written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required.

(g) The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this section.

**Section 26061 of the Business and Professions Code is amended to read:
26061.**

(a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, , Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.

(b) Except as otherwise provided by law, Type 1, Type 1A, Type 1E, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis as specified in Subdivision (g) of Section 19332 of Chapter 3.5 of Division 8.

(1) Type 1, or "specialty outdoor," for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or "specialty indoor," for indoor cultivation using exclusively artificial lighting of between 501 and 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or "specialty mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between 2,501 and 5,000 square feet of total canopy size on one premises.

(4) Type 1C, or "specialty cottage," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

(5) Type 2, or "small outdoor," for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(6) Type 2A, or "small indoor," for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 2B, or "small mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(8) Type 3, or "outdoor," for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3A, or "indoor," for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(10) Type 3B, or "mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(11) Type 4, or "nursery," for cultivation of medical cannabis solely as a nursery.

(c) Except as otherwise provided by law:

(1) Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

(2) Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(3) Type 5B, or "mixed-light," means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premise.

(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

(e) Commencing on January 1, 2023, A Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

Section 26062 of the Business and Professions Code is amended to read:

26062.

~~The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 19332.5 of Chapter 3.5 of Division 8.~~

(a) No later than January 1, 2020, the Department of Food and Agriculture shall make available a certified organic designation and organic certification program for medical cannabis cultivation, if permitted under federal law and the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

Section 26063 of the Business and Professions Code is amended to read:

26063.

(a) No later than January 1, 2020, the ~~bureau~~ Department of Food and Agriculture shall establish standards for recognition of a particular appellation of origin applicable to ~~marijuana~~ cannabis grown or cultivated in a certain geographical area in California.

(b) ~~Marijuana~~ cannabis shall not be marketed, labeled, or sold as grown in a California county when the ~~marijuana~~ cannabis was not grown in that county.

(c) The name of a California county shall not be used in the labeling, marketing, or packaging of ~~marijuana~~ cannabis products unless the ~~marijuana~~ cannabis contained in the product was grown in that county.

Section 26064 of the Business and Professions Code is deleted:

26064.

~~Each licensed cultivator shall ensure that the licensed premises do not pose an unreasonable risk of fire or combustion. Each cultivator shall ensure that all lighting, wiring, electrical and mechanical devices, or other relevant property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.~~

Section 26065 of the Business and Professions Code is amended to read:

26065.

An employee engaged in the cultivation of ~~marijuana~~ cannabis under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

Section 26066 of the Business and Professions Code is amended to read:

26066.

Indoor and outdoor ~~marijuana~~ cannabis cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion,

grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of ~~marijuana~~ *cannabis* cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

Chapter 6.5 Unique Identifiers and Track and Trace

Section 26067 is added to the Business and Professions Code:

26067

(a) The Department of Food and Agriculture, in consultation with the bureau, shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier pursuant to Section 11362.777 of the Health and Safety Code and secure packaging and is capable of providing information that captures, at a minimum, all of the following:

(1) The licensee receiving the product.

(2) The transaction date.

(3) The cultivator from which the product originates, including the associated unique identifier, pursuant to Section 11362.777 of the Health and Safety Code.

(b) (1) The Department of Food and Agriculture, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:

(A) The quantity, or weight, and variety of products shipped.

(B) The estimated times of departure and arrival.

(C) The quantity, or weight, and variety of products received.

(D) The actual time of departure and arrival.

(E) A categorization of the product.

(F) The license number and the unique identifier pursuant to Section 11362.777 of the Health and Safety Code issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.

(2) (A) The database shall be designed to flag irregularities for all licensing authorities in this chapter to investigate. All licensing authorities pursuant to this chapter may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

(B) The Department of Food and Agriculture shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.

(3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.

(4) The bureau shall have 24-hour access to the electronic database administered by the Department of Food and Agriculture. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.

(5) The Department of Food and Agriculture shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the Department of Food and Agriculture.

(6) Information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter or a local ordinance.

(7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this division.

Section 26068 is added to the Business and Professions Code:

26170. 26068

(a) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall ensure that the program can also track and trace the amount of the cultivation tax due pursuant to Part 14.5 of the Revenue and Taxation Code. The track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The Department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of cannabis and cannabis products throughout the distribution chain and communicate such information to licensing agencies as required by law.

(c) Any software, database or other information technology system utilized by the Department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

Section 26069 of the Business and Professions Code is amended to read:

26067 26069

(a) The Department of Food and Agriculture shall establish a ~~Marijuana~~ Cannabis Cultivation Program, to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of ~~marijuana~~ cannabis. For purposes of this division, ~~marijuana~~ cannabis is an agricultural product.

~~(b)~~ A person or entity shall not cultivate ~~marijuana~~ cannabis without first obtaining a state license issued by the department pursuant to this section.

~~(c)(l)~~ (c)(l) The department, in consultation with, but not limited to, the bureau, ~~the State Water Resources Control Board, and the Department of Fish and Wildlife~~, shall implement a unique identification program for ~~marijuana~~ cannabis. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure compliance with Section 26060.1 of the Business and Professions Code. ~~In implementing the program, the department shall ensure that:~~

~~(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.~~

~~(B) Cultivation will not negatively impact springs, riparian wetlands and aquatic habitats.~~

(2) The department, in consultation with Department of Pesticides, shall include in regulation the pesticides that will be banned for use for the cultivation of cannabis.

(3) The department shall establish a program for the identification of permitted ~~marijuana~~ cannabis plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each ~~marijuana~~ cannabis plant. The department shall ensure that unique identifiers are

issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.

(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section ~~26170~~ 26067.

(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each ~~marijuana~~ *cannabis* plant.

(D) The department may promulgate regulations to implement this section.

(4) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

(a) Unique identifier and associated identifying information administered by a city, county, or city and county are authorized, but shall not supplant the department's track and trace program.

~~(d) Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department and be the equivalent to those administered by the department.~~

~~(e)(d)~~(1) This section does not apply to the cultivation of ~~marijuana~~ *cannabis* in accordance with Section

11362.1 Of the Health and Safety Code or the Compassionate Use Act.

(3) Subdivision (b) of this section does not apply to persons or entities licensed under either paragraph (3) of subdivision (a) of Section 26070 or subdivision (b) of Section 26070.5.

(e) "Department" for purposes of this section means the Department of Food and Agriculture.

Section 26069.1 of the Business and Professions Code is added:

26069.1.

The secretary may enter into a cooperative agreement with a county agricultural commissioner, other state, or local agencies to carry out the provisions of this chapter related to state license activities, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of cannabis. Compensation under the cooperative agreement shall be paid from fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner, state, or local agencies for associated costs.

Chapter 7. Retailers and Distributors

Section 26070 of the Business and Professions Code is amended to read:

26070. Retailers and Distributors

(a) State licenses to be issued by the ~~Department of Consumer Affairs~~ bureau related to the sale and distribution are as follows:

(1) "Retailer," for the retail sale and delivery of ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products to customers. A retailer with an M-Type license shall only sell or deliver cannabis or cannabis products to individuals with a physician's recommendation. A retailer with an A-Type license shall only sell or deliver marijuana or marijuana products to individuals 21 years of age or older.

(2) "Distributor," for the distribution of ~~marijuana~~ *cannabis* and ~~marijuana~~ *cannabis* products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority. A distributor with an M-Type license shall only distribute cannabis to M-licensees. A distributor with A-Type license shall only distribute cannabis to A-licensees.

(3)(a) "Microbusiness," for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance ~~complies~~ with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(b) In coordination with each other, the licensing authorities shall establish a process by which an applicant for a microbusiness license can demonstrate compliance with all the requirements under this division for the activities that will be conducted under the license.

(c) The Bureau may enter into interagency agreements with licensing authorities to implement and enforce the provisions of this division related to microbusinesses. The costs of activities carried out by the licensing authorities as requested by the Bureau pursuant to the interagency agreement shall be calculated into the application and licensing fees collected pursuant to this division and shall provide for reimbursement to state agencies for associated costs as provided for in the interagency agreement.

(b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products. The transportation of cannabis and cannabis products shall only be conducted by persons holding a license under this division or their employees. The Transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products and theft of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products from the premises. These security measures shall include, but not be limited to, all of the following:

(1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the ~~retailer~~ dispensary.

(2) Establishing limited access areas accessible only to authorized personnel.

(3) Other than limited amounts of ~~marijuana~~ cannabis used for display purposes, samples, or immediate sale, storing all finished ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

(d) Beginning January 1, 2018, a licensee may sell cannabis or cannabis products that have not been tested for a limited and finite time as determined by the bureau. The cannabis and cannabis products must have a label affixed to each package containing cannabis or cannabis products that clearly state "The product has not been tested as required by the Adult Use of Cannabis Act and must comply with any other requirement as determined by the bureau.

Section 26070.5 of the Business and Professions Code is amended to read: 26070.5

(a) The bureau shall, by January 1, 2020~~18~~, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b).

The bureau shall consider factors including, but not limited to, the following:

(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?

(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products and a diversity of ~~marijuana~~ cannabis strains and seed stock to low income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products and a diversity of ~~marijuana~~ cannabis strains and seed stock to low income persons so long as the local jurisdiction:

- (1) confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;
 - (2) licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;
 - (3) provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;
 - (4) certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).
- (c) Temporary local licenses authorized under subdivision (b) shall expire after twelve months unless renewed by the local jurisdiction.
- (d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).
- (e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the Bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.
- (3) If the bureau determines such licenses are feasible, no temporary license issued under Subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.
- (2) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

Chapter 8. Distribution and Transport

Section 26080 of the Business and Professions Code is amended to read:

26080.

- (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products outside the state, unless authorized by federal law.
- (b) A local jurisdiction shall not prevent transportation of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products on public roads by a licensee transporting ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products in compliance with this division.

Chapter 9. Delivery

Section 26090 of the Business and Professions Code is amended to read:

26090.

- (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.
- (b) All employees of a retail, microbusiness, or nonprofit delivering cannabis or cannabis products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.
- (c) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.
- (d) A local jurisdiction shall not prevent delivery of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

Chapter 10. Manufacturers and Testing Laboratories

Section 26100 of the Business and Professions Code is deleted:

26100.

~~(a) The Department of Public Health shall promulgate regulations governing the licensing of *cannabis* manufacturers. Licenses to be issued are as follows:~~

~~(1) "Manufacturing Level 1," for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.~~

~~(2) "Manufacturing Level 2," for sites that manufacture marijuana products using volatile solvents.~~

~~(b) A testing licensee shall not hold a license, in another license category of this division.~~

Section 26101 of the Business and Professions Code is amended to read:

26101.

(a) Except as otherwise provided by law, no ~~marijuana~~ *cannabis* or ~~marijuana~~ *cannabis* products may be sold pursuant to a license provided for under this division unless a representative sample of such ~~marijuana~~ or ~~marijuana~~ product has been tested by a ~~certified-licensed~~ testing laboratory service.

(b) The bureau shall develop criteria to determine which batches shall be tested.

(c) Testing of batches to meet the requirements of this division shall only be conducted by a licensed testing laboratory.

(d) For each batch tested the testing laboratory shall issue a certificate of analysis for selected lots at a frequency determined by the bureau with supporting data, to report both of the following:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following, unless limited through regulation by the bureau:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes required by the bureau in regulation, ~~described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.~~

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(H) Any other compounds or contaminants required by the bureau.

(2) That the presence of contaminants does not exceed the levels ~~in the most current version of the American Herbal Pharmacopoeia monograph set by the bureau. In setting the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (b) of Section 26060, and any other relevant sources.~~ For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals, ~~including explosive gases, such as Butane, propane, O2 or H2, and poisons, toxins, or carcinogens, such as Methanol, Iso propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.~~

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

~~(C) Microbiological impurity~~ impurities as identified by the bureau in regulation. ~~including total aerobic microbial count, total yeast mold count, P. aeruginosa, aspergillus spp., s. aureus, aflatoxin B1, B2, G1, or G2, or ochratoxin A.~~

(e) Residual levels of volatile organic compounds shall satisfy standards of the ~~cannabis inflorescence monograph set by the United States Pharmacopeia (U S P.~~

~~Chapter 467) be set by the bureau.~~

(f) ~~The testing required by paragraph (a) shall be performed in a~~ The testing laboratory shall conduct all testing required by this section in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling and using verified methods., using standard methods established by the International Organization

for Standardization, specifically ~~ISO/IEC 17020 and ISO/IEC 17025~~ to test ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

(g) All testing laboratories performing tests pursuant to this section shall obtain and maintain ISO/IEC 17025 accreditation as required by the bureau in regulation.

(h) Any pre-sale inspection, testing transfer, or transportation of ~~marijuana~~ cannabis products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

Section 26102 of the Business and Professions Code is deleted:

~~26102.~~

~~A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of Section 19343 in Chapter 3.5 of Division 8 or unless otherwise provided by law.~~

Section 26103 of the Business and Professions Code is deleted:

~~26103.~~

~~A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 in Chapter 3.5 of Division 8 or unless otherwise provided by law.~~

Section 26104 of the Business and Professions Code is amended to read:

26104.

(a) A licensed testing ~~service~~ laboratory shall, in performing activities concerning ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The ~~Department of Public Health~~ bureau shall develop procedures to:

(1) Ensure that testing of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5;

(2) Specify how often licensees shall test ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products, and that the cost of testing ~~marijuana~~ cannabis shall be borne by the licensed cultivators and the cost of testing ~~marijuana~~ cannabis products shall be borne by the licensed manufacturer, and that the costs of testing ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products shall be borne a nonprofit licensed under Section 26070.5; and

(3) Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by the bureau promulgated by the Department of Public Health, unless remedial measures can bring the ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products into compliance with quality assurance standards as specified by the bureau. ~~promulgated by the Department of Public Health.~~

(4) Ensure that a testing laboratory employee takes the sample of cannabis and cannabis products from the distributor's premises for testing required by this division and that the testing laboratory employee transports the sample to the laboratory.

Section 26106 of the Business and Professions Code is amended to read:

26106.

Standards for the production and labeling of all ~~marijuana~~ cannabis products developed by the Department of Public Health shall apply to all licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5 unless otherwise specified by the Department of Public Health.

Chapter 11. Quality Assurance, Inspection, and Testing

Section 26110 of the Business and Professions Code is amended to read:

26110.

~~(a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.~~

~~(b) All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in Section 19326, except as otherwise provided in this division or by law.~~

(a) All cannabis batches are subject to quality assurance and testing prior to sale at a retailer, microbusiness, or nonprofit, except for immature cannabis plants and seeds, as provided for in this division.

(b) A licensee who holds a valid distributor license may act as the distributor for the licensee's cannabis and cannabis products.

(c) The distributor shall store, as determined by the bureau, the cannabis batches on the premises of the distributor before testing and continuously until:

(1) The cannabis batch passes the testing requirements pursuant to this division and is transported to a licensed retailer; or

(2) The cannabis batch fails the testing requirements pursuant to this division and is destroyed or transported to a manufacturer for remediation as allowed by the bureau.

(d) The distributor shall arrange for a testing laboratory to obtain a representative sample of each cannabis batch at the distributor's licensed premises. After obtaining the sample, the testing laboratory representative shall maintain custody of the sample and transport it to the testing laboratory.

(e) Upon issuance of a certificate of analysis by the testing laboratory that the cannabis batch has passed the testing requirements pursuant to this division, the distributor shall conduct a quality assurance review prior to distribution to ensure the labeling and packing of the cannabis and cannabis products conform to the requirements of this division.

(g) After testing, all cannabis and cannabis products fit for sale may be transported only from the distributor's premises to the premises of a licensed retailer, microbusiness, or nonprofit.

(h) A licensee is not required to sell cannabis or cannabis products to a distributor and may directly contract for sale with a licensee authorized to sell cannabis and cannabis products to purchasers.

(f) A distributor performing services pursuant to this section may collect a fee from the licensee for the services provided. The fee may include but is not limited to the costs incurred for laboratory testing. A distributor may also collect applicable state or local taxes and fees.

(g) Nothing in this section prohibits a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. The testing conducted on the licensee's premises by the licensee does not meet the testing requirements pursuant to this division.

Chapter 12. Packaging and Labeling

Section 26120 of the Business and Professions Code is amended to read:

26120.

(a) Prior to delivery or sale at a retailer, ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products shall be labeled and placed in a resalable, tamper evident, child resistant package and shall include a unique identifier, as prescribed by the Department of Food and Agriculture, for the purpose of identifying and tracking cannabis and cannabis products

(b) Packages and labels shall not be made to be attractive to children.

(c) All ~~marijuana~~ cannabis and ~~marijuana~~ cannabis product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the Department of Public Health: ~~not less than 8 point font:~~

~~(1) Manufacture date and source.~~

(1) The following statements, in bold print:

(A) For ~~marijuana~~ cannabis: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS **MARIJUANA CANNABIS**, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. **MARIJUANA CANNABIS** MAY ONLY BE POSSESSED OR

CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT ~~MARIJUANA~~ CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF ~~MARIJUANA~~ CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY PLEASE USE EXTREME CAUTION "

(B) For ~~marijuana~~ cannabis products: "GOVERNMENT WARNING: THIS PRODUCT CONTAINS ~~MARIJUANA~~ CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. ~~MARIJUANA~~ CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT THE INTOXICATING EFFECTS OF ~~MARIJUANA~~ CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. ~~MARIJUANA~~ CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF ~~MARIJUANA~~ CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY PLEASE USE EXTREME CAUTION "

(2) For packages containing only dried flower, the net weight of ~~marijuana~~ cannabis in the package.

(3) Identification of the source and date of cultivation, the type of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis product and the date of manufacturing and packaging.

(4) The appellation of origin, if any.

(5) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total, ~~and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.~~

(6) For ~~marijuana~~ products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in 21 C.F.R. section 101.9.

(7) ~~A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.~~

(7) A warning if nuts or other known allergens are used.

(8) Information associated with the unique identifier issued by the Department of Food and Agriculture.

(9) For a medical cannabis product sold at a retailer, must include the statement "FOR MEDICAL USE ONLY."

(10) Any other requirement set by the bureau or the Department of Public Health.

(d) Only generic food names may be used to describe the ingredients in edible marijuana products.

(e) In the event the ~~bureau~~ Attorney General determines that ~~marijuana~~ cannabis is no longer a schedule I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that ~~marijuana~~ cannabis is a schedule I controlled substance.

Section 26121 is added to the Business and Professions Code:

26121

(a) A cannabis product is misbranded if it is any of the following:

(1) Manufactured, packed, or held in this state in a manufacturing site not duly licensed as provided in this division.

(2) Its labeling is false or misleading in any particular.

(3) Its labeling or packaging does not conform to the requirements of Section 26120 or any other labeling or packaging requirement established pursuant to this division.

(b) It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is misbranded.

(c) It is unlawful for any person to misbrand a cannabis product.

(d) It is unlawful for any person to receive in commerce a cannabis product that is misbranded or to deliver or offer for delivery any such cannabis product.

Chapter 13. ~~Marijuana~~ Cannabis Products

Section 26130 of the Business and Professions Code is amended to read: 26130.

- (a) The Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing and labeling of all manufactured cannabis products. Licenses to be issued are as follows:
- (1) "Manufacturing Level 1,"for sites that manufacture cannabis products using nonvolatile solvents, or no solvents. A Manufacturing Level 1 Type 6-M license shall only manufacture cannabis products for sale by a retailer with a Type 10-M license.
- (2) "Manufacturing Level 2,"for sites that manufacture cannabis products using volatile solvents. A Manufacturing Level 1 Type 7-M license shall only manufacture cannabis products for sale by a retailer with a Type 10-M license.
- (b) ~~Marijuana~~ Edible cannabis products shall be:
- (1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain ~~marijuana~~ cannabis.
- (2) Produced and sold with a standardized ~~dosage~~ concentration of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol per serving.
- (3) Delineated or scored into standardized serving sizes if the ~~marijuana~~ cannabis product contains more than one serving and is an edible ~~marijuana~~ cannabis product in solid form.
- (4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.
- (5) Manufactured and sold under sanitation standards established by the Department of Public Health, in consultation with the bureau, that are similar to the standards for preparation, storage, handling and sale of food products.
- (6) Provided to customers with sufficient information to enable the informed consumption of Such product, including the potential effects of the ~~marijuana~~ cannabis product and directions as to how to consume the ~~marijuana~~ cannabis product, as necessary.
- (c) ~~Marijuana~~ Cannabis, including concentrated cannabis, included in a ~~marijuana~~ cannabis product manufactured in compliance with law is not considered an adulterant under state law.

Section 26131 of the Business and Professions Code is added to read: 26131

- (a) A cannabis product is adulterated if it is any of the following:
- (1) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered injurious.
- (2) It consists in whole or in part of any filthy, putrid, or decomposed substance.
- (3) It bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use suggested in the labeling or under conditions as are customary or usual.
- (4) It bears or contains a substance that is restricted or limited under this chapter or regulations promulgated pursuant to this chapter and the level of substance in the product exceeds the limits specified pursuant to this chapter or in regulation.
- (5) Its concentrations differ from, or its purity or quality is below, that which it is represented to possess.
- (6) The methods, facilities, or controls used for its manufacture, packing, or holding do not conform to or are not operated or administered in conformity with practices established by regulations adopted under this chapter to ensure that the cannabis product meets the requirements of this chapter as to safety and has the concentrations it purports to have and meets the quality and purity characteristics that it purports or is represented to possess.
- (7) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.
- (8) It is an edible cannabis product and any substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality or concentration or if any substance has been substituted, wholly or in part, for the edible cannabis product.

(b) It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is adulterated.

(c) It is unlawful for any person to adulterate a marijuana product.

(d) It is unlawful for any person to receive in commerce a cannabis product that is adulterated or to deliver or proffer for delivery any such cannabis product.

Section 26132 of the Business and Professions Code is added to read:

26132

(a) When the Department of Public Health has evidence that a cannabis product is adulterated or misbranded, the department shall notify the manufacturer.

(b) The Department of Public Health may order a manufacturer to immediately cease distribution of a cannabis product and recall the product if the department determines both of the following:

(1) The manufacture, distribution, or sale of the cannabis product creates or poses an immediate and serious threat to human life or health.

(2) Other procedures available to the Department of Public Health to remedy or prevent the occurrence of the situation would result in an unreasonable delay.

(c) The Department of Public Health shall provide the manufacturer an opportunity for an informal proceeding on the matter, as determined by the department, within five days, on the actions required by the order and on why the product should not be recalled. Following the proceeding, the order shall be affirmed, modified, or set aside as determined appropriate by the Department of Public Health.

(d) The Department of Public Health's powers set forth in this section expressly include the power to order movement, segregation, isolation, or destruction of cannabis products, as well as the power to hold those products in place.

(e) If the Department of Public Health determines it is necessary, it may issue the mandatory recall order and may use all appropriate measures to obtain reimbursement from the manufacturer for any and all costs associated with these orders. All funds obtained by the Department of Public Health from these efforts shall be deposited into a fee account specific to the Department of Public Health, to be established in the Cannabis Control Fund, and will be available for use by the department upon appropriation by the Legislature.

(f) It is unlawful for any person to move or allow to be moved a cannabis product subject to an order issued pursuant to this section unless that person has first obtained written authorization from the Department of Public Health.

Section 26133 of the Business and Professions Code is added to read:

26133

(a) Whenever the Department of Public Health finds or has probable cause to believe that any cannabis product is adulterated or misbranded within the meaning of this chapter or the sale of the cannabis product would be in violation of this chapter, the department shall affix to the cannabis product, or component thereof, a tag or other appropriate marking. The Department of Public Health shall give notice that the cannabis product is, or is suspected of being, adulterated or misbranded, or the sale of which would be in violation of this chapter and has been embargoed and that no person shall remove or dispose of the cannabis product by sale or otherwise until permission for removal or disposal is given by the Department of Public Health or a court.

(b) It is unlawful for any person to remove, sell, or dispose of a detained or embargoed cannabis product without written permission of the Department of Public Health or a court. A violation of this subdivision is subject to a fine of not more than ten thousand dollars (\$10,000).

(c) If the adulteration or misbranding can be corrected by proper labeling or additional processing of the cannabis product and all of the provisions of this chapter can be complied with, the claimant or licensee may request the Department of Public Health to remove the tag or other marking. If, under the supervision of the Department of Public Health, the adulteration or misbranding has been corrected, the department may remove the tag or other marking.

- (d) When the Department of Public Health finds that a cannabis product that is embargoed is not adulterated, misbranded, or whose sale is not otherwise in violation of this chapter, the Department of Public Health may remove the tag or other marking.
- (e) The cannabis product may be destroyed by the licensee pursuant to a corrective action plan approved by the Department of Public Health and under the supervision of the department. The cannabis product shall be destroyed at the expense of the claimant or licensee.
- (f) A proceeding for condemnation of any cannabis product under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with Section 19308.
- (g) Upon a finding by the administrative law judge that the cannabis product is adulterated, misbranded, or whose sale is otherwise in violation of this chapter, the administrative law judge may direct the cannabis product to be destroyed at the expense of the claimant or owner. The administrative law judge may also direct a claimant or licensee of the affected cannabis product to pay fees and reasonable costs, including the costs of storage and testing, incurred by the bureau or the Department of Public Health in investigating and prosecuting the action taken pursuant to this section.
- (h) When, under the supervision of the Department of Public Health, the adulteration or misbranding has been corrected by proper labeling or additional processing of the cannabis product and when all provisions of this chapter have been complied with, and after costs, fees, and expenses have been paid, the Department of Public Health may release the embargo and remove the tag or other marking and the cannabis product shall no longer be held for sale in violation of this chapter.
- (i) The Department of Public Health may condemn any cannabis product under provisions of this chapter. The cannabis product shall be destroyed at the expense of the claimant or owner.

Section 26134 of the Business and Professions Code is added to read:

26134

- (a) The Department of Public Health may issue a citation, which may contain an order of abatement and an order to pay an administrative fine assessed by the department where the licensee is in violation of this chapter or any regulation adopted pursuant to it.
- (1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.
- (2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.
- (3) In no event shall the administrative fine assessed by the Department of Public Health exceed five thousand dollars (\$5,000) for each violation, unless a different fine amount is expressly provided by this chapter. In assessing a fine, the licensing authority shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.
- (4) A citation issued or a fine assessed pursuant to this section shall notify the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the Department of Public Health within 30 days of the date of issuance of the citation or fine. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (5) Failure of a licensee to pay a fine within 30 days of the date of assessment of the fine, unless assessment of the fine or the citation is being appealed, may result in further legal action being taken by the Department of Public Health. If a licensee does not contest a citation or pay the fine, the full amount of the fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, including the amount of the fine.
- (6) A citation may be issued without the assessment of an administrative fine.
- (7) The Department of Public Health may limit the assessment of administrative fines to only particular violations of the chapter and establish any other requirement for implementation of the citation system by regulation.

(b) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

**Section 26135 of the Business and Professions Code is added to read:
26135.**

The bureau may seize cannabis and cannabis products in the following circumstances:

- (1) The cannabis or cannabis product is subject to recall or embargo by any licensing authority;
- (2) The cannabis or cannabis product is subject to destruction pursuant to this division; or
- (3) The cannabis or cannabis product is seized related to an investigation or disciplinary action for violation of this division.

Chapter 14. Protection of Minors

**Section 26140 of the Business and Professions Code is amended to read:
26140.**

- (a) No A-licensee shall:
 - (1) Sell ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products to persons less than 21 years of age.
 - (2) Allow any person less than 21 years of age on its premises.
 - (3) Employ or retain persons less than 21 years of age.
 - (4) Sell or transfer ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products unless the person to whom the ~~marijuana~~ cannabis or ~~marijuana~~ cannabis product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.
- (b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish ~~marijuana~~ cannabis to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any ~~marijuana~~ cannabis while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase ~~marijuana~~ cannabis. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
- (c) Notwithstanding subdivision (a), an M-licensee ~~that is also a dispensary licensed under Chapter 3.5 (commencing with Section 19300) of Division 8~~ may:
 - (1) Allow on the premises any person 18 years of age or older who possesses a valid ~~identification card under Section 11362.71 of the Health and Safety Code~~ physician's recommendation and a valid government-issued identification card or a county issued identification card;
 - (2) Sell ~~marijuana~~ cannabis, ~~marijuana~~ cannabis products, and ~~marijuana~~ cannabis accessories to a person 18 years of age or older who possesses a valid ~~identification card under Section 11362.71 of the Health and Safety Code~~ physician's recommendation and a valid government-issued identification card or a county issued identification card.

Chapter 15. Advertising and Marketing Restrictions

**Section 26150 of the Business and Professions Code is amended to read:
26150.**

For purposes of this chapter:

- (a) "Advertise" means the publication or dissemination of an advertisement.
- (b) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

- (1) Any label affixed to any ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.
- (2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or Promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.
- (c) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently-affixed advertisement promoting the sale of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products which are not cultivated, manufactured, distributed, or sold on the same lot.
- (d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products and health benefits, or effects on health.
- (e) "Market" or "Marketing" means any act or process of promoting or selling ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products, including but not limited to, sponsorship of sporting events, point of sale advertising, development of products specifically designed to appeal to certain demographics, etc.

Section 26151 of the Business and Professions Code is amended to read:

26151.

- (a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, *by adding at a minimum, the licensee's license number.*
- (b) Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.
- (c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.
- (d) All advertising shall be truthful and appropriately substantiated.

Section 26152 of the Business and Professions Code is amended to read:

26152.

No licensee shall:

- (a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter tends to create a misleading impression;
- (b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;
- (c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the ~~marijuana~~ cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;
- (d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border ~~of any other state~~;
- (e) Advertise or market ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products in a manner intended to encourage persons under the age of 21 years to consume ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products;

- (f) Publish or disseminate advertising or marketing ~~shall not be attractive to children containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption~~; or
- (g) Advertise or market ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

Section 26153 of the Business and Professions Code is amended to read:

26153.

No licensee shall give away any amount of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products, or any ~~marijuana~~ cannabis accessories, as part of a business promotion or other commercial activity.

Section 26154 of the Business and Professions Code is amended to read:

26154.

No licensee shall include on the label of any cannabis or cannabis product, publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of ~~marijuana~~ cannabis consumption.

Section 26155 of the Business and Professions Code is amended to read:

26155.

(a) The provisions of subsection (g) of section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products in a manner intended to encourage persons under the age of 21 years to consume ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products.

(b) This chapter does not apply to any noncommercial speech.

Chapter 16. Records

Section 26160 of the Business and Professions Code is amended to read:

26160.

(a) A licensee shall keep accurate records of commercial ~~marijuana~~ cannabis activity.

(b) All records related to commercial ~~marijuana~~ cannabis activity as defined by the licensing authorities shall be maintained for a minimum of seven years.

(c) ~~The bureau~~ Licensing authorities may examine the ~~books and~~ records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections and examination of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the record of any licensee. Licensees shall also provide and deliver copies of documents to the licensing agency upon request.

(e) A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.

(f) If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records Required pursuant to this section, the licensee shall be subject to a citation and fine of up to thirty thousand dollars (\$30,000) per individual violation.

Section 26161 of the Business and Professions Code is amended to read:

26161.

(a) Every sale or transport of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination

by employees of the ~~bureau~~ *the licensing authorities* or Board of Equalization and shall not be commingled with invoices covering other commodities.

(b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:

- (1) Name and address of the purchaser.
- (2) Date of sale and invoice number.
- (3) Kind, quantity, size, and capacity of packages of marijuana or marijuana products sold.
- (4) The cost to the purchaser, together with any discount applied to the price as shown on the invoice.
- (5) The place from which transport of the marijuana or marijuana product was made unless transport was made from the premises of the licensee.
- (6) Any other information specified by the bureau or the licensing authority.

Chapter 17. Track and Trace System

Section 26170 of the Business and Professions Code is deleted:

~~26170.~~

~~(d) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the ensure the track and trace program provided for under Article 7.5 to include the reporting of the movement of recreational marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 of the Revenue and Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.~~

~~(e) The Department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of marijuana marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.~~

~~(f) Any software, database or other information technology system utilized by the Department to implement the expanded track and trace program shall support interoperability with third party cannabis business software applications and allow all licensee facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third party applications. The system should provide a test environment for third party applications to access that mirrors the production environment.~~

Chapter 18. License Fees

Section 26180 of the Business and Professions Code is amended to read:

26180.

Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

- (a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section ~~26170~~ 26067, but shall not exceed the reasonable regulatory costs to the licensing authority.
- (b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

- (c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.
- (d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the ~~Marijuana~~ Cannabis Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

**Section 26181 of the Business and Professions Code is amended to read:
26181.**

The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their ~~marijuana~~ cannabis regulatory programs.

Chapter 19 Annual Reports; Performance Audit

**Section 26190 of the Business and Professions Code is amended to read:
26190.**

~~Beginning on March 1, 2020 and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities concerning commercial marijuana activities and post the report on the authority's website. The report shall include, but not be limited to, the same type of information specified in Section 19353, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.~~

Beginning on March 1, 2023 and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities, in compliance with Section 9795 of the Government Code, and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

(a) The amount of funds allocated and spent by the licensing authority for cannabis licensing, enforcement, and administration.

(b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.

(c) The average time for processing state license applications, by state license category.

(d) The number of appeals from the denial of state licenses or other disciplinary actions taken by the licensing authority and the average time spent on these appeals.

(e) The number of complaints submitted by citizens or representatives of cities or counties regarding licensees, provided as both a comprehensive statewide number and by geographical region.

(f) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.

(g) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

(h) A detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.

(i) For the first publication of the reports, the licensing authorities shall provide a joint report to the Legislature regarding the state of the cannabis market in California. This report shall identify any statutory or regulatory changes necessary to ensure that the implementation of this division does not:

(1) allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;

(2) perpetuate the presence of an illegal market for cannabis or cannabis products in the state or out of the state;

(3) encourage underage use or adult abuse of cannabis or cannabis products, or illegal diversion of cannabis or cannabis products out of the state;

(4) result in an excessive concentration of licensees in a given city, county, or both;

(5) present an unreasonable risk of minors being exposed to cannabis or cannabis products; or

(6) Result in violations of any environmental protection laws.

(b) For purposes of this section, "excessive concentration" means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:

(2) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis or cannabis products.

(3) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

**Section 26191 of the Business and Professions Code is amended to read:
26191.**

(a) Commencing January 1, 2019, and by January 1 of each year ~~of each year~~ triennially thereafter, the ~~Bureau of State Audits~~ Office of State Audits and Evaluations within the Department of Finance shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

(7) The actual costs of the program.

(8) The overall effectiveness of enforcement programs.

(9) Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(b) The Legislature shall provide sufficient funds to the ~~Bureau of State Audits~~ Department of Finance to conduct the ~~annual~~ triennial audit required by this section.

Chapter 20. Local Control

**Section 26200 of the Business and Professions Code is amended to read:
26200.**

(a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(b) Nothing in this division shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial ~~marijuana~~ cannabis activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. ~~Within ten 10 days of being so informed by the bureau, The relevant licensing authorities shall commence proceedings under Chapter 3 of this Division to determine whether a license issued to the licensee should be suspended or revoked~~ pursuant to Chapter 3 of this Division.

(d) Notwithstanding paragraph (l) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products on the premises of a retailer or microbusiness licensed under this division if:

(1) Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older;

(1) ~~Marijuana~~ Cannabis consumption is not visible from any public place or non-age restricted area; and

(2) Sale or consumption of alcohol or tobacco is not allowed on the premises.

26201.

Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

Section 26202 of the Business and Professions Code is amended to read:

26202.

(a) A local jurisdiction may enforce this division and the regulations promulgated by the bureau or any licensing authority if delegated the power to do so by the bureau or a licensing authority.

(b) The bureau or any licensing authority shall implement the delegation of enforcement authority in subdivision (a) through a ~~memorandum of understanding~~ an agreement between the bureau or licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

Chapter 21. Funding

Section 26210 of the Business and Professions Code is amended to read:

26210.

(a) The Medical Marijuana Regulation and Safety Act Fund established within the State Treasury in Section 19351 of Chapter 3.5 of Division 8 is hereby renamed the Marijuana Cannabis Control Fund. Moneys in the fund shall be available upon appropriation by the Legislature. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the moneys in the fund.

(b) Upon the effective date of this section, whenever "Medical Marijuana Regulation and Safety Act Fund" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Marijuana Cannabis Control Fund.

(c) Any General Fund or special fund loan that was used to establish and support the regulatory activities of the state licensing entities under this division, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Medical Cannabis Fines and Penalties Account shall be made available to the bureau, to repay the loan.

(d) Except as otherwise provided, all moneys collected pursuant to this division as a result of fines or penalties imposed under this chapter shall be deposited directly into the Medical Cannabis Fines and Penalties Account, which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the bureau, for the purposes of funding the enforcement grant program pursuant to subdivision (d).

(e) (1) The bureau shall establish a grant program to allocate moneys from the Medical Cannabis Fines and Penalties Account to state and local entities for the following purposes:

(A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.

(B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.

(2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the Medical Cannabis Fines and Penalties Account.

(3) The grant program established by this subdivision shall only be implemented after the loan specified in this section is repaid-

Section 26211 of the Business and Professions Code is amended to read:

26211.

(a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the Board of Equalization under Part 14.5 of Division 2 of the Revenue and Taxation

Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

(1) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the Board of Equalization, as necessary, to implement the provisions of Part 14.5 of Division 2 of the Revenue and Taxation Code.

(2) Within 45 days of this section becoming operative:

(A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the ~~Marijuana~~ Cannabis Control Fund that does not exceed thirty million dollars (\$30,000,000); and

(B) There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the Department of Health Care Services to provide for the public information program described in subdivision (c).

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the ~~Marijuana~~ Cannabis Control Fund to support the activities of the bureau, state licensing authorities under this division, and the Board of Equalization to support its activities under Part 14.5 of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

(c) The Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate, and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of ~~marijuana cannabis~~ and ~~marijuana cannabis~~ products to persons under the age of 21 years, describe the penalties for providing access to ~~marijuana cannabis~~ and ~~marijuana cannabis~~ products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from ~~marijuana cannabis~~ use, the potential harms of using ~~marijuana cannabis~~ while pregnant or breastfeeding, and the potential harms of overusing ~~marijuana cannabis~~ or ~~marijuana cannabis~~ products.

SECTION XXXX

If any provision in this Act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

Section 13276 of the Water Code is amended of read: 13276.

(a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by ~~marijuana cannabis~~ cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of ~~marijuana cannabis~~ cultivation on water quality and on fish and wildlife throughout the state.

(b) ~~Each regional board shall, and the State Water Resources Control Board may,~~ The State Water Resources Control Board or the appropriate regional board shall address discharges of waste resulting from ~~medical marijuana medicinal cannabis~~ cultivation and commercial ~~marijuana cannabis~~ cultivation under Division 10 of the Business and Profession Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, ~~each the state board or the regional board~~ shall include conditions to address items that include, but are not limited to, all of the following:

- (1) Site development and maintenance, erosion control, and drainage features.
- (2) Stream crossing installation and maintenance.
- (3) Riparian and wetland protection and management.
- (4) Soil disposal.
- (5) Water storage and use.
- (6) Irrigation runoff.
- (7) Fertilizers and soil.
- (8) Pesticides and herbicides.
- (9) Petroleum products and other chemicals.
- (10) Cultivation-related waste.
- (11) Refuse and human waste.
- (12) Cleanup, restoration, and mitigation.

Amend Section 1831 of the Water Code as follows:

1831.

- (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.
- (b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.
- (c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.
- (d) The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:
 - (1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.
 - (2) Any term or condition of a permit, license, certification, or registration issued under this division.
 - (3) Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.
 - (4) A regulation adopted under Section 1058.5.
 - (5) Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.
 - (6) Any diversion or use of water for cannabis cultivation if any of the following applies:
 - (A) A license is required, but has not been obtained, ~~under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the~~ or Chapter 6 (commencing with Section 26060 or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code.
 - (B) The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.
 - (C) The diversion or use is not in compliance with a requirement imposed under ~~subdivision (d) or (e) of Section 19332.2 of subdivision (c) of Section 26060 of, or paragraph (3) of subdivision (a) of Section 26070 of~~ subdivision (c) of Section 26060 of, or paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.
- (e) This article does not alter the regulatory authority of the board under other provisions of law.

Amend Section 1847 of the Water Code as follows:

- (a) A person or entity may be liable for a violation of any of the requirements of subdivision (b) in an amount not to exceed the sum of the following:
 - (1) Five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person.
 - (2) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

(b) Liability may be imposed for any of the following violations:

(1) Violation of a limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.

(2) Failure to submit information, or making a material misstatement in information submitted, under ~~subdivision (a), (b), or (c) of Section 19332.2 or paragraph (6) of subdivision (c) of Section 26056~~ of the Business and Professions Code.

(3) Violation of any ~~requirement imposed under subdivision (c) of Section 19332.2 of the Business and Professions Code~~ regulation requiring compliance with that subdivision that is issued under Section 26060 of the Business and Professions Code.

(4) Diversion or use of water for cannabis cultivation for which a license is required, but has not been obtained, ~~under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 Chapter 6 (commencing with Section 26060) or Chapter 7 (commencing with Section 26070) of Division 10~~ of the Business and Professions Code.

(c) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(d) Civil liability may be imposed administratively by the board pursuant to Section 1055.

SECTION 7. MARIJUANA TAX.

Part 14.5 (commencing with Section 34010) is added to Division 2 of the Revenue and Taxation Code, to read:

Part 14.5. ~~Marijuana~~ Cannabis Tax

Section 34010 of the Revenue and Taxation Code is amended to read: 34010.

For purposes of this part:

(a) "Board" shall mean the Board of Equalization or its successor agency.

(b) "Bureau" shall mean the Bureau of ~~Marijuana~~ Cannabis Control within the Department of Consumer Affairs.

(c) "Tax Fund " means the California ~~Marijuana~~ Cannabis Tax Fund created by Section 34018.

(d) "~~Marijuana~~ Cannabis" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.

(e) "~~Marijuana~~ Cannabis products" shall have the same meaning as marijuana products set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.

(f) "~~Marijuana~~ Cannabis flowers" shall mean the dried flowers of the ~~marijuana~~ cannabis plant as defined by the Board.

(g) "~~Marijuana~~ Cannabis leaves" shall mean all parts of the ~~marijuana~~ cannabis plant other than ~~marijuana~~ cannabis flowers that are sold or consumed.

(h) "Gross receipts" shall have the same meaning as set forth in Section 6012.

(i) "Retail sale" shall have the same meaning as set forth in Section 6007.

(j) "Person" shall have the same meaning as set for in section 6005.

(k) "Microbusiness" shall have the same meaning as set for in Section 26070(a)(3) of the Business and Professions Code.

(l) "Nonprofit" shall have the same meaning as set for in Section 26070.5 of the Business and Professions Code.

Section 34011 of the Revenue and Taxation Code is amended to read: 34011.

(a) Effective January 1, 2018, a ~~marijuana~~ cannabis excise tax shall be imposed upon purchasers of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products sold in this state at the rate of fifteen percent (15%) of the gross receipts of any retail sale by a ~~dispensary~~ retailer or other person required to be licensed pursuant to ~~Chapter 3.5 of Division 8 of the Business and Professions Code~~ or a retailer,

microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code to sell ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products directly to a purchaser.

(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if non-itemized, of any transaction involving both ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products is contingent on purchase of those goods or services.

(c) A ~~dispensary~~ retailer or other person required to be licensed pursuant to ~~Chapter 3.5 of Division 8~~ Division 10 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.

(d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(e) Gross receipts from the sale of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.

(f) No ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(g) The sales and use tax imposed by Part 1 of this division shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in ~~Chapter 3.5 of Division 8~~ Division 10 of the Business and Professions Code when a qualified patient (or primary caregiver for a qualified patient) provides his or her card issued under ~~physician's recommendation~~ Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

**Section 34012 of the Revenue and Taxation Code is amended to read:
34012.**

(a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested ~~marijuana~~ cannabis that enters the commercial market upon all persons required to be licensed to cultivate ~~marijuana~~ cannabis pursuant to ~~Chapter 3.5 of Division 8 of the Business and Professions Code or~~ Division 10 of the Business and Professions Code. The tax shall be due after the ~~marijuana~~ cannabis is harvested.

(1) The tax for ~~marijuana~~ cannabis. Flowers shall be nine dollars and twenty-five cents (\$9.25) per dry- weight ounce.

(2) The tax for ~~marijuana~~ cannabis leaves shall be set at two dollars and seventy five cents (\$2.75) per dry-weight ounce.

(b) The board may adjust the tax rate for ~~marijuana~~ cannabis leaves annually to reflect. Fluctuations in the relative price of ~~marijuana~~ cannabis flowers to ~~marijuana~~ cannabis leaves.

(c) The board may from time to time establish other categories of harvested ~~marijuana~~ cannabis, categories for unprocessed or frozen ~~marijuana~~ cannabis or immature plants, or ~~marijuana~~ cannabis that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with ~~marijuana~~ cannabis flowers.

(d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the ~~marijuana~~ cannabis is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under ~~Chapter 3.5 of Division 8 of the Business and Professions Code or under~~ Division 10 of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no ~~marijuana~~ cannabis may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

- (g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section ~~26170~~ 26068 of the Business and Professions Code.
- (h) Persons required to be licensed to cultivate ~~marijuana~~ cannabis pursuant to ~~Chapter 3.5 of Division 8 of the Business and Professions Code or~~ Division 10 of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No ~~marijuana~~ cannabis may be sold unless the tax has been paid as provided in this part.
- (i) All ~~marijuana~~ cannabis removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.
- (j) The tax imposed by this section shall be imposed on all ~~marijuana~~ cannabis cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to ~~marijuana~~ cannabis cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.
- (k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.
- (l) The Department of Food and Agriculture is not responsible for enforcing any provisions of the cultivation tax.*

**Section 34013 of the Revenue and Taxation Code is amended to read:
34013.**

- (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "fee payer" shall include a person required to pay or collect the tax imposed by this part.
- (b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.
- (c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products, or the packages thereof, to designate prior tax payment.
- (d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.
- (e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code ~~or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code.~~
- (f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

**Section 34014 of the Revenue and Taxation Code is amended to read:
34014.**

- (a) All persons required to be licensed involved in the cultivation and retail sale of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, ~~dispensary~~, retailer, microbusiness or nonprofit pursuant to ~~Chapter 3.5 of Division 8 of the Business and Professions Code or~~ Division 10 of

the Business and Professions Code without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

(b) The board may require every licensed ~~retailer dispensary~~, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on ~~marijuana~~ cannabis produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a ~~marijuana~~ cannabis business. A person may not commence or continue any business or operation relating to ~~marijuana~~ cannabis cultivation until any surety required by the board with respect to the business or operation have been properly prepared, executed and submitted under this part.

(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

**Section 34015 of the Revenue and Taxation Code is amended to read:
34015.**

(a) The ~~marijuana~~ cannabis excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Divisions 8 or 10 of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to section 34012(d) the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution or retail sale of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products required to be licensed pursuant to ~~Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code~~ to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

**Section 34016 of the Revenue and Taxation Code is amended to read:
34016.**

(a) Any peace officer, or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

(3) Inspections shall ~~be requested or~~ be conducted no more than once in a 24-hour period.

(b) Any person who fails or refuses to allow an inspection shall be subject to a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California ~~Marijuana~~ Cannabis Tax Fund.

(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis

products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products. Any ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

(f) All moneys remitted to the board under this part shall be credited to the California ~~Marijuana~~ Cannabis Tax Fund.

**Section 34018 of the Revenue and Taxation Code is amended to read:
34018.**

(a) The California ~~Marijuana~~ Cannabis Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

(b) Notwithstanding any other law, the California ~~Marijuana~~ Cannabis Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of ~~Marijuana~~ Cannabis Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of ~~Marijuana~~ Cannabis Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.

(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

**Section 34019 of the Revenue and Taxation Code is amended to read:
34019.**

(a) Beginning with fiscal year 2017-2018 the Department of Finance shall estimate revenues to be received pursuant to sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however; such costs shall not exceed four percent (4%) of tax revenues received.

(2) Reasonable costs incurred by the Bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health for implementing, administering, and enforcing ~~Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code.~~ This paragraph shall remain operative through fiscal year 2022-2023.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under ~~Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code to the extent those costs are not otherwise reimbursed.~~

- (4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of ~~Marijuana~~ Cannabis Act, including the audit required by Section 34020.
- (5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.
- (6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.
- (7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under ~~Chapter 3.5 of Division 8 of the Business and Professions Code and~~ Division 10 of the Business and Professions Code.
- (b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018-2019 until fiscal year 2028-2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of ~~Marijuana~~ Cannabis Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of ~~Marijuana~~ Cannabis Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:
 - (1) Impacts on public health, including health costs associated with ~~marijuana~~ cannabis use, as well as whether ~~marijuana~~ cannabis use is associated with an increase or decrease in use of alcohol or other drugs.
 - (2) The impact of treatment for maladaptive ~~marijuana~~ cannabis use and the effectiveness of different treatment programs.
 - (3) Public safety issues related to ~~marijuana~~ cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the Act at preventing underage access to and use of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products, and studying the health-related effects among users of varying potency levels of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products.
 - (4) ~~Marijuana~~ Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis rates of ~~marijuana~~ cannabis related substance use disorders.
 - (5) ~~Marijuana~~ Cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax ~~marijuana~~ cannabis based on potency, and the structure and function of licensed marijuana businesses.
 - (6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior reform occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.
 - (7) The economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.
 - (8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of ~~Marijuana~~ Cannabis Act are doing so consistent with the purposes of the Act, and whether different agencies might do so more effectively.
 - (9) Environmental issues related to ~~marijuana~~ cannabis production and the criminal prohibition of ~~marijuana~~ cannabis production.
 - (10) The geographic location, structure, and function of licensed ~~marijuana~~ cannabis businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate, and Tax Adult Use of Marijuana Act for ~~marijuana~~ cannabis related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018-2019 until fiscal year 2022-2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018-2019 and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until fiscal year 2022-2023, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the Department of Social Services, to administer a Community Reinvestments grants program to local health departments and at least fifty-percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The Office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the Office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than four percent (4%) for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the Center including the enhanced understanding of the efficacy and adverse effects of ~~marijuana~~ cannabis as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in fiscal year 2018-2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent (60%) shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The Department of Health Care services shall enter into inter-agency agreements with the Department of Public Health and the Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support Student Assistance Programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

- (C) Grants to programs for outreach, education and treatment for homeless youth and out of school youth with substance use disorders.
- (D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.
- (E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes, screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.
- (F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.
- (G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.
- (H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.
- (I) Construction of community-based youth treatment facilities.
- (J) The departments may contract with each county behavioral health program for the provision of services.
- (K) Fund shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need.
- (L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.
- (M) The departments may use up to four percent (4%) of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.
- (N) If the Department of Finance ever determines that funding pursuant to ~~marijuana~~ cannabis taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.
- (O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.
- (2) Twenty percent (20%) shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:
- (A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by ~~marijuana~~ cannabis cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and

Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of ~~marijuana~~ cannabis and ~~marijuana~~ cannabis products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of ~~marijuana~~ cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of Statutes of 2014).

(3) Twenty percent (20%) shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of ~~marijuana~~ cannabis. The Department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including ~~marijuana~~ cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including ~~marijuana~~ cannabis.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of ~~Marijuana~~ Cannabis Act. The Board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under Section 11362.2 (b)(3) of the Health and Safety Code, or retail sale of ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022-2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022-2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of ~~Marijuana~~ Cannabis Act, including allocating funds to programs other than those specified in subdivisions (d) and (f) of this section. Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027-2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f) of this section.

Section 34021.5 of the Revenue and Taxation Code is amended to read:

34021.5

(a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing ~~marijuana~~ cannabis or ~~marijuana~~ cannabis products by a licensee operating under ~~Chapter 3.5 of Division 8 of the Business and Professions Code~~ or Division 10 of the Business and Professions Code.

(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.

(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

SECTION 8. CRIMINAL OFFENSES, RECORDS, AND RESENTENCING.

Sections 11357, 11358, 11359, 11360 and 11361.5 of the Health and Safety Code are amended to read as follows:

11357. Possession

(a) Except as authorized by law, possession of not more than 28.5 grams of ~~marijuana~~ cannabis, or not more than four grams of concentrated cannabis, or both, shall be punished or adjudicated as follows:

(1) Persons under the age of 18 shall be guilty of an infraction and shall be required to:

(A) Upon a finding that first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.

(B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.

(2) Persons at least 18 years of age but less than 21 years of age shall be guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).

(eb) Except as authorized by law, possession of more than 28.5 grams of ~~marijuana~~ cannabis, or more than four grams of concentrated cannabis, shall be punished as follows:

(1) Persons under the age of 18 who possess more than 28.5 grams of ~~marijuana~~ cannabis or more than four grams of concentrated cannabis, or both, shall be guilty of an infraction and shall be required to:

(A) Upon a finding that first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

(2) Persons 18 years of age or over who possess more than 28.5 grams of ~~marijuana~~ cannabis, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(dc) Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of ~~marijuana~~ cannabis, or not more than four grams of other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by-a as follows:

(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

(ed) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of ~~marijuana~~ cannabis, or not more than four grams of other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of-a misdemeanor an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b) of this section.

11358. Planting, harvesting, or processing

Every person who plants, cultivates, harvests, dries, or processes My ~~marijuana~~ cannabis plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who plants, cultivates, harvests, dries, or processes any ~~marijuana~~ cannabis plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of section 11357.

(b) Every person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living ~~marijuana~~ cannabis plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

(c) Every person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living ~~marijuana~~ cannabis plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living ~~marijuana~~ cannabis plants, or any part thereof,

except as otherwise provided by law, ~~shall~~ may be punished by imprisonment pursuant to subdivision (h)

of Section 1170 of the Penal Code if:

- the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision(e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;
- the person has two or more prior convictions under subdivision(c) ; or (3) the offense resulted in any of the following:
 - (A) violation of Section 1052 of the Water Code relating to illegal diversion of water;
 - (B) violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of waste;
 - (C) violation of Fish and Game Code Section 5650 or Section 5652 of the Fish and Game Code relating to waters of the state;
 - (D) violation of Section 1602 of the Fish and Game Code relating to rivers, streams and lakes;
 - (E) violation of Section 3 74.8 of the Penal Code relating to hazardous substances or Sections 25189.5, 25189.6, or 25189. 7 of the Health and Safety Code relating to hazardous waste;
 - (F) violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act; or
 - (G) intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

11359. Possession for sale

Every person who possesses for sale any ~~marijuana~~ cannabis, except as otherwise provided by law, shall be punished as follows:

- (a) Every person under the age of 18 who possesses ~~marijuana~~ cannabis for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of section 11357.
- (b) Every person 18 years of age or over who possesses ~~marijuana~~ cannabis for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.
- (c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses ~~marijuana~~ cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:
 - (1) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;
 - (2) the person has two or more prior convictions under subdivision (b); or
 - (3) the offense occurred in connection with the knowing sale or attempted sale of ~~marijuana~~ cannabis to a person under the age of 18 years.
- (c) Notwithstanding subdivision (b), a person 21 years of age or over who possesses ~~marijuana~~ cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any ~~marijuana~~ cannabis.

11360. Unlawful transportation, importation, sale, or gift

(a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any ~~marijuana~~ cannabis shall be punished as follows:

- (1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of section 11357.

(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period two, three, or four years if:

(A) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(B) the person has two or more prior convictions under paragraph (2);

(C) the offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer or give away ~~marijuana~~ cannabis to a person under the age of 18 years; or

(D) the offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of ~~marijuana~~ cannabis or more than four grams of concentrated cannabis.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of ~~marijuana~~ cannabis, other than concentrated cannabis, is guilty of an infraction ~~misdemeanor~~ and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, "transport" means to transport for sale.

(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

Subdivision (a) of Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. Destruction of arrest and conviction records; Procedure; Exceptions

(a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of ~~subdivision (b), (c), (d), or (e) of~~ Section 11357 or subdivision (b) of Section 11360, or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (end) of Section 11357, or any other violation by a person under the age of 18 occurring upon the grounds of or within,

any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in

this section. Any court or agency having custody of the records, including the statewide criminal databases, shall provide for the timely destruction of the records in accordance with subdivision (c), and such records must also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period

shall begin to run from the date the person is released from custody. The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.

Section 11361.8 is added to the Health and Safety Code to read:

11361.8

(a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Cannabis Act had that Act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by this Act.

(b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.

(2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.

(c) A person who is serving a sentence and resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year

following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Penal Code Section 3000.08 or post-release community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.

(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

(e) A person who has completed his or her sentence for a conviction under Sections 11357, 11358, 11359, and 11360, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Cannabis Act had that Act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or predesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by this Act.

(f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Cannabis Act.

(g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).

(h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.

(i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

(j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) A resentencing hearing ordered under this act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marcy's Law).

(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Cannabis Act.

(l) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

SECTION 9. INDUSTRIAL HEMP.

Section 11018.5 of the Health and Safety Code is amended to read as follows:

11018.5. Industrial hemp

(a) "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L.; having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and or any other every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or

(b) ~~The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of~~ *Industrial* hemp shall not be subject to the provisions of this Division or of Division 10 of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 of the Food and Agricultural Code, inclusive.

Sections 81010 of the Food and Agricultural Code is amended to read:

81010. Operation of division

(a) This division, and Section 221 of the Food and Agricultural Code, shall become operative on January 1, 2017.

~~(b) The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and prod that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 of the Business and Professions Code.~~

Section 37104 of the Food and Agricultural Code is amended to read:

37104:

Notwithstanding ~~Section 19300.5~~ Section 26001 of the Business and Professions Code, butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with medical cannabis or cannabis at the premises or location that is not subject to licensing as a milk product plant is exempt from the provisions of this division.