

VIA HAND DELIVERY

Ashley Johansson
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California Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

RECEIVED**JAN 23 2014**

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Version 4 - Request for Title and Summary

Dear Ms. Johansson:

The undersigned are the proponents of the attached ^{2.1}Version 2 of the initiative measure entitled "The Marijuana Control, Legalization and Revenue Act of 2014." This initiative was originally submitted on October 18, 2013. Please prepare a circulating title and summary of the chief purposes and points of the measure.

Thank you for your time and attention to this important matter. If you have any questions, please do not hesitate to contact John Lee.

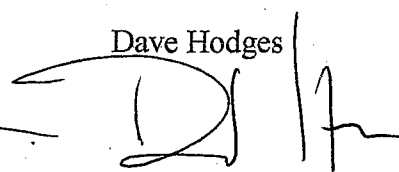
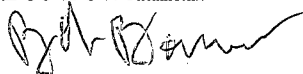
Sincerely,

John W. Lee
John@AFPR.us

Bob Bowerman

Degé Coutee

Dave Hodges



Text of Proposed Law

SECTION 1. Title.

This measure shall be known and may be cited as "The Marijuana Control, Legalization and Revenue Act of 2014."

SEC. 2. Statement of General Purpose.

This initiative measure grants to Californians the freedom to use, grow, transport and sell cannabis subject to reasonable regulation and taxation in a manner similar to alcohol.

SEC. 3. Findings and Declarations.

The People of California find and declare as follows:

(a) Any benefits to society of a prohibition on the social use of marijuana are vastly outweighed by the costs of investigating, arresting, prosecuting, and incarcerating otherwise law-abiding citizens.

(b) Revenue from a sales tax on cannabis will generate millions of dollars in new revenue for California.

(c) Regulating marijuana will make Californians safer by cutting off the profits to criminal gangs and cartels and eliminating the illegal growing of marijuana throughout California.

(d) California voters approved Proposition 215, the Compassionate Use Act, in 1996 to allow patients to cultivate and use marijuana for medical purposes. Confusion about that law requires clarification.

SEC. 4. *A new Division 10, entitled "Marijuana Legalization, Regulation and Taxation" (Sections 27100 to 27870) is added to the Business and Professions Code, to read:*

Chapter 1. General.

§ 27100. Purposes.

This Act implements a comprehensive, statewide scheme authorizing, controlling, and regulating the cultivation, processing and distribution of marijuana for dietary, medical and adult social consumption. The subjects addressed by this Act are a matter of statewide concern. It is the intent of the People in enacting this Act to accomplish all of the following:

(a) Prevent the distribution of marijuana to minors, except in rare cases when medical marijuana has been recommended by a physician;

(b) Prevent the profits from the sale of marijuana from going to criminal enterprises, gangs and cartels;

(c) Prevent state-authorized marijuana activity from being used as a cover or pretext for the trafficking of illegal drugs or other illegal activity;

(d) Prevent the violence and the illegal use of firearms in the cultivation and distribution of marijuana;

- (e) Prevent driving while impaired by marijuana and other adverse public health consequences associated with marijuana use;
- (f) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers;
- (g) Clarify California's medical marijuana laws;
- (h) Encourage the Governor and Legislature to enact legislation allowing non-violent inmates who were convicted of buying or possessing small amounts of marijuana to have their sentences reviewed and criminal records expunged;
- (i) Regulate marijuana in a manner comparable to alcohol;
- (j) Encourage the federal government to reconsider its policies concerning marijuana and to change its laws;
- (k) Create a right to use or dispense marijuana that is consistent with reasonable local regulations as provided herein;
- (l) Permit the enactment of consistent and reasonable local regulations, as provided herein, to accommodate medical marijuana businesses that follow the Attorney General Guidelines;
- (m) Ensure that if a medical marijuana collective, cooperative or cannabis business follows the Attorney General Guidelines, any conflict with a local zoning law shall be deemed a legal but non-conforming uses of the relevant property or properties;
- (n) Create a comprehensive regulatory scheme for the control and distribution of marijuana for dietary, medical and social consumption;
- (o) Ensure that local jurisdictions may not define as a nuisance *per se* any action or conduct authorized by this Act, rather, a showing of an actual nuisance shall be required;
- (p) Allow for a comprehensive seed-to-sale program for marijuana grown in California.
- (q) Encourage the Governor and Legislature to reclassify and de-schedule cannabis from the California Uniform Controlled Substances Act and add it to the list of available medicines in California.
- (r) Encourage the Governor and Legislature to remove cannabis related activities from the prohibitions contained within Health and Safety Code Sections 11014.5, 11364.5, 11364.7, 11365, 11366, 11366.5, 11379.6, 11470, 11488, 11488.5, 11570, 11703 and 11705.
- (s) Encourage the Governor and Legislature to amend Health and Safety Code Section 11361.5 to include prior violations of Health and Safety Code Section 11357, 11358, 11359, 11360, 11361, as well as Cannabis related violations of Health and Safety Code Section 11365, 11366, 11366.5, 11379.6, and Vehicle Code Section 23222(b).

§ 27110. Definitions.

"Adult" means an individual twenty-one (21) years of age or older.

"Attorney General Guidelines" means the "*Guidelines For The Security and Non-Diversion of Marijuana Grown for Medical Use*," issued by the California Attorney General in August 2008.

"Cannabis" means "marijuana" or "marihuana" as defined in Health and Safety Code Section 11018.

"Cannabis Business" is a for profit or nonprofit entity that cultivates, wholesales, or retails cannabis, and includes, but is not limited to, cannabis manufacturers, cannabis

distributors, cannabis retailers, analytical cannabis laboratories, and medical cannabis retailers. It does not include collectives or cooperatives.

"Cannabis Business Certificate" is a certificate issued by the division indicating that the cannabis business has successfully applied for inclusion on the list of entities registered as cannabis manufacturers, cannabis distributors, cannabis retailers, analytical cannabis laboratories, medical cannabis retailers, or as compassion providers, as set forth in Section 27230 "Types of Registered Businesses."

"Cannabis-containing product" means a product containing cannabis that is processed for use or consumption, including, without limitation, edible products, ointments and tinctures.

"Cannabis plant canopy" shall mean the total combined canopy area as measured by the horizontal extent of the plant or combination of plants at the widest point and measured in a straight line.

"Concentrated cannabis" shall have the same definition as in Health and Safety Code Section 11006.5.

"Cooperative or Collective" means any site, facility or location where a group of qualified patients or persons with an identification card associate, meet or congregate in order to collectively or cooperatively, distribute, sell, dispense, transmit, process, deliver, exchange, or give away marijuana for medicinal purposes pursuant to Health and Safety Code section 11362.5 *et seq.* and the Attorney General Guidelines. A medical marijuana cooperative or collective must be organized as a collective or cooperative, as those terms are defined by the Attorney General Guidelines.

"Dietary cannabis" means cannabis used as a food in its non-psychoactive state for the unique provision of the essential cannabinoid acids, terpenes, flavonoids and other beneficial constituents.

"Dispensary" means a storefront cannabis business, collective, or cooperative, whether fixed or mobile, where marijuana is made available.

"Endanger others" does not mean and shall not include lawfully using, ingesting possessing and/or cultivating cannabis within the same residence or adjoining outhouses and rooms or in a commercial building of any type, unless additional conduct is demonstrated by clear and convincing evidence that such acts have in fact become imminently dangerous to human safety, in addition to mere lawful use, ingestion, possession or cultivation.

"Excessive" means any requirement or fee that exceeds a normal, usual, or reasonable requirement or fee.

"Impaired" in reference to cannabis impairment, refers to measurably diminished physical or mental capabilities, that can be observed through the inability to effectively perform motor skills, visual, oral and/or reasonable physical/mental skills, tests that would be otherwise achievable by the individual. Detectable presence of cannabis in the system of an individual alone does not qualify, per se, as impairment. Cannabis impairment occurs when an individual's physical abilities are so impaired that he or she is no longer able to operate with the same degree of caution, care, and attention as he would have had, had he or she not had a detectable amount of cannabis in her or her system.

"Individual" means a natural person as defined in Revenue and Taxation Code Section 17005.

"Indoors" means within a fully enclosed and secure structure which can only be entered through a locked door that requires a key or combination to open and which is secure against unauthorized entry.

"Marijuana" or "marihuana" has the meaning set forth in Health and Safety Code Section 11018.

"Medical purposes" refers to cannabis recommended by a physician for a serious medical condition to a qualified patient or primary caregiver, as defined in Senate Bill 420 of 2003.

"Minor" means an individual under the age of 21.

"Outdoor" or "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, and any other organization or group of persons acting in concert.

"Registered business" or "listed business" is a business that has successfully applied for inclusion on the list of entities registered as cannabis manufacturers, cannabis distributors, cannabis retailers, analytical cannabis laboratories, medical cannabis retailers, or as compassion providers, as set forth in Section 27230 "Types of Registered Business."

"Restricted area" means the portion of a business location which is clearly identified as such on the floor plan proposal that is submitted with the business' registration application to the Cannabis Control Commission. The business may cultivate, distribute, possess or produce cannabis in the restricted area.

"Site" means the lot, parcel or portion of a lot or parcel that is used by a person or registered business under this Act used for conduct specifically authorized under this Act.

"Social consumption" means the consumption, smoking, vaporizing, ingesting, topical use, or any other use of cannabis and cannabis-containing products by an individual authorized under this Act, with the exception of consumption of cannabis and cannabis-containing products in accordance with dietary use or a medical treatment regimen.

"Structure" means anything constructed or erected which is supported directly or indirectly on the earth, but not including any vehicle.

"Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a street, sidewalk or waterway, including but not limited to a device moved exclusively by human power.

Chapter 2. Medical Marijuana.

§ 27200. Medical Cannabis Protections.

This Act shall not limit or adversely affect the individual and group cultivation rights, medical rights and protections afforded by Health and Safety Code Sections 11362.5 through 11362.83, except as provided in subdivisions (a), (b) and (c).

(a) Effective July 10, 2015, the application and renewal fee established for individuals seeking to obtain or renew a voluntary medical marijuana identification card, as defined in Health and Safety Code 11362.7(g), shall not exceed thirty-five dollars (\$35). No California public agency shall collect information pertaining to the residency of the applicant or the designated primary caregiver of the applicant. The Department of Public Health or its successor agency shall designate a portion of the application fee sufficient to cover the expenses of the county health department or the county's designee in processing and accepting applications pursuant to Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.

(b) A voluntary medical cannabis registry identification card or its equivalent issued by another state government to permit the medical use of cannabis by a qualifying patient or to permit a person to assist with a qualifying patient's medical use of cannabis shall have the same force and effect as a voluntary medical marijuana identification card issued by the State of California.

(c) Any criminal defendant who is eligible to use medical marijuana pursuant to Section 11362.5 shall not be prevented from using medical marijuana while he or she is on formal or informal probation, parole, or released pending legal action, whether or not bail is posted.

Chapter 3. Social Use of Marijuana is Lawful.

§ 27300. No Adverse Actions.

No person shall be subject to any administrative, civil or criminal penalty related to the use, growth, cultivation, possession, transportation, storage or sale of cannabis or the seeds or pollen thereof, nor for land use related to any such activity, if the activity complies with this division.

§ 27310. Minors.

Unless the health or wellbeing of a minor is in danger as a result of the cultivation of marijuana in compliance with this division, the mere presence of one or more minors in a household shall not render such cultivation unlawful *per se*, nor shall such cultivation be used to diminish paternal rights or justify the removal of a child from the home.

§ 27330. Discrimination Prohibited.

This section shall not apply to employers or employees in safety-sensitive occupations covered by U.S. Department of Transportation regulations (49 CFR Part 40). Except as provided in this division, no person shall refuse to provide services or benefits or increase the charge for services or benefits, based on the lawful use, cultivation, storage, or sales of marijuana, including, but not limited to, the following:

- (a) A license, permit, or other entitlement for use, including all business, professional, trade and land use licenses and permits, and all other entitlements for use, and all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises;
- (b) Utility services;
- (c) Banking and financial services;
- (d) Insurance and re-insurance.

§ 27340. Regulation of Second Hand Smoke.

Second hand smoke produced by the smoking of cannabis shall be subject to the same state and local time, place, and manner restrictions that apply to tobacco.

§ 27350. Protections.

It shall be lawful and not a violation of California law for an adult:

(a) To smoke or ingest cannabis in one's home or on any privately owned property in a manner that does not endanger others or violate this division;

(b) To be under the influence of cannabis, except as provided in this Act and as provided in subdivision (f) of section 647 of the Penal Code; and

(c) To cultivate cannabis indoors, or outdoors behind fenced and securely-locked privately owned property, with the consent of the owner of such property. To comply with this section, the fencing shall completely obscure the presence of the marijuana plants from members of the general public, with the exception of aerial observations. Cultivation must comply with any local or state nuisance regulations, provided the nuisance regulation is not based on the presence and/or cultivation of marijuana nor crafted to primarily target marijuana cultivation and/or possession.

§ 27360. Reasonable Regulation.

(a) No license, fee, or tax, on a cannabis business, which is not specified in this division, shall exceed the amount charged or assessed for comparable businesses.

(b) The State of California and its agencies and employees shall not disclose and shall protect the identities of all persons, individuals, and corporate entities engaged in cannabis commerce or use, without a court order expressly authorizing the release of such information on a case by case basis.

§ 27370. Federal Prosecution Assistance.

Unless pursuant to a court order, no information required to be provided to any state or local governmental agency by this division or in connection with any activity regulated by this division may be released to an agency or agent of the federal government in connection with a federal investigation or prosecution of a person for any activity that is permitted by this division.

§ 27380. Zoning; Voter Referendum.

(a) Except as provided in this section, no city, county, or city and county may ban a cannabis business, whether producing cannabis for dietary purposes, medical purposes, or for social use, if they comply with this division.

(b) The governing body of a city, charter city, county, or city and county of more than 25,000 residents may limit the number of storefront cannabis businesses to one for each 25,000 residents. The governing body of a city, charter city or county with 10,000 to 25,000 residents may limit the number of storefront cannabis businesses to one. The governing body of a city, town, or charter city with fewer than 10,000 residents may ban storefront cannabis businesses.

(c) Except as set forth in subsections (b) and (d), a storefront cannabis business shall be allowed to operate in any commercial or industrial zone in a city, county, or city and county, or if permitted by ordinance, any other zone other than residential.

(d) Notwithstanding any other provision of this division, a city, charter city, county, or city and county may ban, or limit the number of, cannabis businesses within its boundaries if an ordinance or charter amendment enacting that restriction has been approved by the majority of

voters within that jurisdiction at an established election. The governing body may enact a temporary ban or number limitation, until the vote occurs, not to exceed twelve (12) months, once a measure limiting or banning cannabis businesses is placed on the ballot.

(e) No storefront cannabis business shall be located within a 1000-foot radius of any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(f) Subdivision (e) shall be collectively known as "sensitive uses." The distance between a storefront cannabis business and a sensitive use shall be measured in a straight line, without regard to the intervening structures or objects, from the primary entrance of the business to the property line in which the sensitive use is located.

Chapter 4. Sales Tax and Allocation of Revenue.

§ 27400. No Sales or Use Tax for Medical or Dietary Sales.

Cannabis that is sold for dietary or medical purposes shall not be subject to any sales or use taxes. All taxes and fees on medical cannabis collected prior to the enactment of this Act shall be deemed valid and not refundable under any circumstance.

§ 27410. The Sales and Use Tax Applies to Sales for Adult Social Consumption.

Except as otherwise provided in this Act, cannabis sold for adult social consumption shall be subject to all state and local sales and use taxes applicable to the jurisdiction in which it is sold.

§ 27420. Revenue Allocation.

(a) All revenues derived from any excise tax imposed by the Legislature pursuant to this section, with the exception of payment of refunds and reasonable and necessary administration and collection expenses, shall be deposited in the Public Benefit Fund, which is hereby created in the State Treasury, and shall be subject to annual appropriation to the State Controller for allocation in accordance with the following formula:

- (1) Twenty percent (20%) for education;
- (2) Twenty percent (20%) for health care, and fire services;
- (3) Twenty percent (20%) for drug abuse education and treatment, police, and sheriff;
- (4) Twenty percent (20%) for California American Indian Tribal Nations for infrastructure; and

(5) \$7.5 million, adjusted biennially for changes in the Consumer Price Index, or twenty percent (20%), whichever is less, for operations of the Cannabis Control Commission.

(6) The remainder, if any, for the State General Fund.

(b) In any fiscal year, an appropriation of between nineteen percent (19%) and twenty-one percent (21%) shall be deemed compliant with subdivisions (a)(1) through (a)(4).

(c) Not less than sixty-seven percent (67%) of the aggregate expenditures in categories (a)(1) through (a)(4) shall be appropriated to counties, cities, cities and counties, and special districts.

(d) With the exception of the Cannabis Control Commission, the precise recipients of the revenue in the Public Benefit Fund each fiscal year shall be determined by the Governor and the Legislature during the budget process.

(e) On or before the 27th day of each month, the Controller shall allocate the amounts deposited and remaining unexpended and unresolved in the Public Benefit Fund on the 15th day of each month in accordance with the allocation scheme enacted in the budget bill.

(f) The Legislature may place an excise tax on the sale of cannabis, so long as no excise tax or combination of excise taxes shall exceed ten percent (10%) of the retail price of the products.

Chapter 5. Administration.

§ 27500. Cannabis Control Commission.

(a) There is in state government the California Cannabis Control Commission, consisting of seven members appointed by the Governor, subject to confirmation by the Senate.

(b) The regulation of cannabis cultivation, processing, transportation, distribution, and sales is vested in the commission. The commission shall issue business certificates authorizing the cultivation, processing, transportation, distribution, wholesale, and retail sales of cannabis. No non-medicinal cannabis cultivation, processing, transportation, distribution and/or sales may be allowed without a business certificate provided by this commission, provided that the commission has enacted reasonable regulations and processes allowing for the attainment of such business certificates, and has fully implemented these measures within a year's period of passage of this Act.

(c) The regulations, fees and procedures promulgated by the Commission are hereby declared to constitute a comprehensive scheme of statewide cannabis regulation. Any and all local cannabis regulations, fees and procedures that are adopted and/or enforced in a manner contrary to Commission regulations are declared null and void.

§ 27510. Commission Members; Eligibility; Qualifications.

(a) Each member of the commission shall be a citizen of the United States and a resident of this state.

(b) One member of the commission shall be selected from the California Department of Public Health.

(c) One member of the commission shall be selected from the California Department of Food and Agriculture.

(d) One member of the commission shall be selected from the California Department of Alcoholic Beverage Control.

(e) One member of the commission shall be a California licensed physician who has recommended medical cannabis to his or her patients.

(f) One member of the commission shall be a criminal defense Attorney licensed by the state of California, with over ten (10) years of experience litigating marijuana cases.

(g) Two members of the commission shall be qualified medical cannabis patients as defined in Health and Safety Code Sections 11362.7-11362.83.

§ 27511. Commission Members.

(a) Of the members initially appointed, three shall be appointed for a term of two years, three shall be appointed for a term of three years, and one shall be appointed for a term of four years. After the initial terms, the term of office of each member of the commission is four years.

(b) The Governor shall designate one member to serve as chairperson. The initial appointments shall be made within three months of the operative date of this section. Thereafter, vacancies shall be filled within 60 days of the date of the vacancy by the Governor, subject to confirmation by the Senate.

(c) The Governor may remove any member of the commission for incompetence, neglect of duty, or corruption upon first giving him or her a copy of the charges and an opportunity to be heard.

§ 27512. Commission Members; Oath of Office.

Before entering upon the duties of his or her office, each member of the commission shall subscribe to the constitutional oath of office.

§ 27513. Salary.

The members of the commission shall receive the salary provided for by Section 11553.5 of the Government Code.

§ 27514. Executive Director.

(a) The commission shall have an Executive Director appointed by the commission. A person is ineligible for appointment as Executive Director if, within two years prior to appointment, the person, or any partnership or corporation in which the person is a principal, was employed by, retained by, or derived substantial income from, any cannabis business.

(b) The Executive Director shall receive an annual salary established by the commission and approved by the Department of Personnel Administration. The Executive Director shall be the commission's executive officer and shall carry out and execute the duties as specified by law and by the commission.

(c) The commission may appoint other staff and clerical personnel as necessary to carry out its duties under this division.

§ 27515. Commission Offices.

(a) The commission shall establish and maintain a general office for the transaction of its business in Sacramento. The commission may hold up to three meetings annually at other locations within the state.

(b) A public record of every vote shall be maintained at the commission's principal office.

(c) A majority of the membership of the commission is a quorum of the commission. The concurring vote of three members of the commission shall be required for any official action of the commission or for the exercise of any of the commission's duties, powers, or functions.

(d) Except as otherwise provided in this division, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code applies to

meetings of the commission. Notwithstanding Section 11125.1 of the Government Code, documents, which are filed with the commission for the purpose of evaluating the qualifications of an applicant, are exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

§ 27516. Commission Meetings and Records.

(a) The commission shall maintain for ten years a record of all proceedings at regular and special meetings of the commission. These records shall be open to public inspection.

(b) The commission shall maintain for five years a file of all applications for business certificates under this division, together with a record of all actions taken with respect to those applications. The file and record shall be open to public inspection.

(c) The commission may maintain any other files and records as they deem appropriate. Except as provided in this division, the records of the commission are exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(d) Except as necessary for the administration of this division, no commissioner and no official, employee, or agent of the commission, having obtained access to confidential records or information in the performance of duties pursuant to this division, shall knowingly disclose or furnish the records or information, or any part thereof, to any person who is not authorized by law to receive it. A violation of this subdivision is a misdemeanor punishable by up to one year in prison, a fine of up to \$10,000, or both.

(e) Notwithstanding subdivision (k) of Section 1798.24 of the Civil Code, a court shall not compel disclosure of personal information in the possession of the commission to any person in any civil proceeding in which the commission is not a party, except for good cause and upon a showing that the information cannot otherwise be obtained. Nothing herein shall be construed to authorize the disclosure of personal information that would otherwise be exempt from disclosure.

§ 27517. State or Local Government Agencies.

All files, records, reports, and other information in possession of any state or local governmental agency that are relevant to an investigation by the commission conducted pursuant to this division shall be made available to the commission as requested. However, any tax information received from a governmental agency shall be used solely for effectuating the purposes of this division. To the extent that the files, records, reports, or information described in this section are confidential or otherwise privileged from disclosure under any law or exercise of discretion, they shall not lose that confidential or privileged status for having been disclosed to the commission.

§ 27518. Commission Responsibilities.

The responsibilities of the commission shall include:

(a) Assuring that business certificates, approvals, and permits are not issued to, or held by, persons whose operations are conducted in a manner that is inimical to the environment, public health, safety, or welfare.

(b) Assuring that there is no material involvement, directly or indirectly, with a cannabis business, or the ownership or management thereof, by persons whose operations are conducted in a manner that is inimical to the environment, public health, safety, or welfare.

§ 27519. Commission Powers.

The commission shall have all powers necessary and proper to enable it fully and effectively to carry out the policies and purposes of this division, including, without limitation, all of the following:

(a) To regulate commercial cannabis cultivation, wholesale, retail sales, medical sales, lab testing, transportation, distribution and processing, including producing cannabis products in any form, including any concentrated form of the separated or extracted resins, whether obtained in crude or purified form, or extracted using any solvents.

(b) The commission shall be the sole state entity vested with these powers; the state legislature shall not encroach on the power of the commission, nor further prohibit or legislate the use, or distribution, of marijuana, beyond the regulations established by the commission. Likewise, local entities, including county and municipal governments, apart from their inherent powers to create local nuisance and zoning regulations, subject to the limitations established in this measure, may not prohibit or legislate the use or distribution of marijuana, beyond the regulations established by the commission.

(c) To issue cannabis business certificates authorizing the cultivation, processing, transportation, distribution, wholesale, and retail sales of cannabis.

(c) To collect cannabis business certificate fees or taxes.

(d) To deny, suspend or revoke cannabis business certificates for good cause following analogous procedures as those used for alcohol and adopted by regulation.

(e) For any cause deemed reasonable by the commission, to deny any application for a business certificate provided for in this division; to limit, condition, or restrict any cannabis business certificate, or impose any fine upon any person certificated. The commission may condition, restrict, discipline, or take action individual owner endorsed on the cannabis business certificate of the cannabis business whether or not the commission takes action against the cannabis business itself.

(f) Approve or disapprove transactions, events, and processes as provided in this division.

(g) Take actions deemed to be reasonable to ensure that no ineligible or unsuitable persons are associated with cannabis operations authorized by this division.

(h) Take actions deemed to be reasonable to ensure that cannabis operations authorized by this division take place only in suitable locations.

(i) Grant temporary cannabis business certificates on appropriate terms and conditions.

(j) Institute a civil action in any superior court against any person subject to this division to restrain a violation of this division. An action brought against a person pursuant to this section does not preclude a criminal action or administrative proceeding against that person by the Attorney General or any district attorney or city attorney.

(k) Issue subpoenas to compel attendance of witnesses and production of documents and other material things at a meeting or hearing of the commission or its committees, including advisory committees.

(l) Issue formal opinions of the commission and advice letters signed by the chief counsel.

(m) To establish reasonable limits for personal possession, sales, distribution and cultivation quantities. In addition to any limits established in this measure, the commission may further designate reasonable for personal possession, sales, transportation, distribution and cultivation limits provided that such limits do not:

(1) Infringe on the right of a person to possess a sufficient quantity to satisfy their reasonable personal consumption needs in a law abiding manner.

(2) Infringe on the ability of a cultivator or cannabis product producer to produce a sufficient quantity to meet the demands of their law abiding customers or clients within the state of California

(3) Infringe on the ability of a transporter, wholesale or retail distributor to meet the demands of their law abiding customers or clients within the state of California.

§ 27520. Oaths.

The executive director and members of the commission may administer oaths and certify official acts in connection with the business of the commission.

§ 27521. Rulemaking Procedure; Review by OAL.

The regulations of the commission shall be promulgated in compliance with the Administrative Procedure Act, except that any review by the Office of Administrative Law shall be limited to ensuring compliance only with the procedural provisions of that statute, in the same manner that it reviews regulations of the Fair Political Practices Commission.

§ 27522. Regulations; Content Requirements.

(a) The commission shall adopt regulations for the administration and enforcement of this division.

(b) The regulations of the commission shall include appropriate controls on the premises for commercial production, cultivation, processing, transportation and sales of cannabis. They also shall address age verification measures to prevent the diversion of cannabis to minors; prohibitions on the illegal use of firearms at cultivation, processing, or distribution facilities; and regulations concerning time, place and manner of operation, occupancy, protection of adjoining and nearby properties, and other environmental and public health controls.

(c) No regulation of the commission shall infringe on the individual rights set forth in this Act. Any taxes, regulations, fines and fees imposed pursuant to this section shall not be imposed on personal amounts of cannabis produced from a non-commercial, unregulated cannabis garden consistent with Section 27710.

(d) The regulations adopted by the commission shall do all of the following:

(1) With respect to applications, certificates, investigations, and fees, the regulations shall include, but not be limited to, provisions that do all of the following:

(A) Prescribe the method and form of application and certificates.

(B) Prescribe the information to be furnished by any applicant concerning, as appropriate, the person's criminal record, business activities, organizational structure, and financial affairs, past or present.

(C) Prescribe the information to be furnished by any certificate holder relating to any employees.

(D) Require fingerprinting or other methods of identification of an applicant, or certificate holder.

(E) Prescribe the manner and method of collection and payment of fees and issuance of certificates.

(2) Implement the provisions of this division relating to certificates and other approvals.

(3) Require any registrant to report and keep records of transactions, involving cash or credit.

(4) Provide for the receipt of written comments and protests on an application by public agencies, public officials, local governing bodies, or residents of the location of the cannabis establishment or future cannabis establishment.

(5) Provide for the disapproval of advertising by cannabis businesses that are determined by the commission to be deceptive to the public. Advertisement that appeals to children or adolescents is presumptively deceptive.

(6) Govern all of the following:

(A) The extension of credit.

(B) The cashing, deposit, and redemption of checks or other negotiable instruments.

(C) The verification of identification in monetary transactions.

(7) Prescribe minimum procedures for adoption by any registrant to exercise effective control over their internal fiscal affairs, which shall include, but not be limited to, provisions for all of the following:

(A) The safeguarding of assets and revenues, including the recording of cash and evidences of indebtedness.

(B) Prescribing the manner in which compensation from cannabis sales and gross revenue shall be computed and reported by any cannabis business.

(C) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the commission.

(8) Provide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants.

(9) Require periodic financial reports from each cannabis business.

(10) Specify standard forms for reporting financial conditions, results of operations, and other relevant financial information.

(11) Formulate a uniform code of accounts and accounting classifications to ensure consistency, comparability, and effective disclosure of financial information.

(12) Require audits to be conducted, in accordance with generally accepted auditing standards, of the financial statements of all registrants whose annual gross revenues equal or exceed a specified sum. However, nothing herein shall be construed to limit the commission's authority to require audits of any cannabis business. Audits, compilations, and reviews provided for in this subdivision shall be made by independent certified public accountants licensed to practice in this state.

(13) Restrict, limit, or otherwise regulate any activity that is related to the conduct of cannabis cultivation, processing, transportation and sales of cannabis, consistent with the purposes of this division.

§ 27523. Administrative Adjudication.

The commission may require that any matter that the commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial, suspension, or revocation of a cannabis business certificate be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

§ 27524. Mandamus.

(a) A decision of the commission denying a certificate, or imposing any condition or restriction on the grant of a certificate, may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to any judicial proceeding described in the foregoing sentence, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or exceeded the commission's jurisdiction.

(b) Any person aggrieved by a final decision or order of the commission that limits, conditions, suspends, or revokes any previously granted certificate, made after hearing by the commission, may petition the Superior Court for the County of Sacramento for judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and Section 11523 of the Government Code. Notwithstanding any other provision of law, the standard set forth in paragraph (1) of subdivision (h) of Section 1094.5 of the Code of Civil Procedure shall apply for obtaining a stay of the operation of a final decision or order of the commission.

§ 27525. Executive Director; Responsibilities.

The Executive Director shall perform all investigatory functions required by this division, as well as auditing functions, and shall have all of the following responsibilities:

(a) To receive and process applications for any certificate, and to collect all related fees. The Executive Director shall investigate the qualifications of applicants before any certificate is issued, and investigate any request to the commission for any approval that may be required pursuant to this division. The Executive Director may recommend the denial or the limitation, conditioning, or restriction of any cannabis business certificate.

(b) To monitor the conduct of all cannabis businesses and other persons having a material involvement, directly or indirectly, with a cannabis operation or its holding company, for the purpose of ensuring that cannabis business certificates are not issued or held by, and that there is no direct or indirect material involvement with, a cannabis operation or holding company by ineligible or unsuitable persons, or persons whose operations are conducted in a manner that is inimical to the environment, public health, safety, or welfare.

(c) To investigate suspected violations of this division or laws of this state relating to cannabis, including any activity prohibited by the Penal Code.

(d) To investigate complaints that are lodged against certificate holders, or other persons associated with a cannabis operation, by members of the public.

(e) To initiate, where appropriate, a restriction, limitation, suspension, or revocation of any certificate, or the imposition of any fine upon any person certificated.

(f) To adopt any other regulations reasonably related to its functions and duties as specified in this division.

§ 27526. Investigations.

(a) Investigations conducted pursuant to this division shall be limited to businesses registered under this Act.

(b) The Executive Director has all powers necessary and proper to carry out fully and effectually the duties and responsibilities specified in this section. The investigatory powers of the Executive Director include, but are not limited to, the following:

(1) Without notice or warrant, the Executive Director may take any of the following actions:

(A) Visit, investigate, and place accountants, technicians, and any other person, as it may deem necessary, in all areas of the premises wherein cannabis operations are conducted for the purpose of determining compliance with the rules and regulations adopted pursuant to this division.

(B) Visit, inspect, and examine all premises where cannabis is cultivated, manufactured, sold, or distributed.

(C) Inspect all equipment and supplies in any cannabis establishment or in any premises where cannabis equipment is manufactured, sold, or distributed.

(D) Upon proper issuance of an inspection warrant pursuant to Code of Civil Procedure Sec. 1822.50 et seq., inspect and/or seize documents, or records from any cannabis business for the purpose of examination and inspection. However, upon reasonable demand by the cannabis business, a copy of all documents and records seized shall be made and left on the premises.

(E) Demand access to, and inspect, examine, photocopy, and audit all papers, books, and records of a cannabis business on the cannabis business's premises in the presence of the owner or agent.

(2) Upon obtaining an inspection warrant pursuant to Section 1822.50 et seq. of the Code of Civil Procedure, the Executive Director may inspect and seize for inspection, examination, or photocopying any documents possessed, controlled, bailed, or otherwise held by any cannabis business.

(3) The Executive Director may investigate any suspected violation of this division.

(4) The Executive Director may do both of the following:

(A) Issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

(B) Administer oaths, examine witnesses under oath, take evidence, and take depositions and affidavits or declarations. Notwithstanding Section 11189 of the Government Code, the Executive Director, without leave of court, may take the deposition of any cannabis business owner or any certificate holder. Sections 11185 and 11191 of the Government Code shall not apply to a witness who is an owner of a cannabis business.

(c) Subdivision (b) shall not be construed to limit warrantless inspections, except as required by the California Constitution or the United States Constitution.

(d) Subdivision (b) shall not be construed to prevent entries and administrative inspections, including seizures of property, without a warrant in the following circumstances:

(1) With the consent of the owner, operator, or agent in charge of the premises;

(2) In situations presenting imminent danger to health and safety;

(3) In accordance with this division; and

(4) In all other situations where a warrant is not constitutionally required.

§ 27527. Applicants.

(a) Without limiting any privilege that is otherwise available under law, any communication or publication from, or concerning, an applicant or certificate holder, in oral, written, or any other form, is absolutely privileged and shall not form a basis for imposing liability for defamation or constitute a ground for recovery in any civil action, under any of the following circumstances:

(1) It was made or published by an agent or employee of the commission in the proper discharge of official duties or in the course of any proceeding under this division.

(2) It was required to be made or published to the commission, or any of its agents or employees, by law, regulation, or subpoena of the commission.

(3) It was, in good faith, made or published to the commission for the purpose of causing, assisting, or aiding an investigation conducted pursuant to this division.

(b) If any document or communication provided to the commission contains any information that is privileged pursuant to Division 8 (commencing with Section 900) of the Evidence Code, or any other provision of law, that privilege is not waived or lost because the document or communication is disclosed to the commission or to any of its agents or employees.

(c) The commission, and their agents and employees shall not release or disclose any information, documents, or communications provided by an applicant, registrant, or other person, that are privileged pursuant to Division 8 (commencing with Section 900) of the Evidence Code, or any other provision of law, without the prior written consent of the holder of the privilege, or pursuant to lawful court order after timely notice of the proceedings has been given to the holder of the privilege. An application to a court for an order requiring the commission to release any information declared by law to be confidential shall be made only upon motion made in writing to the commission, and to all persons who may be affected by entry of the order.

§ 27528. District Attorneys and State and Local Law Enforcement Agencies.

Every district attorney, and every state and local law enforcement agency, shall furnish to the commission, on forms prepared by the commission, all information obtained during the course of any investigation or prosecution of any person, as determined by the commission, if it appears that a violation of any law related to cannabis has occurred, including any violation of the Penal Code.

Chapter 6. Business Regulation.

§ 27600. Types of Registered Businesses.

The following registration types shall be introduced for the retail sale, distribution, and manufacture of cannabis and cannabis-containing products. Nothing shall prevent any business from simultaneously registering as multiple types of registered businesses. Medical cannabis Cooperatives and Collectives pursuant to Health and Safety Code section 11362.5 et seq. shall not be required to register as any type of business under this Act.

(a) Cannabis Manufacturer. A cannabis manufacturer is any registered business dedicated to the germination, cultivation, production, processing, conversion, extraction, in-vitro testing, distribution, or wholesale of cannabis. The registration fee for a cannabis manufacturer shall be an annual fee of five thousand dollars (\$5,000), plus one hundred and fifty dollars (\$150) per 100 square feet of cannabis plant canopy. This fee may be waived or refunded if a crop fails to yield its expected harvest. A cannabis manufacturer may:

(1) Cultivate, process, convert, distribute, receive, provide, purchase, extract, germinate, possess, produce, test, and destroy cannabis and cannabis-containing products;

(2) Conduct in-vitro testing necessary to assay the content of cannabinoids in its products; and

(3) Sell, ship, deliver, and transport cannabis and cannabis-containing products to another cannabis manufacturer, a cannabis distributor, a cannabis retailer, an analytical cannabis laboratory, a medical cannabis retailer, a medical cannabis collective, a medical cannabis cooperative, a medical cannabis dispensary or the commission.

(b) Cannabis Distributor. A cannabis distributor is any registered business dedicated to the processing, conversion, testing, distribution, or wholesale sales of cannabis. The registration fee for a cannabis distributor shall be an annual fee of one thousand dollars (\$1,000). A cannabis distributor may:

(1) Process, convert, distribute, combine, receive, provide, purchase, possess, test, and destroy cannabis and cannabis-containing products;

(2) Sell cannabis and cannabis-containing products to distributors and retailers; and

(3) Ship, deliver, and transport cannabis and cannabis-containing products to another cannabis distributor, a cannabis manufacturer, a cannabis retailer, a medical cannabis retailer, a medical cannabis collective, a medical cannabis cooperative, a medical cannabis dispensary or a regulatory department.

(c) Cannabis Retailer. A cannabis retailer is any registered business dedicated to adult cannabis sales. The registration fee for a cannabis retailer shall be an annual fee of five thousand dollars (\$5,000). A cannabis retailer may:

(1) Process, convert, distribute, receive, provide, purchase, combine, possess, test, and destroy cannabis and cannabis-containing products;

(2) Sell cannabis and cannabis-containing products to an individual for his or her personal use; and

(3) Ship, deliver, and transport cannabis and cannabis-containing products to an individual for his or her personal use, a cannabis distributor, a cannabis manufacturer or a regulatory department.

(4) Engage in on-premises retail sales of cannabis and cannabis-containing products.

(d) Analytical Cannabis Laboratory. An analytical cannabis laboratory is any registered business dedicated to the quality control and testing of cannabis and cannabis-containing products. The registration fee for a cannabis lab shall be an annual fee of one thousand dollars (\$1,000). A cannabis lab may:

(1) Process, distribute, receive, transport, possess, test, and destroy cannabis and cannabis-containing products;

(2) Test cannabis and cannabis-containing products submitted by any person, whether an unlicensed individual or an entity;

(3) Provide testimony or sworn affidavit in regards to the chemical composition and quality of cannabis tested to the courts of the State of California;

(4) Ship, deliver, and transport cannabis and cannabis-containing products to a cannabis manufacturer, a cannabis distributor, a cannabis retailer, a medical cannabis retailer, a medical cannabis collective, a medical cannabis cooperative, a medical cannabis dispensary or a regulatory department; and

(5) Engage in analytical testing of cannabis and cannabis-containing products, and the sales of on-site or mobile testing services for cannabis and cannabis-containing products.

(e) Medical Cannabis Retailer. A medical cannabis retailer is any registered collective, cooperative, dispensary or other business dedicated to medical cannabis use and sales as well as to any bona fide eating or drinking establishment seeking to permit medical cannabis consumption on premises, to qualified patients or primary caregiver with a valid, current, physician's recommendation as defined in Senate Bill 420 in 2003. The registration fee for a cannabis retailer shall be an annual fee of five hundred dollars (\$500). Collectives and cooperatives that exist as storefront dispensaries, collectives, or cooperatives, as of the date this section is enacted, that are at least 600 feet from schools K-12, shall be exempt from any enforcement actions with respect to local zoning ordinances, and shall automatically qualify as a medical cannabis retailer, and may register without any fee or regulations imposed by this division. Medical cannabis retailers shall verify medical cannabis patients using either a written recommendation by a physician or the voluntary medical marijuana identification card issued by the State of California. A medical cannabis retailer may:

(1) Purchase, possess, process, combine, convert, cultivate, distribute, extract, germinate, produce, provide, receive, test, and destroy cannabis and cannabis-containing products;

(2) Sell cannabis and cannabis-containing products to an individual for his or her medical use;

(3) Accept donations, contributions, or reimbursements for any expenses related to producing or providing cannabis and cannabis-containing products for an individual for his or her medical use;

(4) Allow the medical use of cannabis and cannabis-containing products on his or her property;

(5) Ship, deliver, and transport cannabis and cannabis-containing products inside California to an individual for his or her medical use, another medical cannabis retailer or any collective, cooperative, dispensary not in accordance to this division; and

(6) Engage in the retail sales of cannabis and cannabis-containing products, or on-premises consumption of cannabis and cannabis-containing products.

(f) Compassionate Use Provider. A compassionate-use provider is any registered collective, cooperative, dispensary, person, or other business dedicated to providing weekly or daily cannabis and cannabis-containing products at no cost to individuals who have a low income or severe medical condition, or are disabled, elderly, terminally ill, or veterans of the Armed Forces of the United States of America. No registration fee shall be charged to a compassionate-use provider. If a compassionate-use provider fails to comply with this section, any and all fees associated with a cannabis retailer shall apply.

(1) To qualify as a compassionate use provider, of the total cannabis and cannabis-containing products produced or provided:

(A) One-quarter must be provided at no cost to individuals who have a low-income or severe medical condition, or are disabled, elderly, terminally ill, or veterans of the Armed Forces of the United States of America.

(B) One-quarter must be provided at a rate no higher than the cost of production to individuals who qualify as low income for purposes of the Medi-Cal program. The cost of production may include any overhead expense in providing the cannabis and cannabis-containing products, as well as any cost associated with the production of any products provided at no cost.

(C) All products provided by a compassionate-use provider pursuant to Section 27230(f)(1)(A) and (B) must be of an equivalent quality, as tested by a registered and qualified cannabis laboratory, to cannabis and cannabis-containing products produced or provided for regular retail.

(2) A compassionate use provider may:

(A) Register as a cannabis manufacturer, cannabis distributor, or medical cannabis retailer at no cost; and

(B) Engage in the same activities as a cannabis retailer without a separate registration for a cannabis retailer.

(g) On-site Consumption Provider. An on-site consumption provider is any registered business, collective, cooperative, dispensary, farmers market, festival or any other event, as well as to any bona fide eating or drinking establishment seeking to permit cannabis consumption on premises. The registration fee for an on-site consumption provider shall be an annual fee of five hundred dollars (\$500). An on-site consumption provider may:

(1) Allow the use of or smoking of cannabis and cannabis-containing products, indoors and/or outdoors on his or her property or location of the event;

(2) Allow the sales of cannabis and cannabis-containing products by businesses registered under this division as well as individual's not registered under this division, on his or her property;

(3) Engage in on-premises or off-premises consumption of cannabis and cannabis-containing products. Local government entities shall have the ability to fully regulate on-site consumption entities in any manner they see fit, including limiting or banning the existence of on-site entities within their jurisdiction.

(h) Each dollar amount of five hundred dollars (\$500) or greater in this section shall be adjusted by the division for changes in the Consumer Price Index to the nearest one hundred dollars \$100 in January of each odd-numbered year.

Chapter 7. Finance and Insurance.

§ 27700. Cannabis Insurance and Financial Cooperatives.

(a) A financial cooperative may be established pursuant to this section for, and limited to, an exclusive organization, ownership, and membership by collectives, cooperatives, and cannabis businesses.

(1) A financial cooperative established pursuant to this section shall be subject to the California Commissioner of Financial Institutions. A financial cooperative established pursuant to this section shall not refer to itself as a "Credit Union" nor use the term "Credit Union" to describe itself in any documents related to the financial cooperative. The Commissioner shall promulgate rules for a notice that shall be provided to each prospective member and member of a financial cooperative pursuant to this section regarding the differences between the financial cooperative and other financial institutions.

(2) Pursuant to this section any state chartered credit union, or other financial entity regulated by the California Department of Business Oversight, which provides non-federally insured deposit insurance, shall not be penalized for providing commercial banking services to a cannabis business, collective, or cooperative.

(b) An insurance cooperative may be established pursuant to this section for, and limited to, an exclusive organization, ownership, and membership by collectives, cooperatives, and cannabis businesses.

(1) An insurance cooperative established pursuant to this section shall be subject to the California Commissioner of Insurance. The Commissioner shall promulgate rules for a notice that shall be provided to each prospective member and member of an insurance cooperative pursuant to this section regarding the differences between the insurance cooperative and other insurance agencies.

(2) Pursuant to this section any state chartered insurance agency, or other insurance entity regulated by the California Commissioner of Insurance that provides non-federally insured, insurance services, shall not be penalized for providing insurance services to a cannabis business, collective, or cooperative.

§ 27710. Restrictions on Cultivation; Penalties.

(a) Adults may possess, grow, process, or transport no more than twelve (12) marijuana plants, with six (6) or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale.

(b) Cannabis related conduct that contributes to the delinquency of a minor may also be punishable by Penal Code section 272.

(c) Individuals shall be responsible for the consequences of their own use of cannabis. Sellers or providers of cannabis shall not be responsible for the consequences or claimed damages due to the use of cannabis by any party or any third party claimant, except where the seller or provider knowingly or negligently:

(1) Supplies cannabis to a minor, without the consent of his or her parent or legal guardian;

(2) Supplies cannabis or a cannabis-containing product to an adult without his or her knowledge or consent; or

(3) Supplies cannabis which is contaminated, adulterated, or polluted without the full disclosure of the type of contaminating substance to the individual.

(d) Nothing in this division shall protect anyone from California's Arson Laws, Penal Code Sections 451 and 452.

(e) It is a misdemeanor to be impaired by cannabis while operating a vehicle, boat, aircraft, or school or public bus in any manner that endangers others, or upon objection by the property owner or resident. Nothing in this section shall restrict the application of Vehicle Code Sections 23103, 23152(a) or 23153.

(f) Punishments for violations in actions against persons registered under this division that would be applicable to the regulation of alcohol sales, including penalties for permitting individuals under twenty-one (21) years of age to purchase any product specified in this division, and other appropriate regulatory provisions concerning such matters as the time of sale,

deliveries, and signage, shall be consistent with the statutory guidance regarding alcohol sales in Chapter 16 (commencing with Section 25600), to the extent that consistency is feasible.

(g) Any solvent-based extraction:

(1) May use any of the following solvents: water, carbon dioxide, oxygen, nitrogen, or any other asphyxiant gas; n-butane, propane, pentane, hexanes, or n-heptane; isopropyl or ethyl alcohols; naphtha; or any solvent approved by the Department of Food and Agriculture;

(2) Must be done in a safe environment in order to prevent bodily harm;

(3) Must ensure that the final product is free of any harmful pesticides;

(4) Must ensure that the final product has less than ten parts per million (10ppm) of any residual solvents;

(5) Must ensure that the final product is labeled with its intended mode of administration (including, but not limited to, topical, inhalation, or oral);

(6) Must follow any additional regulations created by the Department of Food and Agriculture.

(h) No business registered per this division shall employ any individual under the age of twenty-one (21) years or permit any individual under the age of twenty-one (21) years, without the consent of his or her parent or legal guardian, to enter or remain upon, the site where cannabis is manufactured, distributed, or sold at retail, with the exception of medical cannabis patients accessing the site solely in accordance with his or her medical treatment program.

(i) A city or county may mandate that air filtration equipment be used for premises seeking to permit indoor cannabis smoking in their jurisdiction.

(j) In addition to the activities covered in subsection (f) the following activities may be punished as either a fine, misdemeanor, felony, or by a requirement to attend the county cannabis diversion program:

(1) The diversion of marijuana to other states.

(2) Cannabis related activity that is being used as a cover or pretext for the trafficking of illegal drugs or other illegal activity.

(3) The use of violence, coercion, or duress in the unlawful cultivation and unlawful distribution of marijuana.

(4) Gross pollution or environmental destruction caused by the unlawful cultivation of marijuana.

(5) Furnish cannabis to an individual under the age of twenty-one (21).

(k) Punishment for repeat offenders shall progressively escalate in severity if the offense is repeated one or more times within a 10-year period.

Chapter 8. Enforcement.

§ 27800. Injunction.

The commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this division.

§ 27810. Administrative Fines.

(a) If the commission has evidence that a violation of this division or its regulations has occurred, it may hold a hearing. Notice shall be given and the hearing conducted in accordance

with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of the Government Code). If the commission determines that a violation has occurred, it shall issue an order that may require the violator to do all or any of the following:

- (1) File any documents or information required by this division.
- (2) Pay a monetary fine of up to five thousand dollars (\$5,000) per violation to the General Fund of the state.

§ 27820. Civil Penalties.

Any person who violates any provision of this division or regulations of the commission may be liable in a civil action brought by the commission for an amount up to ten thousand dollars (\$10,000) per violation.

§ 27830. Criminal Penalties.

Any person who repeatedly and willfully violates any provision of this division or regulation of the commission is guilty of a misdemeanor.

§ 27840. Statute of Limitations.

(a) No administrative, civil, or criminal action brought pursuant to this section shall be commenced more than three years after the date on which the violation occurred.

(b) If the person alleged to have violated this division engages in the fraudulent concealment of his or her acts or identity, the three-year period shall be tolled for the period of concealment. If, upon being ordered by a superior court to produce any documents sought by a subpoena in any administrative proceeding, the person fails to produce documents in response to the order by the date ordered to comply therewith, the three-year period shall be tolled for the period of the delay from the date of filing of the motion to compel until the date of the documents are produced.

§ 27850. Responsibility for Enforcement.

The Attorney General is responsible for criminal enforcement of this division. The District Attorney of any county in which a violation occurs has concurrent powers and responsibilities with the Attorney General.

§ 27860. Diversion Program.

(a) Drug diversion programs created by Penal Code Section 1211, shall no longer apply to cannabis. In order to ensure a quality cannabis education diversion program, in each county, the County Sheriff shall appoint a cannabis education program administrator, who shall establish minimum requirements, criteria, and fees for the successful completion of cannabis diversion programs. These minimum requirements shall include, but not be limited to, all of the following:

- (1) An initial assessment of each participant, which may include all of the following:
 - (A) Social, economic, and family background;
 - (B) Education;

- (C) Professional history;
 - (D) Criminal history;
 - (E) Medical history; and
 - (F) Drug history and previous treatment.
- (2) A minimum of ten hours of either effective education or counseling or any combination of both for each participant.
- (3) An exit conference which shall reflect the participant's progress during his or her participation in the program.
- (4) Fee exemptions for individuals who cannot afford to pay.
- (b) The county cannabis education program administrator shall implement a certification procedure for cannabis diversion programs.
- (c) The county cannabis education program administrator shall recommend for approval by the county board of supervisors programs pursuant to this division. No program, regardless of how it is funded, may be approved unless it meets the standards established by the administrator, which shall include, but not be limited to, all of the following:
- (1) Guidelines and criteria for education and treatment services, including standards of services which may include lectures, classes, group discussions, and individual counseling. However, any class or group discussion other than lectures, shall not exceed fifteen (15) individuals at any one meeting.
 - (2) Established and approved supervision, either on a regular or irregular basis, of the individual for the purpose of evaluating the individual's progress.
 - (3) A schedule of fees to be charged for services rendered to each individual under a county cannabis program plan in accordance with the following provisions:
 - (A) Fees shall be used only for the purposes set forth in this division.
 - (B) Fees for the treatment or rehabilitation of each participant receiving services under a certified cannabis diversion program shall not exceed the dual cost thereof, as determined by the county cannabis education program administrator according to standard accounting practices.
 - (C) Actual costs shall include both of the following:
 - (i) All costs incurred by the providers of cannabis diversion programs;
 - (ii) All expenses incurred by the county for administration, certification, or management of the cannabis diversion program in compliance with this division.
 - (d) The county shall require, as a condition of certification, that the cannabis diversion program pay to the county cannabis education program administrator all expenses incurred by the county for administration, certification, or management of the cannabis diversion program in compliance with this division. No fee shall be required by any county other than that county where the program is located.
 - (e) Driving while impaired by cannabis shall remain punishable by Vehicle Code Sections 23103, 23152(a) and 23153, with the exception that in all cases cannabis impairment must be proven by admissible evidence of observations, and no presumptions shall arise from any chemical test of blood, breath, or urine.
 - (f) The use, cultivation, or sales of cannabis by individuals under the age of twenty-one (21) for any purpose, other than medical use, shall be prohibited, but punishment shall not exceed a civil infraction as defined in Penal Code § 19.6, or, in the alternative, a requirement to attend the county cannabis diversion program. Upon satisfactory completion of a county cannabis diversion program, any infraction conviction shall be automatically expunged.

§ 27880. Hemp

Any industrial cultivation and or use of cannabis per the statutes of the California Industrial Hemp Farming Act, Division 24 (commencing with Section 81000) of the Food and Agricultural Code, shall be exempt from all regulations, restrictions, conditions and taxes set forth by this Act.

SEC. 5. *Section 11357 of the Health and Safety Code is repealed.*

SEC. 6. *Section 11358 of the Health and Safety Code is repealed.*

SEC. 7. *Section 11359 of the Health and Safety Code is repealed.*

SEC. 8. *Section 11360 of the Health and Safety Code is repealed.*

SEC. 9. *Section 11361 of the Health and Safety Code is repealed.*

SEC. 10. *Section 11485 of the Health and Safety Code is repealed.*

SEC. 11. *Section 81007 of the Food and Agricultural Code is repealed.*

SEC. 12. *Section 81008 of the Food and Agricultural Code is repealed.*

SEC. 13. *Section 81009 of the Food and Agricultural Code is repealed.*

SEC. 14. *Section 81010 of the Food and Agricultural Code is amended to read:*

This division shall ~~not become operative unless authorized under federal law~~ become operative on January 1, 2016, or when authorized under federal law, whichever is earlier.

SEC. 15. No Federal Enforcement by State Officials.

(a) This Act is an exercise of California's right under the 10th Amendment to the United States Constitution to enact laws not expressly delegated to the federal government. Neither the People of the State of California nor their public servants should be conscripted to enforce the uninformed classification of marijuana under federal law. It is the right of the People of California to determine the legality of rational marijuana use inside its borders.

(b) Nothing in this division shall prohibit the State of California from preventing the diversion of marijuana to jurisdictions where it is illegal or cooperating with the federal government to control the importation and exportation of cannabis from California.

SEC. 16. Liberal Construction.

This Act shall be liberally construed to effectuate those purposes the purposes and intents expressed herein.

SEC. 17. Severability.

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. 18. Conflicting Measures.

(a) The provisions and intent of this Act shall be given precedence over any state law, statute, regulation or policy that conflicts with this section, and the policy and intent of this Act shall prevail over any such contrary law, statute, regulation or policy.

(b) If this measure is approved by the voters, but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this Act shall be given the full force of law.

(c) If any rival or conflicting initiative regulating any matter addressed by this Act receives the higher affirmative vote, then all non-conflicting parts shall become operative.

SEC. 19. Amendment.

The provisions of this Act may be amended by the Legislature to further its purposes by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring.

SEC. 20. Defense by the State.

State authorities, including, but not limited to, the California Department of Justice, shall protect and defend this Act from any and all challenges in the courts to final judgment.