




REPORT TO CITY COUNCIL

DATE: AUGUST 9, 2017

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER 
DOUG HOOPER, PLANNING DIRECTOR 

SUBJECT: CONDUCT A PUBLIC HEARING AND INTRODUCE FOR FIRST READING ORDINANCE NO. 17-429, AMENDING DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED) OF PART 2 (SPECIAL REGULATIONS) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO CLARIFY THAT ALL COMMERCIAL MARIJUANA ACTIVITY, FOR MEDICAL, NON-MEDICAL AND ANY OTHER PURPOSE, IS PROHIBITED IN ALL ZONES OF THE CITY, AND TO ALLOW LIMITED INDOOR MARIJUANA CULTIVATION CONSISTENT WITH STATE LAW, AND DELETING SECTION 4125 (COMPENSATION FOR MEDICAL MARIJUANA) OF THE AGOURA HILLS MUNICIPAL CODE, AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CASE NO. ZOA-01326-2017) (CITY OF AGOURA HILLS, APPLICANT)

Staff is requesting the City Council conduct a public hearing to introduce Ordinance No. 17-429 for first reading. The City is the applicant for this Ordinance, which amends Municipal Code Section 9660-9660.4 to clarify that all commercial marijuana activity, for medical, non-medical, and any other purpose, is prohibited in all zones of the City. The Ordinance also allows limited indoor marijuana cultivation on private residences, consistent with state law, and deletes Municipal Code Section 4125 (Compensation for medical marijuana).

Agoura Hills Municipal Code (Municipal Code) Section 9660 currently prohibits medical marijuana dispensaries, including the cultivation of marijuana, and the delivery of medical marijuana in the City. A copy of Municipal Code Section 9660 is included as an attachment within the attached July 6, 2017 Planning Commission staff report.

On October 9, 2015, Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which, collectively, were known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State regulatory and licensing scheme for commercial medical marijuana businesses.

Proposition 64, also known as the Control, Regulate and Tax Adult Use of Marijuana Act (the "AUMA"), was approved by California voters in November 2016. The AUMA legalized the use of non-medical marijuana for those who are 21 years of age or older and established a comprehensive system to regulate commercial marijuana activity, such as the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products. The AUMA also created a licensing and regulatory scheme for commercial non-medical marijuana businesses.

On June 27, 2017, the Governor signed into law Senate Bill 94, which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical marijuana known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether marijuana businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority shall begin issuing licenses to marijuana businesses beginning January 1, 2018. The City is now required to provide the newly created Bureau of Cannabis Control with a copy of any ordinance related to commercial cannabis activity and the contact information for the person designated by the City to serve as the contact person regarding commercial cannabis activity within the jurisdiction. A copy of the text of MAUCRSA is attached within the July 6, 2017 Planning Commission staff report.

Section 11362.1 to the Health and Safety Code (HSC), which was added by the AUMA and is now part of the MAUCRSA, makes it lawful for persons 21 years or older to:

1. Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older (1) up to 28.5 grams of marijuana that is not in the form of concentrated cannabis or (2) up to eight grams of marijuana in the form of concentrated cannabis.
2. Possess, plant, cultivate, harvest, dry, or process not more than six marijuana plants and possess the marijuana produced by the plants.
3. Smoke or ingest marijuana or marijuana products.
4. Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older.

Marijuana and marijuana products that are used in a manner deemed permissible by the MAUCRSA cannot be subject to seizure and no conduct deemed lawful by the MAUCRSA shall constitute the basis for detention, search, or arrest.

The MAUCRSA further provides that the newly adopted HSC Section 11362.1 shall not be construed or interpreted to amend, repeal, affect, restrict or preempt, *among other things*, the rights and obligations of public and private employers to maintain a drug and alcohol free workplace, the ability of a State or local agency to prohibit or restrict any of the actions permitted under the MAUCRSA within a building owned, leased, or occupied by the State or local agency, and the ability of an individual land or business owner to restrict or prohibit actions permitted by HSC Section 11326.1 within their own property, building, or business entity. The MAUCRSA also protects laws pertaining to the Compassionate Use Act of 1996.

The smoking of marijuana is subject to the City's Smoking in Public Places Ordinance, including in locations where smoking tobacco is prohibited. Additionally, the MAUCRSA still restricts the smoking of marijuana in public places and requires that it cannot be smoked in places where tobacco smoking is prohibited, including theaters. Under the MAUCRSA, marijuana smoking will not be permitted to within 1,000 feet of a school, day care or youth center when children are present, unless it is within a private residence and the smoke is not detectable from the school, day care center or youth center. Those caught smoking marijuana while driving a motor vehicle, boat or aircraft are subject to fines.

The MAUCRSA also requires that marijuana be (1) sold only by a licensed business, (2) packaged in child-resistant containers, and (3) labeled so that consumers are informed about the potency and effects of ingesting marijuana. The MAUCRSA further permits cities to (1) adopt and enforce local ordinances to regulate marijuana businesses, 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 (2) completely prohibit the establishment or operation of marijuana businesses within its jurisdiction.

The MAUCRSA allows for the planting, cultivation, harvesting, drying and processing ("cultivation activities") of up to six marijuana plants in, or upon the grounds of a private residence. The plants must be grown by person 21 years of age or older, and any marijuana produced by the plants in excess of 28.5 grams must (1) be kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), (2) be kept in a locked space, and (3) not be visible by normal unaided vision from a public place. Only six plants may be planted per private residence, regardless of the number of persons 21 years of age or older that reside at the private residence.

The MAUCRSA also allows for indoor, outdoor, and mixed-light cultivation of larger numbers of marijuana plants by persons and entities that first obtain the appropriate cultivator license from the Department of Food and Agriculture. Additionally, under the MAUCRSA, commercial growth and sale of marijuana will be taxed by the State (starting

2018) and may be taxed by local jurisdictions, subject to voter approval. Medicinal marijuana is not subject to a sales or use tax.

A city may enact and enforce an ordinance that reasonably regulates cultivation activities, but may not prohibit persons from engaging in any cultivation activities inside a private residence, or inside an accessory structure located upon the grounds of a private residence. However, a city may completely prohibit persons from engaging in cultivation activities outdoors upon the grounds of a private residence.

If a city prohibits commercial cultivation, retail sales, or outdoor cultivation on private residences, the city will not be eligible to obtain certain grants from the State and Local Government Law Enforcement Account that will be funded through the State excise tax on retail cannabis sales and commercial cultivation.

The MAUCRSA allows cities to prohibit or regulate marijuana businesses. Although the City currently prohibits medical marijuana dispensaries, this prohibition will not be sufficient to prohibit all types of marijuana business, such as marijuana laboratory testing and manufacturing businesses, from operating in the City. However, a person or entity cannot engage in commercial marijuana activity until the State begins to issue licenses, which will occur on January 1, 2018.

The Planning Commission reviewed the draft ordinance on July 6, 2017, in a public hearing. Staff noted to the Planning Commission that the City has two options to comply with the MAUCRSA. One option is for the City to adopt an ordinance regulating commercial marijuana activity. For instance, the City could allow marijuana dispensaries, laboratory testing or labeling of marijuana, which would require adoption of regulations for these types of businesses.

A second option, which was staff's recommendation and was supported by the Planning Commission on a 5-0 vote, is for the City Council to move forward with adopting an ordinance to prohibit all commercial marijuana activity, for medical, non-medical, and any other purpose in the City. Staff recommended this option as it is in general keeping with the City's current medical marijuana ban. The attached ordinance, supported by the Planning Commission, would prohibit all commercial activity in the City, including the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, or sale of marijuana and marijuana products whether or not for profit. Specifically, the ordinance amends Municipal Code Sections 9660-9600.4 in its entirety to include a new purpose statement (Section 9660), definitions (Section 9600.1), prohibitions (9660.2), exemptions (9660.3) and violations/penalties (Section 9660.4).

The MAUCRSA requires the City to repeal or modify certain provisions of the Municipal Code. For instance, Section 9660 of the Municipal Code prohibits medical marijuana dispensaries in the City. The Municipal Code defines a medical marijuana dispensary as "any location, structure, facility, vehicle, store, co-op, residence, or similar facility used, in full or part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, placed or

cultivated, including any of the foregoing if used in connection with the delivery of marijuana.” However, the MAUCRSA permits the cultivation of up to six (6) marijuana plants in, or upon the grounds of a private residence, or inside a fully enclosed or secured accessory structure located upon the grounds of a private residence. The City is now required to amend the Municipal Code so that it includes an exemption to allow for the cultivation of up to six (6) marijuana plants, consistent with State law.

The MAUCRSA also provides that a local jurisdiction “shall not prevent delivery of cannabis or cannabis products on public roads by a licensee...” The City is now required to amend the Municipal Code to delete provisions that prohibit marijuana deliveries from passing through the City. As stated above, it is now lawful for any persons 21 years of age or older to possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older (1) up to 28.5 grams of marijuana that is *not* in the form of concentrated cannabis or (2) up to eight grams of marijuana in the form of concentrated cannabis. It is also now lawful to possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older. Thus, these provisions are incorporated into the ordinance.

Section 9660.2 of the ordinance includes the following prohibitions:

1. Commercial marijuana activity, whether or not for profit, would not be a permitted use anywhere in the city. The City would not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial marijuana activity. This section would prohibit all activities for which a State license is required pursuant to the MAUCRSA.
2. It would be unlawful for any person to own, manage, establish, conduct, or operate, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial marijuana activity in the city.
3. To the extent not already prohibited by paragraph 1 above, all deliveries of marijuana or marijuana products to or from any location in the city would be expressly prohibited. No person could conduct or perform any delivery of any marijuana or marijuana products, which delivery either originates or terminates within the city. However, this subsection would not prohibit any person from transporting marijuana through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city. Also, as noted above, it is now lawful for any persons 21 years of age or older to transport, purchase, obtain, or give away to persons 21 years of age or older (1) up to 28.5 grams of marijuana that is not in the form of concentrated cannabis, or (2) up to eight grams of marijuana in the form of concentrated cannabis.
4. All outdoor marijuana cultivation would be prohibited in the city. Indoor marijuana cultivation is prohibited except on private residences as specified in section 9660.3(A)(5) of the ordinance.

The ordinance also includes the deletion of Municipal Code Section 4125, which currently prohibits compensation for medical marijuana. The proposed ordinance prohibits such compensation as all commercial marijuana activity would be prohibited within the city. A copy of Municipal Code Section 4125 is attached within the July 6, 2017 Planning Commission staff report.

The ordinance includes a catch-all exception that states the division (Section 9660.3 of the ordinance) shall not prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant to the MAUCRSA. Business and Professions Code section 26054(c) provides that it shall not be a violation of local law for a manufacturer of marijuana accessories to possess, transport, purchase or otherwise obtain cannabis and cannabis products as necessary to conduct research and development related to the cannabis accessories. This catch-all exception would ensure that the City is not prohibiting activities that it is preempted from prohibiting pursuant to State law.

If the proposed ordinance is adopted, the City Council would retain the ability in the future to amend any provision of the City's Marijuana Ordinance as applicable circumstances arise.

Staff has determined the proposed ordinance to be consistent with City General Plan 2035 Goal S-4: "Protection from Crime. Persons and property in Agoura Hills protected from criminal activities." By prohibiting commercial marijuana activity within City limits, the City is protecting the public health, safety and welfare. In Denver, burglary or attempted burglary accounted for 64 percent of marijuana-industry-related crime, while theft accounted for another 11 percent of marijuana-industry-related crime in 2014. Overall, marijuana businesses make up less than one percent of all businesses in Denver, but account for approximately 11 percent of all reported business burglaries from 2012-2015.

A 2016 study, "A Micro-Temporal Geospatial Analysis of Medical Marijuana Dispensaries and Crime in Long Beach California" found that an increase of one dispensary per square mile related to a 0.4 percent to 2.6 percent increase in property crime. Additionally, greater densities of medical marijuana dispensaries were related to higher rates of violent crimes in areas adjacent to the dispensary locations. The 2016 study found that a citywide decline in dispensaries from the March 2012 peak of 37 dispensaries to the August/September 2013 low of five dispensaries was associated with a decline of 182.5 violent crimes per year and 219.3 property crimes per year. Comparatively, an equivalent drop of alcohol outlets was associated with a decline of only 26.2 violent crimes and 113.9 property crimes per year. These results suggest that local agencies that enact and enforce bans on dispensaries will reduce crime in neighborhoods next to where the dispensaries are located.

Pursuant to the California Environmental Quality Act ("CEQA"), as amended, the CEQA Guidelines, and the City's local CEQA Guidelines, staff has determined, and the Planning Commission concurred, that the proposed Ordinance is exempt from the requirements of CEQA and the City's CEQA Guidelines, pursuant to CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the

proposed ordinance to prohibit commercial marijuana activity and outdoor marijuana cultivation will have a significant effect on the environment. Placing such a restriction on the use of property will not result in a permanent alteration of property nor the construction of any new or expanded structures.

RECOMMENDATION

Staff respectfully recommends the City Council conduct a public hearing, introduce, read by title only, and waive further reading of Ordinance No. 17-429, amending Division 10 (Medical Marijuana Dispensaries Prohibited), of Part 2 (Special Regulations), of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code to clarify that all commercial marijuana activity for medical, non-medical and any other purpose, is prohibited in all zones in the City, and to allow limited indoor marijuana cultivation consistent with State law, and deleting Section 4125 of the Agoura Hills Municipal Code, and make a finding of exemption under the California Environmental Quality Act.

Attachments: Exhibit A: Ordinance No. 17-429
 Exhibit B: Planning Commission Resolution No. 17-1195
 Exhibit C: Draft Planning Commission Meeting Minutes (July 6, 2017)
 Exhibit D: Planning Commission Staff Report (July 6, 2017)

EXHIBIT A

ORDINANCE NO. 17-429

ORDINANCE NO. 17-429

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA AMENDING DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED) OF PART 2 (SPECIAL REGULATIONS) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO CLARIFY THAT ALL COMMERCIAL MARIJUANA ACTIVITY FOR MEDICAL, NON-MEDICAL, AND ANY OTHER PURPOSE, IS PROHIBITED IN ALL ZONES IN THE CITY, AND TO ALLOW LIMITED INDOOR MARIJUANA CULTIVATION CONSISTENT WITH STATE LAW, AND DELETING SECTION 4125 OF THE AGOURA HILLS MUNICIPAL CODE, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES (CASE NO. ZOA-01326-2017)

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Purpose.

A. The City of Agoura Hills, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. On October 9, 2015, Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State regulatory and licensing scheme for commercial medical marijuana businesses.

C. On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA adds Section 11362.1 to the California Health and Safety Code, which makes it "lawful under state and local law" for persons 21 years of age or older to "possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever" up to 28.5 grams of marijuana not in the form of concentrated cannabis or up to eight grams of marijuana in the form of concentrated cannabis. The AMUA also establishes a State regulatory and licensing scheme for commercial non-medical marijuana businesses. The provisions of the AUMA related to the possession, use, and cultivation of marijuana became effective on November 9, 2016.

D. On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical marijuana known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether marijuana businesses could

operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority shall begin issuing licenses to marijuana businesses beginning January 1, 2018.

E. On July 9, 2017, the Planning Commission of the City of Agoura Hills held a public hearing on this proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony the Planning Commission closed the public hearing.

F. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 17-1195, recommending that the City Council adopt the proposed Ordinance to prohibit commercial marijuana activity and outdoor cultivation of marijuana, and to allow limited marijuana cultivation indoors, consistent with State law.

G. On August 9, 2017, the City Council of the City of Agoura Hills held a public hearing on the proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing.

H. All legal prerequisites to the adoption of this Ordinance have occurred.

SECTION 2. The City Council of the City of Agoura Hills hereby finds and determines that all of the above Recitals are true and correct and incorporates such Recitals into this Ordinance as if fully set forth herein.

SECTION 3. The City Council of the City of Agoura Hills hereby deletes Section 4125 (Compensation for medical marijuana.) of Chapter 1 (Prohibited Conduct; Offense) of the Agoura Hills Municipal Code in its entirety.

SECTION 4. The City Council of the City of Agoura Hills hereby amends Division 10 (Medical Marijuana Dispensaries Prohibited.) of Part 2 (Special Regulations) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code in its entirety to read as follows:

“DIVISION 10 MARIJUANA

Section 9660 Purpose.

Section 9660.1	Definitions.
Section 9660.2	Prohibitions.
Section 9660.3	Exceptions.
Section 9660.4	Violation, penalty.

9660 Purpose.

A. The city council finds that federal law prohibits the possession, manufacture, distribution, and dispensing of marijuana, and in order to serve the public health, safety, and welfare of the residents and businesses within the city, the declared purpose of this division is to prohibit all commercial marijuana activity, both medical and non-medical, within the city, as provided in this section.

B. California Business and Professions Code section 26055(d) provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. California Business and Professions Code section 26200 authorizes a city to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more marijuana businesses licensed under the State, within that city.

C. The city council finds that a prohibition on all commercial marijuana activity, for medical, non-medical, or any other purpose, is necessary for the preservation and protection of the public health, safety, and welfare for the city and its community. The city council's prohibition of such activity is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public benefit, safety, and welfare of the city and its community.

9660.1 Definitions.

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

A. "Commercial marijuana activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of marijuana and marijuana products, and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any other provision of State law that regulates the licensing of marijuana businesses.

B. "Concentrated cannabis" means 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.

C. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

D. "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.

E. "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed under Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

F. "Fully enclosed and secure structure" means a space within a building, greenhouse, or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

G. "Indoors" means within a fully enclosed and secure structure.

H. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

I. "Marijuana" 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. "Marijuana" also means the separated resin, whether crude or purified, obtained from marijuana, and any product containing marijuana. "Marijuana" includes marijuana that is used for medical, non-medical, or other purposes.

"Marijuana" does not include the mature stalk of the plant, fiber produced from the stalks, oil or cake made from 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. "Marijuana" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5, as the same may be amended from time to time.

J. "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.

K. "Marijuana product" 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.

L. "MAUCRSA" means the Medical and Adult-Use Cannabis Regulation and Safety Act, as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

M. "Outdoors" means any location that is not within a fully enclosed and secure structure.

N. "Person" means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

O. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling, that is lawfully used as a residence.

9660.2 Prohibitions.

A. Commercial marijuana activity, whether or not for profit, is not a permitted use anywhere in the city. The city shall not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial marijuana activity. This section shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time.

B. It shall be unlawful for any person to own, manage, establish, conduct, or operate, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial marijuana activity in the city.

C. To the extent not already prohibited by subsection A above, all Deliveries of marijuana or marijuana products to or from any location in the city are expressly prohibited. No person shall conduct or perform any delivery of any marijuana or marijuana products, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting marijuana through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

D. All outdoor marijuana cultivation is prohibited in the city. Indoor marijuana cultivation is prohibited except as specified in section 9660.3(A)(5).

9660.3 Exceptions.

A. To the extent that the following activities are permitted by State law, nothing in this division shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of marijuana in the form of concentrated cannabis;

3. Smoking or ingesting marijuana or marijuana products in a manner consistent with California Health and Safety Code section 11362.3, as the same may be amended from time to time;

4. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away marijuana accessories to persons 21 years of age or older without compensation whatsoever; or

5. Engaging in the indoor cultivation of six (6) or fewer live marijuana plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by California Health and Safety Code sections 11362.1 and 11362.2, as the same may be amended from time to time.”

B. This division shall also not prohibit any commercial marijuana activity that the city is required by State law to permit within its jurisdiction pursuant to the MAUCRSA.

9660.4 Violation, penalty

Violations of this section are subject to the general penalty provisions set forth in section 1200. In any civil action brought pursuant to this division, a court of competent jurisdiction may award reasonable attorneys’ fees and costs to the prevailing party. Notwithstanding the penalties set forth in section 1200 of the Agoura Hills Municipal Code, this division does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71 *et seq.* or Section 11362.1 *et seq.*, as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under section 1200 of the Agoura Hills Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern.”

SECTION 5. Planning Department staff has determined that the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Project to prohibit commercial marijuana activity and outdoor marijuana cultivation will have a significant effect on the environment. Placing such a restriction on the use of property will not result in a permanent alteration of property, nor the construction of any new or expanded structures. The City Council has reviewed Planning Department Staff’s determination of exemption, and based on its own independent judgment, concurs with Staff’s determination of exemption. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 6. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, for any reason, is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 8. This Ordinance shall take effect thirty (30) days after its final passage and adoption. A summary of this Ordinance shall be published, and a certified copy of the full text of this proposed Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the City Council meeting at which this proposed Ordinance is to be adopted. Within fifteen (15) days after adoption of this Ordinance, the City Clerk is instructed to publish a summary of this Ordinance with the names of those City Council members voting for and against this Ordinance, and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance, along with the names of those City Council members voting for and against this Ordinance or amendment, at least until the day of such publication.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2017, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney

EXHIBIT B

**PLANNING COMMISSION
RESOLUTION NO. 17-1195**

RESOLUTION NO. 17-1195

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE, AMENDING DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED) OF PART 2 (SPECIAL REGULATIONS) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO CLARIFY THAT ALL COMMERCIAL MARIJUANA ACTIVITY IS PROHIBITED IN ALL ZONES IN THE CITY, AND TO ALLOW LIMITED INDOOR MARIJUANA CULTIVATION CONSISTENT WITH STATE LAW, AND DELETING SECTION 4125 (COMPENSATION FOR MEDICAL MARIJUANA) OF THE AGOURA HILLS MUNICIPAL CODE, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES (CASE NO. ZOA-01326-2017)

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS DOES HEREBY RESOLVE, FIND, DETERMINE AND ORDER AS FOLLOWS:

WHEREAS, the City of Agoura Hills initiated and prepared an ordinance to amend Municipal Code Sections 9660-9660.4 to clarify that all commercial marijuana activity, both medical and non-medical, is prohibited in all zones of the City, and to allow limited indoor marijuana cultivation consistent with state law, and to delete Municipal Code Section 4125 (Compensation for medical marijuana) (Case No. ZOA-01326-2017). A public hearing was duly held on July 6, 2017, at 6:30 p.m. in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid public hearing was duly given and published as required by state law; and

WHEREAS, evidence, both written and oral, including the staff report and supporting documentation, was presented to and considered by the Planning Commission at the aforesaid public hearing; and

WHEREAS, after the close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the staff reports, the recommendations and all other pertinent documents and associated actions regarding the proposed ordinance amendments; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”), as amended, the CEQA Guidelines promulgated thereunder, and the City’s local CEQA Guidelines, Planning Department Staff has determined that the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Project to prohibit commercial marijuana activity and outdoor marijuana cultivation will have a significant effect on the environment. Placing such a restriction on the use of property will not result in a permanent alteration of property nor the construction of any new or expanded structures. The Planning Commission has reviewed Planning Department Staff’s determination of exemption, and based on its own independent judgment, concurs with Staff’s determination of exemption; and

WHEREAS, on October 9, 2015 Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA established a State regulatory and licensing scheme for commercial medical marijuana businesses; and

WHEREAS, on November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). The AUMA adds Section 11362.1 to the California Health and Safety Code, which makes it “lawful under state and local law” for persons 21 years of age or older to “possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever” up to 28.5 grams of marijuana not in the form of concentrated cannabis or up to eight grams of marijuana in the form of concentrated cannabis. The AMUA also establishes a State regulatory and licensing scheme for commercial non-medical marijuana businesses. The provisions of the AUMA related to the possession, use, and cultivation of marijuana became effective on November 9, 2016; and

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical marijuana known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether marijuana businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the

State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority shall begin issuing licenses to marijuana businesses beginning January 1, 2018; and

WHEREAS, the proposed Ordinance is consistent with City General Plan 2035 Goal S-4: "Protection from Crime. Persons and property in Agoura Hills protected from criminal activities." By prohibiting commercial marijuana activity within City limits, the City is protecting the public health, safety and welfare, and is reducing the risk that individuals will engage in criminal activity as the possession, manufacture, distribution, and dispensing of marijuana is illegal under federal law; and

WHEREAS, the custodian of records for all materials which constitute the record of proceedings upon which the Planning Commission's decision was based is the City Clerk of the City of Agoura Hills. Those documents are available for public review in the Office of the City Clerk located at 30001 Ladyface Court, Agoura Hills, California, 91301.

NOW, THEREFORE, BE IT RESOLVED, based on the findings and conclusions set forth above, that the Planning Commission of the City of Agoura Hills recommends the City Council adopt the draft ordinance (Exhibit A) and make a finding of exemption under the California Environmental Quality Act.

PASSED, APPROVED and ADOPTED this 6th day of July, 2017, by the following vote to wit:

AYES: (5) Zacuto, Asuncion, Anderson, Justice, O'Meara
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Curtis Zacuto, Chairperson

ATTEST:

Doug Hooper, Secretary

DRAFT ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA AMENDING DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED) OF PART 2 (SPECIAL REGULATIONS) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO CLARIFY THAT ALL COMMERCIAL MARIJUANA ACTIVITY FOR MEDICAL, NON-MEDICAL, AND ANY OTHER PURPOSE, IS PROHIBITED IN ALL ZONES IN THE CITY, AND TO ALLOW LIMITED INDOOR MARIJUANA CULTIVATION CONSISTENT WITH STATE LAW, AND DELETING SECTION 4125 OF THE AGOURA HILLS MUNICIPAL CODE, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES (CASE NO. ZOA-01326-2017)

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Purpose.

A. The City of Agoura Hills, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. On October 9, 2015 Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State regulatory and licensing scheme for commercial medical marijuana businesses.

C. On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA adds Section 11362.1 to the California Health and Safety Code, which makes it "lawful under state and local law" for persons 21 years of age or older to "possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever" up to 28.5 grams of marijuana not in the form of concentrated cannabis or up to eight grams of marijuana in the form of concentrated cannabis. The AMUA also establishes a State regulatory and licensing scheme for commercial non-medical marijuana businesses. The provisions of the AUMA related to the possession, use, and cultivation of marijuana became effective on November 9, 2016.

D. On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and

non-medical marijuana known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether marijuana businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority shall begin issuing licenses to marijuana businesses beginning January 1, 2018.

E. On July 9, 2017, the Planning Commission of the City of Agoura Hills held a public hearing on this proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony the Planning Commission closed the public hearing.

F. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 17-1195, recommending that the City Council adopt the proposed Ordinance to prohibit commercial marijuana activity and outdoor cultivation of marijuana, and to allow limited marijuana cultivation indoors consistent with State law.

G. On _____, 2017, the City Council of the City of Agoura Hills held a public hearing on the proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing.

H. All legal prerequisites to the adoption of this Ordinance have occurred.

SECTION 2. The City Council of the City of Agoura Hills hereby finds and determines that all of the above Recitals are true and correct and incorporates such Recitals into this Ordinance as if fully set forth herein.

SECTION 3. The City Council of the City of Agoura Hills hereby deletes Section 4125 (Compensation for medical marijuana.) of Chapter 1 (Prohibited Conduct; Offense) of the Agoura Hills Municipal Code in its entirety.

SECTION 4. The City Council of the City of Agoura Hills hereby amends Division 10 (Medical Marijuana Dispensaries Prohibited.) of Part 2 (Special Regulations) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code in its entirety to read as follows:

“DIVISION 10 MARIJUANA

Section 9660	Purpose.
Section 9660.1	Definitions.
Section 9660.2	Prohibitions.
Section 9660.3	Exceptions.
Section 9660.4	Violation, penalty.

9660 Purpose.

A. The city council finds that federal law prohibits the possession, manufacture, distribution, and dispensing of marijuana, and in order to serve the public health, safety, and welfare of the residents and businesses within the city, the declared purpose of this division is to prohibit all commercial marijuana activity, both medical and non-medical, within the city, as provided in this section.

B. California Business and Professions Code section 26055(d) provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. California Business and Professions Code section 26200 authorizes a city to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more marijuana businesses licensed under the State, within that city.

C. The city council finds that a prohibition on all commercial marijuana activity, for medical, non-medical, or any other purpose, is necessary for the preservation and protection of the public health, safety, and welfare for the city and its community. The city council’s prohibition of such activity is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public benefit, safety, and welfare of the city and its community.

9660.1 Definitions.

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

A. “Commercial marijuana activity” means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of marijuana and marijuana products, and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any other provision of State law that regulates the licensing of marijuana businesses.

B. “Concentrated cannabis” means 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.

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

D. "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.

E. "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed under Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

F. "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

G. "Indoors" means within a fully enclosed and secure structure.

H. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

I. "Marijuana" 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. "Marijuana" also means the separated resin, whether crude or purified, obtained from marijuana, and any product containing marijuana. "Marijuana" includes marijuana that is used for medical, non-medical, or other purposes.

"Marijuana" does not include the mature stalk of the plant, fiber produced from the stalks, oil or cake made from 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. "Marijuana" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5, as the same may be amended from time to time.

J. "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.

K. "Marijuana product" 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.

L. "MAUCRSA" means the Medical and Adult-Use Cannabis Regulation and Safety Act, as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

M. "Outdoors" means any location that is not within a fully enclosed and secure structure.

N. "Person" means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

O. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling, that is lawfully used as a residence.

9660.2 Prohibitions.

A. Commercial marijuana activity, whether or not for profit, is not a permitted use anywhere in the city. The city shall not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial marijuana activity. This section shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time.

B. It shall be unlawful for any person to own, manage, establish, conduct, or operate, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial marijuana activity in the city.

C. To the extent not already prohibited by subsection A above, all Deliveries of marijuana or marijuana products to or from any location in the city are expressly prohibited. No person shall conduct or perform any delivery of any marijuana or marijuana products, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting marijuana through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

D. All outdoor marijuana cultivation is prohibited in the city. Indoor marijuana cultivation is prohibited except as specified in section 9660.3(A)(5).

9660.3 Exceptions.

A. To the extent that the following activities are permitted by State law, nothing in this division shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of marijuana in the form of concentrated cannabis;

3. Smoking or ingesting marijuana or marijuana products in a manner consistent with California Health and Safety Code section 11362.3, as the same may be amended from time to time;

4. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away marijuana accessories to persons 21 years of age or older without compensation whatsoever; or

5. Engaging in the indoor cultivation of six (6) or fewer live marijuana plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by California Health and Safety Code sections 11362.1 and 11362.2, as the same may be amended from time to time.”

B. This division shall also not prohibit any commercial marijuana activity that the city is required by State law to permit within its jurisdiction pursuant to the MAUCRSA.

9660.4 Violation, penalty

Violations of this section are subject to the general penalty provisions set forth in section 1200. In any civil action brought pursuant to this division, a court of competent jurisdiction may award reasonable attorneys’ fees and costs to the prevailing party. Notwithstanding the penalties set forth in section 1200 of the Agoura Hills Municipal Code, this division does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71 *et seq.* or Section 11362.1 *et seq.*, as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under section 1200 of the Agoura Hills Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern.”

SECTION 5. Planning Department staff has determined that the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Project to prohibit commercial marijuana activity and outdoor marijuana cultivation will have a significant effect on the environment. Placing such a restriction on the use of property will not result in a permanent alteration of property nor the construction of any new or expanded structures. The City Council has reviewed Planning Department Staff’s determination of exemption, and based on its own independent judgment, concurs with Staff’s determination of exemption. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 6. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 8. This Ordinance shall take effect thirty (30) days after its final passage and adoption. A summary of this Ordinance shall be published and a certified copy of the full text of this proposed Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the City Council meeting at which this proposed Ordinance is to be adopted. Within fifteen (15) days after adoption of this Ordinance, the City Clerk is instructed to publish a summary of this Ordinance with the names of those City Council members voting for and against this Ordinance and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of those City Council members voting for and against this Ordinance or amendment at least until the day of such publication.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2017, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney

EXHIBIT C

DRAFT PLANNING COMMISSION MEETING MINUTES (JULY 6, 2017)

MINUTES
REGULAR MEETING OF THE
AGOURA HILLS PLANNING COMMISSION
Civic Center – Council Chambers
30001 Ladyface Court, Agoura Hills, California 91301
Thursday, July 6, 2017
6:30 P.M.

The Planning Commission meeting was called to order at 6:30 p.m. by Chair Zacuto.

The Pledge of Allegiance was led by Commissioner O'Meara.

Present were: Chair Curtis Zacuto, Vice Chair John Asuncion and Commissioners Kate Anderson, Michael Justice, and John O'Meara.

Also Present were: Planning Director Doug Hooper, Assistant City Attorney Maricela Marroquin, LASD Deputy Rick Baldi, and City Clerk/Recording Secretary Kimberly M. Rodrigues.

APPROVAL OF AGENDA

ACTION: Commissioner O'Meara moved to approve the Agenda, as presented. Commissioner Justice seconded. The motion carried 5-0, by the following voice vote:

AYES: Chair Zacuto, Vice Chair Asuncion, and Commissioners Anderson, Justice, and O'Meara.

NOES: None.

ABSENT: None.

PUBLIC COMMENTS

There were no public speakers.

APPROVAL OF MINUTES

1. Minutes – April 20, 2017 Planning Commission Meeting

ACTION: Vice Chair Asuncion moved to approve Item No. 1, as presented. Commissioner Anderson seconded. The motion carried 3-0-2 with Commissioners Justice and O'Meara abstaining by the following voice vote:

AYES: Chair Zacuto, Vice Chair Asuncion, and Commissioner Anderson.

NOES: None.
ABSENT: None.
ABSTAIN: Commissioners Justice and O'Meara.

2. Minutes – May 4, 2017 Planning Commission Meeting

ACTION: Commissioner O'Meara moved to approve Item No. 2, as amended, to reflect excused absences for Commissioners Anderson and Justice. Vice Chair Asuncion seconded. The motion carried 3-0-2 with Commissioners Anderson and Justice abstaining by the following voice vote:

AYES: Chair Zacuto, Vice Chair Asuncion, and Commissioner O'Meara.
NOES: None.
ABSENT: None.
ABSTAIN: Commissioners Anderson and Justice.

NEW PUBLIC HEARING

3. REQUEST: Request for the Planning Commission to recommend the City Council adopt an ordinance to: 1) amend Municipal Code Sections 9660-9660.4 to clarify that all commercial marijuana activity, both medical and non-medical, is prohibited in all zones of the City, and to allow limited indoor marijuana cultivation consistent with state law; 2) delete Municipal Code Section 4125 ("Compensation for medical marijuana"); and 3) make a finding of exemption under the California Environmental Quality Act.

APPLICANT: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301

CASE NO.: ZOA-01326-2017

LOCATION: Citywide

ENVIRONMENTAL DETERMINATION: Exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines.

RECOMMENDATION: Staff recommended the Planning Commission adopt the draft Resolution, recommending that the City Council approve Zoning Ordinance Amendment Case No. ZOA-01326-2017.

Following presentation of the staff report, Chair Zacuto opened the Public Hearing at 6:23 p.m.

There being no public speakers, Chair Zacuto closed the Public Hearing at 6:24 p.m.

ACTION: Commissioner Anderson moved to approve Zoning Ordinance Amendment Case No. ZOA-01326-2017, and adopt **Resolution No. 17-1195**; A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE, AMENDING DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED) OF PART 2 (SPECIAL REGULATIONS) OF CHAPTER 6 (REGULATORY PROVISIONS) ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO CLARIFY THAT ALL COMMERCIAL MARIJUANA ACTIVITY IS PROHIBITED IN ALL ZONES IN THE CITY, AND TO ALLOW LIMITED INDOOR MARIJUANA CULTIVATION CONSISTENT WITH STATE LAW, AND DELETING SECTION 4126 (COMPENSATION FOR MEDICAL MARIJUANA) OF THE AGOURA HILLS MUNICIPAL CODE, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES (CASE NO. ZOA-01326-2017), including the ordinance revisions, as submitted by Assistant City Attorney Marroquin, and the following amendments to the proposed Ordinance: 1) under Section 9660(3)(B), replace the word "allow" with the word "permit", and 2) throughout the draft Ordinance, anywhere that a specific statutory code is mentioned, add the phrase "as the same may be amended time to time" where it is not otherwise in the proposed Ordinance. Commissioner O'Meara seconded. The motion carried 5-0, by the following voice vote:

AYES: Chair Zacuto, Vice Chair Asuncion, and Commissioners Anderson, Justice, and O'Meara.

NOES: None.

ABSENT: None.

PLANNING COMMISSION/STAFF COMMENTS

Commissioner Anderson noted that state law restricts marijuana smoking in child care centers and schools, but not in private residences, and expressed her concern with smoking of marijuana in licensed family child care centers. Assistant City Attorney Marroquin noted that marijuana smoking is prohibited anywhere that tobacco smoking is prohibited, including all enclosed places of employment.

ADJOURNMENT

Chair Zacuto announced the next Regular Meeting of the Planning Commission would be held at 6:30 p.m., Thursday, July 20, 2017, in the Council Chambers of the Civic Center. The Civic Center is located at 30001 Ladyface Court, Agoura Hills, California.

ACTION: At 7:23 p.m., Commissioner Justice moved to adjourn the meeting. Vice Chair Asuncion seconded. The motion carried 5-0, by the following voice vote:

AYES: Chair Zacuto, Vice Chair Asuncion, and Commissioners Anderson, Justice, and O'Meara.

NOES: None.

ABSENT: None.

Kimberly M. Rodrigues, MPPA, MMC
City Clerk/Recording Secretary

EXHIBIT D

**PLANNING COMMISSION
STAFF REPORT
(JULY 6, 2017)**



PLANNING DEPARTMENT

ACTION DATE: July 6, 2017

TO: Planning Commission

APPLICANT: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301

CASE NO.: ZOA-01326-2017

LOCATION: Citywide

REQUEST: Request for the Planning Commission to recommend the City Council adopt an ordinance to: 1) amend Municipal Code Sections 9660-9660.4 to clarify that all commercial marijuana activity, both medical and non-medical, is prohibited in all zones of the City, and to allow limited indoor marijuana cultivation consistent with state law; 2) delete Municipal Code Section 4125 ("Compensation for medical marijuana"); and 3) make a finding of exemption under the California Environmental Quality Act.

ENVIRONMENTAL DETERMINATION: Exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines.

RECOMMENDATION: Staff recommends the Planning Commission adopt the draft Resolution, recommending that the City Council approve Zoning Ordinance Amendment Case No. ZOA-01326-2017.

I. BACKGROUND AND ANALYSIS

Agoura Hills Municipal Code (Municipal Code) Section 9660 currently prohibits medical marijuana dispensaries, including the cultivation of marijuana, and the

delivery of medical marijuana in the City. A copy of Municipal Code Section 9660 is attached for reference.

On October 9, 2015 Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State regulatory and licensing scheme for commercial medical marijuana businesses.

Proposition 64, also known as the Control, Regulate and Tax Adult Use of Marijuana Act (the "AUMA") was approved by California voters in November 2016. The AUMA legalizes the use of non-medical marijuana for those who are 21 years of age or older and establishes a comprehensive system to regulate commercial marijuana activity, such as the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products. The AUMA also created a licensing and regulatory scheme for commercial non-medical marijuana businesses.

On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical marijuana known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether marijuana businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority shall begin issuing licenses to marijuana businesses beginning January 1, 2018. A copy of the text of MAUCRSA is attached for reference.

II. SUMMARY

Section 11362.1 to the Health and Safety Code (HSC), which was added by the AUMA and is now part of the MAUCRSA, makes it lawful for persons 21 years or older to:

1. Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older (1) up to 28.5 grams of marijuana that is *not* in the form of concentrated cannabis or (2) up to eight grams of marijuana in the form of concentrated cannabis.
2. Possess, plant, cultivate, harvest, dry, or process not more than six marijuana plants and possess the marijuana produced by the plants.
3. Smoke or ingest marijuana or marijuana products.
4. Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older.

Marijuana and marijuana products that are used in a manner deemed permissible by the MAUCRSA cannot be subject to seizure and no conduct deemed lawful by the MAUCRSA shall constitute the basis for detention, search, or arrest.

The MAUCRSA further provides that the newly adopted HSC Section 11362.1 shall not be construed or interpreted to amend, repeal, affect, restrict or preempt, *among other things*, the rights and obligations of public and private employers to maintain a drug and alcohol free workplace, the ability of a State or local agency to prohibit or restrict any of the actions permitted under the MAUCRSA within a building owned, leased, or occupied by the State or local agency, and the ability of an individual land or business owner to restrict or prohibit actions permitted by the Act within their own property, building, or business entity. The MAUCRSA also protects laws pertaining to the Compassionate Use Act of 1996.

The smoking of marijuana is subject to the City's Smoking in Public Places Ordinance, including in locations where smoking tobacco is prohibited. Additionally, the MAUCRSA still restricts the smoking of marijuana in public places and requires that it cannot be smoked in places where tobacco smoking is prohibited, including theaters. Under the MAUCRSA, marijuana smoking will not be permitted to within 1,000 feet of a school, day care or youth center when children are present, unless it is within a private residence. Those caught smoking marijuana while driving a motor vehicle, boat or aircraft are subject to fines.

The MAUCRSA also requires that marijuana be (1) sold only by a licensed business, (2) packaged in child-resistant containers, and (3) labeled so that consumers are informed about the potency and effects of ingesting marijuana. The MAUCRSA further permits cities to (1) adopt and enforce local ordinances to regulate marijuana businesses, 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 (2) completely prohibit the establishment or operation of marijuana businesses within its jurisdiction.

The MAUCRSA allows for the planting, cultivation, harvesting, drying and processing ("cultivation activities") of up to six marijuana plants in, or upon the grounds of a private residence. The plants must be grown by person 21 years of age or older, and any marijuana produced by the plants in excess of 28.5 grams must (1) be kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), (2) be kept in a locked space, and (3) not be visible by normal unaided vision from a public place.

The MAUCRSA also allows for indoor, outdoor, and mixed-light cultivation of larger numbers of marijuana plants by persons and entities that first obtain the appropriate cultivator license from the Department of Food and Agriculture. Additionally, under the MAUCRSA, commercial growth and sale of marijuana will be taxed by the State (starting 2018) and may be taxed by local jurisdictions, subject to voter approval. Medicinal marijuana is not subject to a sales or use tax.

A city may enact and enforce an ordinance that reasonably regulates cultivation activities, but may not prohibit persons from engaging in any cultivation activities inside a private residence, or inside an accessory structure located upon the grounds of a private residence. However, a city may completely prohibit persons from engaging in cultivation activities outdoors upon the grounds of a private residence.

III. ZONING ORDINANCE AMENDMENTS

The MAUCRSA allows cities to prohibit or regulate marijuana businesses. Although the City currently prohibits medical marijuana dispensaries, this prohibition will not be sufficient to prohibit all types of marijuana business, such as commercial marijuana businesses, from operating in the City. However, a person or entity cannot engage in commercial marijuana activity until the State begins to issue licenses, which will occur on January 1, 2018.

The City has two options to comply with the MAUCRSA. The first option is for the City to adopt an ordinance regulating commercial marijuana activity. For instance, the City could allow marijuana dispensaries, laboratory testing or labeling of marijuana, which would require adoption of regulations for these types of businesses.

The second option, which is staff's recommendation, is for the Planning Commission to recommend the City Council move forward with adopting an ordinance to prohibit all commercial marijuana activity in the City. Staff recommends this option as it is in general keeping with the City's current medical marijuana ban. The attached draft ordinance would prohibit all commercial activity (both medical and non-medical) in the City, including the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, or sale of marijuana and marijuana products for commercial purposes. Specifically, the ordinance would amend Municipal Code Sections 9660-9600.4 in its entirety to include a new purpose statement (Section 9660), definitions (Section 9600.1), prohibitions (9660.2), exemptions (9660.3) and violations/penalties (Section 9660.4).

The MAUCRSA requires to the City to repeal or modify certain provisions of the Municipal Code. For instance, Section 9660 of the Municipal Code prohibits medical marijuana dispensaries in the City. The Municipal Code defines a medical marijuana dispensary as "any location, structure, facility, vehicle, store, co-op, residence, or similar facility used, in full or part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, placed or cultivated, including any of the foregoing if uses in connection with the delivery of marijuana." However, the MAUCRSA permits the cultivation of up to six (6) marijuana plants in, or upon the grounds of a private residence, or inside a fully enclosed or secured accessory structure located upon the grounds of a private residence. The City is now required to amend the Municipal Code so that it includes an exemption to allow for the cultivation of up to six (6) marijuana plants, consistent with State law.

The MAUCRSA also provides that a local jurisdiction "shall not prevent delivery of marijuana or marijuana products on public roads by a licensee..." The City is now required to amend the Municipal Code to delete provisions that prohibits marijuana deliveries from passing through the City. As stated above, it is now lawful for any persons 21 years of age or older to possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older (1) up to 28.5 grams of marijuana that is *not* in the form of concentrated cannabis or (2) up to eight grams of marijuana in the form of concentrated cannabis. It is also now lawful to possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older. Thus, these provisions are incorporated into the draft ordinance.

Section 9660.2 of the ordinance includes the following prohibitions:

1. Commercial marijuana activity, whether or not for profit, would not be a permitted use anywhere in the city. The City would not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial marijuana activity. This section would prohibit all activities for which a State license is required pursuant to the MAUCRSA.
2. It would be unlawful for any person to own, manage, establish, conduct, or operate, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial marijuana activity in the city.
3. To the extent not already prohibited by paragraph 1 above, all deliveries of marijuana or marijuana products to or from any location in the city would be expressly prohibited. No person could conduct or perform any delivery of any marijuana or marijuana products, which delivery either originates or terminates within the city. However, this subsection would not prohibit any person from transporting marijuana through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city. Also, as noted above, it is now lawful for any persons 21 years of age or older to transport, purchase, obtain, or give away to persons 21 years of age or older (1) up to 28.5 grams of marijuana that is not in the form of concentrated cannabis, or (2) up to eight grams of marijuana in the form of concentrated cannabis.
4. All outdoor marijuana cultivation would be prohibited in the city. Indoor marijuana cultivation is prohibited except as specified in section 9660.3(A)(5) of the ordinance.

The ordinance also includes the deletion Municipal Code Section 4125, which currently prohibits compensation for medical marijuana. The ordinance, as drafted, would prohibit such compensation as all commercial marijuana activity would be prohibited within the city. A copy of Municipal Code Section 4125 is attached for reference.

The Planning Commission's recommendation on the draft ordinance will be forwarded to the City Council for final action. Staff would note that the City Council would retain the ability in the future to amend any provision of the City's Marijuana Ordinance as applicable circumstances arise.

IV. GENERAL PLAN CONSISTENCY

Staff has determined the proposed ordinance to be consistent with City General Plan 2035 Goal S-4: "Protection from Crime. Persons and property in Agoura Hills protected from criminal activities." By prohibiting commercial marijuana activity within City limits, the City is protecting the public health, safety and welfare and is reducing the risk that individuals will engage in criminal activity as the possession, manufacture, distribution and dispensing of marijuana is illegal under federal law.

V. ENVIRONMENTAL ANALYSIS

Pursuant to the California Environmental Quality Act ("CEQA"), as amended, the CEQA Guidelines, and the City's local CEQA Guidelines, staff has determined that the proposed Ordinance is exempt from the requirements of CEQA and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Project to prohibit commercial marijuana activity and outdoor marijuana cultivation will have a significant effect on the environment. Placing such a restriction on the use of property will not result in a permanent alteration of property nor the construction of any new or expanded structures.

VI. RECOMMENDATION

Staff recommends the Planning Commission adopt the attached draft Resolution, recommending that the City Council approve Zoning Ordinance Amendment Case No. ZOA-01326-2016.

VIII. ATTACHMENTS

- Draft Planning Commission Resolution
- Draft Ordinance
- Agoura Hills Municipal Code Section 9660
- Agoura Hills Municipal Code Section 4125
- MAUCRSA (Senate Bill No. 94) Text

DRAFT RESOLUTION NO. 17-_____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE, AMENDING DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED) OF PART 2 (SPECIAL REGULATIONS) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO CLARIFY THAT ALL COMMERCIAL MARIJUANA ACTIVITY IS PROHIBITED IN ALL ZONES IN THE CITY, AND TO ALLOW LIMITED INDOOR MARIJUANA CULTIVATION CONSISTENT WITH STATE LAW, AND DELETING SECTION 4125 (COMPENSATION FOR MEDICAL MARIJUANA) OF THE AGOURA HILLS MUNICIPAL CODE, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES (CASE NO. ZOA-01326-2017)

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS DOES HEREBY RESOLVE, FIND, DETERMINE AND ORDER AS FOLLOWS:

WHEREAS, the City of Agoura Hills initiated and prepared an ordinance to amend Municipal Code Sections 9660-9660.4 to clarify that all commercial marijuana activity, both medical and non-medical, is prohibited in all zones of the City, and to allow limited indoor marijuana cultivation consistent with state law, and to delete Municipal Code Section 4125 (Compensation for medical marijuana) (Case No. ZOA-01326-2017). A public hearing was duly held on July 6, 2017, at 6:30 p.m. in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid public hearing was duly given and published as required by state law; and

WHEREAS, evidence, both written and oral, including the staff report and supporting documentation, was presented to and considered by the Planning Commission at the aforesaid public hearing; and

WHEREAS, after the close of the public hearing, the Planning Commission considered all public comments received both before and during the public hearing, the presentation by City staff, the staff reports, the recommendations and all other pertinent documents and associated actions regarding the proposed ordinance amendments; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”), as amended, the CEQA Guidelines promulgated thereunder, and the City’s local CEQA Guidelines, Planning Department Staff has determined that the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Project to prohibit commercial marijuana activity and outdoor marijuana cultivation will have a significant effect on the environment. Placing such a restriction on the use of property will not result in a permanent alteration of property nor the construction of any new or expanded structures. The Planning Commission has reviewed Planning Department Staff’s determination of exemption, and based on its own independent judgment, concurs with Staff’s determination of exemption; and

WHEREAS, on October 9, 2015 Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA established a State regulatory and licensing scheme for commercial medical marijuana businesses; and

WHEREAS, on November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). The AUMA adds Section 11362.1 to the California Health and Safety Code, which makes it “lawful under state and local law” for persons 21 years of age or older to “possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever” up to 28.5 grams of marijuana not in the form of concentrated cannabis or up to eight grams of marijuana in the form of concentrated cannabis. The AMUA also establishes a State regulatory and licensing scheme for commercial non-medical marijuana businesses. The provisions of the AUMA related to the possession, use, and cultivation of marijuana became effective on November 9, 2016; and

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical marijuana known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether marijuana businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the

State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority shall begin issuing licenses to marijuana businesses beginning January 1, 2018; and

WHEREAS, the proposed Ordinance is consistent with City General Plan 2035 Goal S-4: "Protection from Crime. Persons and property in Agoura Hills protected from criminal activities." By prohibiting commercial marijuana activity within City limits, the City is protecting the public health, safety and welfare, and is reducing the risk that individuals will engage in criminal activity as the possession, manufacture, distribution, and dispensing of marijuana is illegal under federal law; and

WHEREAS, the custodian of records for all materials which constitute the record of proceedings upon which the Planning Commission's decision was based is the City Clerk of the City of Agoura Hills. Those documents are available for public review in the Office of the City Clerk located at 30001 Ladyface Court, Agoura Hills, California, 91301.

NOW, THEREFORE, BE IT RESOLVED, based on the findings and conclusions set forth above, that the Planning Commission of the City of Agoura Hills recommends the City Council adopt the draft ordinance (Exhibit A) and make a finding of exemption under the California Environmental Quality Act.

PASSED, APPROVED and ADOPTED this 6th day of July, 2017, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Curtis Zacuto, Chairperson

ATTEST:

Doug Hooper, Secretary

DRAFT ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA AMENDING DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED) OF PART 2 (SPECIAL REGULATIONS) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO CLARIFY THAT ALL COMMERCIAL MARIJUANA ACTIVITY IS PROHIBITED IN ALL ZONES IN THE CITY, AND TO ALLOW LIMITED INDOOR MARIJUANA CULTIVATION CONSISTENT WITH STATE LAW, AND DELETING SECTION 4125 OF THE AGOURA HILLS MUNICIPAL CODE, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES (CASE NO. ZOA-01326-2017)

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Purpose.

A. The City of Agoura Hills, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. On October 9, 2015 Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State regulatory and licensing scheme for commercial medical marijuana businesses.

C. On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA adds Section 11362.1 to the California Health and Safety Code, which makes it "lawful under state and local law" for persons 21 years of age or older to "possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever" up to 28.5 grams of marijuana not in the form of concentrated cannabis or up to eight grams of marijuana in the form of concentrated cannabis. The AMUA also establishes a State regulatory and licensing scheme for commercial non-medical marijuana businesses. The provisions of the AUMA related to the possession, use, and cultivation of marijuana became effective on November 9, 2016.

D. On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical marijuana known as the Medicinal and Adult-Use Cannabis Regulation and

Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether marijuana businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority shall begin issuing licenses to marijuana businesses beginning January 1, 2018.

E. On July 9, 2017, the Planning Commission of the City of Agoura Hills held a public hearing on this proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony the Planning Commission closed the public hearing.

F. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. _____, recommending that the City Council adopt the proposed Ordinance to prohibit commercial marijuana activity and outdoor cultivation of marijuana, and to allow limited marijuana cultivation indoors consistent with State law.

G. On _____, 2017, the City Council of the City of Agoura Hills held a public hearing on the proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing.

H. All legal prerequisites to the adoption of this Ordinance have occurred.

SECTION 2. The City Council of the City of Agoura Hills hereby finds and determines that all of the above Recitals are true and correct and incorporates such Recitals into this Ordinance as if fully set forth herein.

SECTION 3. The City Council of the City of Agoura Hills hereby deletes Section 4125 (Compensation for medical marijuana.) of Chapter 1 (Prohibited Conduct; Offense) of the Agoura Hills Municipal Code in its entirety.

SECTION 4. The City Council of the City of Agoura Hills hereby amends Division 10 (Medical Marijuana Dispensaries Prohibited.) of Part 2 (Special Regulations) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code in its entirety to read as follows:

"DIVISION 10 MARIJUANA

Section 9660	Purpose.
Section 9660.1	Definitions.
Section 9660.2	Prohibitions.
Section 9660.3	Exceptions.
Section 9660.4	Violation, penalty.

9660 Purpose.

A. The city council finds that federal law prohibits the possession, manufacture, distribution, and dispensing of marijuana, and in order to serve the public health, safety, and welfare of the residents and businesses within the city, the declared purpose of this chapter is to prohibit all commercial marijuana activity, both medical and non-medical, within the city, as provided in this section.

B. California Business and Professions Code section 26055(d) provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. California Business and Professions Code section 26200 authorizes a city to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more marijuana businesses licensed under the State, within that city.

C. The city council finds that a prohibition on all commercial marijuana activity, for medical, non-medical, or any other purpose, is necessary for the preservation and protection of the public health, safety, and welfare for the city and its community. The city council's prohibition of such activity is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public benefit, safety, and welfare of the city and its community.

9660.1 Definitions.

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

A. "Commercial marijuana activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of marijuana and marijuana products, and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any other provision of State law that regulates the licensing of marijuana businesses.

B. "Concentrated cannabis" means 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.

C. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

D. "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.

E. "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed under Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

F. "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

G. "Indoors" means within a fully enclosed and secure structure.

H. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

I. "Marijuana" 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. "Marijuana" also means the separated resin, whether crude or purified, obtained from marijuana, and any product containing marijuana. "Marijuana" includes marijuana that is used for medical, non-medical, or other purposes.

"Marijuana" does not include the mature stalk of the plant, fiber produced from the stalks, oil or cake made from 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. "Marijuana" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

J. "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.

K. "Marijuana product" 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.

L. "MCRSA" means the Medical Cannabis Regulation and Safety Act, as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

M. "Outdoors" means any location that is not within a fully enclosed and secure structure.

N. "Person" means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

O. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling, that is lawfully used as a residence.

9660.2 Prohibitions.

A. Commercial marijuana activity, whether or not for profit, is not a permitted use anywhere in the city. The city shall not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial marijuana activity. This section shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time.

B. It shall be unlawful for any person to own, manage, establish, conduct, or operate, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial marijuana activity in the city.

C. To the extent not already prohibited by subsection A above, all Deliveries of marijuana or marijuana products to or from any location in the city are expressly prohibited. No person shall conduct or perform any delivery of any marijuana or marijuana products, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting marijuana through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

D. All outdoor marijuana cultivation is prohibited in the city. Indoor marijuana cultivation is prohibited except as specified in section 9660.3(A)(5).

9660.3 Exceptions.

A. To the extent that the following activities are permitted by State law, nothing in this chapter shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of marijuana in the form of concentrated cannabis;

3. Smoking or ingesting marijuana or marijuana products in a manner consistent with California Health and Safety Code section 11362.3;

4. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away marijuana accessories to persons 21 years of age or older without compensation whatsoever; or

5. Engaging in the indoor cultivation of six (6) or fewer live marijuana plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by California Health and Safety Code sections 11362.1 and 11362.2.”

9660.4 Violation, penalty

Violations of this section are subject to the general penalty provisions set forth in section 1200. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorneys’ fees and costs to the prevailing party. Notwithstanding the penalties set forth in section 1200 of the Agoura Hills Municipal Code, this Chapter does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71 *et seq.* or Section 11362.1 *et seq.*, as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under section 1200 of the Agoura Hills Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern.”

SECTION 5. Planning Department staff has determined that the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Project to prohibit commercial marijuana activity and outdoor marijuana cultivation will have a significant effect on the environment. Placing such a restriction on the use of property will not result in a permanent alteration of property nor the construction of any new or expanded structures. The City Council has reviewed Planning Department Staff’s determination of exemption, and based on its own independent judgment, concurs with Staff’s determination of exemption. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 6. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would

have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 8. This Ordinance shall take effect thirty (30) days after its final passage and adoption. A summary of this Ordinance shall be published and a certified copy of the full text of this proposed Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the City Council meeting at which this proposed Ordinance is to be adopted. Within fifteen (15) days after adoption of this Ordinance, the City Clerk is instructed to publish a summary of this Ordinance with the names of those City Council members voting for and against this Ordinance and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of those City Council members voting for and against this Ordinance or amendment at least until the day of such publication.

PASSED, APROVED AND ADOPTED this ____ day of _____, 2017, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney

approved an arts plan for the building or subdivision which meets the requirements set forth by resolution of the city council.

(Ord. No. 157, § 1, 8-8-89)

9659.3. Procedures, guidelines, and requirements.

The city council shall establish, by resolution, the procedure for city review of an arts plan. The city council shall also establish, by resolution, the requirements and guidelines for exterior aesthetic improvements required by section 9659. (Ord. No. 157, § 1, 8-8-89)

DIVISION 10. MEDICAL MARIJUANA DISPENSARIES PROHIBITED

9660. Medical marijuana dispensaries prohibited.

A. Purpose and findings. The city council finds that federal law prohibits the possession, cultivation, use and dispensing of marijuana, and in order to serve the public health, safety, and welfare of the residents and businesses within the city, the declared purpose of this chapter is to prohibit the operation or establishment of medical marijuana dispensaries, the cultivation of medical marijuana, and the delivery of medical marijuana within the city, as provided in this section.

B. Definitions. For purposes of this section, the following terms are defined:

1. *Marijuana* shall have the same meaning as "cannabis" as defined by Business and Professions Code Section 19330.5(f) and shall mean 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. "Marijuana" also means the separated resin, whether crude or purified, obtained from marijuana. "Marijuana" also means marijuana as defined by Section 11018 of the Health

and Safety Code as enacted by chapter 1407 of the Statutes of 1972. "Marijuana" 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 section, "marijuana" 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.

2. *Marijuana product* shall have the same meaning as "cannabis product" or "medical cannabis product" as set forth in Business and Professions Code Section 19300.5(ag), as the same may be amended from time to time, and shall include marijuana, as well as concentrates and extractions, intended to be sold for use by medical marijuana patients pursuant to the Compassionate Use Act of 1996 (Proposition 215).
3. *Medical marijuana dispensary* means any location, structure, facility, vehicle, store, co-op, residence, or similar facility used, in full or part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located stored, placed or cultivated, including any of the foregoing if used in connection with the delivery of marijuana.
4. *Delivery or deliver* shall have the same meaning as "delivery" as set forth in Business and Professions Code Section 19300.5(m), as the same may be amended from time to time, and shall include the commercial transfer of medical marijuana or medical marijuana products from a dispensary, up to an amount determined by the State Bureau of Medical Marijuana Regulation to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" or

"deliver" includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under the State Medical Marijuana Regulation and Safety Act that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical marijuana or medical marijuana products.

C. Medical marijuana dispensaries prohibited.

A medical marijuana dispensary is not a permitted use anywhere in the city. It shall be unlawful for any person or entity to own, manage, establish, conduct, or operate, or permit to be established, conducted, operated, owned or managed as a landlord or property owner, any medical marijuana dispensary, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana dispensary, in the city. The issuance of a business license or other city permit to any business prohibited by federal law is prohibited and void.

D. Delivery prohibited. It shall be unlawful for any person or entity to deliver any marijuana or medical marijuana products into or out of the city.

E. Use or activity prohibited by state or federal law. Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

F. Penalties. Violations of this section are subject to the general penalty provisions set forth in section 1200. No provision of Section 1200 shall authorize a criminal prosecution or arrest prohibited by Health and Safety Code Section 11362.71 et seq. (Ord. of 08-355, § 1, 9-10-2008; Ord. No. 16-423, § 2, 4-27-2016)

DIVISION 11. WIRELESS TELECOMMUNICATIONS FACILITIES

9661. Purpose.

The purpose and intent of this division is to provide a uniform and comprehensive set of

regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the city. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This division provides standards necessary (1) for the preservation of land uses and the public right-of-way in the city, (2) to promote and protect public health and safety, community welfare, visual resources and the aesthetic quality of the city consistent with the goals, objectives and policies of the general plan, (3) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations, and (4) to encourage new and more efficient technology in the provision of wireless telecommunications facilities.

(Ord. No. 11-387, § 7, 8-24-2011)

9661.1. Definitions.

[The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Accessory equipment means any equipment associated with the installation of a wireless telecommunications facility, including, but not limited to cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

Antenna means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals.

Building-mounted means mounted to the side of a building, to the façade of a building, or similar structure, but not to include the roof of any structure.

not desire to be molested or have their privacy disturbed, or to have any such handbills left on such premises.

(Ord. No. 96, 1-7-86)

4124. Same—Distribution of handbills on private premises.

No person shall distribute, place, deposit, throw, scatter, or cast any handbill in or upon any private premises, except by handing or transmitting any such handbill to the owner, occupant or other person then present in or upon such private premises or by placing or depositing such handbill on the premises in such a manner as to secure or prevent such handbill from being blown or drifted about such premises.

(Ord. No. 96, 1-7-86)

4125. Compensation for medical marijuana.

No medical marijuana dispensary, as defined in article IX, chapter 6, part 2, division 10, section 9660, shall receive compensation for distributing, trading, exchanging, bartering or making available, in any way, medical marijuana. No person shall manage, establish, conduct, or operate, or permit to operate, such a dispensary. This prohibition applies, without limitation, to all persons who are owners, operators, agents, officers or volunteers of such a dispensary, as well as to all persons who have an ownership or leasehold interest in the premises and/or structures at which such a dispensary is present. As used herein, "person" includes, without limitation, any individual, partnership, corporation, limited liability company, association, joint venture, or other organization or entity, however formed, as well as trustees, heirs, executors, administrators, and/or assigns. Nothing contained in this section shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

(Ord. No. 10-379, § 1, 10-27-2010)

4126. Door-to-door solicitation.

Door-to-door solicitation means the act of any person traveling by foot, vehicle, or any other type of conveyance, who goes from house to house, or business to business, for any purpose, including,

but not limited to: engaging in door-to-door sales, conducting a survey or poll, soliciting opinions, requesting donations, or distributing or disseminating information or materials.

All persons, organizations or associations engaged in door-to-door solicitation shall adhere to the following:

- (a) No person shall engage in door-to-door solicitation at any place of business, or any dwelling (including, but not limited to, a house, apartment, or condominium), where there is a sign posted in a conspicuous location indicating "No Solicitations," "Do Not Disturb," or other words indicating that the occupants do not wish to be solicited or in any way have their privacy disturbed.
- (b) Irrespective of whether a "No Solicitation," "Do Not Disturb" or similar sign is posted on a private residence or place of business, no person shall return or refuse to leave after being asked to leave if a homeowner or occupant has previously warned, or is presently warning, a person that he or she is unwelcome or may not re-enter private property.
- (c) No person shall engage in door-to-door solicitation at any place of business, or any dwelling (including, but not limited to, a house, apartment, or condominium) between the hours of 8:00 p.m. and 9:00 a.m.

(Ord. No. 14-410, § 1, 8-27-2014)



SB-94 Cannabis: medicinal and adult use. (2017-2018)

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Date Published: 06/27/2017 09:00 PM

Senate Bill No. 94

CHAPTER 27

An act to amend Sections 26000, 26001, 26011, 26012, 26013, 26014, 26030, 26031, 26038, 26040, 26043, 26044, 26050, 26052, 26053, 26054, 26054.2, 26055, 26057, 26058, 26060, 26061, 26063, 26065, 26066, 26070, 26070.5, 26080, 26090, 26104, 26106, 26120, 26130, 26140, 26150, 26151, 26152, 26153, 26154, 26155, 26160, 26161, 26180, 26181, 26190, 26191, 26200, 26202, 26210, and 26211 of, to amend the heading of Chapter 10 (commencing with Section 26100) and the heading of Chapter 13 (commencing with Section 26130) of Division 10 of, to amend the heading of Division 10 (commencing with Section 26000) of, to amend and renumber Section 26101 of, to add Sections 26010.5, 26011.5, 26013.5, 26046, 26047, 26051.5, 26060.1, 26062.5, 26070.1, 26121, 26131, 26132, 26133, 26134, 26135, 26156, 26162, 26162.5, 26180.5, 26190.5, and 26210.5, to, to add Chapter 6.5 (commencing with Section 26067) and Chapter 22 (commencing with Section 26220) to Division 10 of, to add and repeal Section 26050.1 of, to repeal Sections 26054.1, 26056, 26056.5, 26064, 26067, 26100, and 26103 of, to repeal Chapter 3.5 (commencing with Section 19300) of Division 8 of, to repeal Chapter 17 (commencing with Section 26170) of Division 10 of, and to repeal and add Sections 26010, 26032, 26033, 26034, 26045, 26051, 26062, 26102, and 26110 of, the Business and Professions Code, to amend Sections 1602 and 1617 of the Fish and Game Code, to amend Sections 37104, 54036, and 81010 of the Food and Agricultural Code, to amend Sections 11006.5, 11014.5, 11018, 11018.1, 11018.2, 11018.5, 11032, 11054, 11357, 11358, 11359, 11360, 11361, 11361.1, 11361.5, 11362.1, 11362.2, 11362.3, 11362.4, 11362.45, 11362.7, 11362.71, 11362.715, 11362.765, 11362.768, 11362.77, 11362.775, 11362.78, 11362.785, 11362.79, 11362.795, 11362.8, 11362.81, 11362.83, 11362.85, 11362.9, 11364.5, 11470, 11478, 11479, 11479.2, 11480, 11485, 11532, 11553, and 109925 of, to amend the heading of Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of, and to repeal Section 11362.777 of, the Health and Safety Code, to amend Sections 34010, 34011, 34012, 34013, 34014, 34015, 34016, 34018, 34019, and 34021.5 of, to amend the heading of Part 14.5 (commencing with Section 34010) of Division 2 of, and to add Section 34012.5 to, the Revenue and Taxation Code, to amend Section 23222 of, and to add Section 2429.7 to, the Vehicle Code, and to amend Sections 1831, 1847, and 13276 of the Water Code, relating to cannabis, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2017. Filed with Secretary of State June 27, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 94, Committee on Budget and Fiscal Review. Cannabis: medicinal and adult use.

(1) The California Uniform Controlled Substances Act makes various acts involving marijuana a crime except as authorized by law. Under the Compassionate Use Act of 1996 and existing law commonly referred to as the Medical Marijuana Program, these authorized exceptions include exemptions for the use of marijuana for personal medical purposes by patients pursuant to physician's recommendations and exemptions for acts by those patients and their primary caregivers related to that personal medical use. The Medical Marijuana Program also provides immunity from arrest to those exempt patients or designated primary caregivers who engage in certain acts involving marijuana, up to certain limits, and who have identification cards issued pursuant to the program unless there is reasonable cause to believe that the information contained in the card is false or fraudulent, the card has been obtained by means of fraud, or the person is otherwise in violation of the law. Under existing law, a person who steals, fraudulently uses, or commits other prohibited acts with respect to those identification cards is subject to criminal penalties. Under existing law, a person 18 years of age or older who plants, cultivates, harvests, dries, or processes more than 6 living cannabis plants, or any part thereof, may be charged with a felony if specified conditions exist, including when the offense resulted in a violation of endangered or threatened species laws.

The Control, Regulate and Tax Adult of Marijuana Act (AUMA), an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, commencing January 1, 2018, requires those patients to possess, and county

health departments or their designees to ensure that those identification cards are supported by, physician's recommendations that comply with certain requirements.

This bill would require probable cause to believe that the information on the card is false or fraudulent, the card was obtained by fraud, or the person is otherwise in violation of the law to overcome immunity from arrest to patients and primary caregivers in possession of an identification card. The bill would authorize a person 18 years of age or older who plants, cultivates, harvests, dries, or processes more than 6 living cannabis plants, or any part thereof, where that activity results in a violation of specified laws relating to the unlawful taking of fish and wildlife to be charged with a felony. By modifying the scope of a crime, this bill would impose a state-mandated local program.

(2) AUMA authorizes a person 21 years of age or older to possess and use up to 28.5 grams of marijuana and up to 8 grams of concentrated cannabis, and to possess up to 6 living marijuana plants and the marijuana produced by those plants, subject to certain restrictions, as specified. Under AUMA, these restrictions include a prohibition on manufacturing concentrated cannabis using a volatile solvent, defined as volatile organic compounds and dangerous poisons, toxins, or carcinogens, unless done in accordance with a state license. Under AUMA, a violation of this prohibition is a crime.

This bill would change the definition of volatile solvent for these purposes to include a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

(3) The Medical Cannabis Regulation and Safety Act (MCRSA) authorizes a person who obtains both a state license under MCRSA and the relevant local license to engage in commercial medical cannabis activity pursuant to those licenses, as specified. AUMA authorizes a person who obtains a state license under AUMA to engage in commercial adult-use marijuana activity, which does not include commercial medical cannabis activity, pursuant to that license and applicable local ordinances. Both MCRSA and AUMA generally divide responsibility for state licensure and regulation between the Bureau of Marijuana Control (bureau) within the Department of Consumer Affairs, which serves as the lead state agency, the Department of Food and Agriculture, and the State Department of Public Health. AUMA requires the bureau to convene an advisory committee to advise these licensing authorities on the development of standards and regulations pursuant to the licensing provisions of AUMA, and requires the advisory committee members to include specified subject matter experts. AUMA requires the licensing authorities to begin issuing licenses to engage in commercial adult-use marijuana activity by January 1, 2018.

This bill would repeal MCRSA and include certain provisions of MCRSA in the licensing provisions of AUMA. Under the bill, these consolidated provisions would be known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). The bill would rename the bureau the Bureau of Cannabis Control, would revise references to "marijuana" or "medical cannabis" in existing law to instead refer to "cannabis" or "medicinal cannabis," respectively, and would apply a definition of "cannabis" similar to the definition used in MCRSA to MAUCRSA. The bill would generally impose the same requirements on both commercial medicinal and commercial adult-use cannabis activity, with specific exceptions. The bill would make applying for and being issued more than one license contingent upon the licensed premises being separate and distinct. The bill would allow a person to test both adult-use cannabis and medicinal cannabis under a single testing laboratory license. The bill would require the protection of the public to be the highest priority for a licensing authority in exercising its licensing, regulatory, and disciplinary functions under MAUCRSA, and would require the protection of the public to be paramount whenever the protection of the public is inconsistent with other interests sought to be promoted. The bill would require the advisory committee advising the licensing authorities on the development of standards and regulations to include persons who work directly with racially, ethnically, and economically diverse populations.

(4) Under existing law, most of the types of licenses to be issued for commercial adult-use cannabis activity under AUMA correspond to types of licenses to be issued for commercial medicinal cannabis activity under MCRSA. However, specialty cottage cultivation licenses, producing dispensary licenses, and transporter licenses are available under MCRSA but not AUMA, while microbusiness licenses and commencing January 1, 2023, large outdoor, indoor, and mixed-light cultivation licenses are available under AUMA but not MCRSA.

Under this bill, the types of licenses available for commercial adult-use cannabis activity and commercial medicinal cannabis activity would be the same. The types of licenses available under both MCRSA and AUMA would continue to be available for both kinds of activity, and specialty cottage cultivation licenses, microbusiness licenses, and commencing January 1, 2023, large outdoor, indoor, and mixed-light cultivation licenses would also be available for both kinds of activity. Producing dispensary and transporter licenses would not be available.

This bill would impose certain requirements on the transportation and delivery of cannabis and cannabis products, and would provide the California Highway Patrol authority over the safety of operations of all vehicles transporting cannabis and cannabis products. The bill would require a retailer to notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering specified breaches of security. The bill would prohibit cannabis or cannabis products purchased by a customer from leaving a licensed retail premises unless they are placed in an opaque package.

(5) Both MCRSA and AUMA require cannabis or cannabis products to undergo quality assurance, inspection, and testing, as specified, before the cannabis or cannabis products may be offered for retail sale. Licenses for the testing of cannabis are to be issued by the bureau under MCRSA and by the State Department of Public Health under AUMA.

This bill would revise and recast those requirements to instead require distributors to store cannabis batches on their premises during testing, require testing laboratory employees to obtain samples for testing and transport those samples to testing laboratories, and require distributors to conduct a quality assurance review to ensure compliance with labeling and packing requirements, among other things, as specified. The bill would create the quality assurance compliance monitor, an employee or contractor of the bureau. The bill, commencing January 1, 2018, would authorize a licensee to sell untested cannabis or cannabis

products for a limited time, as determined by the bureau, if the cannabis or cannabis products are labeled as untested and comply with other requirements determined by the bureau. The bill would also require the bureau to issue testing laboratory licenses.

(6) Both MCRSA and AUMA prohibit testing laboratory licensees from obtaining licenses to engage in any other commercial cannabis activity. MCRSA, until January 1, 2026, places certain additional limits on the combinations of medicinal cannabis license types a person may hold. AUMA prohibits large cultivation licensees from obtaining distributor or microbusiness licenses, but otherwise provides that a person may apply for and be issued more than one license to engage in commercial adult-use cannabis activity.

The bill would apply the above-described provisions of AUMA to both adult-use cannabis licensees and medicinal cannabis licensees and would not apply MCRSA's additional limits.

(7) Both MCRSA and AUMA require applicants for state licenses to electronically submit fingerprint images and related information to the Department of Justice for the purpose of obtaining conviction and arrest information and to provide certain information and documentation in or with their applications under penalty of perjury. Although these requirements are generally similar, certain persons who are considered to be applicants subject to these requirements under MCRSA are not considered applicants under AUMA, and certain information or documentation must be provided by applicants for licenses under MCRSA or AUMA, but not both. Until January 1, 2019, AUMA authorizes licensing authorities to issue temporary licenses for a period of less than 12 months. Until December 31, 2019, AUMA prohibits licensing authorities from issuing licenses to persons who are not residents of California, as specified.

This bill would repeal that residency requirement. Under the bill, applicants for licenses under MAUCRSA would be subject to revised and recasted application requirements, and the persons subject to these requirements would also be revised. By modifying the scope of the crime of perjury, this bill would impose a state-mandated local program. The bill would also require local jurisdictions to provide information related to their regulation of commercial cannabis activity to the licensing authorities, as specified, and would require a licensing authority to take certain actions with regards to an application for license depending upon the response of the local jurisdiction. By requiring local governments to provide this information, this bill would impose a state-mandated local program. The bill, until July 1, 2019, would exempt from the California Environmental Quality Act the adoption of a specified ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, license, or other authorizations to engage in commercial cannabis activity. The bill would also specify requirements and limitations for those temporary licenses. The bill would provide that MAUCRSA does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that certain requirements are met.

(8) MCRSA provides a city in which a state licensed facility is located with the full power and authority to enforce MCRSA and regulations promulgated by the bureau and licensing authorities under MCRSA, if delegated by the state. MCRSA requires a city with this delegated authority to 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.

This bill would expand these provisions to provide for the state delegation of the full power and authority to enforce MAUCRSA and regulations promulgated by the bureau and other licensing authorities under MAUCRSA to cities.

(9) AUMA requires a licensing authority to deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure. AUMA authorizes the denial of an application for licensure or renewal of a state license if any of specified conditions are met, including, among other things, the applicant has had a license revoked under AUMA, and the failure to comply with certain requirements imposed to protect natural resources. AUMA requires licensing authorities, in determining whether to grant, deny, or renew a license to engage in commercial adult-use cannabis activity, to consider factors reasonably related to the determination, including whether it is reasonably foreseeable that issuance, denial, or renewal of the license could allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power or could result in an excessive concentration of retail, microbusiness, or nonprofit licensees, among other factors. Beginning on March 1, 2020, and annually thereafter, AUMA requires, and beginning on March 1, 2023, and annually thereafter, MCRSA requires, each licensing authority to prepare and submit to the Legislature a report containing specified information on the authority's activities concerning commercial cannabis activities and to post the report on the authority's Internet Web site.

This bill would additionally authorize the denial of an application for licensure or renewal of a state license if the applicant has a license suspended under MAUCRSA or for inability to comply with certain requirements. The bill would remove the factors referenced above from consideration of a licensing authority in making a licensing decision, except that the bureau would continue to consider if an excessive concentration of licensees exists in determining whether to grant, deny, or renew a retail license, microbusiness license, or nonprofit license. The bill would require state licensing authorities to include in the first publication of their annual reports, which would be due on March 1, 2023, a joint report regarding the state of the cannabis market in California which identifies any statutory or regulatory changes necessary to ensure that the implementation of MAUCRSA does not result in those factors occurring, as specified. The bill would require, no later than January 1, 2018, the Secretary of Business, Consumer Services, and Housing Agency or the secretary's designee to initiate work with the Legislature, the Department of Consumer Affairs, the Department of Food and Agriculture, the State Department of Public Health and any other related departments to ensure that there is a safe and viable way to collect cash payments for taxes and fees related to the regulation of cannabis activity throughout the state.

(10) AUMA establishes the Marijuana Control Appeals Panel and requires the panel to consist of 3 members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. AUMA allows any person aggrieved by a state licensing authority decision ordering a penalty assessment or issuing, denying, transferring, conditioning, suspending, or revoking a license to engage in commercial adult-use cannabis activity to appeal that decision to the panel. AUMA

limits the panel's review of those decisions to specific inquiries. AUMA also allows a licensing authority or any person aggrieved by an order of the panel to seek judicial review of the order, as specified.

This bill would rename the panel the Cannabis Control Appeals Panel, and would require the membership of the panel to include one member appointed by the Senate Committee on Rules and one member appointed by the Speaker of the Assembly in addition to the 3 members appointed by the Governor. The bill would revise the panel's jurisdiction to include the review of appeals of state licensing authority decisions with regard to both commercial medicinal and commercial adult-use cannabis activity, and would provide for the appeal of orders of the panel to the Supreme Court and the courts of appeal, as specified. The bill would limit the judicial review of panel orders to specific inquiries and would provide that the findings and conclusions of state licensing authorities on questions of fact are final and not subject to review.

(11) AUMA prescribes various restrictions and requirements on the advertising or marketing of adult-use cannabis and adult-use cannabis products. MCRSA sets forth prohibitions on the adulteration or misbranding of medicinal cannabis products and authorizes the State Department of Public Health to take certain actions when it has evidence that a medicinal cannabis product is adulterated or misbranded. Existing law also authorizes the State Department of Public Health to issue citations and fines for violations of MCRSA or regulations adopted under MCRSA, as specified.

This bill additionally would prohibit a technology platform or an outdoor advertising company from displaying an advertisement from a licensee on an Internet Web page unless the advertisement displays the licensee's license number. The bill would generally apply those advertising and marketing restrictions, and those adulteration and misbranding prohibitions and enforcement provisions, to both medicinal and adult-use cannabis and cannabis products. The bill would also require edible cannabis products to be marked with a universal symbol, as specified. The bill would revise the State Department of Public Health's authority to issue citations and fines to include all violations of MAUCRSA and regulations adopted under MAUCRSA.

(12) Under existing law, licensing fees received by the state licensing authorities under both MCRSA and AUMA are deposited into the Marijuana Control Fund and fine and penalty moneys collected under MCRSA are generally deposited into the Medical Cannabis Fines and Penalties Account within the fund.

This bill would rename the Marijuana Control Fund the Cannabis Control Fund, would rename the Medical Cannabis Fines and Penalties Account the Cannabis Fines and Penalties Account, and would generally provide for the deposit of fine and penalty money collected under MAUCRSA into the Cannabis Fines and Penalties Account. The bill would appropriate \$3,000,000 from the Cannabis Control Fund to the Department of the California Highway Patrol to be used for training drug recognition experts, as specified. The bill would require the bureau, in coordination with the Department of General Services, by July 1, 2018, to establish an office to collect fees and taxes in the County of Humboldt, County of Trinity, or County of Mendocino in order to ensure the safe payment and collection of cash in those counties.

(13) AUMA, commencing January 1, 2018, imposes an excise tax on purchasers of cannabis or cannabis products measured by the gross receipts of retail sale and a separate cultivation tax on harvested cannabis that enters the commercial market, as specified. A violation of the provisions relating to these taxes is a crime unless otherwise specified. AUMA requires revenues from those taxes to be deposited into the California Marijuana Tax Fund, and continuously appropriates that tax fund for specified purposes pursuant to a specified schedule. Under AUMA, this schedule includes an annual allocation to state licensing authorities for reasonable costs incurred in regulating commercial cannabis activity, to the extent those costs are not reimbursed pursuant to MCRSA and a specified provision of AUMA, and a separate allocation to the California State Auditor for reasonable costs incurred in conducting a specified performance audit that AUMA requires the California State Auditor's Office to conduct commencing January 1, 2019, and annually thereafter.

This bill would require the cannabis excise tax to be measured by the average market price, as defined, of the retail sale, instead of by the gross receipts of the retail sale. The bill would define "enters the commercial market" and other terms for the purposes of the cannabis cultivation and excise taxes and would require distributors and, in certain circumstances, manufacturers, to collect and remit the taxes, as specified. The bill would require distributors, instead of retailers and cultivators, to obtain permits from the State Board of Equalization. By modifying the scope of a crime, this bill would impose a state-mandated local program. The bill would rename the tax fund the California Cannabis Tax Fund. The bill would also transfer the performance audit to the Office of State Audits and Evaluations within the Department of Finance, would require the audit to be performed triennially instead of annually, and would transfer the allocation from the tax fund for the reasonable costs incurred in conducting that audit to the Department of Finance. By modifying the purposes for which the tax fund is continuously appropriated, the bill would make an appropriation.

(14) AUMA authorizes the Department of Food and Agriculture to issue licenses for the cultivation of adult-use cannabis beginning January 1, 2018, and to adopt regulations governing the licensing of indoor, outdoor, and mixed-light cultivation sites.

This bill would revise the department's license types to, among other things, authorize the department to license and adopt regulations governing nursery and special cottage cultivation sites.

(15) Existing law requires the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife, to adopt principles and guidelines for diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows. Existing law authorizes the State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies to establish fees to cover the costs of their cannabis regulatory programs.

This bill would require an application for a license for cultivation to identify the source of water supply. The bill would require a license for cultivation to include additional requirements for compliance with the above-described provisions and to include in every license for cultivation a condition that the license is prohibited from being effective until the licensee has complied with provisions relating to a streambed alteration agreement or has received written verification from the Department of Fish and Wildlife that a

streambed alteration agreement is not required. The bill would prohibit the Department of Fish and Wildlife from issuing new licenses or increasing the total number of plant identifiers within a watershed or area if the board or the Department of Food and Agriculture finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area. The bill would expand the authorization for the State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies to establish fees to cover the costs of their cannabis programs, regardless of whether the programs are regulatory.

(16) AUMA requires each California regional water quality board and authorizes the State Water Resources Control Board to address discharges of waste resulting from medical cannabis cultivation and adult-use cannabis cultivation.

This bill would require the state board or the appropriate regional board to address the discharges of waste resulting from cannabis cultivation.

(17) Existing law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or from depositing certain material where it may pass into any river, stream, or lake, without first notifying the Department of Fish and Wildlife of that activity, and entering into a lake or streambed alteration agreement if required by the department to protect fish and wildlife resources. Existing law exempts an entity from the requirement to enter into a lake or streambed alteration agreement with the department 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 the entity submits to the department the written notification, a copy of the license or renewed license, and the fee required for a lake or streambed alteration agreement, and the department determines certain requirements are met. Existing law authorizes the department to 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 that would be in lieu of an individual lake or streambed alteration agreement.

This bill would instead authorize the department to adopt general agreements for the cultivation of cannabis and would require the adoption or amendment of a general agreement to be done by the department as an emergency regulation. The bill would require any general agreement adopted by the department subsequent to adoption of regulations to be in lieu of an individual lake or streambed alteration agreement.

(18) AUMA requires 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 to apply to licensed cultivators.

This bill would require the Department of Pesticide Regulation to develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis. The bill would prohibit a cannabis cultivator from using any pesticide that has been banned for use in the state.

(19) Under existing law, the Department of Pesticide Regulation generally regulates pesticide use. A violation of those provisions and regulations adopted pursuant to those provisions is generally a misdemeanor. AUMA requires the Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, to promulgate regulations that require the application of pesticides or other pest control in connection with cannabis cultivation to meet standards equivalent to certain provisions of existing law where the department generally regulates pesticide use.

This bill would instead require the Department of Pesticide Regulation to require that the application of pesticides or other pest control in connection with cannabis cultivation comply with the department's general regulation of pesticide use. Because the violation of those provisions and regulations adopted pursuant to those provisions is a crime, this bill would impose a state-mandated local program.

(20) AUMA requires the Department of Food and Agriculture, in conjunction with the bureau, to establish a certified organic designation and organic certification program for adult-use cannabis and cannabis products, as prescribed.

This bill would eliminate the role of the bureau in establishing the designation and program. The bill would require, not later than January 1, 2021, the department to establish a program for cannabis comparable to the federal National Organic Program and the California Organic Food and Farming Act. The bill would require the department to be the sole determiner of organic designation and certification, unless the federal National Organic Program authorizes organic designation and certification for cannabis, in which case the department's authority would be repealed on the following January 1. The bill would prohibit a person from representing, selling, or offering any cannabis or cannabis products as organic or with the designation or certification established by the department, except as provided.

(21) AUMA requires the bureau to establish standards for recognition of a particular appellation of origin applicable to adult-use cannabis grown or cultivated in a certain geographical area in California.

This bill would transfer this responsibility to the Department of Food and Agriculture and require the department to begin establishing standards to designate a county of origin for cannabis no later than January 1, 2018. The bill would require the department, no later than January 1, 2021, to establish a process by which licensed cultivators may establish appellations of standards, practices, and varieties applicable to cannabis grown in a certain geographical area in California.

(22) Existing law requires each licensed cultivator of adult-use cannabis to ensure that the licensed premises do not pose an unreasonable risk of fire or combustion and requires each cultivator to ensure that certain property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.

This bill would repeal and replace these provisions with a requirement that specific provisions concerning building standards relating to fire and panic safety and regulations of the State Fire Marshal, including a requirement that the chief of any city, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, enforce these standards and regulations in their respective areas, also apply to licensees under MAUCRSA. By increasing the duties of local agencies, this bill would impose a state-mandated local program.

(23) MCRSA requires the Department of Food and Agriculture, in consultation with the bureau, to establish a track and trace program for reporting the movement of medical cannabis items throughout the distribution chain that utilizes a unique identifier and secure packaging and is capable of providing certain information. AUMA requires the Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, to expand the track and trace program provided for under MCRSA to include the reporting of the movement of adult-use cannabis and cannabis products throughout the distribution chain and to provide the amount of cultivation tax due.

This bill would instead require the establishment of a track and trace program to be the responsibility of the Department of Food and Agriculture, in consultation with the bureau. The bill would authorize a city, county, or city and county to administer a unique identifier and associated identifying information but would prohibit this from supplanting the Department of Food and Agriculture's track and trace program.

(24) MCRSA requires the Department of Food and Agriculture, in consultation with the State Board of Equalization, to create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program. MCRSA requires the information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering the medical cannabis track and trace program to be confidential and generally prohibits information from being disclosed pursuant to the California Public Records Act.

This bill would expand this exemption to the California Public Records Act to also apply to information received in the track and trace program for reporting the movement of adult-use cannabis and cannabis products.

(25) AUMA and MCRSA require licensees to maintain records of commercial cannabis activity, as specified. Existing law requires the State Department of Public Health to establish and maintain a voluntary program for the issuance of identification cards to qualified patients who have a physician's recommendation for medical cannabis. Existing law requires the counties to process applications and maintain records for the identification card program.

Existing law, the Confidentiality of Medical Information Act, prohibits providers of health care, health care service plans, contractors, employers, and 3rd-party administrators, among others, from disclosing medical information, as defined, without the patient's written authorization, subject to certain exceptions, as specified. A violation of the act resulting in economic loss or personal injury to a patient is a misdemeanor and subjects the violating party to liability for specified damages and administrative fines and penalties.

Existing law deems information identifying the names of patients, their medical conditions, or the names of their primary caregivers, received and contained in records of the State Department of Public Health and by any county public health department to be "medical information" within the meaning of the Confidentiality of Medical Information Act, and prohibits the department or any county public health department from disclosing this information, except as specified. Existing law requires 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 of Marijuana Control for the purposes of administering MCRSA to be maintained in accordance with state law relating to patient access to his or her health records, the Confidentiality of Medical Information Act, and other state and federal laws relating to confidential patient information.

This bill would deem information contained in a physician's recommendation to use cannabis for medical purposes to be "medical information" within the meaning of the Confidentiality of Medical Information Act, and would prohibit a licensee from disclosing this information, except as specified. By expanding the scope of a crime, this bill would create a state-mandated local program.

(26) AUMA authorizes the Department of Food and Agriculture to charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each adult-use cannabis plant.

This bill would authorize the Secretary of Food and Agriculture to enter into a cooperative agreement with a county agricultural commissioner or other state or local agency to assist the department in implementing certain responsibilities pertaining to the cultivation of cannabis and would require the secretary to provide notice of any cooperative agreement, as prescribed. The bill requires the Department of Food and Agriculture under a cooperative agreement to provide reimbursement from the fees collected to a county agricultural commissioner, state agency, or local agency. The bill prohibits the secretary from delegating authority to issue cultivation licenses to a county agricultural commissioner, a local agency, or another state agency.

(27) Existing law, the California Industrial Hemp Farming Act, provides for the regulation of the growing and cultivation of industrial hemp under the Department of Food and Agriculture. AUMA provided that the bureau 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 under a license issued under the provisions of AUMA.

This bill would eliminate the authority of the bureau to regulate and control industrial hemp.

(28) Existing law, the Milk and Milk Products Act of 1947, regulates the production of milk and milk products in this state. The act specifies standards for butter. The act requires a license from the Secretary of Food and Agriculture for each separate milk products plant or place of business dealing in, receiving, manufacturing, freezing, or processing milk, or any milk product, or manufacturing, freezing, or processing imitation ice cream or imitation ice milk. Existing law exempts from the act 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 required to be licensed as a milk products plant.

This bill would also exempt butter that is subsequently infused or mixed with adult-use cannabis.

(29) Existing law permits 3 or more natural persons, a majority of whom are residents of this state, who are engaged in the production of certain products, including agricultural and farm products, to form a nonprofit cooperative association for specified purposes. Existing law imposes various requirements on the formation, reorganization, operation, and dissolution on the associations.

This bill would authorize 3 or more natural persons, who are engaged in the cultivation of any cannabis product, to form an association, defined as a cannabis cooperative for specified purposes. The bill would impose similar requirements on the formation, reorganization, operation, and dissolution on these associations.

(30) Existing law specifies the duties and powers of the Commissioner of the California Highway Patrol.

This bill would require the commissioner to appoint, and serve as the chairperson of, an impaired driving task force, with specified membership, to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, as specified. The bill would require the task force, by January 1, 2021, to report to the Legislature its policy recommendations and the steps that state agencies are taking regarding impaired driving.

(31) Existing law makes it an infraction punishable by a fine not exceeding \$100 for a person to possess not more than one ounce of cannabis while driving a motor vehicle, as specified, unless otherwise authorized by law.

This bill would repeal that provision and instead make it an infraction punishable by a fine not exceeding \$100 for a person to possess a receptacle containing cannabis or cannabis product that has been opened, or a seal broken, or to possess loose cannabis flower not in a container, while driving a motor vehicle, as specified, unless the receptacle is in the trunk of the vehicle or the person is a qualified patient carrying a current identification card or a physician's recommendation and the cannabis or cannabis product is contained in a container or receptacle that is either sealed, resealed, or closed. By creating a new crime, this bill would impose a state-mandated local program.

(32) This bill would make a variety of conforming and related changes.

(33) This bill would provide that its provisions are severable.

(34) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(35) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(36) AUMA authorizes the Legislature to amend its provisions by a 2/3 vote of each house if the amendment furthers its purposes and intent.

This bill would state that the bill furthers the purposes and intent of AUMA for specified reasons.

(37) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares as follows:

(a) In November 1996, voters approved Proposition 215, which decriminalized the use of medicinal cannabis in California. Since the proposition was passed, most, if not all the regulation has been left to local governments.

(b) In 2015, California enacted three bills—Assembly Bill 243 (Wood, Chapter 688 of the Statutes of 2015); Assembly Bill 266 (Bonta, Chapter 689 of the Statutes of 2015); and Senate Bill 643 (McGuire, Chapter 719 of the Statutes of 2015)—that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery, and testing of medicinal cannabis in California. This regulatory scheme is known as the Medical Cannabis Regulation and Safety Act (MCRSA).

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

(d) Although California has chosen to legalize the cultivation, distribution, and use of cannabis, it remains an illegal Schedule I controlled substance under federal law. The intent of Proposition 64 and MCRSA was to ensure a comprehensive regulatory system that takes production and sales of cannabis away from an illegal market and curtails the illegal diversion of cannabis from California into other states or countries.

(e) Cannabis is cultivated in all 50 states however; the majority of domestically produced cannabis comes from California. In 2014, the United States Drug Enforcement Agency's Domestic Cannabis Eradication Suppression Program eradicated 4.3 million plants in the United States; 2.68 million of which were grown in California. Much of the cannabis grown in the state is grown for exportation purposes. To prevent illegal production and avoid illegal diversion to other states, California must place strict limits on cultivation.

(f) In order to strictly control the cultivation, processing, manufacturing, distribution, testing, and sale of cannabis in a transparent manner that allows the state to fully implement and enforce a robust regulatory system, licensing authorities must know the identity of those individuals who have a significant financial interest in a licensee, or who can direct its operation. Without this knowledge, regulators would not know if an individual who controlled one licensee also had control over another. To ensure accountability and preserve the state's ability to adequately enforce against all responsible parties the state must have access to key information.

(g) So that state entities can implement the voters' intent to issue licenses beginning January 1, 2018, while avoiding duplicative costs and inevitable confusion among licensees, regulatory agencies, and the public and ensuring a regulatory structure that prevents access to minors, protects public safety, public health and the environment, as well as maintaining local control, it is necessary to provide for a single regulatory structure for both medicinal and adult-use cannabis and provide for temporary licenses to those applicants that can show compliance with local requirements.

(h) Before denying a license and creating arbitrary barriers to entry into the legal regulated marketplace, it is the intent of the state to compile data that will inform how to best craft licensure policies that will prevent the proliferation of the illegal market while allowing a balanced regulatory scheme that allows legitimate businesses that comply with local standards to succeed. This will also permit licensing entities to issue licenses in a more timely manner.

(i) 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.).

(j) 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.

(k) 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.

SEC. 2. Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code is repealed.

SEC. 3. The heading of Division 10 (commencing with Section 26000) of the Business and Professions Code is amended to read:

DIVISION 10. Cannabis

SEC. 4. Section 26000 of the Business and Professions Code is amended to read:

26000. (a) This division shall be known, and may be cited, as the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

(b) 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 both of the following:

- (1) Medicinal cannabis and medicinal cannabis products for patients with valid physician's recommendations.
- (2) Adult-use cannabis and adult-use cannabis products for adults 21 years of age and over.

(c) In the furtherance of subdivision (b), this division sets forth the power and duties of the state agencies responsible for controlling and regulating the commercial medicinal and adult-use cannabis industry.

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

SEC. 5. Section 26001 of the Business and Professions Code is amended to read:

26001. For purposes of this division, the following definitions shall apply:

- (a) "A-license" means a state license issued under this division for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.
- (b) "A-licensee" means any person holding a license under this division for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.
- (c) "Applicant" means an owner applying for a state license pursuant to this division.
- (d) "Batch" means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:

- (1) Harvest batch. "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. "Manufactured cannabis batch" means either of the following:
- (A) An amount of cannabis concentrate or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.
- (B) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.
- (e) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.
- (f) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" 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 division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.
- (g) "Cannabis accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.
- (h) "Cannabis concentrate" means 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 division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- (i) "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.
- (j) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.
- (k) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this division.
- (l) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (m) "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
- (n) "Customer" means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician's recommendation.
- (o) "Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.
- (p) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.
- (q) "Director" means the Director of Consumer Affairs.
- (r) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.
- (s) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (t) "Edible cannabis product" means cannabis product 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 cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- (u) "Fund" means the Cannabis Control Fund established pursuant to Section 26210.
- (v) "Kind" means applicable type or designation regarding a particular cannabis variant or cannabis product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
- (w) "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.
- (x) "Labor peace agreement" means an agreement between a licensee and any 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.

(y) "License" means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.

(z) "Licensee" means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

(aa) "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.

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

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

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

(ae) "M-license" means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.

(af) "M-licensee" means any person holding a license under this division for commercial cannabis activity involving medicinal cannabis.

(ag) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(ah) "Manufacturer" means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or 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 cannabis or cannabis products or labels or relabels its container.

(ai) "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation.

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

(ak) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of cannabis or cannabis products.

(al) "Owner" means any of the following:

(1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.

(2) The chief executive officer of a nonprofit or other entity.

(3) A member of the board of directors of a nonprofit.

(4) An individual who will be participating in the direction, control, or management of the person applying for a license.

(am) "Package" means any container or receptacle used for holding cannabis or cannabis products.

(an) "Person" includes any 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 the plural as well as the singular.

(ao) "Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(ap) "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(aq) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.

(ar) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

(as) "Testing laboratory" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
- (2) Licensed by the bureau.
- (at) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.
- (au) "Youth center" has the same meaning as in Section 11353.1 of the Health and Safety Code.

SEC. 6. Section 26010 of the Business and Professions Code is repealed.

SEC. 7. Section 26010 is added to the Business and Professions Code, to read:

26010. There is in the Department of Consumer Affairs the Bureau of Cannabis Control, under the supervision and control of the director. The director shall administer and enforce the provisions of this division related to the bureau.

SEC. 8. Section 26010.5 is added to the Business and Professions Code, to read:

26010.5. (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 of Consumer Affairs and at the pleasure of the Governor.

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

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

(d) The bureau has the power, duty, purpose, responsibility, and jurisdiction to regulate commercial cannabis activity as provided in this division.

(e) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction formerly vested in the Bureau of Marijuana Control, also formerly known as the Bureau of Medical Cannabis Regulation and the Bureau of Medical Marijuana Regulation, under the former Medical Cannabis Regulation and Safety Act (former Chapter 3.5 (commencing with Section 19300) of Division 8).

(f) Upon the effective date of this section, whenever "Bureau of Marijuana Control," "Bureau of Medical Cannabis Regulation," or "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.

(g) Upon the effective date of this section, whenever any reference to the "Medical Cannabis Regulation and Safety Act," "Medical Marijuana Regulation and Safety Act," or former Chapter 3.5 (commencing with Section 19300) of Division 8 appears in any statute, regulation, contract, or in any other code, it shall be construed to refer to this division as it relates to medicinal cannabis and medicinal cannabis products.

SEC. 9. Section 26011 of the Business and Professions Code is amended to read:

26011. Neither the chief of the bureau nor any member of the Cannabis Control Appeals Panel established under Section 26040 shall 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.
- (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 cannabis activity.
- (d) Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.
- (e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

SEC. 10. Section 26011.5 is added to the Business and Professions Code, to read:

26011.5. The protection of the public shall be the highest priority for all licensing authorities in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 11. Section 26012 of the Business and Professions Code is amended to read:

26012. (a) It being a matter of statewide concern, except as otherwise authorized in this division:

(1) The bureau shall have the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of cannabis and cannabis products within the state.

(2) The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of cannabis. The Department of Food and Agriculture shall have the authority to create, issue, deny, and suspend or revoke cultivation licenses for violations of this division.

(3) The State Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing of cannabis products. The State Department of Public Health shall have the authority to create, issue, deny, and suspend or revoke manufacturing licenses for violations of this division.

(b) The licensing authorities shall have the authority to collect fees in connection with activities they regulate concerning cannabis. The licensing authorities may create licenses in addition to those identified in this division that the licensing authorities deem necessary to effectuate their duties under this division.

(c) For the performance of its duties, each licensing authority has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.

(d) Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

SEC. 12. Section 26013 of the Business and Professions Code is amended to read:

26013. (a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Those rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(b) (1) Each licensing authority may adopt emergency regulations to implement this division.

(2) 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 as authorized by this section. Any such readoption shall be limited to one time for each regulation.

(3) 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.

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

SEC. 13. Section 26013.5 is added to the Business and Professions Code, to read:

26013.5. Notice of any action of a licensing authority required by this division to be given may be signed and given by the director of the licensing authority or an authorized employee of the licensing authority and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure, or in the manner prescribed by Section 124 of this code.

SEC. 14. Section 26014 of the Business and Professions Code is amended to read:

26014. (a) The bureau shall convene an advisory committee to advise the 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 cannabis activity that does not impose such barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis.

(b) The advisory committee members shall include, but not be limited to, representatives of the cannabis industry, including medicinal cannabis, representatives of labor organizations, appropriate state and local agencies, persons who work directly with racially, ethnically, and economically diverse populations, 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 licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the licensing authorities.

SEC. 15. Section 26030 of the Business and Professions Code is amended to read:

26030. Grounds for disciplinary action include, but are not limited to, all of the following:

- (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 2 (commencing with Section 480) of Division 1.5 or discipline of a license pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.
- (c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.
- (d) Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.
- (e) Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.
- (f) Failure to comply with the requirement of a local ordinance regulating commercial cannabis activity.
- (g) The intentional and knowing sale of cannabis or cannabis products by an A-licensee to a person under 21 years of age.
- (h) The intentional and knowing sale of medicinal cannabis or medicinal cannabis products by an M-licensee to a person without a physician's recommendation.
- (i) Failure to maintain safe conditions for inspection by a licensing authority.
- (j) Failure to comply with any operating procedure submitted to the licensing authority pursuant to subdivision (b) of Section 26051.5.
- (k) Failure to comply with license conditions established pursuant to subdivision (b) of Section 26060.1.

SEC. 16. Section 26031 of the Business and Professions Code is amended to read:

- 26031.** (a) 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. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.
- (b) A licensing authority may suspend or revoke a license when a local agency has notified the licensing authority that a licensee within its jurisdiction is in violation of state rules and regulations relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for suspension or revocation of the license.
- (c) 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 officers, directors, owners, agents, or employees while acting on behalf of the licensee or engaged in commercial cannabis activity.
- (d) A licensing authority may recover the costs of investigation and enforcement of a disciplinary proceeding pursuant to Section 125.3 of this code.
- (e) Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities. Upon any other enforcement action against a licensee, the licensing authority shall notify all other licensing authorities.

SEC. 17. Section 26032 of the Business and Professions Code is repealed.

SEC. 18. Section 26032 is added to the Business and Professions Code, to read:

26032. (a) The actions of a licensee, its employees, and its agents 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 if they are all of the following:

- (1) Permitted pursuant to a state license.
- (2) Permitted pursuant to a local authorization, license, or permit issued by the local jurisdiction, if any.
- (3) Conducted in accordance with the requirements of this division and regulations adopted pursuant to this division.

(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, if required by the applicable local ordinances, a local license or permit, 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.

SEC. 19. Section 26033 of the Business and Professions Code is repealed.

SEC. 20. Section 26033 is added to the Business and Professions Code, to read:

26033. (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 division.

(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 division.

SEC. 21. Section 26034 of the Business and Professions Code is repealed.

SEC. 22. Section 26034 is added to the Business and Professions Code, to read:

26034. 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 that case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in that case, the accusation shall be filed within five years after that discovery.

SEC. 23. Section 26038 of the Business and Professions Code is amended to read:

26038. (a) A person engaging in commercial cannabis activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of cannabis associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b). A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation.

(b) If an action for civil penalties is brought against a person 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 cannabis activity in violation of this division.

SEC. 24. Section 26040 of the Business and Professions Code is amended to read:

26040. (a) (1) There is established in state government a Cannabis Control Appeals Panel which shall consist of the following members:

(A) One member appointed by the Senate Committee on Rules.

(B) One member appointed by the Speaker of the Assembly.

(C) Three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate.

(2) 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 5 Members of the Senate, or 10 Members of the Assembly, join as authors.

SEC. 25. Section 26043 of the Business and Professions Code is amended to read:

26043. (a) After proceedings pursuant to Section 26031 or 26058 or Chapter 2 (commencing with Section 480) or Chapter 3 (commencing with Section 490) of Division 1.5, any person aggrieved by the decision of a licensing authority denying the person's application for any license, denying the person's renewal of any license, placing any license on probation, imposing any condition on any license, imposing any fine on any license, assessing any penalty on any license, or canceling, suspending, revoking, or

otherwise disciplining any license as provided for under this division, may appeal the licensing authority's written decision to the panel.

(b) 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 licensing authority.

(c) Review by the panel of a decision of a licensing authority shall be limited to the following questions:

- (1) Whether the licensing authority has proceeded without or in excess of its jurisdiction.
- (2) Whether the 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.

SEC. 26. Section 26044 of the Business and Professions Code is amended to read:

26044. (a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the licensing authority, it may enter an order remanding the matter to the licensing authority for reconsideration in the light of that 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 licensing authority. When the order reverses the decision of the licensing authority, the panel may direct the reconsideration of the matter in the light of its order and may direct the 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 licensing authority.

SEC. 27. Section 26045 of the Business and Professions Code is repealed.

SEC. 28. Section 26045 is added to the Business and Professions Code, to read:

26045. (a) No court of this state, except the Supreme Court and the courts of appeal to the extent specified in this chapter, shall have jurisdiction to review, affirm, reverse, correct, or annul any order, rule, or decision of a licensing authority or to suspend, stay, or delay the operation or execution thereof, or to restrain, enjoin, or interfere with a licensing authority in the performance of its duties, but a writ of mandate shall lie from the Supreme Court or the courts of appeal in any proper case.

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

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

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

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

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

SEC. 29. Section 26046 is added to the Business and Professions Code, to read:

26046. (a) The review by the court shall not extend further than to determine, based on the whole record of the licensing authority as certified by the panel, whether:

- (1) The licensing authority has proceeded without or in excess of its jurisdiction.
- (2) The licensing authority has proceeded in the manner required by law.
- (3) The decision of the licensing authority is supported by the findings.
- (4) The findings in the licensing authority's decision are supported by substantial evidence in the light of the whole record.
- (5) There is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the licensing authority.

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

SEC. 30. Section 26047 is added to the Business and Professions Code, to read:

26047. The findings and conclusions of the licensing authority on questions of fact are conclusive and final and are not subject to review. Those questions of fact shall include ultimate facts and the findings and conclusions of the licensing authority. The panel, the licensing authority, and each party to the action or proceeding before the panel shall have the right to appear in the review proceeding. Following the hearing, the court shall enter judgment either affirming or reversing the decision of the licensing authority, or the court may remand the case for further proceedings before or reconsideration by the licensing authority.

SEC. 31. Section 26050 of the Business and Professions Code is amended to read:

26050. (a) The license classification pursuant to this division shall, at a minimum, be as follows:

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

(b) With the exception of testing laboratory licenses, which may be used to test cannabis and cannabis products regardless of whether they are intended for use by individuals who possess a physician's recommendation, all licenses issued under this division shall bear a clear designation indicating whether the license is for commercial adult-use cannabis activity as distinct from commercial medicinal cannabis activity by prominently affixing an "A" or "M," respectively. Examples of such a designation include, but are not limited to, "A-Type 1" or "M-Type 1." Except as specifically specified in this division, the requirements for A-licenses and M-licenses shall be the same. For testing laboratories, the bureau shall create a license that indicates a testing laboratory may test both adult-use and medicinal cannabis.

(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.

SEC. 32. Section 26050.1 is added to the Business and Professions Code, to read:

26050.1. (a) Notwithstanding subdivision (c) of Section 26050, until January 1, 2019, a licensing authority may, in its sole discretion, issue a temporary license if the applicant submits all of the following:

- (1) A written request to the licensing authority in a manner prescribed by the licensing authority.
 - (2) A copy of a valid license, permit, or other authorization, issued by a local jurisdiction, that enables the applicant to conduct commercial cannabis activity at the location requested for the temporary license.
 - (3) The temporary license application fee, if any, required by the licensing authority.
- (b) Temporary licenses issued pursuant to this section are subject to the following conditions:

(1) Except as provided for in paragraph (4) below, the temporary license shall be valid for a period of 120 days and may be extended for additional 90-day periods at the discretion of the licensing authority. Temporary licenses shall only be eligible for an extension of the expiration date if the applicant has submitted a complete application for licensure pursuant to regulations adopted under this division.

(2) A temporary license is a conditional license and authorizes the holder thereof to engage in commercial cannabis activity as would be permitted under the privileges of the license for which the applicant has submitted an application to the licensing authority.

(3) Refusal by the licensing authority to issue or extend a temporary license shall not entitle the applicant to a hearing or appeal of the decision. Chapter 2 (commencing with Section 480) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to temporary licenses.

(4) A temporary license does not obligate the licensing authority to issue a nontemporary license nor does the temporary license create a vested right in the holder to either an extension of the temporary license or to the granting of a subsequent nontemporary license.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 33. Section 26051 of the Business and Professions Code is repealed.

SEC. 34. Section 26051 is added to the Business and Professions Code, to read:

26051. (a) The Cartwright Act, the Unfair Practices Act, the Unfair Competition Law, and the other provisions of Part 2 (commencing with Section 16600) of Division 7 apply to all licensees regulated under this division.

(b) It shall be unlawful for any person to monopolize, or attempt to monopolize, or to combine or conspire with any person or persons, to monopolize any part of the trade or commerce related to cannabis. The Attorney General shall have the sole authority to enforce the provisions of this subdivision.

(c) In determining whether to grant, deny, or renew a license for a retail license, microbusiness license, or a license issued under Section 26070.5, the bureau shall consider if an excessive concentration exists in the area where the licensee will operate. For purposes of this section "excessive concentration" applies when 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 cannabis or cannabis products.

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

SEC. 35. Section 26051.5 is added to the Business and Professions Code, to read:

26051.5. (a) An applicant for any type of state license issued pursuant to this division shall do all of the following:

(1) Require that each owner of the applicant electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

(A) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(B) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.

(C) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

(2) Provide evidence of the legal right to occupy and use the proposed location and provide a statement from the landowner of real property or that landowner's agent where the commercial cannabis activity will occur, as proof to demonstrate the landowner has acknowledged and consented to permit commercial cannabis activities to be conducted on the property by the tenant applicant.

(3) Provide evidence that the proposed location is in compliance with subdivision (b) of Section 26054.

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

(5) (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

(B) For the purposes of this paragraph, "employee" does not include a supervisor.

(C) For the purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the applicant, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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

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

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

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

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

(b) An applicant shall also include in the application 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.

(7) For applicants seeking licensure to cultivate, the source or sources of water the applicant will use for cultivation, as provided in subdivisions (a) to (c), inclusive, of Section 26060.1. For purposes of this paragraph, "cultivation" as used in Section 26060.1 shall have the same meaning as defined in Section 26001. The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this paragraph.

(c) The applicant shall also 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, roads, water crossings, points of diversion, water storage, and all other facilities and infrastructure related to the cultivation.

(d) Provide a complete list of every person with a financial interest in the person applying for the license as required by the licensing authority. For purposes of this subdivision, "persons with a financial interest" does not include persons whose only interest in a licensee is an interest in a diversified mutual fund, blind trust, or similar instrument.

SEC. 36. Section 26052 of the Business and Professions Code is amended to read:

26052. (a) A licensee shall not perform any of the following acts, or permit any of the following acts to be performed by any employee, agent, or contractor of the 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 cannabis or cannabis products, or to fix a price charged therefor, or discount from, or rebate upon, that 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 the seller, where the effect of that 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 cannabis or cannabis products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers.

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

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

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

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

SEC. 37. Section 26053 of the Business and Professions Code is amended to read:

26053. (a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this division.

(b) A person that holds a state testing laboratory license under this division is prohibited from licensure for any other activity, except testing, as authorized under this division. A person that holds a state testing laboratory license shall not employ an individual who is also employed by any other licensee that does not hold a state testing laboratory license.

(c) Except as provided in subdivision (b), a person may apply for and be issued more than one license under this division, provided the licensed premises are separate and distinct.

(d) Each applicant or licensee shall apply for, and if approved, shall obtain, a separate license for each location where it engages in commercial cannabis activity.

SEC. 38. Section 26054 of the Business and Professions Code is amended to read:

26054. (a) A licensee shall not sell alcoholic beverages or tobacco products on or at any premises licensed under this division.

(b) A premises licensed under this division shall not 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 subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

(c) It shall not be a violation of state or local law for a business engaged in the manufacture of cannabis accessories to possess, transport, purchase, or otherwise obtain small amounts of cannabis or cannabis products as necessary to conduct research and development related to the cannabis accessories, provided the cannabis and cannabis products are obtained from a person licensed under this division permitted to provide or deliver the cannabis or cannabis products.

(d) It shall not be a violation of state or local law for an agent of a licensing authority to possess, transport, or obtain cannabis or cannabis products as necessary to conduct activities reasonably related to the duties of the licensing authority.

SEC. 39. Section 26054.1 of the Business and Professions Code is repealed.

SEC. 40. Section 26054.2 of the Business and Professions Code is amended to read:

26054.2. (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws before September 1, 2016.

(b) The licensing authorities shall request that local jurisdictions identify for the licensing authorities potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws, and any applicable local laws.

(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence as deemed appropriate by the licensing authority to demonstrate operation in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code). The licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

(d) This section shall cease to be operative on December 31, 2019, unless otherwise provided by law.

SEC. 41. Section 26055 of the Business and Professions Code is amended to read:

26055. (a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate pursuant to that license within California until a new license is obtained.

(c) A licensee shall not 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 written approval by the licensing authority 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.

(d) 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.

(e) An applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction.

(f) (1) A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.

(2) Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau.

(3) The bureau shall share the information required by this subdivision with the other licensing authorities.

(g) (1) The licensing authority shall deny an application for a license under this division for a commercial cannabis activity that the local jurisdiction has notified the bureau is prohibited in accordance with subdivision (f). The licensing authority shall notify the contact person for the local jurisdiction of each application denied due to the local jurisdictions indication that the commercial cannabis activity for which a license is sought is prohibited by a local ordinance or regulation.

(2) Prior to issuing a state license under this division for any commercial cannabis activity:

(A) The licensing authority shall notify the contact person for the local jurisdiction of the receipt of an application for commercial cannabis activity within their jurisdiction.

(B) A local jurisdiction may notify the licensing authority that the applicant is not in compliance with a local ordinance or regulation. In this instance, the licensing authority shall deny the application.

(C) A local jurisdiction may notify the licensing authority that the applicant is in compliance with all applicable local ordinances and regulations. In this instance, the licensing authority may proceed with the licensing process.

(D) If the local jurisdiction does not provide notification of compliance or noncompliance with applicable local ordinances or regulations, or otherwise does not provide notification indicating that the completion of the local permitting process is still pending, within 60 business days of receiving the inquiry from a licensing authority submitted pursuant to subparagraph (A), the licensing authority shall make a rebuttable presumption that the applicant is in compliance with all local ordinances and regulations adopted in accordance with Section 26200, except as provided in subparagraphs (E) and (F).

(E) At any time after expiration of the 60-business-day period set forth in subparagraph (D), the local jurisdiction may provide written notification to the licensing authority that the applicant or licensee is not in compliance with a local ordinance or regulation adopted in accordance with Section 26200. Upon receiving this notification, the licensing authority shall not presume that the applicant or licensee has complied with all local ordinances and regulations adopted in accordance with Section 26200, and may commence disciplinary action in accordance with Chapter 3 (commencing with Section 26030). If the licensing authority does not take action against the licensee before the time of the renewal of the license, the license shall not be renewed until and unless the local jurisdiction notifies the licensing authority that the licensee is once again in compliance with local ordinances.

(F) A presumption by a licensing authority pursuant to this paragraph that an applicant has complied with all local ordinances and regulations adopted in accordance with Section 26200 shall not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant, nor shall the presumption confer any right, vested or otherwise, upon the applicant to commence or continue operating in any local jurisdiction except in accordance with all local ordinances or regulations.

(3) For purposes of this section, "notification" includes written notification or access by a licensing authority to a local jurisdiction's registry, database, or other platform designated by a local jurisdiction, containing information specified by the licensing authority, on applicants to determine local compliance.

(h) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

(i) A local or state public agency may charge and collect a fee from a person proposing a project pursuant to subdivision (a) of Section 21089 of the Public Resources Code.

SEC. 42. Section 26056 of the Business and Professions Code is repealed.

SEC. 43. Section 26056.5 of the Business and Professions Code is repealed.

SEC. 44. Section 26056 is added to the Business and Professions Code, to read:

26056. The requirements of Sections 13143.9, 13145, and 13146 of the Health and Safety Code shall apply to all licensees.

SEC. 45. Section 26057 of the Business and Professions Code is amended to read:

26057. (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

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

(1) Failure or inability 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, water quality, and fish and wildlife.

(2) Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

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

(4) The applicant, owner, or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(C) A felony conviction involving fraud, deceit, or embezzlement.

(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.

(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) 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, penalties, or otherwise been sanctioned 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 unauthorized commercial cannabis activities, has had a license suspended or revoked under this division 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) Any other condition specified in law.

SEC. 46. Section 26058 of the Business and Professions Code is amended to read:

26058. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein. Any appeal from a final decision of the licensing authority shall be conducted in accordance with Chapter 4 (commencing with Section 26040).

SEC. 47. Section 26060 of the Business and Professions Code is amended to read:

26060. (a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, nursery, special cottage, and mixed-light cultivation sites shall apply to licensed cultivators under this division. The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this division, including regulations governing the licensing of indoor, outdoor, mixed-light cultivation site, nursery, and special cottage cultivation.

(b) The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

(2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Chapter 6.5 (commencing with Section 26067). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

(4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers pursuant to Chapter 6.5 (commencing with Section 26067).

(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) The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.

(e) A cannabis cultivator shall not use any pesticide that has been banned for use in the state.

(f) The regulations promulgated by the Department of Food and Agriculture under this division shall implement the requirements of subdivision(b) of Section 26060.1.

(g) The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor, outdoor, nursery, specialty cottage, or mixed-light cultivation of cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

SEC. 48. Section 26060.1 is added to the Business and Professions Code, to read:

26060.1. (a) An application for a license for cultivation issued by the Department of Food and Agriculture shall identify the source of water supply as follows:

(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) do 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 the maximum amount to be diverted as follows:

(A) For an application submitted before January 1, 2019, the application shall include a copy of one of the following:

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

(ii) 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.

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

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

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

(B) For an application submitted after December 31, 2018, the application shall include a copy of one of the following:

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

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

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

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

(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) The Department of Food and Agriculture shall include in any license for cultivation all of the following:

(1) Conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to (A) 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; (B) ensure that cultivation does not negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and (C) otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. The conditions shall include, but not be limited to, the principles, guidelines, and requirements established pursuant to Section 13149 of the Water Code.

(2) 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. This paragraph does not reduce any requirements established pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) A condition that the license shall not be effective until the licensee has demonstrated compliance 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.

(c) 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.

(d) Notwithstanding paragraph (1) of subdivision (b), the Department of Food and Agriculture is not responsible for verifying compliance with the conditions requested or imposed by the Department of Fish and Wildlife or the State Water Resources Control Board. The Department of Fish and Wildlife or the State Water Resources Control Board, upon finding and making the final determination of a violation of a condition included pursuant to paragraph (1) of subdivision (b), shall notify the Department of Food and Agriculture, which may take appropriate action with respect to the licensee in accordance with Chapter 3 (commencing with Section 26030).

SEC. 49. Section 26061 of the Business and Professions Code is amended to read:

26061. (a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include all of the following:

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

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

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

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

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

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

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

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

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

type.

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

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

(b) 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.

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

(d) 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 a Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

SEC. 50. Section 26062 of the Business and Professions Code is repealed.

SEC. 51. Section 26062 is added to the Business and Professions Code, to read:

26062. (a) No later than January 1, 2021, the Department of Food and Agriculture shall establish a program for cannabis that is comparable to the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and the California Organic Food and Farming Act (Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code) and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code. The Department of Food and Agriculture shall be the sole determiner of designation and certification.

(b) If at any time preceding or following the establishment of a program by the Department of Food and Agriculture pursuant to subdivision (a), the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)) authorizes organic designation and certification for cannabis, this section shall become inoperative and, as of January 1, of the following year, is repealed.

SEC. 52. Section 26062.5 is added to the Business and Professions Code, to read:

26062.5. A person shall not represent, sell, or offer for sale any cannabis or cannabis product as organic except in accordance with the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), if applicable. A person shall not represent, sell, or offer for sale any cannabis or cannabis product with the designation or certification established by the Department of Food and Agriculture pursuant to subdivision (a) of Section 26062 except in accordance with that subdivision.

SEC. 53. Section 26063 of the Business and Professions Code is amended to read:

26063. (a) No later than January 1, 2018, the Department of Food and Agriculture shall establish standards by which a licensed cultivator may designate a county of origin for cannabis. To be eligible for the designation, 100 percent of the cannabis shall be produced within the designated county, as defined by finite political boundaries.

(1) Cannabis shall not be advertised, marketed, labeled, or sold as grown in a California county when the cannabis was not grown in that county.

(2) The name of a California county, including any similar name that is likely to mislead consumers as to the origin of the product, shall not be used in the advertising, labeling, marketing, or packaging of cannabis products unless the cannabis contained in the product was grown in that county.

(b) No later than January 1, 2021, the Department of Food and Agriculture shall establish a process by which licensed cultivators may establish appellations of standards, practices, and varieties applicable to cannabis grown in a certain geographical area in California, not otherwise specified in subdivision (a).

SEC. 54. Section 26064 of the Business and Professions Code is repealed.

SEC. 55. Section 26065 of the Business and Professions Code is amended to read:

26065. An employee engaged in the cultivation of cannabis under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

SEC. 56. Section 26066 of the Business and Professions Code is amended to read:

26066. Indoor and outdoor cannabis cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, current building and fire standards, 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 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 cannabis cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

SEC. 57. Section 26067 of the Business and Professions Code is repealed.

SEC. 58. Chapter 6.5 (commencing with Section 26067) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 6.5. Unique Identifiers and Track and Trace

26067. (a) The department, in consultation with the bureau, shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier pursuant to Section 26069, 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 26069.

(b) (1) The department, 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 variety and quantity or weight of products shipped.

(B) The estimated times of departure and arrival.

(C) The variety and quantity or weight 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 26069 issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and dispensaries.

(2) (A) The database shall be designed to flag irregularities for all licensing authorities in this division to investigate. All licensing authorities pursuant to this division 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 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. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.

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

(6) Information received and contained in records kept by the department 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 division or a local ordinance.

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

26068. (a) The department, in consultation with the bureau and the State Board of Equalization, shall ensure that the track and trace program can also track and trace the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity, including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

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

26069. (a) The department shall establish a Cannabis Cultivation Program to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of cannabis. For purposes of this division, cannabis is an agricultural product.

(b) A person or entity shall not cultivate cannabis 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, shall implement a unique identification program for cannabis. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. If the State Water Resources Control Board or the Department of Fish and Wildlife finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, the department shall not issue new licenses or increase the total number of plant identifiers within that watershed or area.

(2) (A) The department shall establish a program for the identification of permitted cannabis plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each cannabis plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

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

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

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

(E) 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) A city, county, or city and county may administer unique identifiers and associated identifying information but a city, county, or city and county's identifiers shall not supplant the department's track and trace program.

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

(2) Subdivision (b) does not apply to persons or entities licensed under subdivision (b) of Section 26070.5.

26069.1. The secretary may enter into a cooperative agreement with a county agricultural commissioner or other state or local agency to assist the department in implementing the provisions of this division related to administration, investigation, inspection, fee collection, document management, education and outreach, distribution of individual licenses approved by the secretary, and technical assistance pertaining to the cultivation of cannabis. The department shall pay compensation under a cooperative agreement from fees collected and deposited pursuant to this division and shall provide reimbursement to a county agricultural commissioner, state, or local agency for associated costs. The secretary shall not delegate through a cooperative agreement, or otherwise, its authority to issue cultivation licenses to a county agricultural commissioner, local agency, or another state agency. The secretary shall provide notice of any cooperative agreement entered into pursuant to this section to other relevant state agencies involved in the regulation of cannabis cultivation. No cooperative agreement under this section shall relieve the department of its obligations under paragraph (2) of subdivision (a) of Section 26012 to administer the provisions of this division related to, and associated with, the cultivation of cannabis.

26069.9. For purposes of this chapter:

(a) "Department" means the Department of Food and Agriculture.

(b) "Secretary" means the Secretary of Food and Agriculture.

SEC. 59. Section 26070 of the Business and Professions Code is amended to read:

26070. Retailers and Distributors.

(a) State licenses to be issued by the bureau related to the sale and distribution of cannabis and cannabis products are as follows:

(1) "Retailer," for the retail sale and delivery of cannabis or cannabis products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer's premises may be closed to the public. A retailer may conduct sales exclusively by delivery.

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

(3) (A) "Microbusiness," for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance 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 cannabis shall include the license conditions described in subdivision (b) of Section 26060.1.

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

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

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

(c) The driver of a vehicle transporting cannabis or cannabis products shall be directly employed by a licensee authorized to transport cannabis or cannabis products.

(d) Notwithstanding any other law, all vehicles transporting cannabis and cannabis products for hire shall be required to have a valid motor carrier permit pursuant to Chapter 2 (commencing with Section 34620) of Division 14.85 of the Vehicle Code. The Department of the California Highway Patrol shall have authority over the safe operation of these vehicles, including, but not limited to, requiring licensees engaged in the transportation of cannabis or cannabis products to participate in the Basic Inspection of Terminals (BIT) program pursuant to Section 34501.12 of the Vehicle Code.

(e) Prior to transporting cannabis or cannabis products, a licensed distributor shall do both of the following:

(1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest shall include the unique identifier, pursuant to Section 26069, 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 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 26067.

(f) During transportation, the licensed distributor 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.

(g) 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.

(h) Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing authority a record verifying receipt of the shipment and the details of the shipment.

(i) Transporting, or arranging for or facilitating the transport of, cannabis or cannabis products in violation of this chapter is grounds for disciplinary action against the license.

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

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

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

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

(k) A retailer 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 retailer.
- (3) Diversion, theft, loss, or any criminal activity by any agent or employee of the retailer pertaining to the operation of the retailer.
- (4) The loss or unauthorized alteration of records related to cannabis or cannabis products, registered qualifying patients, primary caregivers, or retailer employees or agents.
- (5) Any other breach of security.

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

SEC. 60. Section 26070.1 is added to the Business and Professions Code, to read:

26070.1. Cannabis or cannabis products purchased by a customer shall not leave a licensed retail premises unless they are placed in an opaque package.

SEC. 61. Section 26070.5 of the Business and Professions Code is amended to read:

26070.5. (a) The bureau shall, by January 1, 2020, 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 cannabis and cannabis products and a diversity of cannabis strains and seed stock to low-income persons?

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

(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.

(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 12 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).

SEC. 62. Section 26080 of the Business and Professions Code is amended to read:

26080. (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, cannabis or cannabis products outside the state, unless authorized by federal law.

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

SEC. 63. Section 26090 of the Business and Professions Code is amended to read:

26090. (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

(b) All employees of a retailer, microbusiness, or nonprofit delivering cannabis or cannabis products shall carry a copy of the licensee's current license and a government-issued identification with a photo of the employee, such as a driver's license. The employee shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this division.

(c) 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.

(d) 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.

(e) A local jurisdiction shall not prevent delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

SEC. 64. The heading of Chapter 10 (commencing with Section 26100) of Division 10 of the Business and Professions Code is amended to read:

CHAPTER 10. Testing Laboratories

SEC. 65. Section 26100 of the Business and Professions Code is repealed.

SEC. 66. Section 26101 of the Business and Professions Code is amended and renumbered to read:

26100. (a) Except as otherwise provided by law, cannabis or cannabis products shall not be sold pursuant to a license provided for under this division unless a representative sample of the cannabis or cannabis products has been tested by a licensed testing laboratory.

(b) The bureau shall develop criteria to determine which batches shall be tested. All testing of the samples shall be performed on the final form in which the cannabis or cannabis product will be consumed or used.

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

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

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

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes required by the bureau in regulation.

(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 established by the bureau. In establishing the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (d) of Section 26060, and any other relevant sources. For purposes of this paragraph, "contaminants" includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals.

(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.

(e) Standards for residual levels of volatile organic compounds shall be established by the bureau.

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

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

(h) 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.

(i) A testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis, as determined by the bureau through regulations.

(j) Any presale inspection, testing transfer, or transportation of cannabis products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

(k) This division does 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. This division also does not prohibit a licensee from performing testing on the licensee's premises of cannabis or cannabis products obtained from another licensee. Onsite testing by the licensee shall not be certified by the bureau and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

SEC. 67. Section 26102 of the Business and Professions Code is repealed.

SEC. 68. Section 26102 is added to the Business and Professions Code, to read:

26102. A testing laboratory shall not be licensed by the bureau unless the laboratory meets all of the following:

(a) Complies with any other requirements specified by the bureau.

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

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

SEC. 69. Section 26103 of the Business and Professions Code is repealed.

SEC. 70. Section 26104 of the Business and Professions Code is amended to read:

26104. (a) A licensed testing laboratory shall, in performing activities concerning cannabis and cannabis products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The bureau shall develop procedures to do all of the following:

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

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

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

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

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

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

SEC. 71. Section 26106 of the Business and Professions Code is amended to read:

26106. Standards for the production, packaging, and labeling of all cannabis products developed by the State Department of Public Health apply to all licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5, unless otherwise

specified by the State Department of Public Health.

SEC. 72. Section 26110 of the Business and Professions Code is repealed.

SEC. 73. Section 26110 is added to the Business and Professions Code, to read:

26110. (a) Cannabis batches are subject to quality assurance and testing prior to sale at a retailer, microbusiness, or nonprofit licensed under Section 26070.5, except for immature cannabis plants and seeds, as provided for in this division.

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

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

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

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

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

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

(f) (1) There shall be a quality assurance compliance monitor who is an employee or contractor of the bureau and who shall not hold a license in any category or own or have an ownership interest in a licensee or the premises of a licensee.

(2) The quality assurance compliance monitor shall conduct random quality assurance reviews at a distributor's licensed premises before distribution to ensure the labeling and packaging of the cannabis and cannabis products conform to the requirements of this division.

(3) The quality assurance compliance monitor shall have access to all records and test results required of a licensee by law in order to conduct quality assurance analysis and to confirm test results. All records of inspection and verification by the quality assurance compliance monitor shall be provided to the bureau. Failure to comply shall be noted by the quality assurance compliance monitor for further investigation. Violations shall be reported to the bureau. The quality assurance compliance monitor shall also verify the tax payments collected and paid under Sections 34011 and 34012 of the Revenue and Tax Code are accurate. The monitor shall also have access to the inputs and assumptions in the track and trace system and shall be able to verify the accuracy of those and that they are commensurate with the tax payments.

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

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

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

(j) This section does 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. The testing conducted on the licensee's premises by the licensee does not meet the testing requirements pursuant to this division.

SEC. 74. Section 26120 of the Business and Professions Code is amended to read:

26120. (a) Prior to delivery or sale at a retailer, cannabis and cannabis products shall be labeled and placed in a resealable, tamper-evident, child-resistant package and shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products.

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

(c) All cannabis and cannabis product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the State Department of Public Health:

(1) The following statements, in bold print:

(A) For cannabis: **"GOVERNMENT WARNING: THIS PACKAGE CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE**

HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

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

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

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

(4) The appellation of origin, if any.

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

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

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

(8) For a medicinal cannabis product sold at a retailer, the statement "FOR MEDICAL USE ONLY."

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

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

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

SEC. 75. Section 26121 is added to the Business and Professions Code, to read:

26121. (a) A cannabis product is misbranded if it is any of the following:

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

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

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

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

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

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

SEC. 76. The heading of Chapter 13 (commencing with Section 26130) of Division 10 of the Business and Professions Code is amended to read:

CHAPTER 13. Manufacturers and Cannabis Products

SEC. 77. Section 26130 of the Business and Professions Code is amended to read:

26130. (a) The State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. Licenses to be issued are as follows:

(1) "Manufacturing Level 1," for sites that manufacture cannabis products using nonvolatile solvents, or no solvents. A Manufacturing Level 1 M-Type 6 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

(2) "Manufacturing Level 2," for sites that manufacture cannabis products using volatile solvents. A Manufacturing Level 2 M-Type 7 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

(b) For purposes of this section, "volatile solvents" shall have the same meaning as in paragraph (3) of subdivision (d) of Section 11362.3 of the Health and Safety Code, unless otherwise provided by law or regulation.

(c) Edible cannabis products shall be:

(1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.

- (2) Produced and sold with a standardized concentration of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.
- (3) Delineated or scored into standardized serving sizes if the cannabis product contains more than one serving and is an edible cannabis product in solid form.
- (4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.
- (5) Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, that are similar to the standards for preparation, storage, handling, and sale of food products.
- (6) Provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary.
- (7) Marked with a universal symbol, as determined by the State Department of Public Health through regulation.
- (d) Cannabis, including concentrated cannabis, included in a cannabis product manufactured in compliance with law is not considered an adulterant under state law.

SEC. 78. Section 26131 is added to the Business and Professions Code, to read:

26131. (a) A cannabis product is adulterated if it is any of the following:

- (1) It has been produced, prepared, packed, or held under unsanitary 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 division or regulations promulgated pursuant to this division and the level of substance in the product exceeds the limits specified pursuant to this division 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 division to ensure that the cannabis product meets the requirements of this division 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 a substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality or concentration or if any substance has been substituted, wholly or in part, for the edible cannabis product.
- (b) It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a cannabis product that is adulterated.
- (c) It is unlawful for a person to adulterate a cannabis product.
- (d) It is unlawful for a person to receive in commerce a cannabis product that is adulterated or to deliver or proffer for delivery any such cannabis product.

SEC. 79. Section 26132 is added to the Business and Professions Code, to read:

26132. (a) When the State Department of Public Health has evidence that a 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 cannabis product and recall the product if the department determines both of the following:

- (1) The manufacture, distribution, or sale of the cannabis product creates or poses an immediate and serious threat to human life or health.
- (2) Other procedures available to the 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 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 Cannabis Control Fund, and will be available for use by the department upon appropriation by the Legislature.

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

SEC. 80. Section 26133 is added to the Business and Professions Code, to read:

26133. (a) If the State Department of Public Health finds or has probable cause to believe that a cannabis product is adulterated or misbranded within the meaning of this division or the sale of the cannabis product would be in violation of this division, the department shall affix to the cannabis product, or component thereof, a tag or other appropriate marking. The State Department of Public Health shall give notice that the cannabis product is, or is suspected of being, adulterated or misbranded, or the sale of the cannabis would be in violation of this division and has been embargoed and that no person shall remove or dispose of the cannabis product by sale or otherwise until permission for removal or disposal is given by the State Department of Public Health or a court.

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

(c) If the adulteration or misbranding can be corrected by proper labeling or additional processing of the cannabis product and all of the provisions of this division can be complied with, the licensee 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) If the State Department of Public Health finds that a cannabis product that is embargoed is not adulterated or misbranded, or that its sale is not otherwise in violation of this division, the State Department of Public Health may remove the tag or other marking.

(e) The 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 cannabis product shall be destroyed at the expense of the licensee or owner.

(f) A proceeding for condemnation of a 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 26016.

(g) Upon a finding by the administrative law judge that the cannabis product is adulterated or misbranded, or that its sale is otherwise in violation of this division, the administrative law judge may direct the cannabis product to be destroyed at the expense of the licensee or owner. The administrative law judge may also direct a licensee or owner of the affected cannabis product to pay fees and reasonable costs, including the costs of storage and testing, incurred by the bureau or the State 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 cannabis and cannabis product and when all provisions of this division 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.

(i) The State Department of Public Health may condemn a cannabis product under provisions of this division. The cannabis product shall be destroyed at the expense of the licensee or owner.

SEC. 81. Section 26134 is added to the Business and Professions Code, to read:

26134. (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 if the licensee is in violation of this division 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 law determined to have been violated.

(2) If appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(3) The administrative fine assessed by the State Department of Public Health shall not exceed five thousand dollars (\$5,000) for each violation, unless a different fine amount is expressly provided by this division. In assessing a fine, the department 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 this division 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.

SEC. 82. Section 26135 is added to the Business and Professions Code, to read:

26135. A peace officer, including a peace officer within the State Department of Public Health or the bureau, may seize cannabis and cannabis products in any of the following circumstances:

(a) The cannabis or cannabis product is subject to recall or embargo by any licensing authority.

(b) The cannabis or cannabis product is subject to destruction pursuant to this division.

(c) The cannabis or cannabis product is seized related to an investigation or disciplinary action for violation of this division.

SEC. 83. Section 26140 of the Business and Professions Code is amended to read:

26140. (a) An A-licensee shall not:

(1) Sell cannabis or cannabis 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 cannabis or cannabis products unless the person to whom the cannabis or cannabis product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish cannabis to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any cannabis while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase cannabis. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (a), an M-licensee may:

(1) Allow on the premises any person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid county-issued identification card under Section 11362.712 of the Health and Safety Code.

(2) Sell cannabis, cannabis products, and cannabis accessories to a person 18 years of age or older who possesses a valid government-issued identification card and either a valid physician's recommendation or a valid county-issued identification card under Section 11362.712 of the Health and Safety Code.

SEC. 84. Section 26150 of the Business and Professions Code is amended to read:

26150. For purposes of this chapter:

(a) "Advertise" means the publication or dissemination of an advertisement.

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

(1) Any label affixed to any cannabis or cannabis products, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of this division.

(2) Any editorial or other reading material, such as a 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 cannabis or cannabis products which are not cultivated, manufactured, distributed, or sold on the same lot.

(d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of cannabis or cannabis products and health benefits, or effects on health.

(e) "Market" or "Marketing" means any act or process of promoting or selling cannabis or cannabis products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

SEC. 85. Section 26151 of the Business and Professions Code is amended to read:

26151. (a) (1) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content, by adding, at a minimum, the licensee's license number.

(2) A technology platform shall not display an advertisement by a licensee on an Internet Web page unless the advertisement displays the license number of the licensee.

(3) An outdoor advertising company subject to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200) of Division 3) shall not display an advertisement by a licensee unless the advertisement displays the license number of the licensee.

(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 before engaging in that communication or dialogue controlled by the licensee. For purposes of this section, that 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.

SEC. 86. Section 26152 of the Business and Professions Code is amended to read:

26152. A licensee shall not do any of the following:

(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 cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

(e) Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

(f) Publish or disseminate advertising or marketing that is attractive to children.

(g) Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

SEC. 87. Section 26153 of the Business and Professions Code is amended to read:

26153. A licensee shall not give away any amount of cannabis or cannabis products, or any cannabis accessories, as part of a business promotion or other commercial activity.

SEC. 88. Section 26154 of the Business and Professions Code is amended to read:

26154. A licensee shall not include on the label of any cannabis or cannabis product or 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 cannabis consumption.

SEC. 89. Section 26155 of the Business and Professions Code is amended to read:

26155. (a) The provisions of subdivision (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 cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

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

SEC. 90. Section 26156 is added to the Business and Professions Code, to read:

26156. The requirements of Section 5272 apply to this division.

SEC. 91. Section 26160 of the Business and Professions Code is amended to read:

26160. (a) A licensee shall keep accurate records of commercial cannabis activity.

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

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

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

SEC. 92. Section 26161 of the Business and Professions Code is amended to read:

26161. (a) Every sale or transport of cannabis or cannabis products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the licensing authorities or State 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 cannabis or cannabis 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 cannabis or cannabis product was made unless transport was made from the premises of the licensee.

(6) Any other information specified by the licensing authority.

SEC. 93. Section 26162 is added to the Business and Professions Code, to read:

26162. (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.

SEC. 94. Section 26162.5 is added to the Business and Professions Code, to read:

26162.5. Information contained in a physician's recommendation issued in accordance with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 and received by a licensee, including, but not limited to, the name, address, or social security number of the patient, the patient's medical condition, or the name of the patient's primary caregiver is hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by a licensee 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.

SEC. 95. Chapter 17 (commencing with Section 26170) of Division 10 of the Business and Professions Code is repealed.

SEC. 96. Section 26180 of the Business and Professions Code is amended to read:

26180. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

- (a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26067, but shall not exceed the reasonable regulatory costs to the licensing authority.
- (b) ~~The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.~~
- (c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.
- (d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Cannabis Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

SEC. 97. Section 26180.5 is added to the Business and Professions Code, to read:

26180.5. No later than January 1, 2018, the Secretary of Business, Consumer Services, and Housing or his or her designee shall initiate work with the Legislature, the Department of Consumer Affairs, the Department of Food and Agriculture, the State Department of Public Health, and any other related departments to ensure that there is a safe and viable way to collect cash payments for taxes and fees related to the regulation of cannabis activity throughout the state.

SEC. 98. Section 26181 of the Business and Professions Code is amended to read:

26181. The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their cannabis programs.

SEC. 99. Section 26190 of the Business and Professions Code is amended to read:

26190. Beginning on March 1, 2023, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities, in compliance with Section 9795 of the Government Code, and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

- (a) The amount of funds allocated and spent by the licensing authority for cannabis licensing, enforcement, and administration.
- (b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.
- (c) The average time for processing state license applications, by state license category.

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

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

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

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

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

(i) (1) For the first publication of the reports, the licensing authorities shall provide a joint report to the Legislature regarding the state of the cannabis market in California. This report shall identify any statutory or regulatory changes necessary to ensure that the implementation of this division does not do any of the following:

(A) Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power.

(B) Perpetuate the presence of an illegal market for cannabis or cannabis products in the state or out of the state.

(C) Encourage underage use or adult abuse of cannabis or cannabis products, or illegal diversion of cannabis or cannabis products out of the state.

(D) Result in an excessive concentration of licensees in a given city, county, or both.

(E) Present an unreasonable risk of minors being exposed to cannabis or cannabis products.

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

(2) For purposes of this subdivision, "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:

(A) The ratio of licensees to population in a census tract or census division exceeds the ratio of licensees to population in the county in which the census tract or census division is located, unless reduction of that ratio would unduly limit the development of the legal market so as to perpetuate the illegal market for cannabis or cannabis products.

(B) 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.

SEC. 100. Section 26190.5 is added to the Business and Professions Code, to read:

26190.5. The bureau shall contract with the California Cannabis Research Program, known as the Center for Medicinal Cannabis Research, and formerly known as the California Marijuana Research Program, 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.

SEC. 101. Section 26191 of the Business and Professions Code is amended to read:

26191. (a) Commencing January 1, 2019, and by January 1 triennially thereafter, the Office of State Audits and Evaluations within the Department of Finance shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

(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 Department of Finance to conduct the triennial audit required by this section.

SEC. 102. Section 26200 of the Business and Professions Code is amended to read:

26200. (a) (1) This division shall not 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 secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) This division shall not 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) This division shall not 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) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 60 days of being so informed by the bureau, the relevant licensing authorities shall begin the process to determine whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

(d) 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 division 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 assume complete responsibility for any regulatory function pursuant to this division 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.

(e) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that the activities, at a minimum, comply with the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that all participants are licensed under this division, and that the activities are otherwise consistent with regulations promulgated and adopted by the bureau governing state temporary event licenses. These temporary event licenses shall only be issued in local jurisdictions that authorize such events.

(f) This division, or any regulations promulgated thereunder, shall not 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.

(g) 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 cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:

- (1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older.
- (2) Cannabis consumption is not visible from any public place or nonage-restricted area.
- (3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

SEC. 103. Section 26202 of the Business and Professions Code is amended to read:

26202. (a) A local jurisdiction may enforce this division and the regulations promulgated by any licensing authority if delegated the power to do so by the licensing authority.

(b) A licensing authority shall implement the delegation of enforcement authority in subdivision (a) through an agreement between the licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

SEC. 104. Section 26210 of the Business and Professions Code is amended to read:

26210. (a) The Marijuana Control Fund, formerly known as the Medical Cannabis Regulation and Safety Act Fund and the Medical Marijuana Regulation and Safety Act Fund, is hereby renamed the Cannabis Control Fund. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on moneys in the fund.

(b) Upon the effective date of this section, whenever "Marijuana Control Fund," "Medical Cannabis Regulation and Safety Act Fund," or "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 Cannabis Control Fund.

(c) Any General Fund or special fund loan that was used to establish and support the regulatory activities of the state licensing entities pursuant to former Section 19351 shall be repaid by the initial proceeds from fees collected pursuant to this division or any rule or regulation adopted pursuant to this division, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

(d) The Medical Cannabis Fines and Penalties Account established in former Section 19351 is hereby renamed the Cannabis Fines and Penalties Account.

SEC. 105. Section 26210.5 is added to the Business and Professions Code, to read:

26210.5. By July 1, 2018, the bureau, in coordination with the Department of General Services, shall establish an office to collect fees and taxes in the County of Humboldt, County of Trinity, or County of Mendocino in order to ensure the safe payment and collection of cash in those counties.

SEC. 106. Section 26211 of the Business and Professions Code is amended to read:

26211. (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the State Board of Equalization under Part 14.5 (commencing with Section 34010) 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 State Board of Equalization, as necessary, to implement the provisions of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

(2) Within 45 days of November 9, 2016, the date this section became operative:

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

(B) There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the State 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 Cannabis Control Fund to support the activities of the bureau, state licensing authorities under this division, and the State Board of Equalization to support its activities under Part 14.5 (commencing with Section 34010) 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 State 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 cannabis and cannabis products to persons under the age of 21 years, describe the penalties for providing access to cannabis and cannabis products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from cannabis use, the potential harms of using cannabis while pregnant or breastfeeding, and the potential harms of overusing cannabis or cannabis products.

SEC. 107. Chapter 22 (commencing with Section 26220) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 22. Cannabis Cooperative Associations
Article 1. Definitions

26220. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

26220.1. "Association" means any cannabis cooperative that is organized pursuant to this chapter. An association shall be deemed incorporated pursuant to this chapter, or organized pursuant to this chapter and shall be deemed a cultivator of a cannabis product within the meaning of this chapter, if it is functioning under, or is subject to, the provisions of this chapter, irrespective of whether it was originally incorporated pursuant to those provisions or was incorporated under other provisions.

26220.2. "Member" includes members of associations without capital stock and holders of common stock in associations that are organized with shares of stock.

26220.3. "Cannabis product" includes any cannabis associated with a licensed cultivator.

Article 2. General Provisions

26222. The purpose of this chapter is to do all of the following:

(a) Promote, foster, and encourage the intelligent and orderly marketing of cannabis product through cooperation.

(b) Eliminate speculation and waste.

(c) Make the distribution of cannabis product as direct as can be efficiently done.

(d) Stabilize the marketing of cannabis product.

(e) Satisfy the conditions of Section 26052.

26222.1. An exemption under law that applies to a cannabis product in the possession, or under the control, of the individual cultivator, shall apply similarly and completely to the cannabis product that is delivered by its cultivator members that are in the possession, or under the control, of the association.

26222.2. A person, firm, corporation, or association, that is hereafter organized or doing business in this state, may not use the word "cannabis cooperative" as part of its corporate name or other business name or title for producers' cooperative marketing activities, unless it has complied with this chapter.

26222.3. An association that is organized pursuant to this chapter shall not conspire in restraint of trade, or serve as an illegal monopoly, attempt to lessen competition, or to fix prices in violation of law of this state.

26222.4. The marketing contracts and agreements between an association that is organized pursuant to this chapter and its members and any agreements authorized in this chapter shall not result in restraint of trade, or violation of law of this state.

26222.5. The General Corporation Law (Division 1 (commencing with Section 100) of Title 1 of the Corporations Code) applies to each association that is organized pursuant to this chapter, except where those provisions are in conflict with or inconsistent with the express provisions of this chapter. For the purpose of associations organized without shares of stock, the members shall be deemed to be "shareholders" as the term is used in the General Corporation Law.

26222.6. (a) Except as provided in subdivision (c), Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure does not apply to a proprietary interest in an association organized in accordance with this chapter. A proprietary interest that would otherwise escheat to the state pursuant to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure shall instead become the property of the association.

(b) Notwithstanding subdivision (a), no proprietary interest shall become the property of the association under this section unless all of the following requirements are satisfied:

(1) At least 60 days' prior notice of the proposed transfer of the proprietary interest to the association is given to the affected member by first-class or certified mail to the last address of the member shown on the association's records, and by publication in a newspaper of general circulation in the county in which the member last resided as shown on the association's records. Notice given pursuant to this paragraph constitutes actual notice.

(2) No written notice objecting to the transfer is received by the association from the affected member or, if the member is deceased, from the member's heirs or the executor or executrix of the estate, prior to the date of the proposed transfer.

(c) "Proprietary interest" means and includes any membership, membership certificate, membership share, share certificate, or equity or dividend certificate of any class representing a proprietary interest in, and issued by, the association together with all accrued and unpaid earnings, dividends, and patronage distributions relating thereto.

Article 3. Purposes

26223. (a) Three or more natural persons, who are engaged in the cultivation of any cannabis product, may form an association pursuant to this chapter for the purpose of engaging in any activity in connection with any of the following:

(1) The cultivation, marketing, or selling of the cannabis products of its members.

(2) The growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any product of its members.

(3) The manufacturing, selling, or supplying to its members of machinery, equipment, or supplies.

(4) The financing of the activities that are specified by this section.

(b) Members of a cannabis cooperative shall be disclosed to the licensing authority before the application is processed.

(c) Members of a cannabis cooperative formed pursuant to this chapter shall be limited to cultivators who only hold a single Type 1 or Type 2 license.

(d) Collectively; members of a cannabis cooperative shall not grow more than four acres of total canopy size of cultivation throughout the state during the period that the respective licensees are valid.

(e) No member of a cooperative formed pursuant to this section shall be licensed to operate a cannabis business in another state or country.

Article 4. Articles of Incorporation

26224. The articles of incorporation of an association shall show that the signers of the articles of incorporation are engaged in the cultivation of cannabis products, and that they propose to incorporate an association pursuant to this chapter, and shall state all of the following:

(a) The name of the association.

(b) The purposes for which it is formed.

(c) The city, county, or city and county where the principal office for the transaction of business of the association is to be located.

(d) The number of directors of the association, which shall not be less than three, and the names and addresses of the persons who are to serve as first directors. If it is desired that the first directors shall serve for terms of different lengths, the term for which each person so named to serve shall also be stated.

(e) If organized without shares of stock, whether the voting power and the property rights and interest of each member are equal or unequal. If voting power and property rights and interest of each member are unequal, the general rule or rules that are applicable to all members by which the voting power and the property rights and interests, respectively, of each member may be and are determined and fixed shall also be stated.

(f) (1) If organized with shares of stock, the number of shares that may be issued and if the shares are to have a par value, the par value of each share, and the aggregate par value of all shares. If the shares are to be without par value, it shall be so stated.

(2) If the shares of stock are to be classified, a description of the classes of shares and a statement of the number of shares of each kind or class and the nature and extent of the preferences, rights, privileges, and restrictions that are granted to or imposed upon the holders of the respective classes of stock. Except as to the matters and things so stated, no distinction shall exist between the classes of stock or the holders of them. One class of stock shall always be known as common stock, and voting power may be restricted to holders of common stock.

26224.1. Articles of incorporation shall be signed, acknowledged, and filed in the manner that is prescribed by the general laws of this state for domestic corporations.

26224.2. The articles of incorporation of any association may be amended in the manner and for the purposes which are authorized by the General Corporation Law, Division 1 (commencing with Section 100) of Title 1 of the Corporations Code.

Article 5. Bylaws

26225. Each association shall, within 30 days after its incorporation, adopt for its government and management, a code of bylaws, consistent with this chapter. The vote or written assent of shareholders or members that hold at least a majority of the voting power is necessary to adopt the bylaws and is effectual to repeal or amend a bylaw, or to adopt an additional bylaw. The power to repeal and amend the bylaws, and adopt new bylaws, may, by a similar vote, or similar written assent, be delegated to the board of directors, which authority may, by a similar vote, or similar written assent, be revoked.

26225.1. The bylaws may prescribe the time, place, and manner of calling and conducting its meetings. Meetings of members or stockholders shall be held at the place as provided in the bylaws, or, if no provision is made, in the city, county, or city and county where the principal place of business is located at a place designated by the board of directors. Meetings of the board of directors may be held at any place within or without the state that is fixed by a quorum of the board of directors unless otherwise provided in the articles of incorporation or bylaws.

26225.2. The bylaws may prescribe the number of stockholders, directors, or members that constitutes a quorum.

26225.3. The bylaws may prescribe the following:

(a) The right of members or stockholders to vote by proxy or by mail or both, and the conditions, manner, form, and effects of those votes.

(b) The right of members or stockholders to cumulate their votes and the prohibition, if any, of cumulative voting.

26225.4. (a) The bylaws may prescribe the qualifications, compensation, duties, and term of office of directors and officers and the time of their election.

(b) The number of directors set forth in the articles of incorporation shall be either a fixed number or a variable number. If a fixed number, it shall not be less than three, and if a variable number, the stated minimum shall not be less than three and the stated maximum shall not be greater than two times the stated minimum minus one.

(c) The number of directors may also be set forth in the bylaws either as a fixed number or as a variable number subject to the same limitations as in subdivision (b). After shares have been issued or members have been admitted, any adoption or amendment of the bylaw provision shall be approved by the outstanding shares as provided in Section 152 of the Corporations Code.

(d) In the event of an inconsistency between an article provision referred to in subdivision (b) and a bylaw provision referred to in subdivision (c), the provision more recently adopted or amended shall prevail.

(e) If a variable number of directors is set forth in the articles of incorporation or the bylaws, the exact number of directors shall be fixed, within the limits specified, by approval of the board of directors or the shareholders as provided in Section 153 of the Corporations Code in the manner designated in the bylaws.

26225.5. The bylaws may prescribe penalties for violations of the bylaws.

26225.6. The bylaws may prescribe the amount of entrance, organization, and membership fees, if any, the manner and method of collection of the fees, and the purposes for which they may be used.

26225.7. The bylaws may prescribe the amount that each member or stockholder shall be required to pay annually, or from time to time, if at all, to carry on the business of the association, the charge, if any, to be paid by each member or stockholder for services that are rendered by the association to him, the time of payment and the manner of collection, and the marketing contract between the association and its members or stockholders that every member or stockholder may be required to sign.

26225.8. The bylaws may prescribe the amount of dividends, if any, that may be declared on the stock or membership capital. To the extent that dividends are payable out of the excess of association income over association expenses attributable to business transacted with or for members, dividends shall not exceed 8 percent per annum.

26225.9. The bylaws may prescribe any of the following:

- (a) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock.
- (b) The method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock.
- (c) The manner of assignment and transfer of the interest of members, and of the shares of common stock.
- (d) The conditions under which, and time when, membership of a member shall cease.
- (e) The automatic suspension of the rights of a member when he or she ceases to be eligible to membership in the association.
- (f) The mode, manner, and effect of the expulsion of a member.

26225.95. (a) The bylaws may prescribe any of the following:

(1) The manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of his or her membership, or at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors.

(2) The conditions and terms for the repurchase by the association from its stockholders of their stock upon their disqualification as stockholders.

(b) If a member is expelled and the bylaws do not provide any procedure or penalty for expulsion, the board of directors shall equitably and conclusively appraise his or her property interest in the association and shall fix the amount of his or her property interest in money, which shall be paid to him or her within one year after such expulsion.

Article 6. Directors and Management

26226. The affairs of the association shall be managed by a board of not less than three directors who are elected by the members or stockholders.

26226.1. The bylaws may provide that the territory in which the association has members shall be divided into districts and that directors shall be elected from the several districts. If the bylaws divides the territory into districts for the election of directors, the bylaws shall specify the number of directors to be elected by each district and the manner and method of reapportioning the directors and of redistricting the territory covered by the association.

26226.2. The bylaws may provide that primary elections shall be held to nominate directors. If the bylaws provide that the territory in which the association has members shall be divided into districts, the bylaws may also provide that the results of the primary elections in the various districts shall be final and shall be ratified at the annual meeting of the association.

26226.3. The bylaws may provide that the territory in which the association has members shall be divided into districts, and that the directors shall be elected by representatives or advisers, who themselves have been elected by the members or stockholders from the several territorial districts. If the bylaws divide the territory into districts for the election of representatives or advisers who elect the directors, the bylaws shall specify the number of representatives or advisers to be elected by each district and the manner and method of reapportioning the representatives or advisers and of redistricting the territory that is covered by the association.

26226.4. The bylaws may provide that one or more directors may be chosen by a public official or commission or by the other directors selected by the members. The director shall represent primarily the interest of the general public in the association. The director shall have the same powers and rights as other directors. These directors shall not number more than one-fifth of the entire number of directors.

26226.5. The bylaws may provide for an executive committee and may allot to the committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

26226.6. An association may provide a fair remuneration for the time that is actually spent by its officers and directors in its service and for the service of the members of its executive committee.

26226.7. If a vacancy on the board of directors occurs, except by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the bylaws provide for an election of directors by districts. If the bylaws provide for an election of directors by districts, the vacancy shall be filled either by the election of a director from the district in which the vacancy occurs or by the board of directors calling a special meeting of the members or stockholders in that district to fill the vacancy.

26226.8. (a) The directors shall elect a president, one or more vice presidents, a secretary, a treasurer, and such other officers as may be prescribed by the bylaws. Any two or more offices, except those of president and secretary, may be held by the same person.

(b) The treasurer may be a bank or a depository and, as such, shall not be considered as an officer, but as a function of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as and where authorized by the board of directors.

26226.9. (a) A member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition that is signed by 5 percent of the members, which requests the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer, against whom the charges have been brought, shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses. The person bringing the charges against him or her shall have the same opportunity.

(b) If the bylaws provide for election of directors by districts with primary elections in each district, the petition for removal of a director shall be signed by 20 percent of the members that reside in the district from which the director was elected. The board of directors shall call a special meeting of the members who reside in that district to consider the removal of the director. By a vote of the majority of the members of that district at the special meeting, the director in question shall be removed from office.

Article 7. Powers

26227. An association may engage in any activity in connection with the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any cannabis product that is produced or delivered to it by its members; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment, or in the financing of any such activities; or in any one or more of the activities that are specified in this section with a valid license.

26227.1. An association may borrow without limitation as to the amount of corporate indebtedness or liability and may make advances to members.

26227.2. An association may act as the agent or representative of any member or members in any of the activities specified in Section 26226.2 or 26226.3.

26227.3. An association may purchase or otherwise acquire, hold, own, and exercise all rights of ownership in, sell, transfer, pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of an association that is engaged in any related activity or in the growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of a cannabis product that is handled by the association.

26227.4. An association may establish reserves and invest the funds of the reserves in bonds or in other property as may be provided in the bylaws.

26227.5. An association may buy, hold, and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conduct and operation of, or incidental to, the business of the association.

26227.6. An association may levy assessments in the manner and in the amount as may be provided in its bylaws.

26227.7. An association may do any of the following anywhere:

(a) That which is what is necessary, suitable, or proper for the accomplishment of a purpose, or the attainment of an object, that is enumerated in this article.

(b) That which is conducive to, or expedient for, the interest or benefit of the association.

(c) Contract accordingly.

(d) Exercise and possess all powers, rights, and privileges that are necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged.

(e) Exercise any other rights, powers, and privileges that are granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter.

26227.75. An association may use or employ any of its facilities for any purpose, provided the proceeds that arise from such use and employment shall go to reduce the cost of operation for its members. The cannabis products that are handled for, or the services, machinery, equipment, or supplies or facilities that are furnished to, nonmembers shall not, however, exceed in value the cannabis products that are handled for, or the services, merchandise, or facilities that are supplied to, members during the same period.

26227.8. (a) An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other association, with or without capital stock, that is engaged in growing, harvesting, curing, drying, trimming, packing, grading, storing, or handling of any cannabis product that is handled by the association, or the byproducts of the cannabis product.

(b) Any two or more associations that are organized pursuant to this section may be merged into one constituent association or consolidated into a new association. The merger or consolidation shall be made in the manner that is prescribed by the general laws of the state that cover domestic corporations.

26227.9. (a) Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations and arrangements with another cannabis cooperative or association that is formed in this or in any other state for the cannabis cooperative and more economical carrying on of its business or any part of its business.

(b) Any two or more associations may, by agreement between them, unite in employing and using, or may separately employ and use, the same personnel, methods, means, and agencies for carrying on and conducting their respective business.

Article 8. Financial Provisions

26228. An association is not subject in any manner to the terms of the Corporate Securities Law (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code), and any association may issue its membership certificates or stock or other securities as provided in this chapter without the necessity of any qualification under that law.

26228.1. If an association issues nonpar value stock, the issuance of the stock shall be governed by the terms of all general laws that cover the issuance of nonpar value stock in domestic corporations.

26228.2. If an association with preferred shares of stock purchases the stock or any property, or any interest in any property of any person, it may discharge the obligations that are so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred stock to an amount that at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case, the transfer to the association of the stock or interest that is purchased is equivalent to payment in cash for the shares of stock that are issued.

26228.3. The board of directors of every association shall cause to be sent to the members of the association not later than 120 days after the close of the fiscal or calendar year an annual report of the operations of the association, unless the report is expressly dispensed with in the bylaws. If required by the bylaws, interim reports of the operations of the association for the three-month, six-month, or nine-month periods of the current fiscal year of the association shall be furnished to the members of the association. Such annual report and any such interim reports shall include a balance sheet as of such closing date. Such financial statement shall be prepared from, and be in accordance with, the books. It shall be prepared in a form that is sanctioned by sound accounting practice for the association or approved by a duly certified public accountant or a public accountant.

Article 9. Members

26229. Under the terms and conditions that are prescribed in the bylaws adopted by it, an association may admit as members or issue common stock only to persons engaged in the cultivation of a cannabis product that is to be handled by or through the association.

26229.1. If a member of a nonstock association is other than a natural person, the member may be represented by any individual, associate, officer, or manager or member of it, who is duly authorized in writing.

26229.2. Any association may become a member or stockholder of any other association.

26229.3. If a member of an association that is established without shares of stock has paid his membership fee in full, he or she shall receive a certificate of membership.

26229.4. An association shall not issue a certificate for stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but the retention as security does not affect the member's right to vote.

26229.5. An association, in its bylaws, may limit the amount of common stock that any member may own.

26229.6. The bylaws shall prohibit the transfer of the common stock or membership certificates of the associations to a person that is not qualified to be a shareholder or member as specified in this chapter. These restrictions shall be printed upon every certificate of stock or membership that is subject to them.

26229.7. The association may, at any time, as specified in the bylaws, except when the debts of the association exceed 50 percent of its assets, buy in or purchase its common stock at the book value of the common stock, as conclusively determined by the board of directors, and pay for it in cash within one year thereafter.

26229.8. A member or stockholder is not liable for the debts of the association to an amount that exceeds the sum that remains unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory note that is given in payment of the membership fee or the subscription to the capital stock.

Article 10. Marketing Contracts

26230. The association and its members may make and execute marketing contracts that require the members to sell, for any period of time, but not over 15 years, all or a specified part of a cannabis product exclusively to or through the association, or a facility that is created by the association. If the members contract a sale to the association, title to the cannabis product passes absolutely and unreservedly, except for recorded liens, to the association upon delivery or at another specified time that is expressly and definitely agreed in the contract.

26230.1. Notwithstanding any provisions of the Civil Code, a contract that is entered into by a member or stockholder of an association that provides for the delivery to the association of a cannabis product that is produced or acquired by the member or stockholder may be specifically enforced by the association to secure the delivery to it of the cannabis product.

26230.2. The bylaws or a marketing contract may fix, as liquidated damages, specific sums to be paid by the member or stockholder to the association upon the breach by him or her of any provision of the marketing contract regarding the sale or delivery or withholding of a cannabis product and may provide that the member will pay all costs, premiums for bonds, expenses, and fees, if any action is brought upon the contract by the association. These provisions are valid and enforceable in the courts of this state. The clauses that provide for liquidated damages are enforceable as such and shall not be regarded as penalties.

26230.3. If there is a breach or threatened breach of a marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance of the contract. Pending the adjudication of the action and upon filing a verified complaint that shows the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

Article 11. Reorganization of Corporations Organized Pursuant to Other Laws

26231. A corporation that is organized or existing pursuant to any law except Title 23 (commencing with Section 653aa) of Part 4 of Division 1 of the Civil Code may be brought under the provisions of this chapter by amending its articles of incorporation, in the manner that is prescribed by the general corporation laws, to conform to this chapter. If a corporation amends its articles of incorporation to conform to this chapter, it shall be deemed to be organized and existing pursuant to, and entitled to the benefit of, and subject to this chapter for all purposes and as fully as though it had been originally organized pursuant to this chapter.

26231.1. Articles of incorporation shall be deemed to conform to this chapter within the meaning of Section 26231 if it clearly appears from the articles of incorporation that the corporation desires to be subject to, and to be organized, exist, and function pursuant to this chapter.

26231.2. If the amended articles conform, as provided in Section 26231.1, provisions in the articles of incorporation that appeared in the original articles or some previous amended articles, are ineffective if, and to the extent that, they are inapplicable to, or inconsistent with, this chapter.

SEC. 108. Section 1602 of the Fish and Game Code is amended to read:

1602. (a) An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

(1) The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:

(A) A detailed description of the project's location and a map.

(B) The name, if any, of the river, stream, or lake affected.

(C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.

(D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(E) A copy of any other applicable local, state, or federal permit or agreement already issued.

(F) Any other information required by the department.

(2) The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.

(3) The entity pays the applicable fees, pursuant to Section 1609.

(4) One of the following occurs:

(A) (i) The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(ii) Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.

(B) The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.

(C) A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.

(D) The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(b) (1) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:

(A) The work described in the agreement has substantially changed.

(B) Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.

(2) This subdivision applies only if notice to, and agreement with, the department was attained prior to January 1, 1977, and the department has been provided a copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.

(c) Notwithstanding subdivision (a), the department is not required to determine whether the notification is complete or otherwise process the notification until the department has received the applicable fees.

(d) (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 Section 26060.1 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 Section 26060.1 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 Section 26060.1 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.

(e) It is unlawful for any entity to violate this chapter.

SEC. 109. Section 1617 of the Fish and Game Code is amended to read:

1617. (a) The department may adopt general agreements for the cultivation of cannabis.

(b) Any 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) Any 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) If the department adopts or amends a general agreement under this section, it shall do so as an emergency regulation. An emergency regulation adopted pursuant to this section, and any amendments to it, shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations 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 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the department, or any amendments to it made by the department pursuant to this section, shall stay in effect until revised by the department.

(g) 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.

SEC. 110. Section 37104 of the Food and Agricultural Code is amended to read:

37104. Notwithstanding Section 26001 of the Business and Professions Code, butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with medicinal or adult-use 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.

SEC. 111. Section 54036 of the Food and Agricultural Code is amended to read:

54036. A person, firm, corporation, or association, that is hereafter organized or doing business in this state, may not use the word "cooperative" as part of its corporate name or other business name or title for producers' cooperative marketing activities, unless it has complied with this chapter or is otherwise authorized by Chapter 22 (commencing with Section 26220) of Division 10 of the Business and Professions Code.

SEC. 112. Section 81010 of the Food and Agricultural Code is amended to read:

81010. This division, and Section 221 shall become operative on January 1, 2017.

SEC. 113. Section 11006.5 of the Health and Safety Code is amended to read:

11006.5. "Concentrated cannabis" means the separated resin, whether crude or purified, obtained from cannabis.

SEC. 114. Section 11014.5 of the Health and Safety Code is amended to read:

11014.5. (a) "Drug paraphernalia" means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this division. It includes, but is not limited to:

(1) Kits designed for use or marketed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits designed for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices designed for use or marketed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.

(5) Scales and balances designed for use or marketed for use in weighing or measuring controlled substances.

(6) Containers and other objects designed for use or marketed for use in storing or concealing controlled substances.

(7) Hypodermic syringes, needles, and other objects designed for use or marketed for use in parenterally injecting controlled substances into the human body.

(8) Objects designed for use or marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as:

(A) Carburetion tubes and devices.

(B) Smoking and carburetion masks.

(C) Roach clips, meaning objects used to hold burning material, such as a cannabis cigarette, that has become too small or too short to be held in the hand.

(D) Miniature cocaine spoons, and cocaine vials.

(E) Chamber pipes.

(F) Carburetor pipes.

(G) Electric pipes.

(H) Air-driven pipes.

(I) Chillums.

(J) Bonges.

(K) Ice pipes or chillers.

(b) For the purposes of this section, the phrase "marketed for use" means advertising, distributing, offering for sale, displaying for sale, or selling in a manner which promotes the use of equipment, products, or materials with controlled substances.

(c) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) Instructions, oral or written, provided with the object concerning its use for ingesting, inhaling, or otherwise introducing a controlled substance into the human body.
- (3) Descriptive materials accompanying the object which explain or depict its use.
- (4) National and local advertising concerning its use.
- (5) The manner in which the object is displayed for sale.
- (6) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
- (7) Expert testimony concerning its use.

(d) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

SEC. 115. Section 11018 of the Health and Safety Code is amended to read:

11018. "Cannabis" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include either of the following:

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

SEC. 116. Section 11018.1 of the Health and Safety Code is amended to read:

11018.1. "Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

SEC. 117. Section 11018.2 of the Health and Safety Code is amended to read:

11018.2. "Cannabis accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

SEC. 118. Section 11018.5 of the Health and Safety Code is amended to read:

11018.5. (a) "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

(b) Industrial hemp shall not be subject to the provisions of this division or of Division 10 (commencing with Section 26000) 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 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.

SEC. 119. Section 11032 of the Health and Safety Code is amended to read:

11032. If reference is made to the term "narcotics" in any law not in this division, unless otherwise expressly provided, it means those controlled substances classified in Schedules I and II, as defined in this division. If reference is made to "restricted dangerous drugs" not in this division, unless otherwise expressly provided, it means those controlled substances classified in Schedules III and IV. If reference is made to the term "marijuana" in any law not in this division, unless otherwise expressly provided, it means cannabis as defined in this division.

SEC. 120. Section 11054 of the Health and Safety Code is amended to read:

11054. (a) The controlled substances listed in this section are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol.
- (2) Allylprodine.
- (3) Alphacetylmethadol (except levoalphacetylmethadol, also known as levo-alpha- acetylmethadol, levomethadyl acetate, or LAAM).
- (4) Alphameprodine.
- (5) Alphamethadol.
- (6) Benzethidine.
- (7) Betacetylmethadol.
- (8) Betameprodine.
- (9) Betamethadol.
- (10) Betaprodine.
- (11) Clonitazene.
- (12) Dextromoramide.
- (13) Diampromide.
- (14) Diethylthiambutene.
- (15) Difenoxin.
- (16) Dimenoxadol.
- (17) Dimepheptanol.
- (18) Dimethylthiambutene.
- (19) Dioxaphetyl butyrate.
- (20) Dipipanone.
- (21) Ethylmethylthiambutene.
- (22) Etonitazene.
- (23) Etoxidine.
- (24) Furethidine.
- (25) Hydroxypethidine.
- (26) Ketobemidone.
- (27) Levomoramide.
- (28) Levophenacetylmorphan.
- (29) Morpheridine.
- (30) Noracymethadol.
- (31) Norlevorphanol.
- (32) Normethadone.
- (33) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.

- (38) Pir tramide.
- (39) Proheptazine.
- (40) Properidine.
- (41) Propiram.
- (42) Racemoramide.
- (43) Tilidine.
- (44) Trimeperidine.
- (45) Any substance which contains any quantity of acetylfentanyl (N-[1-phenethyl-4-piperidinyl] acetanilide) or a derivative thereof.
- (46) Any substance which contains any quantity of the thiophene analog of acetylfentanyl (N-[1-[2-(2-thienyl)ethyl]-4-piperidinyl] acetanilide) or a derivative thereof.
- (47) 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
- (48) 1-(2-Phenethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine.
- (2) Acetyldihydrocodeine.
- (3) Benzylmorphine.
- (4) Codeine methylbromide.
- (5) Codeine-N-Oxide.
- (6) Cyprenorphine.
- (7) Desomorphine.
- (8) Dihydromorphine.
- (9) Drotebanol.
- (10) Etorphine (except hydrochloride salt).
- (11) Heroin.
- (12) Hydromorphanol.
- (13) Methyldesorphine.
- (14) Methyldihydromorphine.
- (15) Morphine methylbromide.
- (16) Morphine methylsulfonate.
- (17) Morphine-N-Oxide.
- (18) Myrophine.
- (19) Nicocodeine.
- (20) Nicomorphine.
- (21) Normorphine.
- (22) Pholcodine.
- (23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

- (1) 4-bromo-2,5-dimethoxy-amphetamine—Some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA.

- (2) 2,5-dimethoxyamphetamine—Some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA.
- (3) 4-methoxyamphetamine—Some trade or other names: 4-methoxy-alpha-methylphenethylamine, paramethoxyamphetamine, PMA.
- (4) 5-methoxy-3,4-methylenedioxy-amphetamine.
- (5) 4-methyl-2,5-dimethoxy-amphetamine—Some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM"; and "STP."
- (6) 3,4-methylenedioxy amphetamine.
- (7) 3,4,5-trimethoxy amphetamine.
- (8) Bufotenine—Some trade or other names: 3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5 indolol; N,N-dimethylserotonin, 5-hydroxy-N,N-dimethyltryptamine; mappine.
- (9) Diethyltryptamine—Some trade or other names: N,N-Diethyltryptamine; DET.
- (10) Dimethyltryptamine—Some trade or other names: DMT.
- (11) Ibogaine—Some trade or other names: 7-Ethyl-6,6beta, 7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernantheiboga.
- (12) Lysergic acid diethylamide.
- (13) Cannabis.
- (14) Mescaline.
- (15) Peyote—Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts (interprets 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)).
- (16) N-ethyl-3-piperidyl benzilate.
- (17) N-methyl-3-piperidyl benzilate.
- (18) Psilocybin.
- (19) Psilocyn.
- (20) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; delta 3,4 cis or trans tetrahydrocannabinol, and its optical isomers.
- Because nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.
- (21) Ethylamine analog of phencyclidine—Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.
- (22) Pyrrolidine analog of phencyclidine—Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCP, PHP.
- (23) Thiophene analog of phencyclidine—Some trade or other names: 1-[1-(2 thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP.
- (e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (1) Mecloqualone.
- (2) Methaqualone.
- (3) Gamma hydroxybutyric acid (also known by other names such as GHB; gamma hydroxy butyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate), including its immediate precursors, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, including, but not limited to, gammabutyrolactone, for which an application has not been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355).
- (f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its isomers:
- (1) Cocaine base.
- (2) Fenethylline, including its salts.

(3) N-Ethylamphetamine, including its salts.

SEC. 121. The heading of Article 2 (commencing with Section 11357) of Chapter 6 of Division 10 of the Health and Safety Code is amended to read:

Article 2. Cannabis

SEC. 122. Section 11357 of the Health and Safety Code is amended to read:

11357. (a) Except as authorized by law, possession of not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, or both, shall be punished or adjudicated as follows:

(1) Persons under the age of 18 are 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 are guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).

(b) Except as authorized by law, possession of more than 28.5 grams of cannabis, or more than four grams of concentrated cannabis, shall be punished as follows:

(1) Persons under the age of 18 who possess more than 28.5 grams of cannabis or more than four grams of concentrated cannabis, or both, are 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 cannabis, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both that fine and imprisonment.

(c) Except as authorized by law, a person 18 years of age or over who possesses not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished 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.

(d) Except as authorized by law, a person under the age of 18 who possesses not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b).

SEC. 123. Section 11358 of the Health and Safety Code is amended to read:

11358. Each person who plants, cultivates, harvests, dries, or processes cannabis plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

(a) Each person under the age of 18 who plants, cultivates, harvests, dries, or processes any cannabis plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Each 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 cannabis plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

(c) Each person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living cannabis plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both that 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 cannabis plants, or any part thereof, except as otherwise provided by law, may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if any of the following conditions exist:

(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).
- (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 water.
 - (C) Violation of Section 5650 or 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 Section 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 Section 2000 of the Fish and Game Code relating to the unlawful taking of fish and wildlife.
 - (G) Intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

SEC. 124. Section 11359 of the Health and Safety Code is amended to read:

11359. Every person who possesses for sale any cannabis, except as otherwise provided by law, shall be punished as follows:

- (a) Every person under the age of 18 who possesses cannabis for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.
- (b) Every person 18 years of age or over who possesses cannabis for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.
- (c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:
 - (1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;
 - (2) ~~The person has two or more prior convictions under subdivision (b); or~~
 - (3) The offense occurred in connection with the knowing sale or attempted sale of cannabis to a person under the age of 18 years.
- (d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any cannabis.

SEC. 125. Section 11360 of the Health and Safety Code is amended to read:

11360. (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 cannabis shall be punished as follows:

- (1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.
- (2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.
- (3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of 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 cannabis to a person under the age of 18 years; or
 - (D) The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of cannabis or more than four grams of concentrated cannabis.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of cannabis, other than concentrated cannabis, is guilty of an infraction 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, that 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.

SEC. 126. Section 11361 of the Health and Safety Code is amended to read:

11361. (a) A person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any cannabis, who unlawfully sells, or offers to sell, any cannabis to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any cannabis to a minor under 14 years of age, or who induces a minor to use cannabis in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) A person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any cannabis to a minor 14 years of age or older in violation of law shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 127. Section 11361.1 of the Health and Safety Code is amended to read:

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 shall consist of 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 cannabis 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.

SEC. 128. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. (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 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 (d) 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 to 12, inclusive, 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 those records shall 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 the 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 commence 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.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking cannabis, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which cannabis is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of cannabis, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars (\$10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

SEC. 129. Section 11362.1 of the Health and Safety Code is amended to read:

11362.1. (a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:

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

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

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

SEC. 130. Section 11362.2 of the Health and Safety Code is amended to read:

11362.2. (a) Personal cultivation of cannabis under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

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

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

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

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

(2) Notwithstanding paragraph (1), a city, county, or city and county shall not 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) shall become inoperative upon a determination by the California Attorney General that adult use of cannabis is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) is unenforceable upon the date of that determination by the Attorney General.

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

SEC. 131. Section 11362.3 of the Health and Safety Code is amended to read:

11362.3. (a) Section 11362.1 does not permit any person to:

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

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

(3) Smoke cannabis or cannabis products within 1,000 feet of a school, day care center, or youth center while children are present at the 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 and only if such smoking is not detectable by others on the grounds of the school, day care center, or youth center while children are present.

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

(5) Possess, smoke, or ingest cannabis or cannabis products in or upon the grounds of a school, day care center, or youth center while children are present.

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(7) Smoke or ingest cannabis or cannabis products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(8) Smoke or ingest cannabis or cannabis products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under 21 years of age are present.

(b) For purposes of this section, the following definitions apply:

(1) "Day care center" has the same meaning as in Section 1596.76.

(2) "Smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated cannabis or cannabis product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(3) "Volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

(4) "Youth center" has the same meaning as in Section 11353.1.

(c) 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.

SEC. 132. Section 11362.4 of the Health and Safety Code is amended to read:

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), (3), or (4) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a two-hundred-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 subdivision (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-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 shall 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 cannabis and other controlled substances.

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

SEC. 133. Section 11362.45 of the Health and Safety Code is amended to read:

11362.45. Section 11362.1 does not 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, cannabis or cannabis products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.

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

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

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

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

(f) The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of 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.

(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.

SEC. 134. Section 11362.7 of the Health and Safety Code is amended to read:

11362.7. For purposes of this article, the following definitions shall apply:

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

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

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

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

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

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

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

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

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

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

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

(1) Acquired immune deficiency syndrome (AIDS).

(2) Anorexia.

(3) Arthritis.

(4) Cachexia.

(5) Cancer.

(6) Chronic pain.

(7) Glaucoma.

(8) Migraine.

(9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.

(10) Seizures, including, but not limited to, seizures associated with epilepsy.

(11) Severe nausea.

(12) Any other chronic or persistent medical symptom that either:

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

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

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

SEC. 135. Section 11362.71 of the Health and Safety Code is amended to read:

11362.71. (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.

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

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

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

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

(3) Maintain records of identification card programs.

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

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

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

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

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

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

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

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

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

SEC. 136. Section 11362.715 of the Health and Safety Code is amended to read:

11362.715. (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county's designee on a form developed and provided by the department:

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

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

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

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

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

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

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

(2) An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.

(3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.

(d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

SEC. 137. Section 11362.765 of the Health and Safety Code is amended to read:

11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. This section does not authorize the individual to smoke or otherwise consume cannabis unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute cannabis for profit.

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

(1) A qualified patient or a person with an identification card who transports or processes cannabis for his or her own personal medical use.

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

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

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

SEC. 138. Section 11362.768 of the Health and Safety Code is amended to read:

11362.768. (a) This section shall apply to individuals specified in subdivision (b) of Section 11362.765.

(b) No medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medicinal cannabis pursuant to this article shall be located within a 600-foot radius of a school.

(c) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.

(d) This section shall not apply to a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider that is also a licensed residential medical or elder care facility.

(e) This section shall apply only to a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider that is authorized by law to possess, cultivate, or distribute medicinal cannabis and that has a storefront or mobile retail outlet which ordinarily requires a local business license.

(f) Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider.

(g) This section does not preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider.

(h) For the purposes of this section, "school" means any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

SEC. 139. Section 11362.77 of the Health and Safety Code is amended to read:

11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried cannabis per qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or 12 immature cannabis plants per qualified patient.

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

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

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

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

SEC. 140. Section 11362.775 of the Health and Safety Code is amended to read:

11362.775. (a) Subject to subdivision (d), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medicinal purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

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

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

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

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

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

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

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

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

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

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

(A) The California Fire Code.

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

(C) International Building Code (IBC).

(D) The International Fire Code (IFC).

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

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

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

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

(d) This section shall remain in effect only until one year after the Bureau of Cannabis Control posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code).

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

SEC. 141. Section 11362.777 of the Health and Safety Code is repealed.

SEC. 142. Section 11362.78 of the Health and Safety Code is amended to read:

11362.78. A state or local law enforcement agency or officer shall not refuse to accept an identification card issued pursuant to this article unless the state or local law enforcement agency or officer has probable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

SEC. 143. Section 11362.785 of the Health and Safety Code is amended to read:

11362.785. (a) Nothing in this article shall require any accommodation of medicinal use of cannabis on the property or premises of a place of employment or during the hours of employment or on the property or premises of a jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

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

(c) This article does not prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use cannabis for medicinal purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

(d) This article does not require a governmental, private, or any other health insurance provider or health care service plan to be liable for a claim for reimbursement for the medicinal use of cannabis.

SEC. 144. Section 11362.79 of the Health and Safety Code is amended to read:

11362.79. This article does not authorize a qualified patient or person with an identification card to engage in the smoking of medicinal cannabis under any of the following circumstances:

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

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

(c) On a schoolbus.

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

(e) While operating a boat.

SEC. 145. Section 11362.795 of the Health and Safety Code is amended to read:

11362.795. (a) (1) Any criminal defendant who is eligible to use cannabis pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use medicinal cannabis while he or she is on probation or released on bail.

(2) The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

(3) During the period of probation or release on bail, if a physician recommends that the probationer or defendant use medicinal cannabis, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medicinal cannabis.

(4) The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(b) (1) Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use medicinal cannabis pursuant to Section 11362.5 may request that he or she be allowed to use medicinal cannabis during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use medicinal cannabis was made, and whether the request was granted or denied.

(2) During the period of the parole, where a physician recommends that the parolee use medicinal cannabis, the parolee may request a modification of the conditions of the parole to authorize the use of medicinal cannabis.

(3) Any parolee whose request to use medicinal cannabis while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

(4) The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

SEC. 146. Section 11362.8 of the Health and Safety Code is amended to read:

11362.8. A professional licensing board shall not impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of cannabis to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

SEC. 147. Section 11362.81 of the Health and Safety Code is amended to read:

11362.81. (a) A person specified in subdivision (b) shall be subject to the following penalties:

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

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

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

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

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

(3) A person who counterfeits, tampers with, or fraudulently produces an identification card.

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

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

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

SEC. 148. Section 11362.83 of the Health and Safety Code is amended to read:

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing any of the following:

(a) Adopting local ordinances that regulate the location, operation, or establishment of a medicinal cannabis cooperative or collective.

(b) The civil and criminal enforcement of local ordinances described in subdivision (a).

(c) Enacting other laws consistent with this article.

SEC. 149. Section 11362.85 of the Health and Safety Code is amended to read:

11362.85. Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify cannabis, the Legislature may amend or repeal the provisions of this code, as necessary, to conform state law to such changes in federal law.

SEC. 150. Section 11362.9 of the Health and Safety Code is amended to read:

11362.9. (a) (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering cannabis as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Cannabis Research Program. Whenever "California Marijuana Research Program" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the California Cannabis Research Program.

(2) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of cannabis and, if found valuable, shall develop medical guidelines for the appropriate administration and use of cannabis. The studies may include studies to ascertain the effect of cannabis on motor skills.

(b) The program may immediately solicit proposals for research projects to be included in the cannabis studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

(1) Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding cannabis' general medical efficacy and safety.

(2) Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on cannabis.

(3) Proposals shall contain provisions for a patient registry.

(4) Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

(5) Proposals shall contain protocols suitable for research on cannabis, addressing patients diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

(6) Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of cannabis.

(7) Proposals shall demonstrate the use of a laboratory capable of analyzing cannabis, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

(c) In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

(1) The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

(2) Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

(d) If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

(e) It is the intent of the Legislature that the program be established as follows:

(1) The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.

(2) When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.

(3) The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

(4) The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

(5) The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

(f) All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

(g) Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, cannabis. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.

(h) The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.

(i) The cannabis studies shall employ state-of-the-art research methodologies.

(j) The program shall ensure that all cannabis used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply cannabis for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

(k) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

(l) (1) To enhance understanding of the efficacy and adverse effects of cannabis as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of cannabis in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of cannabis as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of cannabis.

(2) The program shall examine the safety of cannabis in patients with various medical disorders, including cannabis's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

(3) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of cannabis as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of cannabis.

(m) (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

(2) If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

(n) In order to maximize the scope and size of the cannabis studies, the program may do any of the following:

(1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the cannabis studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

(2) Include within the scope of the cannabis studies other cannabis research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of cannabis as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of cannabis and that he or she will have no control over the use of these funds.

(o) (1) Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the cannabis studies.

(2) Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

(A) The names and number of diseases or conditions under study.

(B) The number of patients enrolled in each study by disease.

(C) Any scientifically valid preliminary findings.

(p) If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

(q) No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section.

(r) This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act.

SEC. 151. Section 11364.5 of the Health and Safety Code is amended to read:

11364.5. (a) Except as authorized by law, no person shall maintain or operate any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless such drug paraphernalia is completely and wholly kept, displayed or offered within a separate room or enclosure to which persons under the age of 18 years not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed or offered in such room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, no owner, manager, proprietor or other person in charge of any room or enclosure, within any place of business, in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away shall permit or allow any person under the age of 18 years to enter, be in, remain in or visit such room or enclosure unless that minor person is accompanied by one of his or her parents or by his or her legal guardian.

(c) Unless authorized by law, no person under the age of 18 years shall enter, be in, remain in, or visit any room or enclosure in any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred, or given away unless accompanied by one of his or her parents or by his or her legal guardian.

(d) As used in this section, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:

(1) Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

- (2) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
 - (3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
 - (4) Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.
 - (5) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.
 - (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.
 - (7) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis.
 - (8) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.
 - (9) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.
 - (10) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.
 - (11) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.
 - (12) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as the following:
 - (A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 - (B) Water pipes.
 - (C) Carburetion tubes and devices.
 - (D) Smoking and carburetion masks.
 - (E) Roach clips; meaning objects used to hold burning material; such as a cannabis cigarette that has become too small or too short to be held in the hand.
 - (F) Miniature cocaine spoons, and cocaine vials.
 - (G) Chamber pipes.
 - (H) Carburetor pipes.
 - (I) Electric pipes.
 - (J) Air-driven pipes.
 - (K) Chillums.
 - (L) Bongs.
 - (M) Ice pipes or chillers.
- (e) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
 - (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.
 - (3) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
 - (4) Instructions, oral or written, provided with the object concerning its use.
 - (5) Descriptive materials, accompanying the object which explain or depict its use.
 - (6) National and local advertising concerning its use.

(7) The manner in which the object is displayed for sale.

(8) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

(f) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in paragraph (11) of subdivision (d) upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who furnishes or prescribes drug paraphernalia described in paragraph (11) of subdivision (d) to his or her patients.

(3) Any manufacturer, wholesaler, or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in paragraph (11) of subdivision (d).

(g) Notwithstanding any other provision of law, including Section 11374, violation of this section shall not constitute a criminal offense, but operation of a business in violation of the provisions of this section shall be grounds for revocation or nonrenewal of any license, permit, or other entitlement previously issued by a city, county, or city and county for the privilege of engaging in such business and shall be grounds for denial of any future license, permit, or other entitlement authorizing the conduct of such business or any other business, if the business includes the sale of drug paraphernalia.

SEC. 152. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

(c) All property except real property or a boat, airplane, or any vehicle which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the manufacture of, or possession for sale or sale of 14.25 grams or more of heroin, or a substance containing 14.25 grams or more of heroin, or 14.25 grams or more of a substance containing heroin, or 28.5 grams or more of Schedule I controlled substances except cannabis, peyote, or psilocybin; 10 pounds dry weight or more of cannabis, peyote, or psilocybin; or 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or a substance containing 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or 57 grams or more of a substance containing cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. An interest in a vehicle which may be lawfully driven on the highway with a class C, class M1, or class M2 license, as prescribed in Section 12804.9 of the Vehicle Code, shall not be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is the sole class C, class M1, or class M2 vehicle available to the defendant's immediate family.

(f) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, or securities used or intended to be used to facilitate any violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property, or the filing of a petition under this chapter, or the issuance of an order of forfeiture of the property, whichever comes first.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons, one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

(h) (1) Subject to the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5,

11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves the manufacture, sale, possession for sale, offer for sale, offer to manufacture, or conspiracy to commit at least one of those offenses, in accordance with the burden of proof set forth in paragraph (1) of subdivision (i) of Section 11488.4 or, in the case of cash or negotiable instruments in excess of twenty-five thousand dollars (\$25,000), paragraph (4) of subdivision (i) of Section 11488.4.

(2) The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

SEC. 153. Section 11478 of the Health and Safety Code is amended to read:

11478. Cannabis may be provided by the Attorney General to the heads of research projects which have been registered by the Attorney General, and which have been approved by the research advisory panel pursuant to Section 11480.

The head of the approved research project shall personally receipt for such quantities of cannabis and shall make a record of their disposition. The receipt and record shall be retained by the Attorney General. The head of the approved research project shall also, at intervals and in the manner required by the research advisory panel, report the progress or conclusions of the research project.

SEC. 154. Section 11479 of the Health and Safety Code is amended to read:

11479. Notwithstanding Sections 11473 and 11473.5, at any time after seizure by a law enforcement agency of a suspected controlled substance, except in the case of growing or harvested cannabis, that amount in excess of 10 pounds in gross weight may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. In the case of growing or harvested cannabis, that amount in excess of two pounds, or the amount of cannabis a medicinal cannabis patient or designated caregiver is authorized to possess by ordinance in the city or county where the cannabis was seized, whichever is greater, may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. These samples shall be in addition to the 10 pounds required above. When the suspected controlled substance consists of growing or harvested cannabis plants, at least one 2-pound sample or a sample in the amount of medicinal cannabis a medicinal cannabis patient or designated caregiver is authorized to possess by ordinance in the city or county where the cannabis was seized, whichever is greater, shall be retained. This sample may include stalks, branches, or leaves. In addition, five representative samples of leaves or buds shall be retained for evidentiary purposes from the total amount of suspected controlled substances to be destroyed:

(b) Photographs and videos have been taken that reasonably and accurately demonstrate the total amount of the suspected controlled substance to be destroyed.

(c) The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating that weight after dimensional measurement of the total suspected controlled substance.

(d) The chief of the law enforcement agency has determined that it is not reasonably possible to preserve the suspected controlled substance in place, or to remove the suspected controlled substance to another location. In making this determination, the difficulty of transporting and storing the suspected controlled substance to another site and the storage facilities may be taken into consideration.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court that has jurisdiction over any pending criminal proceedings pertaining to that suspected controlled substance, reciting the applicable information required by subdivisions (a), (b), (c), and (d) together with information establishing the location of the suspected controlled substance, and specifying the date and time of the destruction. In the event that there are no criminal proceedings pending that pertain to that suspected controlled substance, the affidavit may be filed in any court within the county that would have jurisdiction over a person against whom those criminal charges might be filed.

SEC. 155. Section 11479.2 of the Health and Safety Code is amended to read:

11479.2. Notwithstanding the provisions of Sections 11473, 11473.5, 11474, 11479, and 11479.1, at any time after seizure by a law enforcement agency of a suspected controlled substance, except cannabis, any amount, as determined by the court, in excess of 57 grams may, by court order, be destroyed by the chief of a law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed. Those samples shall be in addition to the 57 grams required above and each sample shall weigh not less than one gram at the time the sample is collected.

(b) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance to be destroyed.

(c) The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating such weight after dimensional measurement of the total suspected controlled substance.

(d) In cases involving controlled substances suspected of containing cocaine or methamphetamine, an analysis has determined the qualitative and quantitative nature of the suspected controlled substance.

(e) The law enforcement agency with custody of the controlled substance sought to be destroyed has filed a written motion for the order of destruction in the court which has jurisdiction over any pending criminal proceeding in which a defendant is charged by accusatory pleading with a crime specifically involving the suspected controlled substance sought to be destroyed. The motion shall, by affidavit of the chief of the law enforcement agency or designated subordinate, recite the applicable information required by subdivisions (a), (b), (c), and (d), together with information establishing the location of the suspected controlled substance and the title of any pending criminal proceeding as defined in this subdivision. The motion shall bear proof of service upon all parties to any pending criminal proceeding. No motion shall be made when a defendant is without counsel until the defendant has entered his or her plea to the charges.

(f) The order for destruction shall issue pursuant to this section upon the motion and affidavit in support of the order, unless within 20 days after application for the order, a defendant has requested, in writing, a hearing on the motion. Within 10 days after the filing of that request, or a longer period of time upon good cause shown by either party, the court shall conduct a hearing on the motion in which each party to the motion for destruction shall be permitted to call and examine witnesses. The hearing shall be recorded. Upon conclusion of the hearing, if the court finds that the defendant would not be prejudiced by the destruction, it shall grant the motion and make an order for destruction. In making the order, the court shall ensure that the representative samples to be retained are of sufficient quantities to allow for qualitative analyses by both the prosecution and the defense. Any order for destruction pursuant to this section shall include the applicable information required by subdivisions (a), (b), (c), (d), and (e) and the name of the agency responsible for the destruction. Unless waived, the order shall provide for a 10-day delay prior to destruction in order to allow expert analysis of the controlled substance by the defense.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which ordered destruction stating the location of the retained, suspected controlled substance and specifying the date and time of destruction.

This section does not apply to seizures involving hazardous chemicals or controlled substances in mixture or combination with hazardous chemicals.

SEC. 156. Section 11480 of the Health and Safety Code is amended to read:

11480. (a) The Legislature finds that there is a need to encourage further research into the nature and effects of cannabis and hallucinogenic drugs and to coordinate research efforts on such subjects.

(b) There is a Research Advisory Panel that consists of a representative of the State Department of Health Services, a representative of the California State Board of Pharmacy, the State Public Health Officer, a representative of the Attorney General, a representative of the University of California who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a private university in this state who shall be a pharmacologist, a physician, or a person holding a doctorate degree in the health sciences, a representative of a statewide professional medical society in this state who shall be engaged in the private practice of medicine and shall be experienced in treating controlled substance dependency, a representative appointed by and serving at the pleasure of the Governor who shall have experience in drug abuse, cancer, or controlled substance research and who is either a registered nurse, licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, or other health professional. The Governor shall annually designate the private university and the professional medical society represented on the panel. Members of the panel shall be appointed by the heads of the entities to be represented, and they shall serve at the pleasure of the appointing power.

(c) The Research Advisory Panel shall appoint two special members to the Research Advisory Panel, who shall serve at the pleasure of the Research Advisory Panel only during the period Article 6 (commencing with Section 11260) of Chapter 5 remains effective. The additional members shall be physicians and surgeons, and who are board certified in oncology, ophthalmology, or psychiatry.

(d) The panel shall annually select a chairperson from among its members.

(e) The panel may hold hearings on, and in other ways study, research projects concerning cannabis or hallucinogenic drugs in this state. Members of the panel shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties.

(f) The panel may approve research projects, which have been registered by the Attorney General, into the nature and effects of cannabis or hallucinogenic drugs, and shall inform the Attorney General of the head of the approved research projects that are entitled to receive quantities of cannabis pursuant to Section 11478.

(g) The panel may withdraw approval of a research project at any time, and when approval is withdrawn shall notify the head of the research project to return any quantities of cannabis to the Attorney General.

(h) The panel shall report annually to the Legislature and the Governor those research projects approved by the panel, the nature of each research project, and, where available, the conclusions of the research project.

SEC. 157. Section 11485 of the Health and Safety Code is amended to read:

11485. Any peace officer of this state who, incident to a search under a search warrant issued for a violation of Section 11358 with respect to which no prosecution of a defendant results, seizes personal property suspected of being used in the planting, cultivation, harvesting, drying, processing, or transporting of cannabis, shall, if the seized personal property is not being held for evidence or destroyed as contraband, and if the owner of the property is unknown or has not claimed the property, provide notice regarding the seizure and manner of reclamation of the property to any owner or tenant of real property on which the property was seized. In addition, this notice shall be posted at the location of seizure and shall be published at least once in a newspaper of general circulation in the county in which the property was seized. If, after 90 days following the first publication of the notice, no owner appears and proves his or her ownership, the seized personal property shall be deemed to be abandoned and may be disposed of by sale to the public at public auction as set forth in Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code, or may be disposed of by transfer to a government agency or community service organization. Any profit from the sale or transfer of the property shall be expended for investigative services with respect to crimes involving cannabis.

SEC. 158. Section 11532 of the Health and Safety Code is amended to read:

11532. (a) It is unlawful for any person to loiter in any public place in a manner and under circumstances manifesting the purpose and with the intent to commit an offense specified in Chapter 6 (commencing with Section 11350) and Chapter 6.5 (commencing with Section 11400).

(b) Among circumstances that may be considered in determining whether a person has the requisite intent to engage in drug-related activity are that the person:

(1) Acts as a "look-out."

(2) Transfers small objects or packages for currency in a furtive fashion.

(3) Tries to conceal himself or herself or any object that reasonably could be involved in an unlawful drug-related activity.

(4) Uses signals or language indicative of summoning purchasers of illegal drugs.

(5) Repeatedly beckons to, stops, attempts to stop, or engages in conversations with passersby, whether on foot or in a motor vehicle, indicative of summoning purchasers of illegal drugs.

(6) Repeatedly passes to or receives from passersby, whether on foot or in a motor vehicle, money or small objects.

(7) Is under the influence of a controlled substance or possesses narcotic or drug paraphernalia. For the purposes of this paragraph, "narcotic or drug paraphernalia" means any device, contrivance, instrument, or apparatus designed or marketed for the use of smoking, injecting, ingesting, or consuming cannabis, hashish, PCP, or any controlled substance, including, but not limited to, roach clips, cigarette papers, and rollers designed or marketed for use in smoking a controlled substance.

(8) Has been convicted in any court within this state, within five years prior to the arrest under this chapter, of any violation involving the use, possession, or sale of any of the substances referred to in Chapter 6 (commencing with Section 11350) or Chapter 6.5 (commencing with Section 11400), or has been convicted of any violation of those provisions or substantially similar laws of any political subdivision of this state or of any other state.

(9) Is currently subject to any order prohibiting his or her presence in any high drug activity geographic area.

(10) Has engaged, within six months prior to the date of arrest under this section, in any behavior described in this subdivision, with the exception of paragraph (8), or in any other behavior indicative of illegal drug-related activity.

(c) The list of circumstances set forth in subdivision (b) is not exclusive. The circumstances set forth in subdivision (b) should be considered particularly salient if they occur in an area that is known for unlawful drug use and trafficking, or if they occur on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity. Any other relevant circumstances may be considered in determining whether a person has the requisite intent. Moreover, no one circumstance or combination of circumstances is in itself determinative of intent. Intent must be determined based on an evaluation of the particular circumstances of each case.

SEC. 159. Section 11553 of the Health and Safety Code is amended to read:

11553. The fact that a person is or has been, or is suspected of being, a user of cannabis is not alone sufficient grounds upon which to invoke Section 11551 or 11552.

This section shall not be construed to limit the discretion of a judge to invoke Section 11551 or 11552 if the court has reason to believe a person is or has been a user of narcotics or drugs other than cannabis.

SEC. 160. Section 109925 of the Health and Safety Code is amended to read:

109925. (a) "Drug" means any of the following:

(1) An article recognized in an official compendium.

(2) An article used or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or any other animal.

- (3) An article other than food, that is used or intended to affect the structure or any function of the body of human beings or any other animal.
- (4) An article used or intended for use as a component of an article designated in paragraphs (1) to (3), inclusive.
- (b) The term "drug" does not include any device.
- (c) Any food for which a claim (as described in Sections 403(r)(1)(B) (21 U.S.C. Sec. 343(r)(1)(B)) and 403(r)(3) (21 U.S.C. Sec. 343(r)(3)) or Sections 403(r)(1)(B) (21 U.S.C. Sec. 343(r)(1)(B)) and 403(r)(5)(D) (21 U.S.C. Sec. 343(r)(5)(D)) of the federal act), is made in accordance with the requirements set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act, is not a drug under subdivision (b) solely because the label or labeling contains such a claim.
- (d) Cannabis product, including any cannabis product intended for external use, is not a drug.

SEC. 161. The heading of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code is amended to read:

PART 14.5. Cannabis Tax

SEC. 162. Section 34010 of the Revenue and Taxation Code is amended to read:

34010. For purposes of this part:

- (a) "Arm's length transaction" shall mean a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.
- (b) "Average market price" shall mean:
- (1) In an arm's length transaction, the average market price means the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the board on a biannual basis in six-month intervals.
- (2) In a nonarm's length transaction, the average market price means the cannabis retailer's gross receipts from the retail sale of the cannabis or cannabis products.
- (c) "Board" shall mean the State Board of Equalization or its successor agency.
- (d) "Bureau" shall mean the Bureau of Cannabis Control within the Department of Consumer Affairs.
- (e) "Tax Fund" means the California Cannabis Tax Fund created by Section 34018.
- (f) "Cannabis" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medicinal cannabis.
- (g) "Cannabis products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medicinal concentrates and medicinal cannabis products.
- (h) "Cannabis flowers" shall mean the dried flowers of the cannabis plant as defined by the board.
- (i) "Cannabis leaves" shall mean all parts of the cannabis plant other than cannabis flowers that are sold or consumed.
- (j) "Cannabis retailer" shall mean a person required to be licensed as a retailer, microbusiness, or nonprofit pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.
- (k) "Cultivator" shall mean all persons required to be licensed to cultivate cannabis pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.
- (l) "Distributor" shall mean a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.
- (m) "Enters the commercial market" shall mean cannabis or cannabis product that has completed and complies with all quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code.
- (n) "Gross receipts" shall have the same meaning as set forth in Section 6012.
- (o) "Microbusiness" shall have the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.
- (p) "Nonprofit" shall have the same meaning as set forth in Section 26070.5 of the Business and Professions Code.
- (q) "Person" shall have the same meaning as set forth in Section 6005.
- (r) "Retail sale" shall have the same meaning as set forth in Section 6007.
- (s) "Sale" and "purchase" shall mean any change of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

(t) "Transfer" shall mean to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration.

(u) "Unprocessed cannabis" shall include cannabis flowers, cannabis leaves, or other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers.

SEC. 163. Section 34011 of the Revenue and Taxation Code is amended to read:

34011. (a) Effective January 1, 2018, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers. Each cannabis retailer shall provide a purchaser with an invoice, receipt, or other document that displays the cannabis excise tax separately from the list price, the price advertised in the premises, the marked price, or other price and includes a statement that reads: "The cannabis cultivation and excise taxes are included in the total amount of this invoice."

(b) (1) A distributor in an arm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A distributor in a nonarm's length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the board pursuant to Section 34015. A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the board.

(2) A distributor shall provide an invoice, receipt, or other similar document to the cannabis retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of cannabis excise tax, and any other information deemed necessary by the board. The board may authorize other forms of documentation under this paragraph.

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

(d) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use tax under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(e) Cannabis or cannabis products shall not be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(f) The sales and use taxes imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medicinal cannabis, medicinal cannabis concentrate, edible medicinal cannabis products, or topical cannabis as those terms are defined in Division 10 (commencing with Section 26000) 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.

SEC. 164. Section 34012 of the Revenue and Taxation Code is amended to read:

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. The tax shall be due after the cannabis is harvested and enters the commercial market.

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

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

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

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

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

(e) The tax stamps and product bags shall be of the designs, specifications, and denominations as may be prescribed by the board and may be purchased by any licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that cannabis shall not 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 26068 of the Business and Professions Code.

(h) Cultivators shall be responsible for payment of the tax pursuant to regulations adopted by the board. A cultivator's liability for the tax is not extinguished until the tax has been paid to this state except that an invoice, receipt, or other document from a distributor or manufacturer given to the cultivator pursuant to paragraph (3) is sufficient to relieve the cultivator from further liability for the tax to which the invoice, receipt, or other document refers. Cannabis shall not be sold unless the tax has been paid as provided in this part.

(1) A distributor shall collect the cultivation tax from a cultivator upon entry into the commercial market. This paragraph shall not apply where a cultivator is not required to send, and does not send, the harvested cannabis to a distributor.

(2) (A) A manufacturer shall collect the cultivation tax from a cultivator on the first sale or transfer of unprocessed cannabis by a cultivator to a manufacturer. The manufacturer shall remit the cultivation tax collected on the cannabis product sold or transferred to a distributor for quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code. All cultivation tax applicable to a unique identifier shall be paid upon the first sale or transfer of cannabis or cannabis product with an associated unique identifier. This paragraph shall not apply where a distributor collects the cultivation tax from a cultivator pursuant to paragraph (1).

(B) Notwithstanding subparagraph (A), the board may prescribe a substitute method and manner for collection and remittance of the cultivation tax under this paragraph, including a method and manner for collection of the cultivation tax by a distributor.

(3) A distributor or manufacturer shall provide to the cultivator, and a distributor that collects the cultivation tax from a manufacturer pursuant to paragraph (2) shall provide to the manufacturer, an invoice, receipt, or other similar document that identifies the licensee receiving the product, the cultivator from which the product originates, including the associated unique identifier, the amount of cultivation tax, and any other information deemed necessary by the board. The board may authorize other forms of documentation under this paragraph.

(4) The board may adopt regulations prescribing procedures for the refund of cultivation tax collected on cannabis or cannabis product that fails quality assurance, inspection, and testing as described in Section 26110 of the Business and Professions Code.

(i) All cannabis removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all cannabis cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to cannabis cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code).

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

(l) The Department of Food and Agriculture is not responsible for enforcing any provisions of the cultivation tax.

SEC. 165. Section 34012.5 is added to the Revenue and Taxation Code, to read:

34012.5. (a) The cultivation tax and cannabis excise tax required to be collected by the distributor, or required to be collected by the manufacturer pursuant to paragraph (2) of subdivision (h) of Section 34012, and any amount unreturned to the cultivator or cannabis retailer that is not tax but was collected from the cultivator or cannabis retailer under the representation by the distributor or the manufacturer that it was tax constitute debts owed by the distributor or the manufacturer to this state.

(b) A distributor or manufacturer that has collected any amount of tax in excess of the amount of tax imposed by this part and actually due from a cultivator or cannabis retailer, may refund such amount to the cultivator or cannabis retailer, even though such tax amount has already been paid over to the board and no corresponding credit or refund has yet been secured. The distributor or manufacturer may claim credit for that overpayment against the amount of tax imposed by this part that is due upon any other quarterly return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

(c) Any tax collected from a cultivator or cannabis retailer that has not been remitted to the board shall be deemed a debt owed to the State of California by the person required to collect and remit the tax.

SEC. 166. Section 34013 of the Revenue and Taxation Code is amended to read:

34013. (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the taxes imposed by this part, and references to "feepayer" shall include a person required to pay or collect the taxes 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 cannabis or cannabis products, or the packages thereof, to designate prior tax payment.

(d) Until January 1, 2019, 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 required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code 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.

(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.

SEC. 167. Section 34014 of the Revenue and Taxation Code is amended to read:

34014. (a) All distributors 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 distributor 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 distributor, retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on cannabis produced or received by the retailer, 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 distributor, retailer, 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 cannabis business. A person may not commence or continue any business or operation relating to cannabis cultivation until any surety required by the board with respect to the business or operation has 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.

SEC. 168. Section 34015 of the Revenue and Taxation Code is amended to read:

34015. (a) Unless otherwise prescribed by the board pursuant to subdivision (c), the 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 distributor 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 subdivision (d) of Section 34012 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, manufacturing, retail sale of cannabis or cannabis products, or any other person required to be licensed pursuant to Division 10 (commencing with Section 26000) 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.

(c) The board may adopt regulations prescribing the due date for returns and remittances of excise tax collected by a distributor in an arm's length transaction pursuant to subdivision (b) of Section 34011.

(d) The board may make examinations of the books and records of any person licensed, or required to be licensed, pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, as it may deem necessary in carrying out this part.

SEC. 169. Section 34016 of the Revenue and Taxation Code is amended to read:

34016. (a) Any peace officer or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which cannabis or cannabis products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

(3) Inspections shall be conducted no more than once in a 24-hour period.

(b) Any person who fails or refuses to allow an inspection shall be guilty of 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 Cannabis Tax Fund.

(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of cannabis or cannabis products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the cannabis or cannabis products. Any cannabis or cannabis products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

(f) All moneys remitted to the board under this part shall be credited to the California Cannabis Tax Fund.

SEC. 170. Section 34018 of the Revenue and Taxation Code is amended to read:

34018. (a) The California Cannabis Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

(b) Notwithstanding any other law, the California Cannabis Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana 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.

SEC. 171. Section 34019 of the Revenue and Taxation Code is amended to read:

34019. (a) Beginning with the 2017–18 fiscal year, 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 4 percent of tax revenues received.

(2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code. This paragraph shall remain operative through the 2022–23 fiscal year.

(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 Division 10 (commencing with Section 26000) 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 Department of Finance 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 the Division of 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 Division 10 (commencing with Section 26000) 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 the 2018–19 fiscal year until the 2028–29 fiscal year 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 cannabis use, as well as whether cannabis use is associated with an increase or decrease in use of alcohol or other drugs.

- (2) The impact of treatment for maladaptive cannabis use and the effectiveness of different treatment programs.
 - (3) Public safety issues related to cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of cannabis and cannabis products, and studying the health-related effects among users of varying potency levels of cannabis and cannabis products.
 - (4) Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis rates of cannabis-related substance use disorders.
 - (5) Cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses.
 - (6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the adult-use cannabis 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 cannabis production and the criminal prohibition of cannabis production.
 - (10) The geographic location, structure, and function of licensed cannabis businesses, and demographic data, including race, ethnicity, and gender, of license holders.
 - (11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for cannabis-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of cannabis or cannabis products to a more serious offense.
- (c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products.
- (d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, 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 State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 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 4 percent 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 cannabis as a pharmacological agent.
- (f) By July 15 of each fiscal year beginning in the 2018–19 fiscal year, 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 shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State 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 State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State 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, fostercare 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 cooccurring 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 4 percent 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 cannabis taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent 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 cannabis cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of cannabis and cannabis products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of cannabis or cannabis products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3) Twenty percent 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 cannabis. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of cannabis or cannabis products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year 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 the 2022–23 fiscal year 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). 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 the 2027–28 fiscal year. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

SEC. 172. Section 34021.5 of the Revenue and Taxation Code is amended to read:

34021.5. (a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing cannabis or cannabis products by a licensee operating under Division 10 (commencing with Section 26000) 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 taxes imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of this code.

SEC. 173. Section 2429.7 is added to the Vehicle Code, to read:

2429.7. (a) The commissioner shall appoint an impaired driving task force to develop recommendations for best practices, protocols, proposed legislation, and other policies that will address the issue of impaired driving, including driving under the influence of cannabis and controlled substances. The task force shall also examine the use of technology, including field testing technologies and validated field sobriety tests, to identify drivers under the influence of prescription drugs, cannabis, and controlled substances. The task force shall include, but is not limited to, the commissioner, who shall serve as chairperson, and at least one member from each of the following:

- (1) The Office of Traffic Safety.
 - (2) The National Highway Traffic Safety Administration.
 - (3) Local law enforcement.
 - (4) District attorneys.
 - (5) Public defenders.
 - (6) California Association of Crime Laboratory Directors.
 - (7) California Attorneys for Criminal Justice.
 - (8) The California Cannabis Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code.
 - (9) An organization that represents medicinal cannabis patients.
 - (10) Licensed physicians with expertise in substance abuse disorder treatment.
 - (11) Researchers with expertise in identifying impairment caused by prescription medications and controlled substances.
 - (12) Nongovernmental organizations committed to social justice issues.
 - (13) A nongovernmental organization that focuses on improving roadway safety.
- (b) The members of the task force shall serve at the pleasure of the commissioner and without compensation.
- (c) The task force members shall be free of economic relationships with any company that profits from the sale of technologies or equipment that is intended to identify impairment. Members and their organizations shall not receive pay from, grants from, or any form of financial support from companies or entities that sell such technologies or equipment.
- (d) ~~The task force shall make recommendations regarding prevention of impaired driving, means of identifying impaired driving,~~ and responses to impaired driving that reduce reoccurrence, including, but not limited to, evidence-based approaches that do not rely on incarceration.
- (e) The task force shall make recommendations regarding how to best capture data to evaluate the impact that cannabis legalization is having on roadway safety.
- (f) By January 1, 2021, the task force shall report to the Legislature its policy recommendations and the steps state agencies are taking regarding impaired driving. The report shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 174. Section 23222 of the Vehicle Code is amended to read:

23222. (a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

(b) (1) Except as authorized by law, every person who has in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any receptacle containing any cannabis or cannabis products, as defined by Section 11018.1 of the Health and Safety Code, which has been opened or has a seal broken, or loose cannabis flower not in a container, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).

(2) Paragraph (1) does not apply to a person who has a receptacle containing cannabis or cannabis products that has been opened, has a seal broken, or the contents of which have been partially removed, or to a person who has loose cannabis flower not in a container, if the receptacle or loose cannabis flower not in a container is in the trunk of the vehicle.

(c) Subdivision (b) does not apply to a qualified patient or person with an identification card, as defined in Section 11362.7 of the Health and Safety Code, if both of the following apply:

- (1) The person is carrying a current identification card or a physician's recommendation.
- (2) The cannabis or cannabis product is contained in a container or receptacle that is either sealed, resealed, or closed.

SEC. 175. Section 1831 of the Water Code is amended to read:

1831. (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.

- (b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.
- (c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.
- (d) The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:
 - (1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.
 - (2) Any term or condition of a permit, license, certification, or registration issued under this division.
 - (3) Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.
 - (4) A regulation adopted under Section 1058.5.
 - (5) Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.
 - (6) Any diversion or use of water for cannabis cultivation if any of paragraphs (1) to (5), inclusive, or any of the following applies:
 - (A) A license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code.
 - (B) The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.
 - (C) The diversion or use is not in compliance with a requirement imposed under paragraphs (1) and (2) of subdivision (b) of Section 26060.1 of, and paragraph (3) of subdivision (a) of Section 26070 of, the Business and Professions Code.
 - (e) This article does not alter the regulatory authority of the board under other provisions of law.

SEC. 176. Section 1847 of the Water Code is amended to read:

1847. (a) A person or entity may be liable for a violation of any of the requirements of subdivision (b) in an amount not to exceed the sum of the following:

- (1) Five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person.
- (2) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.

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

- (1) Violation of a principle, guideline, or requirement established by the board or the Department of Fish and Wildlife under Section 13149.
- (2) Failure to submit information, or making a material misstatement in information submitted, under Section 26060.1 of the Business and Professions Code.
- (3) Violation of any requirement imposed under subdivision (b) of Section 26060.1 of the Business and Professions Code.
- (4) Diversion or use of water for cannabis cultivation for which a license is required, but has not been obtained, under Chapter 6 (commencing with Section 26060) or Chapter 7 (commencing with Section 26070) of Division 10 of the Business and Professions Code.

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

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

SEC. 177. Section 13276 of the Water Code is amended to read:

13276. (a) The multiagency task force, the Department of Fish and Wildlife and state board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by cannabis cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on water quality and on fish and wildlife throughout the state.

(b) The state board or the appropriate regional board shall address discharges of waste resulting from cannabis cultivation under Division 10 of the Business and Professions 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, the state board or the regional board shall include conditions to address items that include, but are not limited to, all of the following:

- (1) Site development and maintenance, erosion control, and drainage features.

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

SEC. 178. The amount of three million dollars (\$3,000,000) is hereby appropriated from the Cannabis Control Fund to the Department of the California Highway Patrol to be used to for training drug recognition experts. Program costs may include, but are not limited to, training, overtime, and backfill of state and local law enforcement officers to attend training.

SEC. 179. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 180. The Legislature finds and declares that Sections 58 and 93 of this act, which add Sections 26067 and 26162 to the Business and Professions Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect public safety and prevent the diversion of cannabis to the illegal market, it is necessary for that information to be confidential.

SEC. 181. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 182. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act by accomplishing all of the following:

- (a) Taking adult-use cannabis production and sales out of the hands of the illegal market and bringing them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.
- (b) Strictly controlling the cultivation, processing, manufacture, distribution, testing, and sale of adult-use cannabis through a system of state licensing, regulation, and enforcement.
- (c) Allowing local governments to enforce state laws and regulations for adult-use cannabis businesses if that authority is delegated to them by the state, and enact additional local requirements for adult-use cannabis businesses, but not require that they do so for an adult-use cannabis business to be issued a state license and be legal under state law.
- (d) Requiring track and trace management procedures to track adult-use cannabis from cultivation to sale.
- (e) Requiring licensed adult-use cannabis businesses to follow strict environmental and product safety standards as a condition of maintaining their license.
- (f) Denying access to cannabis by persons younger than 21 years of age who are not medicinal cannabis patients.
- (g) Preventing the illegal production or distribution of cannabis.
- (h) Preventing the illegal diversion of cannabis from California to other states or countries or to the illegal market.
- (i) Reducing barriers to entry into the legal, regulated market.
- (j) Allowing 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.

6/28/2017

Bill Text - SB-94 Cannabis: medicinal and adult use.

SEC. 183. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.