

BOARD OF SUPERVISORS

Terrell Swofford, 1st District
Kevin Goss, 2nd District
Sharon Thrall, Chair 3rd District
Lori Simpson, Vice Chair 4th District
Jeff Engel, 5th District

**AGENDA FOR REGULAR MEETING OF AUGUST 16, 2016 TO BE HELD AT 10:00 A.M.
IN THE MINERAL BUILDING, PLUMAS-SIERRA COUNTY FAIRGROUNDS, QUINCY, CALIFORNIA**

www.countyofplumas.com

AGENDA

The Board of Supervisors welcomes you to its meetings which are regularly held on the first three Tuesdays of each month, and your interest is encouraged and appreciated.

Any item without a specified time on the agenda may be taken up at any time and in any order. Any member of the public may contact the Clerk of the Board before the meeting to request that any item be addressed as early in the day as possible, and the Board will attempt to accommodate such requests.

Any person desiring to address the Board shall first secure permission of the presiding officer. For noticed public hearings, speaker cards are provided so that individuals can bring to the attention of the presiding officer their desire to speak on a particular agenda item.

Any public comments made during a regular Board meeting will be recorded. The Clerk will not interpret any public comments for inclusion in the written public record. Members of the public may submit their comments in writing to be included in the public record.

CONSENT AGENDA: These matters include routine financial and administrative actions. All items on the consent calendar will be voted on at some time during the meeting under "Consent Agenda." If you wish to have an item removed from the Consent Agenda, you may do so by addressing the Chairperson.



REASONABLE ACCOMMODATIONS: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (530) 283-6170. Notification 72 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility. Auxiliary aids and services are available for people with disabilities.

STANDING ORDERS

10:00 A.M. **CALL TO ORDER/ROLL CALL**

PLEDGE OF ALLEGIANCE

ADDITIONS TO OR DELETIONS FROM THE AGENDA

PUBLIC COMMENT OPPORTUNITY

Matters under the jurisdiction of the Board, and not on the posted agenda, may be addressed by the general public at the beginning of the regular agenda and any off-agenda matters before the Board for consideration. However, California law prohibits the Board from taking action on any matter which is not on the posted agenda unless it is determined to be an urgency item by the Board of Supervisors. Any member of the public wishing to address the Board during the "Public Comment" period will be limited to a maximum of 3 minutes.

ACTION AGENDA

1. PLANNING – Randy Wilson

The public hearing is being held pursuant to Government Code §65090

PUBLIC HEARING: to Consider Adoption of Uncodified Urgency Ordinance(s) Pursuant to Government Code Section 65858 Imposing a Temporary Moratoria on the Cultivation of Medical Cannabis and Establishment of Medical Cannabis Dispensaries in the Unincorporated Areas of Plumas County.
Four/fifths required roll call vote

2. CONSENT AGENDA

These items are expected to be routine and non-controversial. The Board of Supervisors will act upon them at one time without discussion. Any Board members, staff member or interested party may request that an item be removed from the consent agenda for discussion. Additional budget appropriations and/or allocations from reserves will require a four/fifths roll call vote.

A) SOCIAL SERVICES

Ratify a contract agreement between Plumas Rural Services and the County of Plumas for CalWORKS Child Care Services for FY 2016-2017, and authorize the Director of Social Services to extend the agreement for two additional twelve month periods following the conclusion of the present term and subject to the availability of state funding; approved as to form by County Counsel

ADJOURNMENT

Adjourn meeting to Tuesday, September 06, 2016, Board of Supervisors Room 308, Courthouse, Quincy, California.



PLUMAS COUNTY PLANNING & BUILDING SERVICES

555 Main Street, Quincy, CA 95971
(530) 283-7011

www.countyofplumas.com

DATE: August 16, 2016

TO: Honorable Chair and Members of the Board of Supervisors

FROM: Randy Wilson, Plumas County Planning Director *RW*

RE: Public Hearing to Consider Adoption of Uncodified Urgency Ordinance(s)
Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium
on the Cultivation of Medical Cannabis, Establishment of Medical Cannabis
Dispensaries, in the Unincorporated Areas of Plumas County. The proposed
moratorium on the cultivation of cannabis would not apply to a qualified patient
cultivating cannabis pursuant to Health and Safety Code Section 11362.5 if the
area he or she uses to cultivate cannabis does not exceed 100 square feet and
would not apply to a primary caregiver cultivating cannabis pursuant to Health
and Safety Code Section 11362.5 if the area he or she uses to cultivate cannabis
does not exceed 500 square feet. This public hearing is being held pursuant to
Government Code Sections 65090.

Background

On January 26, 2016, the Board of Supervisors held a noticed public hearing to consider Urgency Ordinance(s) imposing a temporary moratorium on 1) the cultivation of medical cannabis, 2) establishment of medical cannabis dispensaries, and/or 3) delivery of medical cannabis in the unincorporated areas of Plumas County. The Board of Supervisors, after taking public testimony regarding the proposed Urgency Ordinance, decided to not adopt the Urgency Ordinances. The minutes of the January 26, 2016, meeting regarding the action the Board took state,

“Following discussion by the Board, motion by Supervisor Goss, second by Supervisor Simpson to refer the land use/zoning issue to the Plumas County Planning Commission for recommendation to the Board.”

The Planning Commission has not yet addressed the land use/zoning issues of cannabis and as such has not made a recommendation to the Board of Supervisors.

This coming November's general election will contain a Qualified Ballot Initiative, Proposition 64, called the Control, Regulate and Tax Adult Use of Marijuana Act. The California Secretary of State's website states the following regarding this Initiative,

"Legalizes marijuana and hemp under state law. Designates state agencies to license and regulate marijuana industry. Imposes state excise tax on retail sales of marijuana equal to 15% of sales price, and state cultivation taxes on marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves. Exempts medical marijuana from some taxation. Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products. Allows local regulation and taxation of marijuana. Prohibits marketing and advertising marijuana to minors. Authorizes resentencing and destruction of records for prior marijuana convictions. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Net reduced costs ranging from tens of millions of dollars to potentially exceeding \$100 million annually to state and local governments related to enforcing certain marijuana-related offenses, handling the related criminal cases in the court system, and incarcerating and supervising certain marijuana offenders. Net additional state and local tax revenues potentially ranging from the high hundreds of millions of dollars to over \$1 billion annually related to the production and sale of marijuana. Most of these funds would be required to be spent for specific purposes such as substance use disorder education, prevention, and treatment."

On June 27, 2016, the Governor signed into law AB 1575. The law made changes to the previously approved state law governing Medical Marijuana called the Medical Marijuana Regulation and Safety Act (MMRSA). Several changes were made with AB 1575 to MMRSA, including a change to the name which is now called the Medical Cannabis Regulation and Safety Act (MCRSA). Staff is still reviewing the changes to MMRSA that were made to what is now MCRSA. Staff is still reviewing the Control, Regulate and Tax Adult Use of Marijuana Act Qualified Ballot Initiative. Staff has determined that to some extent that the Control, Regulate and Tax Adult Use of Marijuana Act Qualified Ballot Initiative will make future changes to the now called MCRSA.

Staff concludes, at this time, that the regulatory laws affecting cannabis in the State of California remain unsettled and that the state laws the County of Plumas has to deal with regarding cannabis may change again pending the results of the state-wide vote on the Control, Regulate and Tax Adult Use of Marijuana Act Qualified Ballot Initiative. Further complicating this regulatory situation is that the state agency formed by the MMRSA (now called MCRSA), the Bureau of Medical Cannabis and other state agencies such as the Department of Consumer Affairs (to license transporters, distributors, dispensaries, and testing laboratories), Department of Food and Agriculture (to license cultivators and track and trace program for plants from cultivation to sale), and State Department of Health (to license manufacturers of medical cannabis and testing laboratories) will be going through the State of California official rule making process to develop rules to implement the MCRSA and if the Control, Regulate and Tax Adult Use of Marijuana Act Qualified Ballot Initiative passes State rules will have to be developed to address this Initiative.

Need for Proposed Moratoria

The Plumas County Sheriff's Department has produced a letter outlining increasing adverse issues with cannabis cultivation and adverse issues with dispensaries. This letter does state, "Most of these grows are trouble free although they are without regulation and have increased in plant count with each growing season." This letter is attached to this staff memo in support of the proposed moratoria on cultivation of cannabis and dispensaries. Issues identified in the letter include:

- Increase year to year of medical cannabis gardens
- Increase in the number of green houses and hoop houses for cannabis cultivation
- Increased cultivation of cannabis potentially affecting health, safety, and well-being of County residents
- Increased risk of criminal activity related to cannabis cultivation
- Degradation of the natural environment due to cannabis cultivation
- Excessive use of electricity due to cannabis cultivation
- Damage to buildings due to cannabis cultivation
- Dangerous electrical alterations to buildings due to cannabis cultivation
- Increased risk of fire due to cannabis cultivation
- Increased occurrences of home-invasion robberies due to cannabis cultivation
- Potential noxious odors impacting neighboring properties due to cannabis cultivation
- Strong odors creating attractive nuisances alerting persons to location of cannabis plants creating a risk of burglary, robbery, armed robbery, assault, attempted murder, and murder
- Fertilizers and pesticides, legal and illegal, impacting creeks, streams, and rivers due to cannabis cultivation
- Illegal diversions of water for cannabis cultivation
- Many complaints received regarding cannabis cultivation
- Cannabis growers arming themselves and setting booby traps to protect cannabis grows
- Notable increase in crimes, such as burglary, robbery, impacts from disagreeable odors, increases in traffic and noise, effects on community health, sales of illegal drugs in the immediate area surrounding dispensaries have been reported by other public entities related to cannabis dispensaries

Also, since the Board of Supervisor's Public Hearing of January 26, 2016, a major issue regarding the cultivation of cannabis has arisen. A property owner has begun construction of an unpermitted structure to cultivate cannabis in a neighborhood in the unincorporated area of Plumas County and as a result the County has received, at this point in time, five (5) Officially Filed Code Compliance Complaints regarding the activity. This has been very disruptive to the neighborhood in which the activity has occurred.

Proposed Urgency Ordinances

The cultivation of marijuana or cannabis (medical or otherwise) and marijuana or cannabis dispensaries in Plumas County (excluding the City of Portola) are currently prohibited by Plumas County ordinance. Plumas County's Zoning Code is a "permissive zoning code." Uses in the

various zones are defined in the Zoning Code. Uses not defined or similar are not allowed in the various zones. The growing of medical marijuana or cannabis and marijuana or cannabis dispensaries are not listed in any of the various zones contained within the Zoning Code. Therefore, the growing of medical marijuana or cannabis and the establishment of a marijuana or cannabis dispensary is not legally allowed on any of the lands covered by the Plumas County Zoning Code.

While the Plumas County Zoning Code does not legally allow the growing of marijuana or cannabis and marijuana or cannabis dispensaries, this legal fact is not well known or understood by the general public whether within Plumas County or outside Plumas County. Someone searching the Plumas County Zoning Code will not find mentioned any place the word "marijuana" or "cannabis" and may assume that because the Zoning Code does not specifically mention medical marijuana or cannabis in any manner that cultivation of medical marijuana or cannabis and medical marijuana or cannabis dispensaries are legal in Plumas County, when in fact doing so is illegal under local land use ordinances.

Attached for the Board's consideration are two proposed urgency ordinances, which provide an "expressed prohibition" and "expressed notice" that cannabis cultivation and cannabis dispensaries are not allowed in the unincorporated area of Plumas County. These urgency ordinances, if passed by the Board of Supervisors, will place a 45-day moratorium on the cultivation and dispensaries of medical marijuana or cannabis. The Board of Supervisors, in order to adopt one or all of these urgency ordinances, must do so by a 4/5 vote. These urgency ordinances may be extended for 22 months and 15 days after a public notice and a public hearing by a 4/5 vote of the Board of Supervisors. These urgency ordinances are attached to this staff memo.

Medical Cannabis Cultivation Urgency Ordinance

Business and Professions Code Section (MCRSA) 19300.5(k) defines cultivation of medical cannabis as, "...any activity involving the planting, harvesting, drying, curing, grading, or trimming of cannabis (marijuana) plants."

Should the Board of Supervisors pass, again by a 4/5 vote, this urgency ordinance, an *expressed* ban on cultivation of medical cannabis for commercial purposes, or cultivation of medical cannabis that exceeds 100 square feet in area by qualified patients pursuant to Health and Safety Code Section 11362.777(g), or cultivation of cannabis that exceeds 500 square feet for qualified patients pursuant to Health and Safety Code Section 11362.777(g) will go into effect for 45 days in the unincorporated areas of Plumas County covered by the Plumas County zoning Code.

Medical Cannabis Dispensary Urgency Ordinance

Business and Professions Code Section (MMRSA) 19300.5(n) defines a medical marijuana dispensary as, "...a premises where medical cannabis, medical cannabis products, or devices for use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Section 19340, medical cannabis as part of a retail sale."

Should the Board of Supervisors pass, again by a 4/5 vote, this urgency ordinance, an expressed ban on medical cannabis dispensaries will go into effect for 45 days in the unincorporated areas of Plumas County covered by the Plumas County zoning Code.

California Environmental Quality Act (CEQA)

Should the Board of Supervisors pass one or both of these urgency ordinances, which are exempt from the California Environmental Quality Act (CEQA) because they make no changes by preserving the status quo, this will lead to the study of the issues and development of permanent ordinances through a public process involving the Planning Commission making recommendations to the Board of Supervisors. Proposals to allow medical marijuana cultivation, dispensing, and delivery would constitute a change in the status quo and would require an analysis under the CEQA.

ACTIONS FOR CONSIDERATION

Staff respectfully recommends the Board of Supervisors consider taking one of the following actions:

- I. Adopt the attached Uncodified Urgency Ordinance(s) Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Medical Cannabis, Establishment of Medical Cannabis Dispensaries, in the Unincorporated Areas of Plumas County. The moratorium on the cultivation of cannabis does not apply to a qualified patient cultivating cannabis pursuant to Health and Safety Code Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 100 square feet and does not apply to a primary caregiver cultivating cannabis pursuant to Health and Safety Code Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 500 square feet.
- II. Give other direction to staff.

Attachments:

Urgency Ordinance imposing a temporary moratorium on the cultivation of medical cannabis in the unincorporated areas of Plumas County.

Urgency Ordinance imposing a temporary moratorium on the establishment of medical cannabis dispensaries in the unincorporated areas of Plumas County.

Memo from the Plumas County Sheriff regarding issues of growing medical cannabis and cannabis dispensaries.

State of California Medical Cannabis Regulation and Safety Act approved by the Governor on October 9, 2015 (Compilation of AB 243, AB 266, SB 643, with changes made by AB 21 and AB 1575).

Qualified Ballot Initiative, Proposition 64, called the Control, Regulate and Tax Adult Use of Marijuana Act

Notice of Public Hearing to Consider Adoption of Uncodified Urgency Ordinance(s) Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Medical Cannabis and Establishment of Medical Cannabis Dispensaries in the Unincorporated Areas of Plumas County by the Plumas County Board Of Supervisors.

Office of Medical Cannabis Safety excerpt from website regarding the Department of Consumer Affairs, Department of Food and Agriculture, and Department of Public Health establishing regulations regarding cannabis.

January 26, 2016, Board of Supervisors Minutes.

ORDINANCE NO. _____

**AN UNCODIFIED URGENCY ORDINANCE OF THE COUNTY OF PLUMAS,
ADOPTED PURSUANT TO GOVERNMENT CODE SECTION 65858, IMPOSING A
TEMPORARY MORATORIUM ON THE CULTIVATION OF MEDICAL CANNABIS
(MARIJUANA) IN THE UNINCORPORATED AREAS OF THE COUNTY OF PLUMAS**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 which was codified as Health and Safety Code Section 11362.5, and entitled “The Compassionate Use Act of 1996” (the “Compassionate Use Act”); and

WHEREAS, the intent of the Compassionate Use Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances; and

WHEREAS, on January 1, 2004, Senate Bill 420, codified as Health and Safety Code Sections 11362.7, and following, and entitled “The Medical Marijuana Program,” became effective to clarify the scope of the Compassionate Use Act; and

WHEREAS, on October 9, 2015, the Governor of the State of California approved Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 authorizing the promulgation of regulations and standards relating to medical cannabis (also known as marijuana) and its cultivation, including the licensing of cultivation sites by state and local agencies; and

WHEREAS, on February 3, 2016, the Governor of the State of California approved Assembly Bill 21, an urgency measure, repealing Health and Safety Code Section 11362.777(c)(4) which previously provided that if county does not have land use regulations or ordinances regulating or prohibiting the cultivation of cannabis (marijuana), either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to newly enacted Health and Safety Code section 11362.777, then commencing March 1, 2016, the State of California shall be the sole licensing authority for medical cannabis (marijuana) cultivation applicants in that county; and

WHEREAS, on June 27, 2016, the Governor of the State of California approved Senate Bill 837, an urgency measure, made various changes to recent legislation relating to medical cannabis (marijuana) including substituting the term “cannabis” for the term “marijuana;” and

WHEREAS, the term “cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis (marijuana) plants or any part thereof as provided in Business and Professions Code section 19300.5(k); and

WHEREAS, the term “marijuana” shall have the same meaning as that set forth in Health and Safety Code Section 11018 and the term “cannabis” shall have the same meaning as that set forth in Business and Professions Code section 19300.5(f); and

WHEREAS, the term “medical marijuana” shall mean medical marijuana that has been recommended by a licensed physician in strict accordance with California Health & Safety Code Section 11362.5 through Section 11362.83, inclusive, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program; and

WHEREAS, the “medical cannabis” shall have the same meaning as that set forth in Business and Professions Code section 19300.5(af); and

WHEREAS, the County’s unique geographic and climate conditions, which include dense forested areas receiving substantial precipitation, along with sparse population in many areas of the County, provide conditions that are favorable to cannabis (marijuana) cultivation and cannabis (marijuana) growers can achieve a high per-plant yield with high economic value because of the County’s favorable growing conditions; and

WHEREAS, various parcels throughout the unincorporated area of the County of Plumas are being used for cannabis (marijuana) cultivation; and

WHEREAS, the Plumas County Sheriff and other public entities have reported adverse impacts from cannabis (marijuana) cultivation, including, but not limited to, disagreeable odors, increased risk of burglary and other property crimes, and acts of violence in connection with the commission of such crimes or the occupants’ attempts to prevent such crimes; and

WHEREAS, the creation of persistent strong odors as cannabis (marijuana) plants mature and flower is offensive to many people and creates an attractive nuisance, alerting persons to the location of valuable cannabis (marijuana) plants and creating an increased risk of crime; and

WHEREAS, the indoor cultivation of substantial amounts of cannabis (marijuana) also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation; and

WHEREAS, the County of Plumas has adopted a Zoning Plan identified as Title 9 (Planning and Zoning) of the Plumas County Code; and

WHEREAS, the Plumas County Zoning Code is a “permissive zoning” ordinance that does not permit the cultivation of cannabis (marijuana) on any lands or zones covered by the Plumas County Zoning Code, but this fact is not well known or understood by the general public whether within Plumas County or outside Plumas County since a search of the Zoning Code will not find the terms “cannabis” or “marijuana” thereby resulting in some persons assuming that such uses are allowed; and

WHEREAS, the enactment of AB 21 described above repealed Health and Safety Code section 11362.777 subdivision (c)(4) and the reference to “permissive zoning” as a means to prohibit the cultivation of cannabis (marijuana), thereby adding to the likelihood of some persons assuming that the use of land for the cultivation of medical cannabis (marijuana) is allowed in Plumas County; and

WHEREAS, an ordinance expressly prohibiting the cultivation of cannabis (marijuana) in

Plumas County excess of an area of 100 square feet for a qualified patient or in excess of 500 square feet by a primary caregiver for up to five (5) qualified patients will further clarify for the public that the cultivation of cannabis (marijuana) is not a permitted use of land in Plumas County; and

WHEREAS, concerns have been raised that there are no specific regulations to address the impact medical cannabis (marijuana) cultivation within the unincorporated areas of the County of Plumas may have on the community as a whole; and

WHEREAS, the County of Plumas has not adopted rules and regulations specifically applicable to medical cannabis (marijuana) cultivation and the lack of such controls may lead to increased medical cannabis (marijuana) cultivation and the inability to regulate cannabis (medical) marijuana cultivation in a manner that will protect the general public, homes and businesses adjacent and near such cultivation, and the persons who are present at such cultivations; and

WHEREAS, in order to allow time for the County of Plumas, through its Planning and Building Services Department, to consider, study, and assess various approaches to regulating medical cannabis (marijuana) cultivation, it is necessary to suspend the establishment of medical cannabis (marijuana) cultivation that may be in conflict with the development standards and regulations the County of Plumas, through its Planning and Building Services Department, intends to consider or study.

NOW, THEREFORE, the Board of Supervisors of the County of Plumas, State of California, ordains as follows:

SECTION 1. The Board of Supervisors of the County of Plumas determines as follows:

- A. The above recitals are true and correct and are incorporated herein as if set forth in full and are relied upon independently by the Board of Supervisors for its adoption of this urgency ordinance.
- B. There is a current and immediate threat to public health, safety, and welfare in that the establishment of, or the issuance or approval of any permit, certificate of occupancy, or other entitlement for the establishment of, medical cannabis (marijuana) cultivation in the unincorporated areas of the County of Plumas will result in land uses and land developments that may conflict with amendments to the Plumas County Code that may be adopted as a result of the study that is to be undertaken.
- C. There is no feasible alternative to enactment of this moratorium ordinance that will satisfactorily mitigate or avoid the previously identified impacts to the public health, safety and welfare with a less burdensome or restrictive effect.
- D. In order to ensure the effective implementation of the County of Plumas' land use objectives and policies, a temporary moratorium on the establishment and/or approval of medical cannabis (marijuana) cultivation is necessary.

E. This ordinance is exempt from environmental review pursuant to State CEQA Guidelines Section 15061(b)(3) in that there is nothing in this ordinance or its implementation that could have a foreseeable significant effect on the environment.

SECTION 2. Imposition of Moratorium.

In accordance with Government Code Section 65858, for the period of this ordinance, or any extension thereof, medical cannabis (marijuana) cultivation shall be considered a prohibited use in any zoning district of the unincorporated areas of the County of Plumas. No permits or authorizations shall be approved or issued for the establishment of medical cannabis (marijuana) cultivation while this ordinance is in effect. For the purposes of this ordinance, the term "medical cannabis (marijuana) cultivation" shall not apply to a qualified patient cultivating cannabis pursuant to Health and Safety Code Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 100 square feet and he or she cultivates cannabis for his or her personal medical use and does not sell, distribute, donate, or provide cannabis to any other person or entity. Further, the term "medical cannabis (marijuana) cultivation" shall not apply to a primary caregiver cultivating cannabis pursuant to Health and Safety Code Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 500 square feet and he or she cultivates cannabis exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Health and Safety Code Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Health and Safety Code Section 11362.765. For purposes of this ordinance, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises..

SECTION 3. Written Report.

Ten days prior to the expiration of this ordinance or any extension thereof, the Board of Supervisors shall issue a written report describing the measures taken to alleviate the threat to public health, safety and welfare that led to the enactment of the ordinance.

SECTION 4. Severability.

If any provision of this ordinance or the applications thereof to any person or circumstances is held invalid, the remainder of the ordinance and the applications of such provision will remain in effect to the extent permitted by law.

SECTION 5. Conflicting Laws.

For the term of this ordinance, as set forth in Section 6 below, the provisions of this ordinance shall govern. To the extent that there is any conflict between the provisions of this ordinance and the provisions of any other County code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

SECTION 6. Effective Date and Term.

This ordinance is declared an urgency measure for the immediate protection and preservation of the public peace, health, safety and welfare for the reasons stated in Section 1, and

it shall take effect immediately upon its adoption by a four-fifths (4/5) vote of the Board of Supervisors pursuant to Government Code Section 65858 and Government Code Section 25123 (d). This ordinance shall continue in effect for forty-five (45) days from the date of its adoption and shall thereafter be of no further force and effect unless, after notice pursuant to Government Code Section 65090 and a public hearing, the Board of Supervisors extends this ordinance for an additional period of time pursuant to Government Code Section 65858. The clerk shall cause this ordinance to be published as required by law.

The foregoing ordinance was adopted at a regular meeting of the Plumas County Board of Supervisors of the County of Plumas, State of California, held on the 16th day of August 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sherrie Thrall, Chair
Board of Supervisors

ATTEST:

Nancy DaForno
Clerk of the Board

[Y:\Resolutions and Ordinances\Medical Marijuana Commercial Cultivation Moratorium Ordinance draft 20160729 clean.docx]

ORDINANCE NO. _____

**AN UNCODIFIED URGENCY ORDINANCE OF THE COUNTY OF PLUMAS,
ADOPTED PURSUANT TO GOVERNMENT CODE SECTION 65858, IMPOSING A
TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF MEDICAL
CANNABIS (MARIJUANA) DISPENSARIES IN THE UNINCORPORATED AREAS OF
THE COUNTY OF PLUMAS**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 which was codified as Health and Safety Code Section 11362.5, and entitled “The Compassionate Use Act of 1996” (the Compassionate Use Act); and

WHEREAS, the intent of the Compassionate Use Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances, without being subject to criminal prosecution under certain state statutes; and

WHEREAS, on January 1, 2004, Senate Bill 420, codified as Health and Safety Code Sections 11362.7, and following, and entitled “The Medical Marijuana Program,” became effective to clarify the scope of the Compassionate Use Act; and

WHEREAS, on October 9, 2015, the Governor of the State of California approved Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 enacting the Medical Marijuana Regulation and Safety Act and other statutes authorizing the promulgation of regulations and standards relating to medical cannabis (also known as marijuana) and its cultivation, manufacturing, distribution, dispensing, and delivery; and

WHEREAS, on June 27, 2016, the Governor of the State of California approved Senate Bill 837, an urgency measure, made various changes to recent legislation relating to medical cannabis (marijuana) including substituting the term “cannabis” for the term “marijuana” and renaming the Medical Marijuana Regulation and Safety Act as the “Medical Cannabis Regulation and Safety Act” (hereinafter referred to as the “MCRSA”); and

WHEREAS, the MCRSA does not limit or prevent a county from regulating or banning the cultivation, storage, manufacture, distribution, dispensing, delivery, or other cannabis (marijuana) activity; and

WHEREAS, the term “marijuana” shall have the same meaning as that set forth in Health and Safety Code Section 11018 and the term “cannabis” shall have the same meaning as that set forth in Business and Professions Code section 19300.5(f); and

WHEREAS, the term “medical marijuana” shall mean medical marijuana that has been recommended by a licensed physician in strict accordance with California Health & Safety Code Section 11362.5 through Section 11362.83, inclusive, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program; and

WHEREAS, the term “medical cannabis” shall have the same meaning as that set forth

in Business and Professions Code section 19300.5(af); and

WHEREAS, the term “dispensary” shall have the same meaning as that set forth in Business and Professions Code section 19300.5(n); and

WHEREAS, the terms “medical marijuana dispensary” and “medical cannabis dispensary” do not include the distribution of medical marijuana or cannabis to qualified patients by their designated primary caregivers in the following locations and uses, as long as the location is otherwise regulated by Plumas County Code and/or applicable law and as long as the use complies with Plumas County Code and/or applicable law, including, but not limited to, the Compassionate Use Act and The Medical Marijuana Program:

1. A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.
2. A health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.
3. 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 of the Health and Safety Code.
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the Health and Safety Code.
5. A hospice or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code Section.

WHEREAS, it is anticipated that the County of Plumas will continue to receive a number of inquiries and/or applications as to the possibility of establishing medical cannabis (marijuana) dispensaries throughout the unincorporated areas of the County of Plumas; and

WHEREAS, under the current Zoning Plan, identified as Title 9 (Planning and Zoning) of the Plumas County Code, medical cannabis (marijuana) dispensaries are undefined and do not share sufficient similarity to any allowed use or use allowed by use permit and are therefore not currently allowed unless a variance is obtained, a functionally equivalent use determination is made, or an amendment to Title 9 is approved, but this fact is not well known or understood by the general public whether within Plumas County or outside Plumas County since a search of the Zoning Code will not find the terms “cannabis” or “marijuana” thereby resulting in some persons assuming that such uses are allowed; and

WHEREAS, an ordinance expressly prohibiting medical cannabis (marijuana) dispensaries will further clarify for the public that medical cannabis (marijuana) dispensaries are not a permitted use of land in Plumas County; and

WHEREAS, concerns have been raised that, other than the foregoing, there are no other regulations to address the impact that the development of medical cannabis (marijuana) dispensaries within the unincorporated areas of the County of Plumas may have on the community as a whole; and

WHEREAS, other public entities have reported adverse impacts from medical cannabis (marijuana) dispensaries, including, but not limited to, an increase in crime such as burglary and robbery, disagreeable odor, loitering, increases in traffic, noise, and the sale of illegal drugs (including the illegal resale of cannabis (marijuana) from medical cannabis (marijuana) dispensaries) in the areas immediately surrounding such medical cannabis (marijuana) dispensaries; and

WHEREAS, medical cannabis (marijuana) dispensaries could arguably be located in close proximity to residential areas, schools, churches, day care centers, and other sensitive areas; and

WHEREAS, the County of Plumas has not adopted rules and regulations specifically applicable to the establishment and operation of medical cannabis (marijuana) dispensaries. The lack of such controls may lead to a proliferation of dispensaries and the inability of the County to regulate these establishments in a manner that will protect the general public, homes and businesses adjacent to and near such businesses, and the patients or clients of such establishments.

WHEREAS, in order to allow time for the County of Plumas, through its Planning and Building Services Department, to consider, study, and assess various approaches to regulating medical cannabis (marijuana) dispensaries in light of the concerns raised, it is necessary to suspend the establishment of medical marijuana dispensaries that may be in conflict with the development standards and regulations the County of Plumas, through its Planning and Building Services Department, intends to consider or study.

NOW, THEREFORE, the Board of Supervisors of the County of Plumas, State of California, ordains as follows:

SECTION 1. The Board of Supervisors of the County of Plumas determines as follows:

- A. The above recitals are true and correct and are incorporated herein as if set forth in full and are relied upon independently by the Board of Supervisors for its adoption of this urgency ordinance.
- B. There is a current and immediate threat to public health, safety, and welfare in that the establishment of, or the issuance or approval of any permit, certificate of occupancy, or other entitlement for the establishment of, a medical cannabis (marijuana) dispensary in the unincorporated areas of the County of Plumas will result in land uses and land developments that may conflict with amendments to the Plumas County Code that may be adopted as a result of the study that is to be undertaken.
- C. There is no feasible alternative to enactment of this moratorium ordinance that will satisfactorily mitigate or avoid the previously identified impacts to the public health, safety and welfare with a less burdensome or restrictive effect.
- D. In order to ensure the effective implementation of the County of Plumas' land use objectives and policies, a temporary moratorium on the establishment and/or approval of medical cannabis (marijuana) dispensaries is necessary.

E. This ordinance is exempt from environmental review pursuant to State CEQA Guidelines Section 15061(b)(3) in that there is nothing in this ordinance or its implementation that could have a foreseeable significant effect on the environment.

SECTION 2. Imposition of Moratorium.

In accordance with Government Code Section 65858, for the period of this ordinance, or any extension thereof, a medical cannabis (marijuana) dispensary shall be considered a prohibited use in any zoning district of the unincorporated areas of the County of Plumas. No permits or authorizations shall be approved or issued for the establishment or operation or a medical cannabis (marijuana) dispensary while this ordinance is in effect.

SECTION 3. Written Report.

Ten days prior to the expiration of this ordinance or any extension thereof, the Board of Supervisors shall issue a written report describing the measures taken to alleviate the threat to public health, safety and welfare that led to the enactment of the ordinance.

SECTION 4. Severability.

If any provision of this ordinance or the applications thereof to any person or circumstances is held invalid, the remainder of the ordinance and the applications of such provision will remain in effect to the extent permitted by law.

SECTION 5. Conflicting Laws.

For the term of this ordinance, as set forth in Section 6 below, the provisions of this ordinance shall govern. To the extent that there is any conflict between the provisions of this ordinance and the provisions of any other County code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

SECTION 6. Effective Date and Term.

This ordinance is declared an urgency measure for the immediate protection and preservation of the public peace, health, safety and welfare for the reasons stated in Section I, and it shall take effect immediately upon its adoption by a four-fifths (4/5) vote of the Board of Supervisors pursuant to Government Code Section 65858 and Government Code Section 25123 (d). This ordinance shall continue in effect for forty-five (45) days from the date of its adoption and shall thereafter be of no further force and effect unless, after notice pursuant to Government Code Section 65090 and a public hearing, the Board of Supervisors extends this ordinance for an additional period of time pursuant to Government Code Section 65858. The clerk shall cause this ordinance to be published as required by law.

The foregoing ordinance was adopted at a regular meeting of the Plumas County Board of Supervisors of the County of Plumas, State of California, held on the 16th day of August, 2016, by the following vote:

AYES:



OFFICE OF THE SHERIFF

1400 E Main St. Quincy, California – (530) 283-6375 – Fax 283-6344

GREG HAGWOOD
SHERIFF/CORONER

Date: 8/5/2016

To: Plumas County Board of Supervisors

The Plumas County Sheriff's Department is responsible for the eradication and suppression of illegal marijuana operations throughout Plumas County.

Plumas County is 2,618 square miles, has 4 major communities with a population of 22,000 full time residents. It is the purpose and intent of The Plumas County Sheriff's Office to work towards regulating the cultivation of medical marijuana in a manner that is consistent with State and Federal law and which promotes the health, safety, and general welfare of the residents and businesses within County and prevents adverse impacts which such activities may have on nearby properties and residents, without interfering with any rights qualified patients and their primary caregivers may have pursuant to the State Compassionate Use Act and Medical Marijuana Program to use medicinal marijuana.

Over the past few years the Plumas County Sheriff's Department has seen an increase year by year of medical marijuana grows in our community. I base this on personal observation, complaints, grower contacts for information and aerial observation. I believe based on my years in the Sheriff's Office Investigations Unit that within the last 3 to 4 years outside marijuana cultivation has gone from approx. 100 grows to currently approx. 500 grows. We have seen several new grow operations going up throughout the county and numerous largescale and commercial in nature. Most large grow sites over the past few years were maxing out at one hundred plants. Now there are grows with two to four hundred plants. Green houses and hoop houses are popping up everywhere as well. There are numerous grow sites that are on private land that does not have a structure on it. The growers move a trailer onto the property and live there during the growing season. We have seen private property owners completely clear all the trees from a parcel of land just to create more space to cultivate a large amount of plants. Most of these grows are trouble free although they are without regulation and have increased in plant count with each growing season. This can adversely affect the health, safety and well-being of the County and its residents. Medical marijuana cultivation increases the risk of criminal activity, degradation of the natural environment, excessive use of electricity which may overload standard electrical systems, and damage to buildings in which cultivation occurs, including improper and dangerous electrical alterations and use, increased risk of fire and fire-related hazards, inadequate ventilation, increased occurrences of home-invasion robberies and similar crimes.

Medical marijuana cultivation also creates increased nuisance impacts to neighboring properties because of the strong, malodorous, and potentially noxious odors which come from the plants. Further, the indoor and outdoor cultivation of medical marijuana in or near residential zones increases the risk of such activity and intrudes upon residential uses. Marijuana plants grown outdoors, as they begin to flower and for a period of two months or more during the growing season, produce an extremely strong odor that is offensive to many people and detectable far beyond property boundaries. This strong smell may create an attractive nuisance, alerting persons to the location of the marijuana plants, thereby creating a risk of burglary, robbery, armed robbery, assault, attempted murder, and murder. Fertilizers and pesticides, both legal and illegal, used when marijuana is grown outdoors may unreasonably increase the concentration of such chemicals in storm water runoff thereby impacting local creeks, streams and rivers. Such pollution may negatively affect water quality for downstream users, harm ecosystems, and impact threatened or endangered species. Water for marijuana grown outdoors may be illegally diverted from local creeks, streams, and rivers, thereby unreasonably depriving downstream users of beneficial water sources. Such diversions may also impact water supply, harm ecosystems, and negatively affect threatened or endangered species. The above describe problems will worsen as time going on if not regulated.

I have spoken to several neighboring county's law enforcement officers, to include Butte County, Nevada County, Tehama County, Shasta County and Lassen County, with regards to violence at marijuana dispensaries and marijuana cultivations. These agencies reported theft, armed robberies, home invasion robberies, kidnappings and homicides. Most of the above listed crimes are committed by multiple suspects participating in the criminal act and are commonly armed. Each agency reported an increase each year of marijuana related crimes. I believe that based on the information received from other counties relating to marijuana crimes that it is just a matter of time before Plumas County will see these types of crimes occurring in our community.

I recently spoke to a neighboring county's Detective with regards to a homicide in their jurisdiction over marijuana. The suspect relayed to the Detective that he and his "crew" have participated in several marijuana garden "rip offs". The suspect explained that it is very easy to identify marijuana garden as his "crew" uses satellite imagery to identify grow site or just simply drive around and find it, they conduct surveillance of the grow over several days and then complete the "rip off". If the owner of the grow attempts to defend his grow by use of a firearm the suspects will defend themselves which has resulted in this "crew" possibly being responsible for three homicides. The suspect told the Detective that he and his "crew" were involved in a shooting/rip off in the Portola area within the last two years. The Sheriff's Office does not have a report of a shooting/rip off at a marijuana garden but a lot of drug related crimes as such go unreported.

Marijuana dispensaries and cultivation of marijuana at location or premises in close proximity to school, churches, parks, child care centers, or youth oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or consumption by juveniles and creates an attractive nuisance. Further, the potential for criminal

activities associated with marijuana dispensaries and cultivation of marijuana in and around the above mentioned locations poses heightened risks that juveniles will be involved or endangered; therefore, the cultivation and sale from a dispensary of any amount of marijuana in these locations or premises is especially hazardous to public safety and welfare, and to the protection of children.

Sheriff's Office has received many complaints this year as well as in past years from residents complaining of outdoor marijuana gardens some small and some appear commercial in nature. The citizen complaints consist of; strong odor or noxious odor, heavy foot and vehicle traffic at grow sites, unattractive green/hoop houses and the public's fear of crime in their neighborhoods. The County currently does not have a county ordinance in regards to cultivation; small scale, commercial cultivation and dispensaries. With that being said we have seen an influx of subjects moving into Plumas County or buying land in Plumas County for the sole purpose of growing marijuana. These subjects have transferred from other counties due to the other county's strict ordinances/rules for cultivation which has prevented them from growing in their home town community.

The Sheriff's Office has received several reports over the past few years of marijuana thefts and some of the victims of these thefts have relayed to law enforcement the lengths they will go to protect their grows. This would include arming themselves during harvest season, setting booby traps and sleeping in marijuana grows while armed. During harvest time there is an increased threat to the public safety as this is when rip offs occur and can bring threat of violent crime due to the monetary value of mature marijuana.

With regards to Medical Marijuana Dispensaries, other public entities have reported adverse impacts from Medical Marijuana Dispensaries, including, but not limited to, an increase in crime such as burglary and robbery, disagreeable odor, negative effects on physical, mental, and community health, loitering, increases in traffic, noise and the sale of illegal drugs (including the illegal resale of marijuana from dispensaries) in the area immediately surrounding the medical marijuana dispensaries. Most of the sales that occur at a marijuana dispensary are in cash, due to the purchaser not wanting to leave any personal information at the dispensary. This means that there will be large amounts of cash kept on the premises, which could lead to theft, robbery or other violent crimes. Medical Marijuana dispensaries have been banned in the majority of counties throughout the state in an attempt to protect the public's health, safety, and welfare of the residents, children and businesses from harmful secondary effects of sales and distribution of marijuana and possibility of other illegal drugs sold in the area of the dispensary.

The Plumas County Sheriff's Department supports the Board of Supervisors cannabis moratorium.

Greg Hagwood, Sheriff/Coroner

By Investigations Sgt Steve Peay

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22948.25]

(Division 8 added by Stats. 1941, Ch. 44.)

CHAPTER 3.5. Medical Cannabis Regulation and Safety act [19300 - 19360]

(Heading of Chapter 3.5 amended by Stats. 2016, Ch. 32, Sec. 5.)

ARTICLE 1. Definitions [19300 - 19300.7]

(Article 1 added by Stats. 2015, Ch. 689, Sec. 4.)

19300.

This act shall be known and may be cited as the Medical Cannabis Regulation and Safety Act.

(Amended by Stats. 2016, Ch. 32, Sec. 6. Effective June 27, 2016.)

19300.5.

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

(a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.

(b) "Applicant," for purposes of Article 4 (commencing with Section 19320), includes the following:

(1) Owner or owners of the proposed premises, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the premises.

(2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed premises.

(3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

(c) "Batch" means a specific quantity of homogeneous medical cannabis or medical 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.

(d) "Bureau" means the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs.

(e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.

(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 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 from a cannabis plant is 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.

(h) "Certificate of accreditation" means a certificate issued by an accrediting body to a testing laboratory.

(i) "Chief" means Chief of the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs.

(j) "Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.

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

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

(m) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) "Dispensary" means a premises where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Section 19340, medical cannabis and medical cannabis products as part of a retail sale.

(o) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(p) "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.

(q) "Distributor" means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

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

(s) "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.

(t) "Fund" means the Medical Cannabis Regulation and Safety Act Fund established pursuant to Section 19351.

(u) "Identification program" means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.

(v) "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.

(w) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(x) "Licensee" means a person issued a state license under this chapter to engage in commercial cannabis activity.

(y) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license.

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

(aa) "Local license, permit, or other authorization" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

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

(ac) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(ad) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical 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 medical cannabis or medical cannabis products or labels or relabels its container.

(ae) "Manufacturing site" means the premises that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(af) "Medical cannabis," "medical cannabis product," or "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.

(ag) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

(ah) "Person" means an individual, firm, 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 includes the plural as well as the singular number.

(ai) "Primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

(aj) "State license" or "license" means a state license issued pursuant to this chapter.

(ak) "Testing laboratory" means the premises where tests are performed on medical cannabis or medical cannabis products and that holds a valid certificate of accreditation.

(al) "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.

(am) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

(an) "Transporter" means a person who holds a license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between licensees that have been issued a license pursuant to this chapter.

(Repealed and added by Stats. 2016, Ch. 32, Sec. 8. Effective June 27, 2016.)

19300.7.

License classifications pursuant to this chapter are as follows:

- (a) Type 1 = Cultivation; Specialty outdoor; Small.
- (b) Type 1A = Cultivation; Specialty indoor; Small.
- (c) Type 1B = Cultivation; Specialty mixed-light; Small.
- (d) Type 2 = Cultivation; Outdoor; Small.
- (e) Type 2A = Cultivation; Indoor; Small.
- (f) Type 2B = Cultivation; Mixed-light; Small.
- (g) Type 3 = Cultivation; Outdoor; Medium.
- (h) Type 3A = Cultivation; Indoor; Medium.
- (i) Type 3B = Cultivation; Mixed-light; Medium.
- (j) Type 4 = Cultivation; Nursery.
- (k) Type 6 = Manufacturer 1.
- (l) Type 7 = Manufacturer 2.
- (m) Type 8 = Testing laboratory.
- (n) Type 10 = Dispensary; General.
- (o) Type 10A = Producing Dispensary; No more than three retail sites.
- (p) Type 11 = Distributor.
- (q) Type 12 = Transporter.

(Amended by Stats. 2016, Ch. 32, Sec. 9. Effective June 27, 2016.)

ARTICLE 2. Administration [19302 - 19310]

(Article 2 added by Stats. 2015, Ch. 689, Sec. 4.)

19302.

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

(Amended by Stats. 2016, Ch. 32, Sec. 10. Effective June 27, 2016.)

19302.1.

- (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 chapter 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 Department of Consumer Affairs shall have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, testing, distribution, and sale of medical cannabis within the state and to collect fees in connection with activities the bureau regulates. The bureau shall have the authority to create licenses in addition to those identified in this chapter that the bureau deems necessary to effectuate its duties under this chapter.

(e) The Department of Food and Agriculture shall administer the provisions of this chapter related to and associated with the cultivation of medical cannabis and will serve as lead agency for the purpose of fulfilling the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). The Department of Food and Agriculture shall have the authority to create, issue, renew, discipline, suspend, or revoke licenses for the cultivation of medical cannabis and to collect fees in connection with activities it regulates. The Department of Food and Agriculture shall have the authority to create licenses in addition to those identified in this chapter that it deems necessary to effectuate its duties under this chapter.

(f) The State Department of Public Health shall administer the provisions of this chapter related to and associated with the manufacturing of medical cannabis. The State Department of Public Health shall have the authority to create, issue, renew, discipline, suspend, or revoke licenses for the manufacturing of medical cannabis and medical cannabis products and to collect fees in connection with activities it regulates. The State Department of Public Health shall have the authority to create licenses in addition to those identified in this chapter that it deems necessary to effectuate its duties under this chapter.

(Amended by Stats. 2016, Ch. 32, Sec. 11. Effective June 27, 2016.)

19303.

Protection of the public shall be the highest priority for all licensing authorities in exercising its licensing, regulatory, and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

(Amended by Stats. 2016, Ch. 32, Sec. 12. Effective June 27, 2016.)

19304.

(a) The licensing authorities shall make and prescribe rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable each licensing authority to exercise the powers and duties conferred upon it by this chapter, not inconsistent with any statute of this state, including particularly this chapter and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. 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 chapter.

(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.

(Amended by Stats. 2016, Ch. 32, Sec. 13. Effective June 27, 2016.)

19305.

Notice of any action of a licensing authority required by this chapter 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.

(Amended by Stats. 2016, Ch. 32, Sec. 14. Effective June 27, 2016.)

19306.

(a) The bureau may convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this chapter, including best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. The advisory committee members shall be determined by the chief.

(b) The advisory committee members may include, but not be limited to, representatives of the medical cannabis industry, representatives of medical cannabis cultivators, appropriate local and state agencies, appropriate local and state law enforcement, physicians, environmental and public health experts, and medical cannabis patient advocates.

(Amended by Stats. 2016, Ch. 32, Sec. 15. Effective June 27, 2016.)

19307.

A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this chapter. A licensing authority may work with state and local law enforcement agencies on investigations and enforcement actions pertaining to licenses.

(Amended by Stats. 2016, Ch. 32, Sec. 16. Effective June 27, 2016.)

19308.

For any hearing held pursuant to this chapter, the director, or a licensing authority, may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

19309.

In any hearing before a licensing authority pursuant to this chapter, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

19310.

A licensing authority may on its own motion at any time before a penalty assessment is placed into effect and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

(Amended by Stats. 2016, Ch. 32, Sec. 17. Effective June 27, 2016.)

ARTICLE 3. Enforcement [19311 - 19319]

(Article 3 added by Stats. 2015, Ch. 689, Sec. 4.)

19311.

Grounds for disciplinary action include, but are not limited to, the following:

- (a) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.
- (b) Conduct that constitutes grounds for denial of licensure 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 chapter.
- (d) Failure to comply with any state law, except as provided for in this chapter or other California law.
- (e) Failure to maintain safe conditions for inspection by a licensing authority.
- (f) Failure to comply with any operating procedure submitted to the licensing authority pursuant to subdivision (b) of Section 19322.

(Amended by Stats. 2016, Ch. 32, Sec. 18. Effective June 27, 2016.)

19312.

(a) (1) Each licensing authority may suspend, revoke, 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.

(2) A licensing authority may revoke a license when a local agency has notified the licensing authority that a licensee or applicant 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 termination or revocation of the license.

(b) 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 and agency head, as that term is defined in Section 11405.40 of the Government Code, of each licensing authority shall have all the powers granted therein.

(c) Each licensing authority may take disciplinary action and assess fines against its respective licensees for any violation of this chapter when the violation was committed by the licensee's agent or employee 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 this code.

(Amended by Stats. 2016, Ch. 32, Sec. 19. Effective June 27, 2016.)

19313.5.

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

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

19314.

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.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

19315.

(a) Nothing in this chapter 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.

(b) Nothing in this chapter 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.

(c) Nothing in this chapter shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority under the Fish and Game Code, the Water Code, the Food and Agricultural Code, or the Health and Safety Code.

(Amended by Stats. 2016, Ch. 32, Sec. 21. Effective June 27, 2016.)

19316.

(a) Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state shall be the minimum standards for all licensees statewide.

(b) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this chapter and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall further assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(c) Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

19317.

(a) The actions of a licensee, its employees, and its agents that are (1) permitted pursuant to both a state license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, and (2) conducted in accordance with the requirements of this chapter and regulations adopted pursuant to this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to both a state license and a local license or permit following the requirements of the applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

19319.

(a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this chapter.

(b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this chapter.

(Added by Stats. 2015, Ch. 719, Sec. 7. Effective January 1, 2016.)

ARTICLE 4. Licensing [19320 - 19325]

(Article 4 added by Stats. 2015, Ch. 689, Sec. 4.)

19320.

(a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this chapter.

(b) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(c) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport or where any equipment that is not currently transporting medical cannabis or medical cannabis products permanently resides.

(d) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon revocation of a local license, permit, or other authorization. The bureau shall inform relevant licensing authorities.

(e) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license.

(f) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(g) Nothing in this chapter shall be construed to supersede or limit state agencies, including the Department of Food and Agriculture, the State Water Resources Control Board, and the Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

(Amended (as added by Stats. 2015, Ch. 689, Sec. 4) by Stats. 2016, Ch. 32, Sec. 23. Effective June 27, 2016.)

19321.

(a) A license issued pursuant to this chapter shall be valid for 12 months from the date of issuance. The license shall be renewed annually. Each licensing authority shall establish procedures for the renewal of a license.

(b) Notwithstanding subdivision (b) of Section 19320, the premises or person that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter only if (1) a completed application and all required documentation and approvals for licensure are submitted to the licensing authority no later than the deadline established by the licensing authority and (2) the applicant continues to operate in compliance with all local and state requirements, except possession of a state license pursuant to this chapter. In issuing licenses, the licensing authority shall prioritize any premises or person that can demonstrate to the authority's satisfaction that the premises or person was in operation and in good standing with the local jurisdiction by January 1, 2016.

(c) Issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of the City of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, Proposition D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or the city's zoning laws. Nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of Proposition D or local zoning law, in court or in any other context or forum.

(Amended by Stats. 2016, Ch. 32, Sec. 25. Effective June 27, 2016.)

19322.

(a) A person shall not submit an application for a state license issued by a licensing authority pursuant to this chapter unless that person has received a license, permit, or authorization from the local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:

(1) 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 documentation issued by the local jurisdiction in which the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations.

(3) Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, testing, transporter, or dispensary license, provide a statement from the owner 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 dispensary activities to be conducted on the property by the tenant applicant.

(4) If the application is for a cultivator or a dispensary, 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.

(5) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

(6) (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.

(7) 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.

- (8) Provide any other information required by the licensing authority.
- (9) 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.
- (10) Pay all applicable fees required for licensure by the licensing authority.
- (11) 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) For applicants seeking licensure to cultivate, distribute, manufacture, test, or dispense medical cannabis or medical 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) Inventory procedures.
 - (5) Quality control procedures.
 - (6) Security protocols.

(Amended by Stats. 2016, Ch. 32, Sec. 26. Effective June 27, 2016.)

19323.

- (a) A licensing authority shall deny an application if the applicant or the premises for which a state license is applied does not qualify for licensure under this chapter or the rules and regulations for the state license.
- (b) A licensing authority may deny an application for licensure or renewal of a state license, or issue a conditional license, if any of the following conditions apply:
 - (1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.
 - (2) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.
 - (3) The applicant has failed to provide information required by the licensing authority.
 - (4) The applicant 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 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, and shall evaluate the suitability of the applicant 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 felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.
- (B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
- (C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
- (D) A felony conviction involving fraud, deceit, or embezzlement.
- (5) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.
- (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 Section 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 unlicensed commercial cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.
- (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) The applicant or any of its officers, directors, owners, employees, or authorized agents have failed to comply with any operating procedure required pursuant to subdivision (b) of Section 19322.
- (10) Conduct that constitutes grounds for disciplinary action pursuant to this chapter.

(Amended by Stats. 2016, Ch. 32, Sec. 27. Effective June 27, 2016.)

19324.

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.

(Added by Stats. 2015, Ch. 719, Sec. 11. Effective January 1, 2016.)

19325.

An applicant shall not be denied a state license if the denial is based solely on any of the following:

- (a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.
- (b) A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(Added by Stats. 2015, Ch. 719, Sec. 12. Effective January 1, 2016.)

ARTICLE 5. Medical Marijuana Regulation [19326 - 19330]

(Article 5 added by Stats. 2015, Ch. 689, Sec. 4.)

19326.

(a) A person other than a transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.

(b) (1) All cultivators, manufacturers, and licensees holding a producing dispensary license in addition to a cultivation or manufacturing license shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 19300.5, for presale quality assurance and inspection by a distributor and for a batch testing by a testing laboratory prior to distribution to a dispensary.

(2) Notwithstanding paragraph (1), a cultivator shall not be required to send medical cannabis to a distributor if the medical cannabis is to be used, sold, or otherwise distributed by methods approved pursuant to this chapter by a manufacturer for further manufacturing.

(c) (1) Upon receipt of medical cannabis or medical cannabis products from a cultivator, manufacturer, or a licensee holding a producing dispensary license in addition to a cultivation or a manufacturing license, the distributor shall first inspect the product to ensure the identity and quantity of the product and ensure a random sample of the medical cannabis or medical cannabis product is tested by a testing laboratory.

(2) Upon issuance of a certificate of analysis by the testing laboratory that the product is fit for dispensing medical cannabis and medical cannabis products shall undergo a quality assurance review by the distributor prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state.

(3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed.

However, a distributor responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a testing laboratory, as well as applicable state or local taxes and fees.

(d) Medical cannabis and medical cannabis products shall be tested by a licensed testing laboratory, prior to dispensing, pursuant to Section 19344.

(e) This chapter shall not prohibit 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. On-site testing by the licensee shall not be certified by the Bureau of Medical Cannabis Regulation.

(Amended by Stats. 2016, Ch. 32, Sec. 28. Effective June 27, 2016.)

19327.

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

(b) All records related to commercial cannabis activity shall be maintained for a minimum of seven years.

(c) Licensing authorities may examine the records of licensees 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 chapter. 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.

(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 chapter.

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

(Amended by Stats. 2016, Ch. 32, Sec. 29. Effective June 27, 2016.)

19328.

(a) Except as provided in paragraphs (9) and (10), a licensee may only hold a state license in up to two separate license categories, as follows:

(1) Type 1, 1A, 1B, 2, 2A, or 2B licensees may also hold either a Type 6 or 7 state license.

(2) Type 6 or 7 licensees, or a combination thereof, may also hold either a Type 1, 1A, 1B, 2, 2A, or 2B state license.

(3) Type 6 or 7 licensees, or a combination thereof, may also hold a Type 10A state license.

(4) Type 10A licensees may also hold either a Type 6 or 7 state license, or a combination thereof.

(5) Type 1, 1A, 1B, 2, 2A, or 2B licensees, or a combination thereof, may also hold a Type 10A state license.

(6) Type 10A licensees may hold a Type 1, 1A, 1B, 2, 2A, or 2B state license, or a combination thereof.

(7) Type 11 licensees shall also hold a Type 12 state license, but shall not hold any other type of state license.

(8) Type 12 licensees may hold a Type 11 state license.

(9) A Type 10A licensee may hold a Type 6 or 7 state license and may also hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid. All cultivation pursuant to this section shall comply with local ordinances. This paragraph shall become inoperative on January 1, 2026.

(10) All cultivators and manufacturers may hold a Type 12 transporter license. All cultivators and manufacturers who are issued Type 12 transporter licenses shall comply with the following:

(A) Cultivators shall only transport medical cannabis from a cultivation site to a manufacturer or a distributor.

(B) Manufacturers shall only transport medical cannabis and medical cannabis products as follows:

- (i) Between a cultivation site and a manufacturing site.
- (ii) Between a manufacturing site and a manufacturing site.
- (iii) Between a manufacturing site and a distributor.

(b) Except as provided in subdivision (a), a person or entity that holds a state license is prohibited from licensure for any other activity authorized under this chapter, and is prohibited from holding an ownership interest in real property, personal property, or other assets associated with or used in any other license category.

(c) (1) In a jurisdiction that adopted a local ordinance, prior to July 1, 2015, requiring qualified businesses to cultivate, manufacture, and dispense medical cannabis or medical cannabis products, with all commercial cannabis activity being conducted by a single qualified business, upon licensure that business shall not be subject to subdivision (a) if it meets all of the following conditions:

- (A) The business was cultivating, manufacturing, and dispensing medical cannabis or medical cannabis products on January 1, 2016, and has continuously done so since that date.
- (B) The business has been in full compliance with all applicable local ordinances at all times prior to licensure.
- (C) The business is registered with the State Board of Equalization for tax purposes.
- (2) A business licensed pursuant to paragraph (1) is not required to conduct all cultivation or manufacturing within the bounds of a local jurisdiction, but all cultivation and manufacturing shall have commenced prior to January 1, 2016, and have been in full compliance with applicable local ordinances.

(d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Amended by Stats. 2016, Ch. 32, Sec. 30. Effective June 27, 2016. Repealed as of January 1, 2026, by its own provisions.)

19329.

A licensee shall not also be licensed as a retailer of alcoholic beverages pursuant to Division 9 (commencing with Section 23000).

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

19330.

This chapter and Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code shall not interfere with an employer's rights and obligations 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 cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

ARTICLE 6. Licensed Cultivation Sites [19331 - 19333]

(Article 6 added by Stats. 2015, Ch. 719, Sec. 13.)

19331.

The Legislature finds and declares all of the following:

- (a) The United States Environmental Protection Agency has not established appropriate pesticide tolerances for, or permitted the registration and lawful use of, pesticides on cannabis crops intended for human consumption pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).
- (b) The use of pesticides is not adequately regulated due to the omissions in federal law, and cannabis cultivated in California for California patients can and often does contain pesticide residues.
- (c) Lawful California medical cannabis growers and caregivers urge the Department of Pesticide Regulation to provide guidance, in absence of federal guidance, on whether the pesticides currently used at most cannabis cultivation sites are actually safe for use on cannabis intended for human consumption.

(Added by Stats. 2015, Ch. 719, Sec. 13. Effective January 1, 2016.)

19332.

- (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor commercial cultivation sites.
- (b) The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.
- (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.
- (d) 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.
- (e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:
 - (1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical 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. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). 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 Article 8 (commencing with Section 19337).

(f) The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(g) State cultivator license types issued by the Department of Food and Agriculture may include:

(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 less than or equal to 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 less than or equal to 5,000 square feet of total canopy size on one premises.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) Type 4, or "nursery," for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants, if the licensee also holds a Type 12 transporter license issued pursuant to this chapter.

(Amended (as added by Stats. 2015, Ch. 719, Sec. 13) by Stats. 2016, Ch. 32, Sec. 32. Effective June 27, 2016.)

19332.2.

(a) An application for a license for indoor or outdoor 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 license issued by the Department of Food and Agriculture before January 1, 2020, shall include one of the following:

(1) A copy of a registration, 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, establishing 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, establishing that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017.

(c) An application for a cultivation license issued after December 31, 2019, shall include one of the following:

(1) A copy of a registration, 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.

(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.

(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.

(Added by Stats. 2016, Ch. 32, Sec. 33. Effective June 27, 2016.)

19332.5.

(a) Not 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.

(b) The Department of Food and Agriculture may establish appellations of origin for cannabis grown in California.

(c) It is unlawful for medical cannabis to be marketed, labeled, or sold as grown in a California county when the medical cannabis was not grown in that county.

(d) It is unlawful to use the name of a California county in the labeling, marketing, or packaging of medical cannabis products unless the product was grown in that county.

(Amended by Stats. 2016, Ch. 32, Sec. 34. Effective June 27, 2016.)

19333.

An employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

(Added by Stats. 2015, Ch. 719, Sec. 13. Effective January 1, 2016.)

ARTICLE 7. Licensed Distributors, Dispensaries, and Transporters [19334- 19334.]
(Article 7 added by Stats. 2015, Ch. 689, Sec. 4.)

19334.

(a) State licenses to be issued by the Department of Consumer Affairs are as follows:

(1) "Dispensary," Type 10 license as defined in this chapter. This license shall allow for delivery pursuant to Section 19340.

(2) "Distributor," Type 11 license for the distribution of medical cannabis and medical cannabis products from manufacturer to dispensary. A distributor licensee shall hold a Type 12 or transporter license. Each location where product is stored for the purposes of distribution must be individually licensed. A distributor licensee shall not hold a license in a cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, premises licensed in those categories other than a security interest, lien, or encumbrance on property that is used by a licensee. A distributor shall be bonded and insured at a minimum level established by the licensing authority.

(3) "Producing dispensary," Type 10A for dispensers who have no more than three licensed dispensary facilities and wish to hold either a cultivation or manufacturing license or both. This license shall allow for delivery where expressly authorized by local ordinance. Each dispensary must be individually licensed.

(4) "Transport," Type 12 license for transporters of medical cannabis or medical cannabis products between licensees. A Type 12 licensee shall be bonded and insured at a minimum level established by the licensing authority.

(b) The bureau shall establish minimum security requirements for the commercial transportation, storage, and delivery of medical cannabis and medical cannabis products.

(c) The State Department of Public Health shall establish minimum security requirements for the storage of medical cannabis products at the manufacturing site.

(d) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.

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

(3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.

(e) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.

(2) Diversion, theft, loss, or any criminal activity pertaining to the operation of the dispensary.

(3) Diversion, theft, loss, or any criminal activity by any agent or employee of the dispensary pertaining to the operation of the dispensary.

(4) The loss or unauthorized alteration of records related to medical cannabis or medical cannabis products, registered qualifying patients, primary caregivers, or dispensary employees or agents.

(5) Any other breach of security.

(Amended by Stats. 2016, Ch. 32, Sec. 35. Effective June 27, 2016.)

ARTICLE 7.5. Unique Identifier and Track and Trace Program [19335 - 19336]

(Article 7.5 added by Stats. 2015, Ch. 719, Sec. 14.)

19335.

(a) The Department of Food and Agriculture, in consultation with the bureau, shall establish a track and trace program for reporting the movement of medical cannabis items 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, transporters, 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 medical cannabis and medical 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 chapter.

(Amended by Stats. 2016, Ch. 32, Sec. 36. Effective June 27, 2016.)

19336.

(a) Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the bureau's collection of the fees, civil fines, and penalties imposed pursuant to this chapter.

(b) Chapter 8 (commencing with Section 55381) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the disclosure of information under this chapter.

(Added by Stats. 2015, Ch. 719, Sec. 14. Effective January 1, 2016.)

ARTICLE 8. Licensed Transporters [19337 - 19338]

(Article 8 added by Stats. 2015, Ch. 719, Sec. 15.)

19337.

(a) A licensee authorized to transport medical cannabis and medical cannabis products between licenses shall do so only as set forth in this chapter.

(b) Prior to transporting medical cannabis or medical cannabis products, a licensed transporter of medical cannabis or medical cannabis products shall do both of the following:

(1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest must include the unique identifier, pursuant to Section 11362.777 of the Health and Safety Code, issued by the Department of Food and Agriculture for the original cannabis product.

(2) Securely transmit the manifest to the bureau and the licensee that will receive the medical cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 19335.

- (c) During transportation, the licensed transporter shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.
- (d) The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to the Department of Consumer Affairs and any law enforcement officers.
- (e) Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment.
- (f) Transporting, or arranging for or facilitating the transport of, medical cannabis or medical cannabis products in violation of this chapter is grounds for disciplinary action against the license.

(Added by Stats. 2015, Ch. 719, Sec. 15. Effective January 1, 2016.)

19338.

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

(Added by Stats. 2015, Ch. 719, Sec. 15. Effective January 1, 2016.)

ARTICLE 9. Delivery [19340- 19340.]

(Article 9 added by Stats. 2015, Ch. 689, Sec. 4.)

19340.

- (a) Deliveries, as defined in this chapter, can only be made by a dispensary and in a city, county, or city and county that does not explicitly prohibit it by local ordinance.
- (b) Upon approval of the licensing authority, a licensed dispensary that delivers medical cannabis or medical cannabis products shall comply with both of the following:
 - (1) The city, county, or city and county in which the licensed dispensary is located, and in which each delivery is made, do not explicitly by ordinance prohibit delivery, as defined in Section 19300.5.
 - (2) All employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current license authorizing those services with them during deliveries and the employee's government-issued identification, and 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 county shall have the authority to impose a tax, pursuant to Article 11 (commencing with Section 19348), on each delivery transaction completed by a licensee.

- (d) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.
- (e) The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the licensing authority and law enforcement officers.
- (f) A local jurisdiction shall not prevent carriage of medical cannabis or medical cannabis products on public roads by a licensee acting in compliance with this chapter.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

ARTICLE 10. Licensed Manufacturers and Licensed Laboratories [19341 - 19347.8]

(Article 10 added by Stats. 2015, Ch. 689, Sec. 4.)

19341.

The State Department of Public Health shall promulgate regulations governing the licensing of manufacturers. The State Department of Public Health shall develop standards for the manufacturing and labeling of all manufactured medical cannabis products. Licenses to be issued are as follows:

- (a) "Manufacturing level 1," for manufacturing sites that produce medical cannabis products using nonvolatile solvents.
- (b) "Manufacturing level 2," for manufacturing sites that produce medical cannabis products using volatile solvents. The State Department of Public Health shall limit the number of licenses of this type.

(Amended by Stats. 2016, Ch. 32, Sec. 37. Effective June 27, 2016.)

19342.

- (a) For the purposes of testing medical cannabis or medical cannabis products, licensees shall use a testing laboratory that has adopted a standard operating procedure using methods consistent with general requirements established by the International Organization for Standardization, specifically ISO/IEC 17025, to test medical cannabis and medical cannabis products. The testing laboratory shall be accredited by a body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.
- (b) An agent of a testing laboratory shall obtain samples according to a statistically valid sampling method for each lot.
- (c) A testing laboratory shall analyze samples according to both of the following:
 - (1) In the final form that the medical cannabis or medical cannabis products will be consumed or used, including moisture content and other attributes.
 - (2) A scientifically valid methodology, as determined by the bureau.
- (d) If a test result falls outside the specifications authorized by law or regulation, the testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

(e) A testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis.

(f) The State Department of Public Health and the Department of Pesticide Regulation shall provide assistance to the bureau in developing regulations, as requested by the bureau.

(Amended by Stats. 2016, Ch. 32, Sec. 38. Effective June 27, 2016.)

19343.

A testing laboratory shall not be licensed by the bureau unless the laboratory meets all of the following:

(a) A testing laboratory shall not hold a license in another license category under this chapter and shall not own or have an ownership interest in any other entity or premises licensed under a different category pursuant to this chapter.

(b) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing laboratory shall also comply with any other requirements specified by the bureau.

(c) Notifies the bureau within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

(d) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

(Amended by Stats. 2016, Ch. 32, Sec. 39. Effective June 27, 2016.)

19344.

(a) A testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:

(1) Whether the chemical profile of the lot conforms to the specifications of the lot for 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) Terpenes required by the bureau in a regulation.

(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 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 19332, and any other relevant sources.

(A) Residual solvent or processing chemicals.

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

(C) Microbiological impurities as identified by the bureau in regulation.

(b) Residual levels of volatile organic compounds shall be below the lesser of either the specifications set by the United States Pharmacopeia (U.S.P. Chapter 467) or those set by the bureau.

(Amended by Stats. 2016, Ch. 32, Sec. 40. Effective June 27, 2016.)

19345.

(a) Except as provided in this chapter, a testing laboratory shall not acquire or receive medical cannabis or medical cannabis products except from a licensee in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products, from the licensed premises the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(b) A testing laboratory may receive and test samples of medical cannabis or medical cannabis products from a qualified patient or primary caregiver only if he or she presents his or her valid recommendation for cannabis for medical purposes from a physician. A testing laboratory shall not certify samples from a qualified patient or caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or caregiver shall be recorded with the name of the qualified patient or caregiver and the amount of medical cannabis or medical cannabis product received.

(c) The bureau shall develop procedures related to all of the following:

(1) Ensuring that testing of medical cannabis and medical cannabis products occurs prior to delivery to dispensaries or any other business.

(2) Specifying how often licensees shall test medical cannabis and medical cannabis products.

(3) Requiring the destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by state law, unless remedial measures can bring the medical cannabis or medical cannabis products into compliance with quality assurance standards as specified by state law.

(d) Cultivators and manufacturers shall pay all costs related to and associated with the testing of medical cannabis and medical cannabis products required by this chapter.

(Amended by Stats. 2016, Ch. 32, Sec. 41. Effective June 27, 2016.)

19347.

(a) Prior to delivery by or sale at a dispensary, medical cannabis and medical cannabis products shall be labeled and in tamper proof packaging and shall include a unique identifier, as prescribed by the Department of Food and Agriculture, for the purpose of identifying and tracking medical cannabis or medical cannabis products. Packages of medical cannabis and medical cannabis products shall meet the following requirements:

(1) Medical cannabis packages and labels shall not be made to be attractive to children.

(2) All medical cannabis and medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

- (A) Cultivation and manufacture date and source.
- (B) The statement "SCHEDULE I CONTROLLED SUBSTANCE."
- (C) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.
- (D) The statement "FOR MEDICAL USE ONLY."
- (E) The statement "THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS."
- (F) The statement "THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."
- (G) For packages containing only dried flower, the net weight of medical cannabis in the package.
- (H) A warning if nuts or other known allergens are used in the manufacturing of the medical cannabis products.
- (I) List of ingredients and pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC, CBD, and other cannabinoid amount in milligrams per serving, servings per package, and the THC, CBD, and other cannabinoid amount in milligrams for the package total.
- (J) Clear indication, in bold type, that the product contains medical cannabis.
- (K) Any other requirement set by the bureau or the State Department of Public Health.
- (L) Information associated with the unique identifier issued by the Department of Food and Agriculture pursuant to Section 11362.777 of the Health and Safety Code.
- (M) All manufactured and edible medical cannabis products shall be sold only in special packaging constructed to be child-resistant unless otherwise exempted by regulation.

(b) Only generic food names may be used to describe edible medical cannabis products.

(Amended by Stats. 2016, Ch. 32, Sec. 42. Effective June 27, 2016.)

19347.1.

- (a) The State 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 State 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 State 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 State 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 State 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.

(Added by Stats. 2016, Ch. 32, Sec. 43. Effective June 27, 2016.)

19347.2.

The State Department of Public Health may, in addition to the administrative citation system authorized by Section 19347.1, also establish by regulation a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the State Department of Public Health as pertains to this chapter. The administrative citation system authorized by this section shall meet the requirements of Section 19347.1 and shall not be applied to an unlicensed person who is otherwise exempt from the licensing provisions of this chapter. The establishment of an administrative citation system for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the State Department of Public Health.

(Added by Stats. 2016, Ch. 32, Sec. 44. Effective June 27, 2016.)

19347.3.

In determining whether to exercise its discretion when enforcing this chapter, the State Department of Public Health may consider whether the public interest will be adequately served in the circumstances by a suitable written notice or warning. The State Department of Public Health may also require licensees to provide it with a written plan of correction and correct a violation within a timeframe the State Department of Public Health deems necessary under the circumstances.

(Added by Stats. 2016, Ch. 32, Sec. 45. Effective June 27, 2016.)

19347.4.

The State Department of Public Health may notify the public regarding any medical cannabis product when the State Department of Public Health deems it necessary for the protection of the health and safety of the consumer or for his or her protection from fraud.

(Added by Stats. 2016, Ch. 32, Sec. 46. Effective June 27, 2016.)

19347.5.

(a) A medical 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 chapter.
- (2) Its labeling is false or misleading in any particular.
- (3) Its labeling or packaging does not conform to the requirements of Section 19347 or any other labeling or packaging requirement established pursuant to this chapter.
- (b) It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale a medical cannabis product that is misbranded.
- (c) It is unlawful for any person to misbrand a medical cannabis product.
- (d) It is unlawful for any person to receive in commerce a medical cannabis product that is misbranded or to deliver or offer for delivery any such medical cannabis product.

(Added by Stats. 2016, Ch. 32, Sec. 47. Effective June 27, 2016.)

19347.6.

(a) A medical 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 medical 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 medical cannabis product that is adulterated.

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

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

(Added by Stats. 2016, Ch. 32, Sec. 48. Effective June 27, 2016.)

19347.7.

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

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

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

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

(c) The State 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 State Department of Public Health.

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

(e) If the State 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 State Department of Public Health from these efforts shall be deposited into a fee account specific to the State Department of Public Health, to be established in the Medical Cannabis Regulation and Safety Act 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 medical cannabis product subject to an order issued pursuant to this section unless that person has first obtained written authorization from the State Department of Public Health.
(Added by Stats. 2016, Ch. 32, Sec. 49. Effective June 27, 2016.)

19347.8.

(a) Whenever the State Department of Public Health finds or has probable cause to believe that any medical cannabis product is adulterated or misbranded within the meaning of this chapter or the sale of the medical cannabis product would be in violation of this chapter, the department shall affix to the medical cannabis product, or component thereof, a tag or other appropriate marking. The State Department of Public Health shall give notice that the medical 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 medical cannabis product by sale or otherwise until permission for removal or disposal is given by the State Department of Public Health or a court.

(b) It is unlawful for any person to remove, sell, or dispose of a detained or embargoed medical cannabis product without written permission of the State 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 medical cannabis product and all of the provisions of this chapter can be complied with, the claimant or owner may request the State Department of Public Health to remove the tag or other marking. If, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected, the department may remove the tag or other marking.

(d) When the State Department of Public Health finds that a medical cannabis product that is embargoed is not adulterated, misbranded, or whose sale is not otherwise in violation of this chapter, the State Department of Public Health may remove the tag or other marking.

(e) The medical cannabis product may be destroyed by the owner pursuant to a corrective action plan approved by the State Department of Public Health and under the supervision of the department. The medical cannabis product shall be destroyed at the expense of the claimant or owner.

(f) A proceeding for condemnation of any medical 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 medical cannabis product is adulterated, misbranded, or whose sale is otherwise in violation of this chapter, the administrative law judge may direct the medical cannabis product to be destroyed at the expense of the claimant or owner. The administrative law judge may also direct a claimant or owner of the affected medical 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 State Department of Public Health, the adulteration or misbranding has been corrected by proper labeling or additional processing of the medical cannabis and medical cannabis product and when all provisions of this chapter have been complied with, and after costs, fees, and expenses have been paid, the State Department of Public Health may release the embargo and remove the tag or other marking and the medical cannabis shall no longer be held for sale in violation of this chapter.

(i) The State Department of Public Health may condemn any medical cannabis product under provisions of this chapter. The medical cannabis product shall be destroyed at the expense of the claimant or owner.

(Added by Stats. 2016, Ch. 32, Sec. 50. Effective June 27, 2016.)

ARTICLE 11. Taxation [19348- 19348.]

(Article 11 added by Stats. 2015, Ch. 719, Sec. 16.)

19348.

(a) (1) A county may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by a licensee operating pursuant to this chapter.

(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.

(Added by Stats. 2015, Ch. 719, Sec. 16. Effective January 1, 2016.)

ARTICLE 13. Funding [19350 - 19352]

(Article 13 added by Stats. 2015, Ch. 688, Sec. 2.)

19350.

Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter, 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 chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter 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 19335, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this chapter shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business. License fees shall cover the costs of administering the track and trace program managed by the Department of Food and Agriculture, as identified in Article 7.5 (commencing with Section 19335).

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Medical Cannabis Regulation and Safety Act Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation of the Legislature, by the designated licensing authority for the administration of this chapter.

(Amended by Stats. 2016, Ch. 32, Sec. 51. Effective June 27, 2016.)

19351.

(a) The Medical Cannabis Regulation and Safety Act Fund is hereby established within the State Treasury. 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) (1) Funds for the establishment and support of the regulatory activities pursuant to this chapter shall be advanced as a General Fund or special fund loan, 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, by appropriation of the Legislature, to repay the loan.

(2) 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 chapter.

(3) The Director of Finance may provide an initial operating loan from the General Fund to the Medical Cannabis Regulation and Safety Act Fund that does not exceed ten million dollars (\$10,000,000).

(c) Except as otherwise provided, all moneys collected pursuant to this chapter 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).

(d) (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.

(Amended by Stats. 2016, Ch. 32, Sec. 52. Effective June 27, 2016.)

19352.

The sum of ten million dollars (\$10,000,000) is hereby appropriated from the Medical Marijuana Regulation and Safety Act Fund to the Department of Consumer Affairs to begin the activities of the Bureau of Medical Marijuana Regulation. Funds appropriated pursuant to this section shall not include moneys received from fines or penalties.

(Added by Stats. 2015, Ch. 688, Sec. 2. Effective January 1, 2016.)

ARTICLE 14. Reporting [19353 - 19354]

(Article 14 added by Stats. 2015, Ch. 689, Sec. 4.)

19353.

Beginning on March 1, 2023, and on or before March 1 of each following year, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities 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 medical 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 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.
- (e) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

19354.

The bureau shall contract with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, to develop a study that identifies the impact that cannabis has on motor skills.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

ARTICLE 15. Privacy [19355- 19355.]

(Article 15 added by Stats. 2015, Ch. 689, Sec. 4.)

19355.

(a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office 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.

(b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.

(c) Nothing in this section precludes the following:

(1) Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

(2) Notifications from the bureau or any licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.

(3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.

(4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.

(d) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

(Added by Stats. 2015, Ch. 689, Sec. 4. Effective January 1, 2016.)

ARTICLE 17. Penalties and Violations [19360- 19360.]

(Article 17 added by Stats. 2015, Ch. 688, Sec. 3.)

19360.

(a) A person engaging in commercial cannabis activity without a license and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the department, state or local authority, or court may order the destruction of medical cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of medical cannabis associated with his or her violation, in addition to any amount covered by a bond required as a condition of licensure. 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 Medical Cannabis Fines and Penalties Account established pursuant to Section 19351.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General on behalf of the people, the penalty collected shall be deposited into the Medical Cannabis Fines and Penalties Account. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or city and county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has jurisdiction and one-half to the treasurer of the county in which the judgment is entered.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person or entity engaging in cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the Health and Safety Code.

(Amended by Stats. 2016, Ch. 32, Sec. 53. Effective June 27, 2016.)

Fish and Game Code

(c) (1) Notwithstanding subdivision (a), an entity shall not be required to obtain an agreement with the department pursuant to this chapter for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food

and Agriculture for the term of the license or renewed license if all of the following occur:

- (A) The entity submits all of the following to the department:
 - (i) The written notification described in paragraph (1) of subdivision (a).
 - (ii) A copy of the license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture that includes the requirements specified in subdivisions (d), (e), and (f) of Section 19332.2 of the Business and Professions Code.
 - (iii) The fee specified in paragraph (3) of subdivision (a).
- (B) The department determines in its sole discretion that compliance with the requirements specified in subdivisions (d), (e), and (f) of Section 19332.2 of the Business and Professions Code that are included in the license will adequately protect existing fish and wildlife resources that may be substantially adversely affected by the cultivation without the need for additional measures that the department would include in a draft streambed alteration agreement in accordance with Section 1603.
- (C) The department notifies the entity in writing that the exemption applies to the cultivation authorized by the license or renewed license.

(2) The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the cultivation authorized by the license or renewed license within 60 days from the date that the notification is complete and the fee has been paid.

(3) If an entity receives an exemption pursuant to this subdivision and fails to comply with any of the requirements described in subdivision (d), (e), or (f) of Section 19332.2 of the Business and Professions Code that are included in the license, the failure shall constitute a violation under this section, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.

(d) It is unlawful for any person to violate this chapter.

(Amended by Stats. 2016, Ch. 32, Sec. 58. Effective June 27, 2016.)

1617.

- (a) The department may adopt regulations establishing the requirements and procedure for the issuance of a general agreement in a geographic area for a category or categories of activities related to cannabis cultivation.
- (b) A general agreement adopted by the department subsequent to adoption of regulations under this section shall be in lieu of an individual agreement described in subparagraph (B) of paragraph (4) of subdivision (a) of Section 1602.
- (c) Subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and all other time periods to process agreements specified in this chapter do not apply to the issuance of a general agreement adopted by the department pursuant to this section.
- (d) The department general agreement issued by the department pursuant to this section is a final agreement and is not subject to Section 1603 or 1604.
- (e) The department shall charge a fee for a general agreement adopted by the department under this section in accordance with Section 1609.

(f) Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(Added by Stats. 2016, Ch. 32, Sec. 59. Effective June 27, 2016.)

12025.2.

The director or his or her designee may issue a complaint to any person or entity in accordance with Section 1055 of the Water Code alleging a violation for which liability may be imposed under Section 1052 or 1847 of the Water Code that harms fish and wildlife resources. The complaint is subject to the substantive and procedural requirements set forth in Section 1055 of the Water Code, and the department shall be designated a party to any proceeding before the State Water Resources Control Board regarding a complaint filed pursuant to this section.

(Amended by Stats. 2016, Ch. 32, Sec. 60. Effective June 27, 2016.)

12029.

(a) The Legislature finds and declares all of the following:

(1) The environmental impacts associated with cannabis cultivation have increased, and unlawful water diversions for cannabis irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.

(2) The remediation of existing cannabis cultivation sites is often complex and the permitting of these sites requires greater department staff time and personnel expenditures. The potential for cannabis cultivation sites to significantly impact the state's fish and wildlife resources requires immediate action on the part of the department's lake and streambed alteration permitting staff.

(b) In order to address unlawful water diversions and other violations of the Fish and Game Code associated with cannabis cultivation, the department shall establish the watershed enforcement program to facilitate the investigation, enforcement, and prosecution of these offenses.

(c) The department, in coordination with the State Water Resources Control Board and the Department of Food and Agriculture, shall establish a permanent multiagency task force to address the environmental impacts of cannabis cultivation. The multiagency task force, to the extent feasible and subject to available resources, shall expand its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on fish and wildlife and their habitats throughout the state.

(d) In order to facilitate the remediation and permitting of cannabis cultivation sites, the department may adopt regulations to enhance the fees on any entity subject to Section 1602 for cannabis cultivation sites that require remediation. The fee schedule established pursuant to this subdivision shall not exceed the fee limits in Section 1609.

(Amended by Stats. 2016, Ch. 32, Sec. 61. Effective June 27, 2016.)

Food and Agricultural Code

37104.

Notwithstanding Section 19300.5 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 at the premises or location that is not subject to licensing as a milk product plant is exempt from the provisions of this division.
(Added by Stats. 2016, Ch. 32, Sec. 62. Effective June 27, 2016.)

52452.

(a) Except as otherwise provided in Section 52454, each container of agricultural seed that is for sale or sold within this state for sowing purposes shall bear upon it or have attached to it in a conspicuous place a plainly written or printed label or tag in the English language that includes all of the following information:

(1) The commonly accepted name of the kind, kind and variety, or kind and type of each agricultural seed component in excess of 5 percent of the whole, and the percentage by weight of each. If the aggregate of agricultural seed components, each present in an amount not exceeding 5 percent of the whole, exceeds 10 percent of the whole, each component in excess of 1 percent of the whole shall be named together with the percentage by weight of each. If more than one component is required to be named, the names of all components shall be shown in letters of the same type and size.

(2) The lot number or other lot identification.

(3) The percentage by weight of all weed seeds.

(4) The name and approximate number of each kind of restricted noxious weed seed per pound.

(5) The percentage by weight of any agricultural seed except that which is required to be named on the label.

(6) The percentage by weight of inert matter. If a percentage by weight is required to be shown by any provision of this section, that percentage shall be exclusive of any substance that is added to the seed as a coating and shown on the label as such.

(7) For each agricultural seed in excess of 5 percent of the whole, stated in accordance with paragraph (1), the percentage of germination exclusive of hard seed, the percentage of hard seed, if present, and the calendar month and year the test was completed to determine the percentages. Following the statement of those percentages, the additional statement "total germination and hard seed" may be stated.

(8) The name and address of the person who labeled the seed or of the person who sells the seed within this state.

(b) Subdivision (a) does not apply in the following instances:

(1) The sale is an occasional sale of seed grain by the producer of the seed grain to his or her neighbor for use by the purchaser within the county of production.

(2) Any cannabis seed, as defined in subdivision (f) of Section 19300.5 of the Business and Professions Code, sold or offered for sale in the state.

(c) All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the regulations that are adopted pursuant to this chapter.

(d) For purposes of this section, "neighbor" means a person who lives in close proximity, not to exceed three miles, to another.

(Amended by Stats. 2016, Ch. 32, Sec. 63. Effective June 27, 2016.)

Health and Safety Code

11362.769.

Indoor and outdoor medical cannabis cultivation shall be conducted in accordance with state and local laws. State agencies, including, but not limited to, the Department of Food and Agriculture, the State 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 medical cannabis cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

(Amended by Stats. 2016, Ch. 32, Sec. 66. Effective June 27, 2016.)

11362.775.

(a) Subject to subdivision (b), 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) 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).

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

(Amended by Stats. 2016, Ch. 32, Sec. 67. Effective June 27, 2016. Inoperative and repealed on date prescribed by its own provisions.)

11362.777.

(a) The Department of Food and Agriculture shall establish a Medical Cannabis Cultivation Program to be administered by the secretary and, except as specified in subdivision (c), shall administer this section as it pertains to the commercial cultivation of medical cannabis. For purposes of this section and Chapter 3.5

(commencing with Section 19300) of Division 8 of the Business and Professions Code, medical cannabis is an agricultural product.

(b) (1) A person or entity shall not cultivate medical cannabis without first obtaining both of the following:

(A) A license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(B) A state license issued by the department pursuant to this section.

(2) A person or entity shall not submit an application for a state license pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(3) A person or entity shall not submit an application for a state license pursuant to this section if the proposed cultivation of cannabis will violate the provisions of any local ordinance or regulation, or if medical cannabis is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.

(c) (1) Except as otherwise specified in this subdivision, and without limiting any other local regulation, a city, county, or city and county, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical cannabis pursuant to this section. A city, county, or city and county may inspect the intended cultivation site for suitability before issuing a permit. After the city, county, or city and county has approved a permit, the applicant shall apply for a state medical cannabis cultivation license from the department. A locally issued cultivation permit shall only become active upon licensing by the department and receiving final local approval. A person shall not cultivate medical cannabis before obtaining both a permit from the city, county, or city and county and a state medical cannabis cultivation license from the department.

(2) A city, county, or city and county that issues or denies conditional licenses to cultivate medical cannabis pursuant to this section shall notify the department in a manner prescribed by the secretary.

(3) A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the department's state licensing requirements.

(d) (1) The secretary may prescribe, adopt, and enforce regulations relating to the implementation, administration, and enforcement of this part, including, but not limited to, applicant requirements, collections, reporting, refunds, and appeals.

(2) The secretary may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. 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.

(3) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of medical cannabis. Compensation under the cooperative agreement shall

be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs.

(e) (1) The department, in consultation with, but not limited to, the Bureau of Medical Cannabis Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical 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 19332.2 of the Business and Professions Code.

(2) The department shall establish a program for the identification of permitted medical cannabis plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical cannabis plant.

(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 19335 of the Business and Professions Code.

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

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

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

(f) (1) A city, county, or city and county that issues or denies licenses, permits, or other entitlements to cultivate medical cannabis pursuant to this section shall notify the department in a manner prescribed by the secretary.

(2) Unique identifiers and associated identifying information administered by a city, county, or city and county shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(g) This section does not apply to a qualified patient cultivating cannabis pursuant to Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 100 square feet and he or she cultivates cannabis for his or her personal medical use and does not sell, distribute, donate, or provide cannabis to any other person or entity. This section does not apply to a primary caregiver cultivating cannabis pursuant to Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 500 square feet and he or she cultivates cannabis exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765. For purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution.

(Amended by Stats. 2016, Ch. 32, Sec. 68. Effective June 27, 2016.)

Labor Code

147.5.

(a) By January 1, 2017, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of facilities issued a license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(b) By July 1, 2017, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By July 1, 2017, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

(Added by Stats. 2015, Ch. 689, Sec. 7. Effective January 1, 2016.)

Revenue and Taxation Code

31020 (could not find on state website)

Water Code

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 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 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, address discharges of waste resulting from medical marijuana cultivation 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 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.

(Added by Stats. 2015, Ch. 688, Sec. 7. Effective January 1, 2016.)

27.

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision

(a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Medical Cannabis Regulation shall disclose information on its licensees.

(g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

(Amended by Stats. 2016, Ch. 32, Sec. 1. Effective June 27, 2016.)

101.

The department is comprised of the following:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.

- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.
- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.
- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.
- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) The Professional Fiduciaries Bureau.
- (ak) The State Board of Chiropractic Examiners.
- (al) The Bureau of Real Estate.
- (am) The Bureau of Real Estate Appraisers.
- (an) The Structural Pest Control Board.
- (ao) The Bureau of Medical Cannabis Regulation.
- (ap) Any other boards, offices, or officers subject to its jurisdiction by law.

(Amended by Stats. 2016, Ch. 32, Sec. 2. Effective June 27, 2016.)

144.

- (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.
- (b) Subdivision (a) applies to the following:
 - (1) California Board of Accountancy.

- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Bureau of Medical Cannabis Regulation.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

(Amended by Stats. 2016, Ch. 32, Sec. 3. Effective June 27, 2016.)

205.1.

Notwithstanding subdivision (a) of Section 205, the Medical Cannabis Regulation and Safety Act Fund is a special fund within the Professions and Vocations Fund, and is subject to subdivision (b) of Section 205.

(Amended by Stats. 2016, Ch. 32, Sec. 4. Effective June 27, 2016.)

2220.05.

(a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:

- (1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon represents a danger to the public.
- (2) Drug or alcohol abuse by a physician and surgeon involving death or serious bodily injury to a patient.
- (3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.
- (4) Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.
- (5) Sexual misconduct with one or more patients during a course of treatment or an examination.
- (6) Practicing medicine while under the influence of drugs or alcohol.

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

(Amended by Stats. 2015, Ch. 719, Sec. 2. Effective January 1, 2016.)

2241.5.

- (a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.
- (b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.
- (c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:
 - (1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.
 - (2) Violates Section 2241 regarding treatment of an addict.

- (3) Violates Section 2242 or 2525.3 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs or recommending medical cannabis.
- (4) Violates Section 2242.1 regarding prescribing on the Internet.
- (5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.
- (6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.
- (7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.

(d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

(e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5.

(Amended by Stats. 2015, Ch. 719, Sec. 3. Effective January 1, 2016.)

2242.1.

- (a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state, without an appropriate prior examination and medical indication, except as authorized by Section 2242.
- (b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars (\$25,000) per occurrence.
- (c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).
- (d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded

civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.

(e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.

(f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242 or 2525.3.

(Amended by Stats. 2015, Ch. 719, Sec. 4. Effective January 1, 2016.)

2525.

(a) It is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a state license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

(b) For the purposes of this section, "financial interest" shall have the same meaning as in Section 650.01.

(c) A violation of this section shall be a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars (\$5,000) or by civil penalties of up to five thousand dollars (\$5,000) and shall constitute unprofessional conduct.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.1.

The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.2.

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 shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.3.

Recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.4.

It is unprofessional conduct for any attending physician recommending medical cannabis to be employed by, or enter into any other agreement with, any person or entity dispensing medical cannabis.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.5.

(a) A person shall not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears the following notice to consumers:

NOTICE TO CONSUMERS: The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain and use cannabis for medical purposes where medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of medical cannabis. Recommendations must come from an attending physician as defined in Section 11362.7 of the Health and Safety Code. Cannabis is a Schedule I drug according to the federal Controlled Substances Act. Activity related to cannabis use is subject to federal prosecution, regardless of the protections provided by state law.

(b) Advertising for attending physician recommendations for medical cannabis shall meet all of the requirements in Section 651. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discounts, premiums, gifts, or statements of a similar nature.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

9147.7.

(a) For the purpose of this section, "eligible agency" means any agency, authority, board, bureau, commission, conservancy, council, department, division, or office of state government, however denominated, excluding an agency that is constitutionally created or an agency related to postsecondary education, for which a date for repeal has been established by statute on or after January 1, 2011.

(b) The Joint Sunset Review Committee is hereby created to identify and eliminate waste, duplication, and inefficiency in government agencies. The purpose of the committee is to conduct a comprehensive analysis over 15 years, and on a periodic basis thereafter, of every eligible agency to determine if the agency is still necessary and cost effective.

(c) Each eligible agency scheduled for repeal shall submit to the committee, on or before December 1 prior to the year it is set to be repealed, a complete agency report covering the entire period since last reviewed, including, but not limited to, the following:

- (1) The purpose and necessity of the agency.
- (2) A description of the agency budget, priorities, and job descriptions of employees of the agency.
- (3) Any programs and projects under the direction of the agency.
- (4) Measures of the success or failures of the agency and justifications for the metrics used to evaluate successes and failures.
- (5) Any recommendations of the agency for changes or reorganization in order to better fulfill its purpose.

(d) The committee shall take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency shall be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency. No eligible agency shall be extended in perpetuity unless specifically exempted from the provisions of this section. The committee may recommend that the Legislature extend the statutory sunset date for no more than one year to allow the committee more time to evaluate the eligible agency.

(e) The committee shall be comprised of 10 members of the Legislature. The Senate Committee on Rules shall appoint five members of the Senate to the committee, not more than three of whom shall be members of the same political party. The Speaker of the Assembly shall appoint five members of the Assembly to the committee, not more than three of whom shall be members of the same political party. Members shall be appointed within 15 days after the commencement of the regular session. Each member of the committee who is appointed by the Senate Committee on Rules or the Speaker of the Assembly shall serve during that committee member's term of office or until that committee member no longer is a Member of the Senate or the Assembly, whichever is applicable. A vacancy on the committee shall be filled in the same manner as the original appointment. Three Assembly Members and three Senators who are members of the committee shall constitute a quorum for the conduct of committee business. Members of the committee shall receive no compensation for their work with the committee.

(f) The committee shall meet not later than 30 days after the first day of the regular session to choose a chairperson and to establish the schedule for eligible agency review provided for in the statutes governing the eligible agencies. The chairperson of the committee shall alternate every two years between a Member of the Senate and a Member of the Assembly, and the vice chairperson of the committee shall be a member of the opposite house as the chairperson.

(g) This section shall not be construed to change the existing jurisdiction of the budget or policy committees of the Legislature.

(h) This section shall not apply to the Bureau of Medical Marijuana Regulation.

(Amended by Stats. 2015, Ch. 689, Sec. 5. Effective January 1, 2016.)

Law Offices of
OLSON
HAGEL &
FISHBURN
LLP

December 7, 2015

RECEIVED

DEC 07 2015

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ashley Johansson, Initiative Coordinator

**RE: Submission of Amendment to Statewide Initiative Measure –
Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103**

Dear Ms. Johansson:

Lance H. Olson
Deborah B. Caplan
Richard C. Madiich
Richard R. Rios

Bruce J. Hagel
of counsel
Diane M. Fishburn
of counsel
Christopher W. Waddell
Betty Ann Downing
Lacey E. Keys
Emily A. Andrews
Erika M. Boyd

As you know, I serve as counsel for the proponents of the proposed statewide initiative, "Control, Regulate and Tax Adult Use of Marijuana Act." The proponents of the proposed initiative are Dr. Donald Lyman and Mr. Michael Sutton. On their behalf, I am enclosing the following documents:

- The amended text of "Control, Regulate and Tax Adult Use of Marijuana Act"
- A red-line version showing the changes made in the amended text
- Signed authorizations from each of the proponents for the submission of the amended text together with their requests that the Attorney General's Office prepare a circulating title and summary using the amended text.

Please continue to direct all inquiries or correspondence relative to this proposed initiative to me at the address listed below:

Lance H. Olson
Olson, Hagel & Fishburn LLP
555 Capitol Mall, Suite 1425
Sacramento, CA 95814

Very truly yours,

OLSON HAGEL & FISHBURN LLP


LANCE H. OLSON
LHO:mdm

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VIA MESSENGER

December 7, 2016

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103, and Request to Prepare Circulating Title and Summary

Dear Ms. Johansson:

On November 2, 2015, the proponents of a proposed statewide initiative titled "Control, Regulate and Tax Adult Use of Marijuana Act" ("Initiative") submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), the proponents hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,



Michael Sutton

VIA MESSENGER

December 7, 2016

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103, and Request to Prepare Circulating Title and Summary

Dear Ms. Johansson:

On November 2, 2015, the proponents of a proposed statewide initiative titled "Control, Regulate and Tax Adult Use of Marijuana Act" ("Initiative") submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), the proponents hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,

Dr. Donald Lyman

A handwritten signature in black ink, appearing to read "Donald Lyman". The signature is fluid and cursive, with "Donald" on the left and "Lyman" on the right, connected by a flourish.

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").

SECTION 2. FINDINGS AND DECLARATIONS.

A. Currently in California, nonmedical marijuana use is unregulated, untaxed, and occurs without any consumer or environmental protections. The Control, Regulate and Tax Adult Use of Marijuana Act will legalize marijuana for those over 21 years old, protect children, and establish laws to regulate marijuana cultivation, distribution, sale and use, and will protect Californians and the environment from potential dangers. It establishes the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry.

B. Marijuana is currently legal in our state for medical use and illegal for nonmedical use. Abuse of the medical marijuana system in California has long been widespread, but recent bipartisan legislation signed by Governor Jerry Brown is establishing a comprehensive regulatory scheme for medical marijuana. The Control, Regulate and Tax Adult Use of Marijuana Act (hereafter called the Adult Use of Marijuana Act) will consolidate and streamline regulation and taxation for both nonmedical and medical marijuana.

C. Currently, marijuana growth and sale is not being taxed by the State of California, which means our state is missing out on hundreds of millions of dollars in potential tax revenue every year. The Adult Use of Marijuana Act will tax both the growth and sale of marijuana to generate hundreds of millions of dollars annually. The revenues will cover the cost of administering the new law and will provide funds to: invest in public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law with a focus on DUI enforcement; invest in communities to reduce the illicit market and create job opportunities; and provide for environmental cleanup and restoration of public lands damaged by illegal marijuana cultivation.

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those under 21 years old, and provides new resources to educate youth against drug abuse and train local law enforcement to enforce the new law. It bars marijuana businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products. And it mandates that marijuana and marijuana products cannot be advertised or marketed towards children.

E. There are currently no laws governing adult use marijuana businesses to ensure that they operate in accordance with existing California laws. Adult use of marijuana may only be

accessed from the unregulated illicit market. The Adult Use of Marijuana Act sets up a comprehensive system governing marijuana businesses at the state level and safeguards local control, allowing local governments to regulate marijuana-related activities, to subject marijuana businesses to zoning and permitting requirements, and to ban marijuana businesses by a vote of the people within a locality.

F. Currently, illegal marijuana growers steal or divert millions of gallons of water without any accountability. The Adult Use of Marijuana Act will create strict environmental regulations to ensure that the marijuana is grown efficiently and legally, to regulate the use of pesticides, to prevent wasting water, and to minimize water usage. The Adult Use of Marijuana Act will crack down on the illegal use of water and punish bad actors, while providing funds to restore lands that have been damaged by illegal marijuana grows. If a business does not demonstrate they are in full compliance with the applicable water usage and environmental laws, they will have their license revoked.

G. Currently, the courts are clogged with cases of non-violent drug offenses. By legalizing marijuana, the Adult Use of Marijuana Act will alleviate pressure on the courts, but continue to allow prosecutors to charge the most serious marijuana-related offenses as felonies, while reducing the penalties for minor marijuana-related offenses as set forth in the Act.

H. By bringing marijuana into a regulated and legitimate market, the Adult Use of Marijuana Act creates a transparent and accountable system. This will help police crackdown on the underground black market that currently benefits violent drug cartels and transnational gangs, which are making billions from marijuana trafficking and jeopardizing public safety.

I. The Adult Use of Marijuana Act creates a comprehensive regulatory structure in which every marijuana business is overseen by a specialized agency with relevant expertise. The Bureau of Marijuana Control, housed in the Department of Consumer Affairs, will oversee the whole system and ensure a smooth transition to the legal market, with licenses issued beginning in 2018. The Department of Consumer Affairs will also license and oversee marijuana retailers, distributors, and microbusinesses. The Department of Food and Agriculture will license and oversee marijuana cultivation, ensuring it is environmentally safe. The Department of Public Health will license and oversee manufacturing and testing, ensuring consumers receive a safe product. The State Board of Equalization will collect the special marijuana taxes, and the Controller will allocate the revenue to administer the new law and provide the funds to critical investments.

J. The Adult Use of Marijuana Act ensures the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale cultivation licenses for the first five years. The Adult Use of Marijuana Act also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry.

SECTION 3. PURPOSE AND INTENT.

The purpose of the Adult Use of Marijuana Act is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana. It is the intent of the People in enacting this Act to accomplish the following:

- (a) Take nonmedical marijuana production and sales out of the hands of the illegal market and bring them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.
- (b) Strictly control the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana through a system of state licensing, regulation, and enforcement.
- (c) Allow local governments to enforce state laws and regulations for nonmedical marijuana businesses and enact additional local requirements for nonmedical marijuana businesses, but not require that they do so for a nonmedical marijuana business to be issued a state license and be legal under state law.
- (d) Allow local governments to ban nonmedical marijuana businesses as set forth in this Act.
- (e) Require track and trace management procedures to track nonmedical marijuana from cultivation to sale.
- (f) Require nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it can be sold by licensed businesses.
- (g) Require nonmedical marijuana sold by licensed businesses to be packaged in child-resistant containers and be labeled so that consumers are fully informed about potency and the effects of ingesting nonmedical marijuana.
- (h) Require licensed nonmedical marijuana businesses to follow strict environmental and product safety standards as a condition of maintaining their license.
- (i) Prohibit the sale of nonmedical marijuana by businesses that also sell alcohol or tobacco.
- (j) Prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present.
- (k) Strengthen the state's existing medical marijuana system by requiring patients to obtain by January 1, 2018, a new recommendation from their physician that meets the strict standards signed into law by the Governor in 2015, and by providing new privacy protections for patients who obtain medical marijuana identification cards as set forth in this Act.

- (l) Permit adults 21 years and older to use, possess, purchase and grow nonmedical marijuana within defined limits for use by adults 21 years and older as set forth in this Act.
- (m) Allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older through zoning and other local laws, and only to ban outdoor cultivation as set forth in this Act.
- (n) Deny access to marijuana by persons younger than 21 years old who are not medical marijuana patients.
- (o) Prohibit the consumption of marijuana in a public place unlicensed for such use, including near K-12 schools and other areas where children are present.
- (p) Maintain existing laws making it unlawful to operate a car or other vehicle used for transportation while impaired by marijuana.
- (q) Prohibit the cultivation of marijuana on public lands or while trespassing on private lands.
- (r) Allow public and private employers to enact and enforce workplace policies pertaining to marijuana.
- (s) Tax the growth and sale of marijuana in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults.
- (t) Generate hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.
- (u) Prevent illegal production or distribution of marijuana.
- (v) Prevent the illegal diversion of marijuana from California to other states or countries or to the illegal market.
- (w) Preserve scarce law enforcement resources to prevent and prosecute violent crime.
- (x) Reduce barriers to entry into the legal, regulated market.
- (y) Require minors who commit marijuana-related offenses to complete drug prevention education or counseling and community service.
- (z) Authorize courts to resentence persons who are currently serving a sentence for offenses for which the penalty is reduced by the Act, so long as the person does not pose a risk to public safety, and to redesignate or dismiss such offenses from the criminal records of persons who have completed their sentences as set forth in this Act.

(aa) Allow industrial hemp to be grown as an agricultural product, and for agricultural or academic research, and regulated separately from the strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

SECTION 4. PERSONAL USE.

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

11018. Marijuana

“Marijuana” 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 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:

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

11018.1. Marijuana Products

“Marijuana products” means marijuana 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 or concentrated cannabis and other ingredients.

11018.2. Marijuana Accessories

“Marijuana 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, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

Sections 11362.1 through 11362.45 are added to the Health and Safety Code, 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 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 in the form of concentrated cannabis, including as contained in marijuana products;
- (3) Possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants;
- (4) Smoke or ingest marijuana or marijuana products; and
- (5) Possess, transport, purchase, obtain, use, manufacture, or give away marijuana 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 accessories.

(c) Marijuana and marijuana 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 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 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 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 or marijuana products in any public place, except in accordance with Section 26200 of the Business and Professions Code.
- (2) Smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.
- (3) Smoke marijuana or marijuana 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 or marijuana 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 or marijuana 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 Chapter 3.5 of Division 8 or Division 10 of the Business and Professions Code.
- (7) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.
- (8) Smoke or ingest marijuana or marijuana 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 or marijuana 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, Iso-propyl 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 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 or marijuana 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 products, or marijuana accessories, or the offering to sell, administer, furnish, or give away marijuana, marijuana products, or marijuana 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 or marijuana 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 or marijuana 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 in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana 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 entity's 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 are added to 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 develop protocols to ensure that, commencing upon January 1, 2018, all identification cards issued pursuant to Section 11362.71 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.

11362.755.

(a) The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number. Each county health department or the county's designee may charge an additional a 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.

11362.84.

The status and conduct of a qualified patient who acts in accordance with the Compassionate Use Act shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding under the jurisdiction of family or juvenile court.

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, 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 6. MARIJUANA REGULATION AND SAFETY.

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

Division 10. Marijuana

Chapter 1. General Provisions and Definitions

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 nonmedical marijuana and marijuana 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 cannabis industry under Chapter 3.5 of Division 8 to include the power and duty to control and regulate the commercial nonmedical marijuana 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.*

26001.

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

(a) *“Applicant” means the following:*

(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.*

(b) *“Bureau” means the Bureau of Marijuana Control within the Department of Consumer Affairs.*

(c) *“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.*

(d) *“Commercial marijuana activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products as provided for in this division.*

(e) *“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.*

(f) *“Customer” means a natural person 21 years of age or over.*

(g) *“Day care center” shall have the same meaning as in Section 1596.76 of the Health and Safety Code.*

(h) *“Delivery” means the commercial transfer of marijuana or marijuana 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.*

(i) *“Director” means the Director of the Department of Consumer Affairs.*

- (j) "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.
- (k) "Fund" means the Marijuana Control Fund established pursuant to Section 26210.
- (l) "Kind" means applicable type or designation regarding a particular marijuana variant or marijuana product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
- (m) "License" means a state license issued under this division.
- (n) "Licensee" means any person or entity holding a license under this division.
- (o) "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.
- (p) "Local jurisdiction" means a city, county, or city and county.
- (q) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.
- (r) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana 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 or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.
- (s) "Marijuana" has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.
- (t) "Marijuana accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.
- (u) "Marijuana products" has the same meaning as in Section 11018.1 of the Health and Safety Code, except that it does not include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.
- (v) "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.
- (w) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of marijuana or marijuana products.
- (x) "Package" means any container or receptacle used for holding marijuana or marijuana products.
- (y) "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.
- (z) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana or marijuana products.
- (aa) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana 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 or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

(bb) "Testing service" means a laboratory, facility, or entity in the state, that offers or performs tests of marijuana or marijuana 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 activity in the state.

(2) Registered with the Department of Public Health.

(cc) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises.

(dd) "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.

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

Chapter 2. Administration

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 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 Regulation" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

26011.

Neither the chief of the bureau nor any member of the Marijuana 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 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.

26012.

- (a) *It being a matter of statewide concern, except as otherwise authorized in this division:*
 - (1) *The Department of Consumer Affairs shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of marijuana 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. The Department of Food and Agriculture shall have the authority to create, issue, 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. The Department of Public Health shall have the authority to create, issue, 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. The bureau may create licenses in addition to those identified in this division that the bureau deems necessary to effectuate its duties under this division.*
- (c) *Licensing authorities shall begin issuing licenses under this division by January 1, 2018.*

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 Control, Regulate and Tax Adult Use of Marijuana Act.*
- (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 unreasonably impracticable.*

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 activity that does not impose such unreasonably*

impracticable barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for marijuana.

(b) The advisory committee members shall include, but not be limited to, representatives of the marijuana industry, 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.

26015.

A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this division.

26016.

For any hearing held pursuant to this division, except a hearing held under Chapter 4, a licensing authority may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

26017.

In any hearing before a licensing authority pursuant to this division, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

26018.

A licensing authority may on its own motion at any time before a penalty assessment is placed into effect, and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

Chapter 3. Enforcement

26030.

Grounds for disciplinary action include:

- (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 (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 activity.
- (g) The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.

26031.

Each licensing authority may suspend or revoke licenses, 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.

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.

26033.

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

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.

26035.

(a) The director shall designate the persons employed by the Department of Consumer Affairs for purposes of the administration and enforcement of this division. The director shall ensure that a sufficient number of employees are qualified peace officers for purposes of enforcing this division.

26036.

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.

26037.

(a) The actions of a licensee, its employees, and its agents that are: (1) permitted under a license issued under this division and any applicable local ordinances; and (2) conducted in accordance

with the requirements of this division and regulations adopted pursuant to this division, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and any applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

26038.

(a) A person engaging in commercial marijuana 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 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).

(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 activity in violation of this division.

Chapter 4. Appeals

26040.

(a) There is established in state government a Marijuana 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.

26041.

All personnel of the panel shall be appointed, employed, directed, and controlled by the panel consistent with state civil service requirements. The director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform such other mechanics of administration as the panel and the director may agree upon.

26042.

The panel shall adopt procedures for appeals similar to the procedures used in Articles 3 and 4 in Chapter 1.5 in Division 9 of the Business and Professions Code. Such procedures shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, section 11340 et seq.).

26043.

(a) 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, 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.

(b) 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.*

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.

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.

Chapter 5. Licensing

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 1A = Cultivation; Specialty indoor; Small.*
 - (3) *Type 1B = Cultivation; Specialty mixed-light; Small.*
 - (4) *Type 2 = Cultivation; Outdoor; Small.*
 - (5) *Type 2A = Cultivation; Indoor; Small.*
 - (6) *Type 2B = Cultivation; Mixed-light; Small.*
 - (7) *Type 3 = Cultivation; Outdoor; Medium.*
 - (8) *Type 3A = Cultivation; Indoor; Medium.*
 - (9) *Type 3B = Cultivation; Mixed-light; Medium.*
 - (10) *Type 4 = Cultivation; Nursery.*
 - (11) *Type 5 = Cultivation; Outdoor; Large.*
 - (12) *Type 5A = Cultivation; Indoor; Large.*
 - (13) *Type 5B = Cultivation; Mixed-light; Large.*
 - (14) *Type 6 = Manufacturer 1.*
 - (15) *Type 7 = Manufacturer 2.*
 - (16) *Type 8 = Testing.*
 - (17) *Type 10 = Retailer.*
 - (18) *Type 11 = Distributor.*
 - (19) *Type 12 = Microbusiness.*
- (b) *All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 of Division 8. Examples of such a designation include, but are not limited to, "Type 1 – Nonmedical," or "Type 1NM."*
- (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.*

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).

(c) 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.

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 or marijuana 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 or marijuana 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 or marijuana 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 or marijuana 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.

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.

26054.

- (a) A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 or of tobacco products.
- (b) No licensee 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 accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such marijuana accessories, provided such marijuana and marijuana 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 or marijuana products.

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.

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 shall request that local jurisdictions identify for the bureau 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 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.

26055.

(a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within California until the licensing authority reinstates or reissues the state license.

(c) 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.

(d) After issuance or transfer of a license, 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 assent of 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.

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;

(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, or manufacture nonmedical marijuana 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.

(d) 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.

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.

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, 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 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 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, and shall evaluate the suitability of the applicant 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 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 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.

26058.

Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing.

26059.

An applicant shall not be denied a state license if the denial is based solely on any of the following:

- (a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.
- (b) A conviction that was subsequently dismissed pursuant to Sections 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.

Chapter 6. Licensed Cultivation Sites

26060.

(a) *Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.*

(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.*

(c) *The Department of Food and Agriculture shall include conditions in each license 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.*

(d) *The regulations promulgated by the Department of Food and Agriculture under this division shall, at a minimum, address in relation to commercial marijuana activity, the same matters described in subdivision (e) of Section 19332 of Chapter 3.5 of Division 8.*

(e) *The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor, outdoor, or mixed light cultivation of marijuana meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.*

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 1B, 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.*

(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 premises.*

(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.*

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.

26063.

- (a) *The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.*
- (b) *Marijuana shall not be marketed, labeled, or sold as grown in a California county when the marijuana 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 products unless the marijuana contained in the product was grown in that county.*

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.

26065.

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

26066.

Indoor and outdoor marijuana 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 cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

26067.

- (a) *The Department of Food and Agriculture shall establish a Marijuana Cultivation Program to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.*
- (b) *A person or entity shall not cultivate marijuana without first obtaining a state license issued by the department pursuant to this section.*
- (c) *(1) 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. 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 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 shall establish a program for the identification of permitted marijuana plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each marijuana 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.

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

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

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

(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) (1) This section does not apply to the cultivation of marijuana in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.

(2) 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.

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

Chapter 7. Retailers and Distributors

26070. Retailers and Distributors

(a) State licenses to be issued by the Department of Consumer Affairs are as follows:

(1) "Retailer," for the retail sale and delivery of marijuana or marijuana products to customers.

(2) "Distributor," for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

(3) "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 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) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. 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 and marijuana 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 or marijuana products and theft of marijuana or marijuana 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 dispensary.*
- (2) Establishing limited access areas accessible only to authorized personnel.*
- (3) Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.*

26070.5

(a) The bureau shall, by January 1, 2018, 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 and marijuana products and a diversity of marijuana 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 and marijuana products and a diversity of marijuana 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.

(2) 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.

(3) 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

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 or marijuana products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with this division.

Chapter 9. Delivery

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) 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.

(c) A local jurisdiction shall not prevent delivery of marijuana or marijuana 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

26100.

The Department of Public Health shall promulgate regulations governing the licensing of marijuana manufacturers and testing laboratories. Licenses to be issued are as follows:

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

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

(c) "Testing," for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the Department. A testing

licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.

(d) For purposes of this section, "volatile solvents" shall have the same meaning as in subdivision (d) of Section 11362.2 of the Health and Safety Code unless otherwise provided by law or regulation.

26101.

(a) Except as otherwise provided by law, no marijuana or marijuana 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 testing service to determine:

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

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

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

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. 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, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(b) 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).

(c) The testing required by paragraph (a) shall be performed in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

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

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.

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.

26104.

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

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

- (1) ensure that testing of marijuana and marijuana products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5;*
- (2) specify how often licensees shall test marijuana and marijuana products, and that the cost of testing marijuana shall be borne by the licensed cultivators and the cost of testing marijuana products shall be borne by the licensed manufacturer, and that the costs of testing marijuana and marijuana 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 promulgated by the Department of Public Health, unless remedial measures can bring the marijuana or marijuana products into compliance with quality assurance standards as promulgated by the Department of Public Health.*

26105.

Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.

26106.

Standards for the production and labeling of all marijuana products developed by the Department of Public Health shall apply to 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

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 in Chapter 3.5 of Division 8 except as otherwise provided in this division or by law.

Chapter 12. Packaging and Labeling

26120.

- (a) Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.
- (b) Packages and labels shall not be made to be attractive to children.
- (c) All marijuana and marijuana 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.
 - (2) The following statements, in bold print:
 - (A) For marijuana: "**GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.**"
 - (B) For marijuana products: "**GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA 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 PRODUCTS MAY BE DELAYED UP TO TWO HOURS. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.**"
 - (3) For packages containing only dried flower, the net weight of marijuana in the package.
 - (4) Identification of the source and date of cultivation, the type of marijuana or marijuana product and the date of manufacturing and packaging.
 - (5) The appellation of origin, if any.
 - (6) 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.
 - (7) 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.
 - (8) 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.
 - (9) A warning if nuts or other known allergens are used.
 - (10) Information associated with the unique identifier issued by the Department of Food and Agriculture.
 - (11) 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 determines that marijuana 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 is a schedule I controlled substance.

Chapter 13. Marijuana Products

26130.

(a) Marijuana 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.

(2) Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol per serving.

(3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana 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, 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 product and directions as to how to consume the marijuana product, as necessary.

(b) Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.

Chapter 14. Protection of Minors

26140.

(a) No licensee shall:

(1) Sell marijuana or marijuana products to persons under 21 years of age.

(2) Allow any person under 21 years of age on its premises.

(3) Employ or retain persons under 21 years of age.

(4) Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana 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 to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. 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), a licensee that is also a dispensary licensed under Chapter 3.5 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 and a valid government-issued identification card;
- (2) Sell marijuana, marijuana products, and marijuana 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 and a valid government-issued identification card.

Chapter 15. Advertising and Marketing Restrictions

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 or marijuana 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 or marijuana 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 or marijuana 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 or marijuana products and health benefits, or effects on health.
- (e) "Market" or "Marketing" means any act or process of promoting or selling marijuana or marijuana 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.

26151.

- (a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.
- (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.

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 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 State Highway which crosses the border of any other state;
- (e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;
- (f) Publish or disseminate advertising or marketing 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 or marijuana 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.

26153.

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

26154.

No licensee shall 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 consumption.

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 or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products.

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

Chapter 16. Records

26160.

- (a) *A licensee shall keep accurate records of commercial marijuana activity.*
- (b) *All records related to commercial marijuana activity as defined by the licensing authorities shall be maintained for a minimum of seven years.*
- (c) *The bureau 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 shall be conducted during standard business hours of the licensed facility or at any other reasonable time.*
- (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 records 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.*

26161.

- (a) *Every sale or transport of marijuana or marijuana 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 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

26170.

- (a) *The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the track and trace program provided for under Article 7.5 to include the reporting of the movement of 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.

(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 marijuana and marijuana 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.

Chapter 18. License Fees

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, 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 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.

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 regulatory programs.

Chapter 19. Annual Reports; Performance Audit

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.

26191.

(a) Commencing January 1, 2019, and by January 1 of each year thereafter, the Bureau of State Audits 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:

(1) The actual costs of the program.

(2) The overall effectiveness of enforcement programs.

(3) 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 to conduct the annual audit required by this section.

Chapter 20. Local Control

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 activity within the local jurisdiction. Within ten (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.

(d) Notwithstanding paragraph (1) 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 or marijuana 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;

(2) Marijuana consumption is not visible from any public place or non-age restricted area; and
(3) 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.

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 between the bureau or licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

Chapter 21. Funding

26210.

(a) The Medical Marijuana Regulation and Safety Act Fund established in Section 19351 of Chapter 3.5 of Division 8 is hereby renamed the Marijuana Control 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 Control Fund.

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 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 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 and marijuana products to persons under the age of 21 years, describe the penalties for providing access to marijuana and marijuana 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 use, the potential harms of using marijuana while pregnant or breastfeeding, and the potential harms of overusing marijuana or marijuana products.

Section 147.6 of the Labor Code is hereby added as follows:

147.6.

(a) By March 1, 2018, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of licensees under Division 10 of the Business and Professions Code, including but not limited to, whether specific requirements are needed to address exposure to second-hand marijuana smoke by employees at facilities where on-site consumption of marijuana is permitted under subdivision (d) of Section 26200 of the Business and Professions Code, and whether specific requirements are needed to address the potential risks of combustion, inhalation, armed robberies or repetitive strain injuries.

(b) By October 1, 2018, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By October 1, 2018, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

Section 13276 of the Water Code is amended to 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 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 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, address discharges of waste resulting from medical marijuana cultivation and commercial marijuana 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 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.

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 Tax

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 Control within the Department of Consumer Affairs.*
- (c) *“Tax Fund” means the California Marijuana Tax Fund created by Section 34018.*
- (d) *“Marijuana” 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 products” shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.*
- (f) *“Marijuana flowers” shall mean the dried flowers of the marijuana plant as defined by the Board.*
- (g) *“Marijuana leaves” shall mean all parts of the marijuana plant other than marijuana 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.*

34011.

- (a) *Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of fifteen percent (15%) of the gross receipts of any retail sale by a dispensary 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 and marijuana 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 or marijuana 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 or marijuana products is contingent on purchase of those goods or services.

(c) A dispensary 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 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 or marijuana 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 or marijuana 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 of the Business and Professions Code when a qualified patient (or primary caregiver for a qualified patient) provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

34012.

(a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana 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 is harvested.

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

(2) The tax for marijuana 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 leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.

(c) The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana 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 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 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 of the Business and Professions Code.
- (h) Persons required to be licensed to cultivate marijuana 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 may be sold unless the tax has been paid as provided in this part.
- (i) All marijuana 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 cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana 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.

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 "feepayer" 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 or marijuana 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.

34014.

(a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana 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 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 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 business. A person may not commence or continue any business or operation relating to marijuana 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.

34015.

(a) The marijuana 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 and marijuana products required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business or 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.

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 or marijuana 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 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 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 or marijuana 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 or marijuana products. Any marijuana or marijuana 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 Tax Fund.

34017.

The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019.

34018.

(a) The California Marijuana 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 Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana 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 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.

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 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 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 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 use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.*
- (2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.*
- (3) Public safety issues related to marijuana 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 and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.*
- (4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.*
- (5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana 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 from 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 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 production and the criminal prohibition of marijuana production.*
- (10) The geographic location, structure, and function of licensed marijuana 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-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 or marijuana 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 or marijuana 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 or marijuana 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 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) Funds 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 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 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 and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency task force 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 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. 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; 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.

(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 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 or marijuana 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 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.

34020.

The Controller shall periodically audit the Tax Fund to ensure that those funds are used and accounted for in a manner consistent with this part and as otherwise required by law.

34021.

(a) The taxes imposed by this Part shall be in addition to any other tax imposed by a city, county, or city and county.

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 or marijuana 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, and Sections 11361.1 and 11361.8 are added to read as follows:

11357. Possession

(a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that 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 (e) of Section 290 of the Penal Code.

(ba) Except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than or not more than four grams of concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100), 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 a 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, every person who possesses more than 28.5 grams of marijuana, or more than four grams of other than concentrated cannabis, shall be punished as follows:

(1) Persons under the age of 18 who possess more than 28.5 grams of marijuana 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 a 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, 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, 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, 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. subject to the following dispositions:

(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 commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

11358. Planting, harvesting, or processing

Every person who plants, cultivates, harvests, dries, or processes any marijuana 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 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 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 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 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:

- (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 (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 374.8 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, except as otherwise provided by law, shall be punished as follows:

- (a) Every person under the age of 18 who possesses marijuana 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 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 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 to a person under the age of 18 years.
- (d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses marijuana 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.

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 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 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 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, 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.*

11361.1.

(a) *The drug education and counseling requirements under sections 11357, 11358, 11359, and 11360 shall be:*

(1) mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;

(2) free to participants, and the drug education 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 and other controlled substances.

(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under sections 11357, 11358, 11359, and 11360.

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 (ed) 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 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 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 redesignated 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 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 (Marsy'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 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 ~~nonpsychoactive~~ types of the plant *Cannabis sativa L.* and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, *whether growing or not*; and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from 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 mature stalks, ~~except the resin or flowering tops extracted produced therefrom, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination.~~

(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 81000, 81006, 81008, and 81010 of the Food and Agricultural Code are amended to read, and Section 81007 of the Food and Agricultural Code is repealed as follows:

81000. Definitions

For purposes of this division, the following terms have the following meanings:

(a) "Board" means the Industrial Hemp Advisory Board.

(b) "Commissioner" means the county agricultural commissioner.

(c) "Established agricultural research institution" means a ~~public or private~~ institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers.

any institution that is either:

(1) a public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or

(2) an institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for

purposes of research conducted under an agricultural pilot program or other agricultural or academic research.

- (d) "Industrial hemp" has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.
- (e) "Secretary" means the Secretary of Food and Agriculture.
- (f) "Seed breeder" means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.
- (g) "Seed cultivar" means a variety of industrial hemp.
- (h) "Seed development plan" means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

81006. Industrial hemp growth limitations; Prohibitions; Imports; Laboratory testing

- (a)(1) Except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than *five acres one-tenth of an acre* at the same time, and no portion of an acreage of industrial hemp shall include plots of less than one contiguous acre.
- (2) Registered seed breeders, for purposes of seed production, shall only grow industrial hemp as a densely planted crop in acreages of not less than *one-tenth of an two acres* at the same time, and no portion of the acreage of industrial hemp shall include plots of less than one contiguous acre.
- (3) Registered seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp as densely as possible in dedicated acreage of not less than *one-tenth of an acre* and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.
- (b) Ornamental and clandestine cultivation of industrial hemp is prohibited. All plots shall have adequate signage indicating they are industrial hemp.
- (c) Pruning and tending of individual industrial hemp plants is prohibited, except when grown by an established agricultural research institution or when the action is necessary to perform the tetrahydrocannabinol (THC) testing described in this section.
- (d) Culling of industrial hemp is prohibited, except when grown by an established agricultural research institution, when the action is necessary to perform the THC testing described in this section, or for purposes of seed production and development by a registered seed breeder.
- (e) Industrial hemp shall include products imported under the Harmonized Tariff Schedule of the United States (2013) of the United States International Trade Commission, including, but not limited to, hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.
- (f) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, before the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.
 - (1) Sampling shall occur as soon as practicable when the THC content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin to mature, when the first seeds of approximately 50 percent of the plants are resistant to compression.

(2) The entire fruit-bearing part of the plant including the seeds shall be used as a sample. The sample cut shall be made directly underneath the inflorescence found in the top one-third of the plant.

(3) The sample collected for THC testing shall be accompanied by the following documentation:

- (A) The registrant's proof of registration.
- (B) Seed certification documentation for the seed cultivar used.
- (C) The THC testing report for each certified seed cultivar used.

(4) The laboratory test report shall be issued by a laboratory registered with the federal Drug Enforcement Administration, shall state the percentage content of THC, shall indicate the date and location of samples taken, and shall state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report.

(5) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the person who requested the testing not less than 10 original copies signed by an employee authorized by the laboratory and shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.

(6) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the registrant that grows industrial hemp shall submit additional samples for testing of the industrial hemp grown.

(7) A registrant that grows industrial hemp shall destroy the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (6) indicating a percentage content of THC that exceeds three-tenths of 1 percent but is less than 1 percent. If the percentage content of THC exceeds 1 percent, the destruction shall take place within 48 hours after receipt of the laboratory test report. If the percentage content of THC in the second laboratory test report exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after receipt of the second test report.

(8) A registrant that intends to grow industrial hemp and who complies with this section shall not be prosecuted for the cultivation or possession of marijuana as a result of a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent but does not exceed 1 percent.

(9) Established agricultural research institutions shall be permitted to cultivate or possess industrial hemp with a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent if that cultivation or possession contributes to the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this division.

(10) Except for an established agricultural research institution, a registrant that grows industrial hemp shall retain an original signed copy of the laboratory test report for two years from its date of sampling, make an original signed copy of the laboratory test report available to the department, the commissioner, or law enforcement officials or their designees upon request, and shall provide an original copy of the laboratory test report to each person purchasing,

transporting, or otherwise obtaining from the registrant that grows industrial hemp the fiber, oil, cake, or seed, or any component of the seed, of the plant.

(g) If, in the Attorney General's opinion issued pursuant to Section 8 of the act that added this division, it is determined that the provisions of this section are not sufficient to comply with federal law, the department, in consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

81007. Prohibitions; De minimis considerations

- (a) Except as provided in subdivision (b) or as necessary to perform testing pursuant to subdivision (f) of Section 81006, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant is prohibited.
- (b) The presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not constitute possession of marijuana.

81008. Attorney General reports; Requirements

(a) Not later than January 1, 2019, or five years after the provisions of this division are authorized under federal law, whichever is later, the Attorney General shall report to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety the reported incidents, if any, of the following:

- (1) A field of industrial hemp being used to disguise marijuana cultivation.
- (2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.
- (b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.
- (c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.

81010. Operation of division

- (a) This division, and Section 221 of the Food and Agricultural Code, shall not become operative unless authorized under federal law 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 products 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 10. AMENDMENT.

This Act shall be broadly construed to accomplish its purposes and intent as stated in Section 3. The Legislature may by majority vote amend the provisions of this Act contained in Sections 5 and 6 to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this Act as stated in Section 3.

Amendments to this Act that enact protections for employees and other workers of licensees under Section 6 of this Act that are in addition to the protections provided for in this Act or that

otherwise expand the legal rights of such employees or workers of licensees under Section 6 of this Act shall be deemed to be consistent with and further the purposes and intent of this Act. The Legislature may by majority vote amend, add, or repeal any provisions to further reduce the penalties for any of the offenses addressed by this Act. Except as otherwise provided, the provisions of the Act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the Act.

SECTION 11. CONSTRUCTION AND INTEPRETATION.

The provisions of this Act shall be liberally construed to effectuate the purposes and intent of the Control, Regulate and Tax the Adult Use of Marijuana Act; provided, however, no provision or provisions of this Act shall be interpreted or construed in a manner to create a positive conflict with federal law, including the federal Controlled Substances Act, such that the provision or provisions of this Act and federal law cannot consistently stand together.

SECTION 12. SEVERABILITY.

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 13. CONFLICTING INITIATIVES.

In the event that this measure and another measure or measures concerning the control, regulation, and taxation of marijuana, medical marijuana, or industrial hemp appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

Notice of Public Hearing to Consider Adoption of Uncodified Urgency Ordinance(s) Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Medical Cannabis and Establishment of Medical Cannabis Dispensaries in the Unincorporated Areas of Plumas County by the Plumas County Board Of Supervisors

The Plumas County Board of Supervisors will hold a public hearing on the following matter on Tuesday, August 16, 2016 at the Plumas/Sierra County Fairgrounds Mineral Building, 204 Fairgrounds Road, Quincy, CA.

10:00 a.m.

Public Hearing to Consider Adoption of Uncodified Urgency Ordinance(s) Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Medical Cannabis and Establishment of Medical Cannabis Dispensaries in the Unincorporated Areas of Plumas County. The proposed moratorium on the cultivation of cannabis would not apply to a qualified patient cultivating cannabis pursuant to Health and Safety Code Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 100 square feet and he or she cultivates cannabis for his or her personal medical use and does not sell, distribute, donate, or provide cannabis to any other person or entity. Further, the proposed moratorium on the cultivation of cannabis would not apply to a primary caregiver cultivating cannabis pursuant to Health and Safety Code Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 500 square feet and he or she cultivates cannabis exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Health and Safety Code Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Health and Safety Code Section 11362.765. For purposes of the moratorium, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises.

This public hearing is being held pursuant to Government Code Sections 65090.

Written comments should be mailed or delivered to the Plumas County Board of Supervisors, 520 Main Street, Room 309, Quincy, CA 95971.

For further information, contact the Plumas County Planning Department at (530) 283-6214; email randywilson@countyofplumas.com.

Publish, August 3, 2016:

Chester Progressive

Indian Valley Record

Feather River Bulletin

Portola Reporter

Office of Medical Cannabis Safety

Welcome to the Office of Medical Cannabis Safety.

The Office of Medical Cannabis Safety (OMCS) was established in the Center for Environmental Health of the California Department of Public Health (CDPH) after the Governor signed into law the Medical Cannabis Regulation and Safety Act in 2015. The Act established a licensing and regulatory framework for the cultivation, manufacture, transport, storage, distribution, and sale of medical cannabis in California.

The Act created the Bureau of Medical Cannabis Regulation in the Department of Consumer Affairs, and tasked the following Departments to establish regulations for the medical cannabis industry:

- **CA Department of Consumer Affairs:** to license transporters, distributors, dispensaries, and testing laboratories.
- **CA Department of Food and Agriculture:** to license cultivators. CDFA will also be responsible for implementing a track and trace program for plants from cultivation to sale.
- **CA Department of Public Health:** to license manufacturers of medical cannabis and testing laboratories.

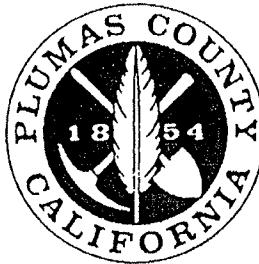
OMCS is currently required to develop statewide standards, regulations, licensing procedures and to address policy issues in support of medical cannabis manufacturers. CDPH is responsible for issuing Type 6 and Type 7 licenses to manufacturers of medical cannabis and medical cannabis products.

Please note that we are not currently issuing licenses! We are currently developing the regulations that will define licensing requirements. We anticipate receiving applications for licenses beginning on **January 1, 2018**.

Please feel free to check back periodically on this webpage for updated information, workshops in your area, or for ways in which you can provide feedback and public comment.

Subscribe to our ListServ and receive email notifications of OMCS regulatory updates and related information. To subscribe to the list, please send an email to LISTSERV@MAILLIST.DHS.CA.GOV with SUBSCRIBE OMCS in the body of your message (not the subject line). This is an announce-only list.

For more details and to view the language that enacted the Medical Marijuana Regulation and Safety Act (MMRSA), please see Bill Information, below:



BOARD OF SUPERVISORS

Terrell Swofford, 1st District
Kevin Goss, 2nd District
Sharon Thrall, Chair 3rd District
Lori Simpson, Vice Chair 4th District
Jeff Engel, 5th District

MEETING MINUTES

SPECIAL MEETING OF THE BOARD OF SUPERVISORS COUNTY OF PLUMAS, STATE OF CALIFORNIA HELD IN QUINCY ON JANUARY 26, 2016

STANDING ORDERS

10:00 A.M.

CALL TO ORDER/ROLL CALL

The meeting is called to order at 10:00 a.m. with Supervisors Terry Swofford, Kevin Goss, Lori Simpson, Jeff Engel and Chair Sherrie Thrall present.

For the convenience of the public, this meeting is recorded and live streamed. The meeting may be viewed on the county website at www.countyofplumas.com

PLEDGE OF ALLEGIANCE

Supervisor Goss leads the Pledge of Allegiance.

ADDITIONS TO OR DELETIONS FROM THE AGENDA

None

PUBLIC COMMENT OPPORTUNITY

There is a request that special public meetings be held in the evening.



DEPARTMENT OF SOCIAL SERVICES AND PUBLIC GUARDIAN

JA

Courthouse Annex, 270 County Hospital Rd., Suite 207, Quincy, CA 95971-9174

ELLIOTT SMART
DIRECTOR

(530) 283-6350
Fax: (530) 283-6368

DATE: AUGUST 5, 2016

TO: HONORABLE BOARD OF SUPERVISORS

FROM: ELLIOTT SMART, DIRECTOR
DEPARTMENT OF SOCIAL SERVICES

SUBJ: BOARD AGENDA ITEM FOR AUGUST 16, 2016

RE: RATIFICATION OF A CONTRACT WITH PLUMAS RURAL SERVICES FOR
CalWORKs CHILD CARE SERVICES

REF: AGENDA ITEM 7.a.1). FROM BOARD MEETING OF AUGUST 13, 2013.

A handwritten signature of Elliott Smart, Director of the Department of Social Services.

It is Recommended that the Board of Supervisors

1. Ratify a contract agreement between Plumas Rural Services and the Department of Social Services for CalWORKs Child Care Services for FY 2016-2017.
2. Authorize the Director of the Department of Social Services to extend the agreement for two additional twelve month periods following the conclusion of the present term and subject to the availability of state funding for this purpose.

Background and Discussion

Following the receipt of a report and recommendations from the Department of Social Services on August 13, 2013, your Board approved a contract with Plumas Rural Services for the provision of CalWORKs related child care to eligible recipients. In addition, the Board authorized the Department to execute two 12-month extensions of the agreement which covered Fiscal Years 2014-2015 and 2015-2016. Without realizing that our authority to extend the agreement ended June 30, 2016, the Department executed an additional extension for the current Fiscal Year. The matter before your Board today is to ratify that extension and to authorize the Department to extend the agreement for two additional twelve month periods.

Financial Impact

There is no financial impact to the County General Fund as a result of this contract. Child Care funds are 100% State General Fund dollars

Other Agency Involvement

County Counsel reviewed the agreement and approved it as to form.

Copies: DSS Managers

Enclosure

CONTRACT BETWEEN
PLUMAS COUNTY DEPARTMENT OF SOCIAL SERVICES
&
PLUMAS RURAL SERVICES, INC.
for
CalWORKs Stage I Childcare

The parties to this Agreement are County of Plumas, a political subdivision of the State of California, by and through its Department of Social Services (hereinafter referred to as PCDSS) and Plumas Rural Services, Inc. (hereinafter referred to as PRS). The purpose of this Agreement is to specify the terms and conditions under which PRS will provide CalWORKs Stage I Childcare Services to eligible CalWORKs participants.

The parties agree as follows:

1. Scope of Work. PRS, an independent contractor in all respects, shall provide the services that are specified in Attachment I to this document. PCDSS responsibilities in connection with this Agreement are specified in Attachment II to this document.
2. Contract Price.
 - a. Reimbursement for costs incurred by PRS in performance of this Agreement consists of two principal components:
 - PRS childcare support services and administration costs;
 - Reimbursement of childcare provider costs.
 - b. The total maximum reimbursable amount during the twelve-month term of this Agreement for the combined activities of the two components identified in subparagraph 2.a above is anticipated to be one-hundred nineteen thousand dollars (\$119,000). **(To the extent that adoption of a State budget for FY 2016-2017 changes this figure to a lesser amount, the parties will meet to negotiate the execution of an amended maximum reimbursement amount).**
 - c. The parties to this Agreement agree that it is their intent that fifty-nine thousand dollars (\$59,000) should be used as vouchers for purchase of childcare from licensed and exempt childcare centers, licensed family childcare homes and licensed exempt childcare providers; and/or to provide direct services to providers such as training, education to childcare providers and consumer education. The parties further intend that sixty thousand dollars (\$60,000) should be used for childcare support and administrative services. **Inasmuch as the use of childcare services is expected to fluctuate, the parties recognize that adherence to this intent may not be practical at all times.**
3. Payment.

- a. PCDSS shall reimburse PRS on the basis of monthly invoices submitted by the 20th day following the report month. Reports will be signed by a PRS authorized representative and will use a fiscal reporting format mutually agreed upon by PCDSS and PRS.
- b. PRS will submit a final summary of all service related and voucher costs within 90 days following the end date for the agreement. A total of all vouchers (with detail for voucher costs not previously billed) and a total by cost category of cumulative service costs will be included in this report. The authorized agency representative must sign this final report.

4. Term.

- a. The effective period of this Agreement shall be from **July 1, 2016** through **June 30, 2017**.
- b. All prior agreements, contracts and amendments will be superseded upon the approval of this Contract effective **July 1, 2016**.
- c. Subject to mutual agreement between the parties, this Agreement may be extended for two additional 12 month periods, upon an agreement regarding the total compensation available under the extension and as evidenced in writing.

5. Completion of Work and Warranty.

The services requested under this Agreement are nonexclusive and shall be completed promptly and competently. Failure to do so shall be good cause for immediate termination of this Agreement by County. No work shall be subcontracted or assigned without written consent of County.

6. Insurance. Contractor agrees to maintain the following insurance coverage throughout the term of this Agreement:

- a. Commercial general liability (and professional liability, if applicable to the services provided) coverage, with minimum per occurrence limit of the greater of (i) the limit available on the policy, or (ii) one million dollars (\$1,000,000).
- b. Automobile liability coverage (including non-owned automobiles), with minimum bodily injury limit of the greater of (i) the limit available on the policy, or (ii) two-hundred fifty thousands dollars (\$250,000) per person and five hundred thousand dollars (\$500,000) per accident, as well as a minimum property damage limit of the greater of (i) the limit available on the policy, or (ii) fifty thousand dollars (\$50,000) per accident.

- c. Each policy of commercial general liability (and professional liability, if applicable to the services provided) coverage and automobile liability coverage (including non-owned automobiles) shall meet the following requirements:
 - i. Each policy shall be endorsed to name the County, its officers, officials, employees, representatives and agents (collectively, for the purpose of this section 9, the "County") as additional insureds. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13; and
 - ii. All coverage available under such policy to Contractor, as the named insured, shall also be available and applicable to the County, as the additional insured; and
 - iii. All of Contractor's available insurance proceeds in excess of the specified minimum limits shall be available to satisfy any and all claims of the County, including defense costs and damages; and
 - iv. Any insurance limitations are independent of and shall not limit the indemnification terms of this Agreement; and
 - v. Contractor's policy shall be primary insurance as respects the County, its officers, officials, employees, representatives and agents, and any insurance or self-insurance maintained by the County, its officers, officials, employees, representatives and agents shall be in excess of the Contractor's insurance and shall not contribute with it, and such policy shall contain any endorsements necessary to effectuate this provision. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13; and
 - vi. To the extent that Contractor carries any excess insurance policy applicable to the work performed under this Agreement, such excess insurance policy shall also apply on a primary and non-contributory basis for the benefit of the County before the County's own primary insurance policy or self-insurance shall be called upon to protect it as a named insured, and such policy shall contain any endorsements necessary to effectuate this provision.
- d. Workers Compensation insurance in accordance with California state law.

If requested by County in writing, Contractor shall furnish a certificate of insurance satisfactory to County as evidence that the insurance required above is being maintained. Said certificate of insurance shall include a provision stating that the insurers will not cancel the insurance coverage without thirty (30) days' prior written notice to the County. County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time. Contractor shall require all subcontractors to comply with all indemnification and insurance requirements of this Agreement, and Contractor shall verify subcontractor's compliance.

7. Hold Harmless.

PRS shall indemnify and hold harmless County from any and all claims, liabilities, expenses (including attorney's fees), or damages of any nature arising out of or in any way connected with the intentional or negligent acts or omissions of PRS, its employees, agents or subcontractors in the performance of this Agreement.

8. Termination.

- a. This Agreement may be terminated, for any reason, by either of the parties by notifying the other party in writing thirty (30) days prior to the effective date of the termination.
- b. If during the term of this Agreement, the state and/or federal funds appropriated for the purposes of the agreement are reduced or eliminated by the California Legislature or the United States Government, the PCDSS may immediately terminate this Agreement upon written notice to PRS.
- c. If this Agreement is terminated before the end of its term, PRS shall be paid for all expenses encumbered by this Agreement through the date of termination.
- d. Notice(s) required by sub-paragraphs 8.a and 8.b would be effective upon delivery to the agreement monitor at their regular business address.
- e. The agreement monitor during the term of this Agreement shall be the Plumas Rural Services Director or her designee at 586 Jackson Street, Quincy, CA 95971; (530) 283-3611 for PRS; and shall be the County Department of Social Services Director or his designee at 270 County Hospital Road, Suite 207, Quincy, CA 95971; (530) 283-6350 for PCDSS.

9. Notices.

Notices can be sent as follows by first class mail and deemed effective five days later. If personally delivered, date of actual delivery is the date of receipt.

County of Plumas

270 County Hospital Rd., Suite 207
Quincy, CA 95971

PRS:

586 Jackson Street
Quincy, CA 95971

10. General Provisions.

- a. The laws of the State of California shall govern this Agreement.

- b. Both parties to this Agreement agree to adhere to the applicable federal and state legislation concerning nondiscrimination and childcare services.
- c. This Agreement may be amended only in writing with the mutual consent of both parties.
- d. PRS agrees to make available to each local office any of the records for inspection, audit or reproduction by an authorized representative of PCDSS during normal business hours.
- e. PRS shall maintain records documenting expenditures received under this Agreement for at least three years from the termination date of this Agreement. If PRS receives notice that any litigation relating to this Agreement, claim or audit has begun before the expiration of the three-year period, the records shall be retained until all litigation claims or audit findings are resolved.
- f. The Contractor's single audit as prescribed in Public Law 98-052 shall generally fulfill the financial audit requirement of the State Department of Social Services Manual of Policies and Procedures Section 23-640.2. If requested, PRS will provide PCDSS with a copy of the final single audit.
- g. PRS may maintain any of the records required to be kept under this Agreement by substituting photographs, microphotographs or other authentic reproduction of such records.
- h. PRS agrees to administer this Agreement in accordance with the Plumas County CalWORKs plan approved by the Plumas County Board of Supervisors on December 16, 1997 and any amendments thereafter.

11. Attest.

The undersigned attest that they are duly authorized representatives of their agencies and have been given authority by their respective governing bodies to execute this agreement.

PLUMAS CO. DEPT. OF SOCIAL SERVICES


ELLIOTT SMART
DIRECTOR7/5/16
Date

PLUMAS RURAL SERVICES, INC.


MICHELE LYNN PILLER
EXECUTIVE DIRECTOR7/12/16
Date

Approved as to Form:


County Counsel7/1/16
Date

Attachment I: PRS Responsibilities

PRS will be responsible for the following:

1. Provide information to CalWORKs clients regarding subsidized childcare options and place all Stage I CalWORKs clients on the Stage II and Stage III eligibility lists, as well as support parents to access other subsidized childcare programs.
2. Process reimbursements to childcare providers using vouchers as source documents, making payments to childcare providers in a timely manner for the expense of authorized childcare, with rates that are within 1.5 Standard Deviations of the Mean Market Rate for Plumas County.
3. Provide childcare referrals to local childcare providers for those participants who require assistance in obtaining childcare.
4. Provide CalWORKs participant information regarding what to look for in quality childcare and any required consumer education materials developed by the state.
5. Maintain a log of complaints received from parents.
6. Submit invoices to PCDSS for childcare support services and administrative costs and childcare provider reimbursement by the 20th of each month for expenses incurred in the previous month.
7. Provide data reports as requested by PCDSS and as required by AB 1542.
8. Coordinate the transfer of clients between CalWORKs Stages I, II and III childcare funds and subsidized funding in the larger community so as to support continuity of services to eligible children.
9. Inform childcare providers of training opportunities to enhance their skills.
10. Inform parents and childcare providers of policies regarding circumstances under which providers will not be eligible to receive payment.
11. Submit to PCDSS an annual independent financial audit, which includes the funds payable under this Agreement.

Attachment II: PCDSS Responsibilities

PCDSS will be responsible for the following:

1. Refer CalWORKs participants to PRS in a timely manner for assistance with their childcare services needs.
2. Provide necessary CalWORKs participant information to PRS to enable PRS to develop individual childcare agreements for such participants.
3. Determine the amount of and collect overpayments from participants.
4. Reimburse PRS for childcare support service and administrative costs and childcare payments by the 15th of the month following the receipt of invoice, provided that PRS submits that invoice for reimbursement of childcare payment and cost of services incurred in the previous month associated with this Agreement.
5. Regularly provide to PRS a status report detailing clients who are eligible for Stage II or III childcare and documentation of any participant changes in CalWORKs eligibility.
6. Obtain a signed release of information from the CalWORKs participant so that information can be shared with PRS as it pertains to their childcare needs.