

September 28, 2015

To: The Office of the Attorney General  
ATTN: Initiative Coordinator  
P.O. BOX 944255  
Sacramento, CA 94244-2550  
(916) 445-4752 / [www.oag.ca.gov](http://www.oag.ca.gov)

RECEIVED

SEP 29 2015

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

**RE: Request for Circulating Title Summary; Signed Certification; Signed Statement;  
*The Safe Communities, Parks, and Schools Act of 2016* (15-0052), as amended.**

Dear Ms. Johansson:

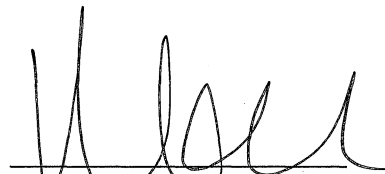
We kindly request that a title and summary of the chief purpose and points of the attached proposed *The Safe Communities, Parks, and Schools Act of 2016* initiative, as amended, be prepared pursuant to Elections Code § 9001, § 9002(b) and § 9608(a).

A money order for the amount prescribed in subdivision (c) of E.C. § 9001 of the California Elections Code has been provided separately. Should you have any questions or require additional information, please contact the undersigned at your earliest convenience!

Respectfully,



CHAD M. HANES



MARINDA D. HANES

Dated this 28th day of September, 2015

Dated this 28th day of September, 2015

All public and media inquiries shall be directed to [www.saferCA.org](http://www.saferCA.org), or the below contact info:

contact: Chad Hanes  
office: (415) 915-5420  
email: [info@saferCA.org](mailto:info@saferCA.org)

# THE SAFE COMMUNITIES, PARKS, AND SCHOOLS ACT OF 2016

AT THE NOVEMBER 8, 2016 GENERAL ELECTION

*The People of the State of California do enact as follows:*

## SECTION 1. TITLE AND TABLE OF CONTENTS.

(a) TITLE.—This Act may be cited as “The Safe Communities, Parks, and Schools Act of 2016”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 1. Title and table of contents.

SEC. 2. Adds Division 10.4 — CANNABIS AND HEMP — to the Health and Safety Code:

### DIVISION 10.4. CANNABIS AND HEMP

#### CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

§11720. General provisions.

#### CHAPTER 2. PERSONAL AND MEDICAL USE

##### Article 1. Personal Use

§11721. Personal use protections.

##### Article 2. Medical Use

§11721.5. Compassionate Use Act of 1996.

##### Article 2.5. Medical Marijuana Program

§11721.7. General definitions and provisions.  
 §11721.71. Voluntary identification card program.  
 §11721.715. Requirements in obtaining identification card.  
 §11721.72. County responsibilities in implementation.  
 §11721.735. Requirements of card contents.  
 §11721.74. Denial of applications.  
 §11721.745. Annual registration.  
 §11721.755. Application and renewal fees.  
 §11721.765. Noncommercial medical cannabis activity.  
 §11721.768. Certain medical cannabis activity near schools.  
 §11721.77. Personal medical use protections.  
 §11721.775. Collectives and cooperatives.  
 §11721.78. Statewide validity of voluntary identification cards.  
 §11721.785. Accommodation of medical use.  
 §11721.795. Use while on probation or released on bail.  
 §11721.8. Acts of professional licensing boards.  
 §11721.81. Penalties for certain violations.  
 §11721.82. Severability.

#### CHAPTER 3. SMOKING

§11722. Smoking and local provisions.  
 §11723. Smoking prohibitions.  
 §11724. Use and related conduct.

#### CHAPTER 4. UNLAWFUL DELIVERY

§11725. Penalties for unlawful sales.  
 §11726. Exemptions.

#### CHAPTER 5. UNLAWFUL PURCHASE, POSSESSION OR CULTIVATION

§11727. Unlawful possession.  
 §11728. Unlawful cultivation.  
 §11728.5. Exemptions for hemp cultivation.

#### CHAPTER 6. TEMPORARY EXEMPTIONS FOR VARIOUS COMMERCIAL ACTIVITIES

§11729. Temporary collective rights.

#### CHAPTER 7. CULTIVATION ON STATE-OWNED PROPERTY AND PUBLIC LANDS

§11730. Use, cultivation or manufacture on university property.  
 §11730.5. Cultivation on public lands.

#### CHAPTER 8. GENERAL PROCEDURES

§11731. Nuisance actions.  
 §11731.5. Cannabis and hemp as agriculture.  
 §11732. Statewide protections for compliant activity.  
 §11733. Penalties.  
 §11733.5. Sentencing for first-time violations.  
 §11734. Statute of limitations.

#### CHAPTER 9. LIMITED ARREST PROTECTIONS FOR CERTAIN ACTIVITIES

§11735. Limited medical cannabis arrest protections.  
 §11735.5. Immunities when contacting medical assistance.

CHAPTER 10. CONFLICTING ENFORCEMENT,  
PREEMPTION AND LOCAL REGULATION

- §11736. Statewide applicability.
- §11736.1. Local cultivation ordinances.
- §11736.2. Local restrictions on public smoking.
- §11736.3. Regulation of temporary commercial activity.
- §11736.5. Exclusion of impaired conduct from exemptions.
- §11736.8. Local decriminalization.
- §11737. Enforcement.
- §11737.5. Preemption.

CHAPTER 11. RECORDS AND PRIOR CONVICTIONS

- §11738. Resentencing of prior non-violent offenders.
- §11738.2. Destruction of prior records.
- §11738.4. Release of criminal justice statistics.
- §11738.5. Destruction of records for new crimes.
- §11739. Timeliness and accuracy of records.

CHAPTER 12. MISCELLANEOUS PROVISIONS

Article 1. Study to Develop Uniform Standard of  
Impairment

- §11739.1. Study by Department of Transportation (Caltrans).

Article 2. Cannabis Use in the Workplace

- §11739.2. Employer and employee rights.

Article 3. Landowner Rights

- §11739.3. Lease protections for landowners.

Article 4. Social Host Liability

- §11739.4. Prohibitions on certain social host conduct.

Article 5. Paraphernalia

- §11739.5. Paraphernalia possession and sale protections.

Article 6. Fire Prevention Measures

- §11739.6. Duties of State Fire Marshal.

Article 7. Use of Firearms in the Commission of Certain  
Offenses

- §11739.7. Penalty enhancements for offenses involving firearms.

Article 8. General Defense of Act

- §11739.9. Statewide protection and defense of Act.
- §11739.95. Severability.

SEC. 3. Adds Division 10 — COMMERCIAL CANNABIS  
PRODUCTION AND SALE — to the Business and  
Professions Code:

**DIVISION 10. COMMERCIAL CANNABIS  
PRODUCTION AND SALE**

CHAPTER 1. GENERAL INTENT

- §26000. Intent of the People.

CHAPTER 2. GENERAL PROVISIONS AND  
DEFINITIONS

- §26001. Definitions.
- §26001.5. Square footage assessments.
- §26001.8. Licensee activities and conduct.
- §26001.9. Severability.

CHAPTER 3. ADMINISTRATION

Article 1. Cannabis Regulatory Control Commission

- §26002. Creation of commission.
- §26002.5. Determination of effect on other programs.
- §26003. Powers of commission.
- §26003.2. Regulatory task force.
- §26003.4. Recommendations for building standards.

Article 2. Cannabis Regulatory Control Appeals Board

- §26004. Creation of appeals board.
- §26004.1. Appointment of personnel.
- §26004.2. Review of commission decisions.
- §26004.3. Funding for appeals board.
- §26004.4. Public records and open meetings of the board.

Article 3. Appeals From Decisions of the Commission

- §26005. Definitions.
- §26005.1. Timeframe for appeals.
- §26005.15. Filing date and location.
- §26005.2. Effective date of certain decisions.
- §26005.3. Right to appear before the board.
- §26005.35. Surcharge on annual fees.
- §26005.4. Jurisdiction.
- §26005.5. Evidence.
- §26005.6. Timeframe for orders by the board.
- §26005.7. Remanding of certain decisions.
- §26005.8. Orders on appeal from a decision of the commission.
- §26005.9. Review by the Courts.

Article 4. Judicial Review

- §26006. Judicial review of orders of the board.
- §26006.1. Writ of review.
- §26006.2. Extent of review.
- §26006.3. Review of findings and conclusions of the commission.
- §26006.4. Code of Civil Procedure.
- §26006.5. Jurisdiction and venue.
- §26006.6. Stay or suspension of any rule or order.
- §26006.7. Orders on appeal from a decision of the board.

#### Article 5. State Agency Rules and Regulations

- §26010. Department of Food and Agriculture.
- §26011. Environmental regulations.
- §26012. Department of Pesticide Regulation.
- §26013. Worker health and safety standards.
- §26013.5. Publication of regulations.

#### Article 6. Miscellaneous Provisions

- §26014. Service of notice.
- §26015. Provisional access to licensee database.
- §26016. State performance audit of commission.

#### CHAPTER 4. INSPECTIONS

- §26017. General provisions for inspections.

#### CHAPTER 5. UNAUTHORIZED COMMERCIAL ACTIVITY

- §26018. Sale after suspension or revocation.
- §26019. Sale without a license.

#### CHAPTER 6. LICENSES AND FEES

##### Article 1. Commercial Cultivator or Manufacturer

- §26020. Commercial Cultivator/Manufacturer license.
- §26021. Immunities under state law.

##### Article 2. Wholesaler or Distributor

- §26022. Wholesaler/Distributor license.
- §26023. Immunities under state law.

##### Article 3. Testing Facility

- §26024. Registration of testing facilities.
- §26025. Exemption for unregistered testing services.

##### Article 4. Medical Cannabis Collective, Cooperative, or Dispensary

- §26026. Commercial Medical Cannabis license.
- §26027. Immunities under state law.
- §26027.5. Limited exemptions for sales to licensee.

##### Article 5. Specialty Establishment

- §26028. Specialty establishment license.
- §26029. Immunities under state law.
- §26029.5. Limited exemptions for sales to licensee.

##### Article 6. Retail Establishment

- §26030. Retail license.
- §26031. Immunities under state law.

##### Article 7. Temporary Commercial Activity

- §26032. Temporary license.
- §26033. Immunities under state law.

#### Article 8. Commercial Cultivation Enforcement Fees

- §26035. Establishment of fee schedule.
- §26036. Exemptions.
- §26037. Determinations.
- §26038. Sunset.

#### CHAPTER 7. TRANSPORTATION AND DELIVERIES

##### Article 1. Transportation

- §26040. Intrastate transportation.
- §26041. Recording receipt of tax-paid cannabis products.

##### Article 2. Deliveries

- §26044. Off-site delivery to consumers.

#### CHAPTER 8. APPLICATIONS FOR LICENSES

- §26045. Application requirements.
- §26045.2. Expedited application process.
- §26045.5. Commercial identification card program.
- §26046. Issuance of licenses.
- §26046.5. Use and display of commercial license.

#### CHAPTER 9. DENIAL OF LICENSES

- §26047. Local request for denial.
- §26047.5. Petition for redetermination.

#### CHAPTER 10. SUSPENSION AND REVOCATION OF LICENSES

- §26048. Display of license suspension or revocation.
- §26048.5. Criteria for suspension or revocation.
- §26049. Display of products after suspension or revocation.
- §26049.5. Proceedings to deny, suspend or revoke licenses.

#### CHAPTER 11. ZONING AND LAND USE

- §26050. Local zoning laws.
- §26051. Commercial cannabis activity near schools.
- §26051.5. Definition of school; Violations.

#### CHAPTER 12. LABELS, CONTAINERS AND PRODUCT CERTIFICATION

##### Article 1. General Requirements

- §26052. General labeling contents.
- §26053. Requirements to label products.

##### Article 2. Enhanced Certification

- §26054. Enhanced cannabis certification program.
- §26055. Requirements for labeling of certified products.



CHAPTER 13. HOURS OF SALE AND DELIVERY FOR  
ON-SITE CONSUMPTION

- §26056. Hours of sale.
- §26057. Consumption upon licensed premises.

CHAPTER 14. MINORS AND UNLAWFUL ACTIVITY

- §26058. Penalties for certain unlawful acts by minors.
- §26059. Penalties for licensees.
- §26059.5. Consumption in the proximate public right-of-way.

CHAPTER 15. RECORD HANDLING AND  
VERIFICATION

Article 1. Privacy and Confidentiality

- §26060. Confidentiality of records; punishments for violation.
- §26061. Biometric data privacy protections; confidentiality of applications and licenses.

Article 2. Record-keeping Requirements

- §26061.5. Record-keeping requirements of licensees.

Article 3. Age Verification and Commission-issued ID  
Verification Device

- §26062. Card reading device.
- §26064. Third-party patient record verification.
- §26065. Requirement for age verification.

Article 4. Patient Privacy

- §26066. Patient and primary caregiver confidentiality requirements.

CHAPTER 16. ADDITIONAL REGULATORY  
PROVISIONS

- §26070. Licensee reporting of production and sales data.
- §26071. Implementation of enhancements to statewide personal use protections.
- §26072. Additional administrative regulations.
- §26073. Future increase or decrease in fees.

CHAPTER 17. LOCAL REGULATION

- §26075. Local business license requirements.
- §26075.5. Additional local licenses administered by the commission.
- §26076. Local environmental and public health controls.
- §26078. Transactional limitations on local retail sales.

CHAPTER 18. ENFORCEMENT

- §26080. Initial enforcement of regulations.
- §26082. State agency enforcement of local ordinances.
- §26085. Prohibitions on refusal to verify commercial status.

CHAPTER 19. SEIZURE

- §26086. General provisions.
- §26087. Petition for return of seized property.
- §26088. Consideration of petitions by commission.
- §26089. Return of seized product.
- §26089.5. Relinquishment of seized property.

CHAPTER 20. VIOLATIONS

- §26090. Violation of provisions.
- §26095. Statute of limitations.

SEC. 4. Adds Part 14.5 — CANNABIS EXCISE TAXES — to Division 2 of the Revenue and Taxation Code:

PART 14.5. CANNABIS EXCISE TAXES

CHAPTER 1. GENERAL PROVISIONS AND  
DEFINITIONS

- §34001. Title and Intent of the People.
- §34002. Definitions.
- §34003. Publication of tax rates.
- §34004. Additional excise taxes.
- §34005. Retroactive fees and taxation.
- §34006. Taxpayer conduct.

CHAPTER 2. TAX ON CANNABIS

Article 1. Imposition of Tax

- §34011. Tax rates.
- §34012. Tax stamp requirement.
- §34013. Increase of taxes.
- §34014. Adjustment of tax rates after certain acts of Congress.

Article 2. Presumptions and Exemptions

- §34015. Presumption of sale.
- §34016. Exemptions for deliveries to other producers.
- §34017. Exemptions for on-premises consumption.
- §34018. Exemptions for certain medical cannabis sales.
- §34018.5. Exemptions for medical cannabis licensees.
- §34019. Applicability of tax.
- §34019.5. Legislative power to adopt additional exemptions.

CHAPTER 3. COLLECTION AND ADMINISTRATION

THE CANNABIS STAMP AND METER LAW

Article 1. Tax Stamp Program

- §34020. Counterfeit-resistant tax stamp program.

Article 2. Meter Impression Program

- §34021. Meter impression program.

Article 3. Record-keeping for Tax Stamp and Meter  
Impression Programs

- §34022. Tax stamp and meter database.
- §34022.2. Records of deliveries.
- §34022.3. Electronic requests for refunds.
- §34022.4. Requirement to record transfer of tax-paid products.

Article 4. Verification Procedures

- §34022.5. Electronic verification service.

Article 5. Electronic Registration, Collection and Refunds

- §34022.8. Electronic application for account number.
- §34022.9. Electronic payments and refunds.

CHAPTER 4. OTHER ADMINISTRATIVE PROVISIONS

- §34023. Fee Collection Procedures Law.
- §34023.1. Responsibility to remit amount due.
- §34023.2. Identifying information of taxpayer.
- §34023.5. Metering machine restrictions.
- §34024. Additional board-issued regulations.
- §34024.1. Personnel of the board.
- §34024.2. Confidentiality of records.
- §34024.3. Designs of stamps and meter impressions.
- §34024.4. Refunds upon decrease or repeal of tax.

CHAPTER 4.2. DEFERRED PAYMENTS

- §34024.5. Payment of amounts owed.
- §34024.6. Requirement of a security.
- §34024.7. Right to withdrawal as surety.
- §34024.8. Payments upon delinquency.

CHAPTER 5. DISPOSITION OF REVENUES AND  
PROCEEDS

- §34026. Payments to the board.
- §34026.5. Loans for establishment and provisions for repayment.
- §34027. Reimbursements and further appropriations.

CHAPTER 6. VIOLATIONS AND PENALTIES

- §34030. General provisions.
- §34031. Evasion of excise tax.
- §34032. Refusal of inspection.
- §34033. Fraudulent stamps or meter impressions.
- §34033.5. Failure to affix stamp or meter impression.
- §34034. Statute of limitations.
- §34034.5. Effective date of chapter.

CHAPTER 7. SEIZURE

- §34035. Inspections.
- §34035.5. Power to seize products affixed with counterfeit stamps.
- §34035.7. Use of persons as decoys.
- §34036. Petition for return of seized property.
- §34037. Consideration of petitions by board.
- §34038. Return of seized property.
- §34039.1. Seizure for delinquency of payments.
- §34039.2. Notice of sale.
- §34039.3. Sale in accordance with law.
- §34039.4. Return of excess monies received.
- §34039.5. Relinquishment of seized property to law enforcement agency.

SEC. 5. Adds Part 14.7 — TEMPORARY CANNABIS TAX — to Division 2 of the Revenue and Taxation Code:

PART 14.7. TEMPORARY CANNABIS TAX

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

- §34040. Intent of the People.
- §34045. Definitions.
- §34048. Inoperative date.

CHAPTER 2. IMPOSITION OF TAX

- §34050. Imposition of tax.
- §34052. Exemptions for medical sales.

CHAPTER 3. COLLECTION OF TAX

- §34055. Payments to the board.
- §34056. Fee Collection Procedures Law.
- §34057. Evasion of tax.
- §34058. Additional board-issued regulations.
- §34059. Electronic payments and refunds.

SEC. 6. Adds Chapter 4.20 — LOCAL CANNABIS GENERAL TAXES AND SPECIAL TAXES — to Part 1.7 of Division 2 of the Revenue and Taxation Code:

CHAPTER 4.20. LOCAL CANNABIS  
GENERAL TAXES AND SPECIAL TAXES

- §7296. Intent of the People.
- §7296.1. Definitions.
- §7296.2. Publication of tax rates.
- §7296.3. Restrictions on general taxes and special taxes.
- §7296.4. Imposition of general taxes.
- §7296.5. Imposition of special taxes.
- §7296.6. Payments to the board; administrative statutes.
- §7296.7. Exemptions for medical sales.
- §7296.8. Increase of impossible rates by Legislature.

SEC. 7. Exemptions of sales tax on cannabis for terminally ill medical cannabis patients.

SEC. 8 - 20. Repeal of conflicting statutes.

SEC. 21. Moves and provides technical updates to the Compassionate Use Act of 1996.

SEC. 22. Recodification of the Medical Marijuana Program, with revised statutes and protocols (chaptered in SEC. 2).

SEC. 23. Repeal duplicative statutes of the MMP.

SEC. 24. Prohibitions on reckless manufacture through use of butane.

SEC. 25. Prohibitions on smoking in motor vehicles.

SEC. 26. Technical updates on the limitations on employers.

SEC. 27. Maintenance of the codes.

SEC. 28. Substantive and technical updates, contingent upon enactment and operation of AB 266 of the 2015-16 Regular Session.

SEC. 29. Substantive and technical updates, contingent upon enactment and operation of SB 643 of the 2015-16 Regular Session.

SEC. 30. Substantive and technical updates, contingent upon enactment and operation of AB 243 of the 2015-16 Regular Session.

SEC. 31. Amendments.

SEC. 32. Attorney General Guidelines.

SEC. 33. Liberal Construction.

SEC. 34. Conflicting Measures.

SEC. 35. Severability.

SEC. 2. Division 10.4 (commencing with Section 11720) is added to the Health and Safety Code, to read:

## **DIVISION 10.4. CANNABIS AND HEMP**

### **CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS**

#### **§11720. General provisions.**

(a) FINDINGS AND DECLARATIONS.—The People of the State of California hereby make the following findings and declarations:

(1) Laws in California regulating the production, distribution and sale of cannabis have failed and require comprehensive statewide reform.

(2) Extensive channels of underground black market commerce have frequently facilitated the distribution of cannabis and various controlled substances to our children. Businesses will face strict penalties for illegal sales and distribution to persons under 21 years of age.

(3) Generating hundreds of millions of dollars in cannabis excise tax revenues would allow California to fund dedicated drug education and counseling centers within our schools and in our communities.

(4) A reasonable excise tax could also generate hundreds of millions of dollars in annual revenues for California to fund the restoration, preservation, and protection of state parks, parklands and public lands impacted by the production or cultivation of cannabis.

(5) Laws reasonably regulating commercial cannabis activity will significantly undercut the operations of violent drug cartels and criminal enterprises that have caused gross pollution and severe environmental destruction, and will allow legitimate taxpaying business people to conduct sales of cannabis.

(6) Independent surveys consistently suggest that all people consume cannabis at equal rates, yet arrest and conviction rates have historically been much higher for minorities, particularly for African Americans, with serious negative effects on their communities.

(7) Zero-tolerance policies and harsh criminal penalties within the United States related to cannabis have discouraged our youth and members of the public from seeking treatment for drug addiction.

(8) Enactment of the Compassionate Use Act of 1996 has bestowed upon seriously ill Californians the right to obtain and use cannabis for medical purposes, provided that such use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(9) In spite of the passage of the Compassionate Use Act of 1996 and the Medical Marijuana Program, the current state of affairs endangers the safety of consumers, and fails to protect our communities from the ills of large-scale cultivation and manufacture of cannabis in residential areas.

(10) Through the adoption of reasonable, enforceable and transparent laws and regulations, the People elect to take a clear and decisive new approach to eliminate the negative impacts of unlawful commercial production of cannabis within our parks and in our communities.

(b) INTENTS AND PURPOSES.—The People of the State of California hereby declare that the intents and purposes of The Safe Communities, Parks, and Schools Act of 2016 are as follows:

(1) To ensure the State protects the health and well-being of children and adolescents as California takes a new approach to cannabis.

(2) To preserve the public safety of Californians on the road and in our communities by effectively regulating the production, distribution and sale of cannabis within our state, and strictly enforce our laws against the trafficking of cannabis by violent criminal enterprises.

(3) To create a fair and enforceable set of laws, taxes and regulations pertaining to commercial cannabis activity that enhances California's economic and physical health.

(4) To maximize individual freedom and ensure that responsible adults have the right to

obtain and use cannabis and cannabis-infused products under California law.

(5) To ensure that medical cannabis qualified patients and primary caregivers retain their fundamental rights pursuant to the Compassionate Use Act of 1996, as adopted at the November 5, 1996 General Election.

(6) To implement reasonable sentencing reform for non-violent offenses related to the unlawful possession, cultivation, transportation and delivery of cannabis.

(7) To permit the State of California to fulfill obligations under the United States Constitution to enact appropriate legislation concerning health, morals, public welfare and safety.

(8) To remove cannabis, THC, and associated paraphernalia, explicitly or by inference, from existing statutes pertaining to the prohibition and regulation of controlled substances, provided that nothing in this Act shall adversely affect:

(A) Those statutes pertaining to driving a motor vehicle under the influence of cannabis;

(B) Those statutes pertaining to the right of employers to regulate or restrict the use or consumption of cannabis in the workplace;

(C) Those statutes prohibiting the transfer or sale of cannabis to persons under 21 years of age, except as now codified under this division; and

(D) Those statutes or local ordinances that restrict or prohibit the smoking of cannabis in various places, including, but not limited to, school campuses, public buildings, places of employment, apartment buildings, day care facilities, retail food facilities, health facilities, and vehicles.

(c) DEFINITIONS.—For purposes of this division:

(1) "Adult" means any person 21 years of age or older.

(2) "Cannabis" and "marijuana" are terms to be used interchangeably, meaning all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; concentrated cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include hemp.

(3) "Commercial cannabis activity" means any commercial cultivation, possession, manufacture, processing, storing, labeling, transporting, distribution, or sale of cannabis or cannabis-infused products.

(4) "Cannabis-infused products" means any solid, liquid, or gas that infuses, or otherwise includes, more than three-tenths of 1 percent tetrahydrocannabinol (THC) with a non-cannabis product or ingredient.

(5) "Concentrated cannabis" means the separated resin, whether crude or purified, obtained from cannabis. Concentrated cannabis shall not mean cannabis infused in a food, drink, candy, balm or tincture.

(6) "Cultivate" means to grow and care for cannabis plants, including any activity involving the planting, growing, harvesting, drying, processing, or trimming of cannabis.

(7) "Cultivator" means a person who cultivates cannabis.

(8) "Dried cannabis" means any dried mature flower of female cannabis plants that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(9) "Hemp" and "industrial hemp" are terms to be used interchangeably, meaning a fiber or oilseed crop that is limited to non-psychoactive types of the plant *Cannabis sativa* L. and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin or flowering tops extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(10) "Liquid cannabis-infused products" means any product that is in liquid form at room temperature that infuses, or otherwise includes, more than three-tenths of 1 percent tetrahydrocannabinol (THC).

(11) "Manufacturer" means a person who produces, prepares, propagates, compounds, or processes cannabis, either directly or indirectly or by extraction from its natural origin, or

independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of cannabis or labeling or relabeling of its container.

(12) "Mature cannabis plant" means:

(A) A cannabis plant that the sex of the plant can be readily determined by the unaided eye; or

(B) A flowering cannabis plant that is at least one foot in width or height.

(13) "Person" includes any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, the United States, this state, any county, city and county, municipality, district, or other political subdivision of the state, or any other group or combination acting as a unit.

(14) "Person with an identification card" means an individual who has applied for and received a valid medical marijuana identification card by the State Department of Public Health, or its equivalent issued by the designated entity in another state, district, territory, commonwealth, or insular possession of the United States.

(15) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

(16) "Processor" means a person who processes cannabis.

(17) "Producer" means a person who produces cannabis.

(18) "Qualified patient" means a person who is entitled to the protections of Section 11721.5, but who does not have an identification card.

(19) "Retail sale" means a retail sale, as defined in Section 6007 of the Revenue and Taxation Code.

(20) "Sale" or "sold" means a sale, as defined in Section 6006 of the Revenue and Taxation Code.

(21) "Seller" means producers, processors, wholesalers, and retailers of cannabis in California, but does not mean transporters of cannabis.

(22) "Transporter" means any person transporting within California cannabis or cannabis-infused products.

(23) "Wholesaler" means every person that engages in this state in making sales for resale of cannabis or cannabis items.

## **CHAPTER 2. PERSONAL AND MEDICAL USE**

### **Article 1. Personal Use**

#### **§11721. Personal use.**

(a) STATEWIDE FLOOR PROTECTIONS.—Notwithstanding any other provision of law, no person 21 years of age or older shall be arrested or prosecuted nor be subject to any criminal or civil penalties for the possession, production, cultivation, transportation, importation, manufacture, processing, sharing, or giving away of cannabis for personal use, and not for sale, in any combination of the following amounts:

(1) Not more than thirty grams of dried cannabis per adult.

(2) Not more than 6 mature cannabis plants per adult, or the cultivation of cannabis plants in an area not exceeding twenty-five square feet per adult as measured by the combined growth area of cannabis plants, whichever amount is greater, provided that such cultivation is not in violation of local laws or ordinances adopted in accordance with Section 11736.1.

(3) Any cannabis produced by such cannabis plants, or any part thereof, but only in the area or upon the premises where the plants were grown.

(4) Any cannabis obtained from a person or entity, or any of its officers, agents and employees, licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, provided that the cannabis has a tax stamp or meter impression affixed to the

product, package or label in accordance with Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code, and such cannabis is not intended for resale.

(5) Any other type of cannabis or cannabis-infused products not covered by paragraphs (1) through (4), inclusive, provided that such cannabis is not intended for resale.

(b) REASONABLE INVESTIGATION.—No peace officer shall take any more information or time as necessary in order to determine the age of the individual, unless there is reasonable cause to believe that the information obtained is false or falsified, or that there may reasonably exist a violation of California law.

(c) LIMITED IMMUNITY.—A person 21 years of age or older that purchases, possesses, shares, transports, cultivates, plants, processes, harvests, dries, or manufactures cannabis in amounts reasonably or demonstrably related to the personal use of a person 21 years of age or older shall not, solely on the basis of such fact or facts, be subject to the punishments provided in Section 11725, 11727 or 11728.

(d) ASSISTANCE.—A person 21 years of age or older may assist another person 21 years of age or older in any of the acts described in this section in accordance with this division.

(e) REBUTTABLE PRESUMPTION.—There shall be a rebuttable presumption that a person 21 years of age or older is in compliance with the amounts and conditions specified in this division.

## **Article 2. Compassionate Use Act of 1996 (codified in SEC. 21.)**

## **Article 2.5. Medical Marijuana Program (codified in SEC. 22.)**

### **CHAPTER 3. SMOKING**

#### **§11722. Smoking and local provisions.**

(a) CONSUMPTION UPON PRIVATE PROPERTY.—It is not a violation of California law for an adult or qualified patient to consume cannabis in one's home, or upon the grounds of a private residence.

(b) CONSUMPTION IN PUBLIC.—Except as otherwise provided in this section, it shall not be a violation of state law for an adult or qualified patient to smoke cannabis in a public place or area at least six hundred feet from the grounds of any school providing instruction in kindergarten or any of grades 1 through 12.

(c) PENALTIES FOR VIOLATION.—Any person who smokes cannabis in a public place in violation of a local rule or ordinance is guilty of an infraction, punishable by a fine of not more than fifty dollars (\$50). A violation of this subdivision shall not result in the forfeiture or seizure of the cannabis, except as to extinguish the flame or otherwise ensure compliance with state or local law. This subdivision shall not apply to a qualified patient or a person in possession of a valid identification card.

#### **§11723. Smoking prohibitions.**

(a) LIMITATIONS ON SMOKING.—Nothing in this division shall authorize any person to engage in the smoking of cannabis under any of the following circumstances:

- (1) In any place where smoking is prohibited pursuant to Section 11722.
- (2) In or within 600 feet of the grounds of a school, recreation center, or youth center, unless the use occurs within or upon the property of a residence.
- (3) On a schoolbus or on public transportation.
- (4) While operating a boat or motor vehicle.

(b) SMOKING ON SCHOOL GROUNDS.—Except as authorized by law, every person who smokes cannabis upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs, shall be subject to one of the following dispositions:

- (1) An infraction or misdemeanor, punishable by a fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.
- (2) A misdemeanor, punishable by a fine of not more than five hundred dollars (\$500), or by imprisonment in the county jail or commitment to a juvenile hall, ranch, camp, forestry camp, or

secure juvenile home, for a period of not more than 10 days, or by both such fine and imprisonment, upon a finding that a second or subsequent offense has been committed.

**§11724. Use and related conduct.**

It is not a violation of California law, except as provided in subdivision (f) of Section 647 of the Penal Code, for an adult or qualified patient to be under the influence of cannabis. This section shall not preclude such activity from being introduced as evidence in a civil or criminal proceeding alleging a violation of California law.

**CHAPTER 4. UNLAWFUL DELIVERY**

**§11725. Penalties for unlawful sales.**

**(a) UNLAWFUL SALES AND DELIVERY.—**

(1) GENERAL VIOLATIONS.—Except as authorized or otherwise provided by law, every person who transports, imports into this state, furnishes, administers, sells, or possesses for sale cannabis or cannabis-infused products shall be guilty of a misdemeanor, punishable by a fine of not more than five thousand dollars (\$5,000), or by imprisonment in the county jail for a period of not more than one year, or by both such fine and imprisonment.

(2) SALE OF SMALL AMOUNTS.—Except as authorized by law, every person 18 years of age or older who transports, imports into this state, furnishes, administers, sells, or possesses for sale not more than 30 grams of cannabis or any cannabis-infused products shall be guilty of a misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250), but not more than five hundred dollars (\$500) for a first offense within two years prior to the alleged commission of the charged offense. In addition to a fine, the trial court may, at its discretion, impose a term of imprisonment in the county jail for a period of not more than ninety days for any misdemeanor violation of this paragraph.

(3) UNLAWFUL COMMERCIAL OFFERING.—Except as authorized or otherwise provided by law, every person who offers to transport, import into this state, furnish, administer, sell, share, provide, or give away cannabis or any cannabis-infused products shall be guilty of a misdemeanor, punishable by a fine of not more than two hundred fifty dollars (\$250).

**(b) DELIVERY TO UNDERAGE PERSONS.—**

(1) SALES.—Except as authorized or otherwise provided by law, every person 21 years of age or older who transports, imports into this state, furnishes, administers, sells, shares, provides, gives away, or possesses for sale any cannabis or cannabis-infused products to a person under 21 years of age shall be guilty of a misdemeanor, punishable by imprisonment in the 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.

(2) SHARING.—Except as authorized by law, every person 21 years of age or older who shares, provides or gives away without remuneration any cannabis or cannabis-infused products to a person under 21 years of age, but 18 years of age or older, shall be guilty of an infraction, punishable by a fine of not more than one hundred dollars (\$100).

**(c) SALES BY JUVENILES.—**

(1) GENERAL VIOLATIONS.—Except as authorized or otherwise provided by law, every person under 18 years of age who furnishes, administers, sells, or possesses for sale any cannabis or cannabis-infused products shall be guilty of an infraction or misdemeanor, punishable by a fine of not more than two hundred fifty dollars (\$250) for a first offense within two years prior to the alleged commission of the charged offense. In any case in which a person is arrested for a violation of this paragraph and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(2) SALES TO YOUNG JUVENILES.—Except as authorized or otherwise provided by law, every person at least 14 years of age or older, but less than 18 years of age, who furnishes, administers, sells, or possesses for sale any cannabis or cannabis-infused products to a person under 14 years of

age shall be guilty of a misdemeanor, punishable by a fine of not more than two-hundred fifty dollars (\$250) for a first offense within two years prior to the alleged commission of the charged offense. In addition to a fine, the trial court may, at its discretion, impose a term of imprisonment in the county jail or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home, for a period of not more than 10 days, or by both such fine and imprisonment.

#### **§11726. Exemptions.**

(a) DELIVERY UPON ORDER OF PARENT.—This chapter shall not apply to the transfer to a person under 21 years of age in order to make a delivery of cannabis in pursuance of the order of his or her parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of his or her employment.

(b) COMPENSATION AND REIMBURSEMENTS.—A person who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an adult, qualified patient, primary caregiver, or person with an identification card to enable such person to use cannabis under this division, 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 this chapter or Chapter 5 (commencing with Section 11727) of this division, provided that nothing in this subdivision shall authorize the cultivation or distribution of cannabis for profit.

(c) NONCOMMERCIAL ACTIVITY.—Notwithstanding any other provision of law, a person who possesses, produces, cultivates, transports, manufactures, delivers, shares, or gives away cannabis exclusively for personal or medical purposes, but who does not receive remuneration for those activities except for compensation in full compliance with subdivision (b) shall be deemed not engaged in commercial cannabis activity and shall be exempt from licensure under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(d) PERSONAL USE EXEMPTION.—Notwithstanding any other provision of law, every person who possesses amounts of cannabis or cannabis-infused products for personal or medical use or possesses paraphernalia consistent with Section 11739.5 shall not, solely on the basis of those facts, be subject to any punishment or sanction for the possession for sale of cannabis or cannabis-infused products under Section 11725.

(e) EXEMPTIONS FOR GOOD FAITH VERIFICATION.—Subdivisions (a) and (b) of, and paragraph (1) of subdivision (c) of, Section 11725 shall not apply to the sale, sharing, giving away of cannabis to persons under 21 years of age by a person or entity, or any of its officers, agents and employees licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code if such person demanded, was shown, and reasonably relied upon evidence that the buyer or intended recipient was qualified to purchase and possess cannabis under California law, and no violation otherwise exists under the circumstances. Evidence that such person was “qualified to purchase and possess cannabis under California law” may include a facsimile of or a reasonable likeness of a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, or an identification card issued to a member of the Armed Forces, that contains information suggesting such individual has reached the age required to lawfully purchase cannabis within the State of California, or any valid medical marijuana identification card.

### **CHAPTER 5. UNLAWFUL POSSESSION OR CULTIVATION**

#### **§11727. Unlawful possession.**

(a) UNDERAGE POSSESSION.—Except as authorized by law, it is unlawful for a person under 21 years of age to have in his or her physical possession, on any street or highway or in any public place, or in any place open to the public, any cannabis or cannabis-infused products. This subdivision shall not apply to the possession of cannabis or cannabis-infused products for personal medicinal purposes pursuant to the requirements of Section 11721.5 or Sections 11721.7 through 11721.82.

(b) SEIZURE.—Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any cannabis or cannabis-infused products in plain view that is



in the possession of, or provided to, a person under 21 years of age who is not a qualified patient or a primary caregiver at social gatherings, when those gatherings are open to the public, 10 or more persons under 21 years of age are participating, persons under 21 years of age are consuming cannabis, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants. The peace officer shall impound that cannabis for a period not to exceed seven working days pending a request for the release of those products by an adult, qualified patient or primary caregiver who is the lawful owner, lessee, or resident of the property upon which the cannabis was seized. If no one requests release of the seized cannabis within that period, that cannabis shall be destroyed.

(c) PENALTIES.—A violation of subdivision (a) is an infraction punishable by a fine of not more than one hundred dollars (\$100). In lieu of both the fine and court fees, the offender may opt to perform 40 hours of community service.

(d) EXEMPTIONS.—Subdivision (a) shall not apply to possession by a person under 21 years of age making a delivery of cannabis in pursuance of the order of his or her parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of his or her employment. That person shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, adult designee, or his or her employer, relating to the disposition of the cannabis.

(e) POSSESSION OF EXCESSIVE AMOUNTS.—

(1) GENERAL VIOLATIONS.—Except as authorized or otherwise provided by law, every adult in possession of cannabis or cannabis-infused products in excess of those amounts protected under Section 11721 shall be subject to the following dispositions:

(A) A misdemeanor, punishable by a fine of not more than two hundred fifty dollars (\$250). In any case in which a person is arrested for a violation of this subparagraph and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(B) A misdemeanor, punishable by a fine of not more than five hundred dollars (\$500), or by imprisonment in the county jail for a period of not more than 90 days, or by both such fine and imprisonment, upon a finding that a second or subsequent offense has been committed.

(2) TRAFFICKING.—Except as authorized by law, every person who transports, imports into this state, or possesses more than twenty thousand grams of cannabis shall be punished by imprisonment in a county jail for a period of not more than one year or by a fine of not more than two thousand five hundred dollars (\$2,500), or by both such fine and imprisonment.

(f) CBD EXEMPTION.—This section shall not apply to the possession of cannabis or cannabis-infused products that contain not more than five percent by weight of tetrahydrocannabinol and an amount of cannabidiol equal to or greater than the amount of tetrahydrocannabinol, provided that nothing in this subdivision shall authorize the smoking or vaporization of such cannabis by a person under 21 years of age who is not a qualified patient.

(g) MEDICAL USE EXEMPTION.—This section shall not apply to the possession of cannabis or cannabis-infused products for personal medicinal purposes pursuant to the requirements of Section 11721.5 or Sections 11721.7 through 11721.82.

#### **§11728. Unlawful cultivation.**

(a) CLASS 1 CULTIVATION OFFENSE.—Except as authorized by law, any person who cultivates cannabis plants in an area not exceeding one hundred square feet (100 sq. ft.) is guilty of a misdemeanor, punishable by a fine of not more than twenty five dollars (\$25) per square foot in cultivation. In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking. This subdivision shall not preclude prosecution of any law that prohibits unauthorized cultivation of cannabis within a state park or on public lands.

(b) CLASS 2 CULTIVATION OFFENSE.—Except as authorized by law, any person who cultivates cannabis plants in an area exceeding one hundred square feet (100 sq. ft.) but not exceeding one thousand square feet (1,000 sq. ft.) is guilty of a misdemeanor, punishable by a fine of not more than twenty five dollars (\$25) per square foot in cultivation, or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment. This subdivision shall not preclude prosecution of any law that prohibits unauthorized cultivation of cannabis within a state park or on public lands.

(c) CLASS 3 CULTIVATION OFFENSE.—Except as authorized by law, any person who cultivates cannabis plants in an area exceeding one thousand square feet (1,000 sq. ft.) but not exceeding five thousand square feet (5,000 sq. ft.) is guilty of a misdemeanor, punishable by a fine of not more than twenty-five dollars (\$25) per square foot in cultivation, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. This subdivision shall not preclude prosecution of any law that prohibits unauthorized cultivation of cannabis within a state park or on public lands.

(d) CLASS 4 CULTIVATION OFFENSE.—Except as authorized by law, any person who cultivates cannabis plants in an area exceeding five thousand square feet (5,000 sq. ft.) is guilty of a misdemeanor, and shall be punished by imprisonment in a county jail for a period of not more than one year or by a fine of not more than fifty dollars (\$50) per square foot in cultivation, or by both such fine and imprisonment. This subdivision shall not preclude prosecution of any law that prohibits unauthorized cultivation of cannabis within a state park or on public lands.

(e) All square footage calculations made pursuant to this section shall be measured by the combined growth area of cannabis plants.

(f) Except as authorized or otherwise provided by law, any person who cultivates any marijuana or any part thereof is guilty of a misdemeanor, punishable by a fine of not more than two hundred fifty dollars (\$250). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking. This subdivision shall not preclude prosecution of any law that prohibits unauthorized cultivation of cannabis within a state park or on public lands.

(g) All persons arrested for an alleged violation of this section shall have the right to demand the civil or criminal proceedings for such violation(s) commence within three working days.

(h) This section shall not apply to the cultivation of cannabis or cannabis-infused products for personal medicinal purposes pursuant to the requirements of Section 11721.5 or Sections 11721.7 through 11721.82, provided that such cultivation is in compliance with any ordinance adopted, enacted or carried out pursuant to Section 11736.1.

#### **§11728.5. Exemptions for hemp cultivation.**

This chapter shall not be construed to prohibit the production of hemp for fiber, protein and oil, or for horticultural or industrial purposes. The Department of Food and Agriculture shall issue rules concerning the cultivation of hemp. The California Environmental Protection Agency shall issue any rules necessary to protect the environment, including regulations limiting the use of pesticides, controlling water diversion, and preventing other forms of pollution generated by the cultivation of hemp.

### **CHAPTER 6. TEMPORARY EXEMPTIONS FOR VARIOUS COMMERCIAL ACTIVITIES**

#### **§11729. Temporary collective rights.**

(a) QUALIFICATIONS.—Adults, qualified patients or designated primary caregivers of qualified patients, or persons with valid identification cards, that associate collectively, cooperatively, or as other business entities, to possess, purchase, transport, cultivate, manufacture, process, administer, deliver, or give away cannabis, for use by adults or qualified patients and within amounts not exceeding those established in Section 11721 or Section 11721.77, shall not be subject on that sole basis to civil or criminal liability under Section 11725, 11727, or 11728. This section applies to all

members of an entity formed pursuant to this section regardless of whether those members contribute to all or any of the activities of the entity.

(b) PROXIMITY TO SCHOOLS.—Except as otherwise provided by state or local law, no qualified person or entity under this section shall be permitted to locate within a 1000-foot radius of a school.

(c) OPERATIVE DATE.—

(1) Except as provided by paragraph (2), this section shall become operative on July 1, 2017.

(2) Notwithstanding any other provision of law, if the Cannabis Regulatory Control Commission posts a notice on its Internet Web site before May 1, 2017 that it has begun accepting applications for commercial licenses pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, this section shall not take effect.

(d) REGISTRATION REQUIREMENTS FOR STATE TAX PURPOSES.—Nothing in this section shall be construed to diminish or abrogate any requirement of a person or entity to register with the State Board of Equalization in accordance with California law.

(e) INOPERATIVE DATE.—This section shall remain in effect only until 180 days after the Cannabis Regulatory Control Commission or the Department of Consumer Affairs posts a notice on its Internet Web site that it has begun issuing commercial licenses pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, provided that, notwithstanding any other provision of law, if any provision of Division 10 (commencing with Section 26000) of the Business and Professions Code or the application thereof to any person or circumstances is held invalid, and such invalidity unreasonably burdens or prevents the issuance or renewal of licenses consistent with the provisions of such division, the provisions of this section shall retain immediate force and effect.

## **CHAPTER 7. CULTIVATION ON STATE-OWNED PROPERTY AND PUBLIC LANDS**

### **§11730. Use, cultivation or manufacture on university property.**

Nothing shall prevent the University of California and the California State University from regulating, restricting or prohibiting the smoking, cultivation and manufacturing of cannabis in residence halls and other areas upon the property in which the state or institution controls.

### **§11730.5. Cultivation on public lands.**

(a) Except as authorized by law, every person who cultivates cannabis within a state park or on public lands shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code. In addition, the trial court may impose a fine of not more than one hundred dollars (\$100) per square foot in cultivation.

(b) As used in this section, "public lands" means lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof.

## **CHAPTER 8. GENERAL PROCEDURES**

### **§11731. Nuisance actions.**

Except as otherwise provided by this chapter, nothing that is done or maintained under the express authority of a statute, or any activity that is expressly not a violation of law, included within this division or Division 10 (commencing with Section 26000) of the Business and Professions Code, can be deemed a nuisance, provided that nothing in this section shall prevent a public or private nuisance action from being brought with respect to activities or operations that have a significant effect on the environment.

### **§11731.5. Cannabis and hemp as agriculture.**

(a) Cannabis and hemp shall each be considered an agricultural commodity under California law. Accordingly, the provisions of Section 3482.5 and 3482.6 of Title 1 (commencing with Section 3479) of Part 3 of Division 4 of the California Civil Code shall apply to the commercial cultivation of cannabis or hemp consistent with this division or Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) Cannabis and hemp cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the 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 and hemp cultivation and shall have the power to coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

**§11732. Statewide protections for compliant activity.**

(a) GENERAL PROTECTIONS.—This division enjoins the prosecution, property seizure, asset forfeiture, imposition of eradication costs, and/or any criminal or civil penalty, or sanction, for activity authorized, or expressly not prohibited under state law, within this division or Division 10 (commencing with Section 26000) of the Business and Professions Code. This subdivision shall not preclude an arrest consistent with a warrant issued by a magistrate upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the cannabis to be seized.

(b) BURDEN OF PROOF.—With respect to any investigation by a peace officer into a potential violation of this division or Division 10 (commencing with Section 26000) of the Business and Professions Code, and with respect to a civil or criminal proceeding alleging such violation, the People shall bear the burden of proof beyond a reasonable doubt that such activity is unlawful under California law.

**§11733. Penalties.**

Any other violation of this division is an infraction, punishable by a fine of up to one hundred dollars (\$100).

**§11733.5. Sentencing for first-time violations.**

(a) An offender may petition the court to reduce or resentence a non-violent misdemeanor conviction of any offense specified in this division or Division 10 (commencing with Section 26000) of the Business and Professions Code to an infraction for a first misdemeanor offense under either such divisions.

(b) If the petitioner satisfies the criteria in subdivision (a), the petitioner's conviction for a non-violent misdemeanor violation shall be sentenced, or recalled and resentenced, in accordance with Penal Code Section 19.6 unless the court, in its discretion, determines that such sentencing for the petitioner would pose an unreasonable risk of danger to public safety.

(c) Under no circumstances may a person charged or serving a sentence for a conviction, whether by trial or plea, of any violation involving the delivery of cannabis to a person under 18 years of age by a person 18 years of age or older, be subject to a reduction in accordance with this section.

(d) Any person sentenced or resentenced under this section in accordance with Penal Code Section 19.6 may be subject to a total fine of not more than one thousand dollars (\$1,000) in lieu of other penalties provided by law.

(e) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(f) Nothing in this section is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this section.

(g) A resentencing hearing ordered pursuant to this section shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution.

**§11734. Statute of limitations.**

Any prosecution for a violation of any of the provisions of this division shall be instituted within one year from the date of the commission of the charged offense.

## **CHAPTER 9. LIMITED ARREST PROTECTIONS FOR CERTAIN ACTIVITIES**

### **§11735. Limited medical cannabis arrest protections.**

(a) If an individual or entity accused of violating this division claims limited immunity or other civil or criminal protections provided under Section 11721.5 or Article 2.5 (commencing with Section 11721.7) of Chapter 2 of this division at the time of arrest, citation or detention, a peace officer must perform a reasonable investigation to verify such individual is not prohibited under California law to purchase, possess, share, transport, cultivate, process or manufacture cannabis in the alleged manner, prior to carrying out the arrest, citation or sanction for violation of such offense.

(b) An individual shall be deemed verified if all of the following apply:

(1) The license of the attending physician has been verified, and the license is in good standing to practice medicine or osteopathy in a state, district, territory, commonwealth, or insular possession of the United States.

(2) If a written or oral recommendation or approval provides an expiration date, the recommendation or approval shall not have expired.

(3) The recommendation or approval, written or oral, can be verified with the attending physician, or an agent of the attending physician, via telephone or Internet web-based system, or the signature of the attending physician affixed on any written recommendation or approval can otherwise be verified as genuine.

(4) The individual, if claiming to be a primary caregiver or an agent of an eligible qualified patient, can provide sufficient information that, by a preponderance of the evidence, such individual was acting on behalf of a qualified patient.

(c) An individual shall be deemed verified if he or she is in possession of a valid identification card issued by the designated agency of a state or territory within the jurisdiction of the United States of America.

(d) A person who is deemed verified shall not be subject to arrest, prosecution, seizure of cannabis, asset forfeiture, or imposition of any criminal or civil penalties or fines for possession, cultivation, manufacture, acquisition, transportation, or delivery of medical marijuana in an amount and manner established pursuant to Article 2.5 (commencing with Section 11721.7) of Chapter 2 of this division, unless there is reasonable cause to believe that the information obtained is false or falsified.

(e) Nothing in this section shall be construed to abridge the rights, privileges and immunities of the Compassionate Use Act of 1996 as it existed prior to November 8, 2016.

### **§11735.5. Immunities when contacting medical assistance.**

(a) Any person under 21 years of age shall be immune from prosecution under subdivision (a) of Section 11727 when the person establishes all of the following:

(1) The underage person called 911 and reported that either himself or herself or another person was in need of medical assistance due to, in part or whole, the consumption of cannabis.

(2) The underage person, who reported that a person was in need of medical assistance, remained on the scene until that medical assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.

(b) This section shall not provide immunity from criminal prosecution for any offense that involves activities potentially made dangerous by the consumption of cannabis, including, but not limited to, a violation of Section 23103 of the Vehicle Code, as specified by Section 23103.5 of the Vehicle Code, or a violation of Sections 23152 and 23153 of the Vehicle Code.

## **CHAPTER 10. CONFLICTING ENFORCEMENT, PREEMPTION AND LOCAL REGULATION**

### **§11736. Statewide applicability.**

(a) Except as specified in this chapter, this division is a matter of statewide interest and concern and is applicable uniformly throughout the state. Accordingly, this division, and Division 10 (commencing with Section 26000) of the Business and Professions Code, shall occupy the whole field

of cannabis use, possession, cultivation, transportation, distribution and sale under California law.

(b) Except as otherwise provided in this section, state or local funds shall not be expended on, and state or local law enforcement or other personnel shall not assist in, carrying out the enforcement of any federal or other cannabis-related laws or ordinances that are inconsistent with this division, or provide for greater sanctions for conduct prohibited by this division.

(c) Nothing shall be construed to prevent the local adoption and enforcement of ordinances pursuant to any of the following:

(1) Chapter 11 (commencing with Section 26050) of Division 10 of the Business and Professions Code.

(2) Chapter 17 (commencing with Section 26075) of Division 10 of the Business and Professions Code.

(3) Subdivision (c) of Section 11721.77 of the Health and Safety Code.

(4) Article 2 (commencing with Section 11739.2) of Chapter 12 of this division.

(d) If Assembly Bill 266 of the 2015-16 Regular Session was enacted and became effective on or before January 1, 2016, Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Section 11362.777 of this code shall remain in effect only until 180 days after the Cannabis Regulatory Control Commission or the Department of Consumer Affairs posts a notice on its Internet Web site that it has begun issuing commercial licenses pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

#### **§11736.1. Local cultivation ordinances.**

(a) RAISE FLOOR AMOUNTS.—

(1) Nothing shall prevent a city, county, or city and county from retaining or enacting laws or ordinances that expand upon the personal or medical use protections in an amount greater than the statewide amounts provided under Section 11721 and 11721.77; provided that no taxes, fees, or levies, nor any license or registration shall be imposed or required in order to participate in the noncommercial possession, production, cultivation, transportation, manufacture, processing, delivery, sharing, and giving away of cannabis or cannabis-infused products for personal or medical use, and not for sale.

(2) Amounts determined by a city, county, or city and county pursuant to paragraph (1) shall be transmitted to the California Highway Patrol and other state law enforcement agencies to ensure that such persons in each jurisdiction are not subject to arrest, prosecution, asset forfeiture, seizure, penalty or sanction when in compliance with state and local law.

(b) GROUP CULTIVATION.—Nothing shall prevent a city, county, or city and county from restricting or prohibiting the group cultivation in residential zones in excess of five persons per residence, parcel or private property.

(c) CULTIVATION VISIBLE FROM PUBLIC PROPERTY.—Except as otherwise provided in this section, nothing shall prevent a city, county, or city and county, from restricting or prohibiting the cultivation of cannabis plants in unenclosed spaces that are visible to the unaided eye from the street or from any property generally accessible to the public.

(d) OUTDOOR CULTIVATION.—Except as otherwise provided in this section, nothing shall prevent a city, county, or city and county from adopting, enacting or carrying out local ordinances that restrict or prohibit the outdoor cultivation of cannabis plants, provided that the ordinance proposing such restriction or prohibition is approved by a majority vote of the qualified voters of the city, county, or city and county, voting in an election on the issue.

(e) INDOOR CULTIVATION.—Except as provided by subdivision (b), this chapter shall not be construed to permit the local restriction or prohibition of indoor cannabis cultivation, or the cultivation of cannabis within an enclosed space, including, but not limited to, a house, structure, barn, shed, greenhouse, or closet.

(f) AGRICULTURAL REGULATION.—Except as provided by this division or Division 10 (commencing with Section 26000) of the Business and Professions Code, nothing shall permit the local restriction or prohibition of an agricultural activity, operation, or facility, or appurtenances thereof, related to cannabis or hemp production conducted and maintained for commercial purposes, in a manner inconsistent with proper and accepted customs and standards, as established and followed by similar

agricultural operations in the same locality.

(g) PENALTIES.—Any person found in violation of a local cultivation ordinance adopted, enacted or carried out pursuant to this chapter or division shall be subject to penalties provided in, or no harsher than those provided in, Section 11728.

#### **§11736.2. Local restrictions on public smoking.**

Nothing shall prevent a city, county, or city and county from adopting, enacting or carrying out ordinances or guidelines prohibiting the smoking of cannabis in public places; however, the right to smoke cannabis in one's home, or upon the grounds of a private residence, shall not be infringed. Persons found in violation of a local smoking ordinance adopted, enacted or carried out pursuant to this section shall be subject to the penalties provided in subdivision (c) of Section 11722.

#### **§11736.3. Regulation of temporary commercial activity.**

(a) REASONABLE REGULATIONS.—Except as provided by subdivision (b), nothing shall prevent a city, county, or city and county from adopting, enforcing, or carrying out local ordinances that reasonably regulate, but not unreasonably restrict or prohibit, the location, operation, manner, or establishment of a person or entity that is conducting, or intends to conduct, commercial cannabis activity. These regulations may include, but not be limited to, adopting, enforcing or carrying out regulations on commercial cannabis activities that:

- (1) Restrict the location of cultivators to agricultural and industrial zones.
- (2) Restrict the location of wholesalers to industrial and commercial zones.
- (3) Restrict the location of medical cannabis cooperatives or collectives to agricultural, industrial or commercial zones.
- (4) Restrict the location of retail establishments to agricultural, industrial or commercial zones.
- (5) Restrict or prevent any storefront cooperatives, collectives or business entities from locating within a 1000-foot radius of a school.
- (6) Restrict or prevent any business entity from operating within a residential zone.
- (7) Restrict or prevent the cultivation of cannabis by a person or entity in a combined growth area in excess of the following amounts per premises:
  - (A) One thousand square feet (1,000 sq. ft.) for indoor cultivation;
  - (B) Three thousand square feet (3,000 sq. ft.) for greenhouse cultivation; and
  - (C) Five thousand square feet (5,000 sq. ft.) for outdoor cultivation.
- (8) Provide reasonable and appropriate environmental and public health controls to ensure that any operation minimizes any harm to the environment, adjoining and nearby landowners, patrons, employees, and persons passing by.

(b) MORATORIA.—Notwithstanding any other provision of law, nothing shall prevent a city, county, or city and county from adopting, enforcing, or carrying out a moratorium on some or all unlicensed sales or transactions involving cannabis by individuals or groups within its jurisdiction until 180 days after the Cannabis Regulatory Control Commission has begun issuing licenses pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(c) INOPERATIVE DATE.—This section shall become inoperative 180 days after the Cannabis Regulatory Control Commission has begun issuing licenses pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

#### **§11736.5. Exclusion of impaired conduct from exemptions.**

Notwithstanding any other provision of law, this division shall not be construed to limit any criminal statute that forbids impairment while engaging in dangerous activities such as driving or operating heavy machinery.

#### **§11736.8. Local decriminalization.**

Nothing in this division shall prevent a city, county, or city and county, from adopting, enforcing, or carrying out ordinances that provide for less restrictive penalties than set forth in this division.

### **§11737. Enforcement.**

No state or local law enforcement or other personnel shall serve as an obstacle to, nor endorse or participate in, the enforcement and implementation of federal law concerning cannabis-related laws that are inconsistent with this division.

### **§11737.5. Preemption.**

Notwithstanding any other provision of law, nothing in this division or Division 10 (commencing with Section 26000) of the Business and Professions Code shall be construed to prevent or obstruct the administration and enforcement of Federal law, nor prevent or obstruct any person from complying with the provisions of the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801), the Controlled Substances Import and Export Act (84 Stat. 1285; 21 U.S.C. 951), and the regulations of the Drug Enforcement Administration (21 CFR 1301.28, 1311.27).

## **CHAPTER 11. RECORDS AND PRIOR CONVICTIONS**

### **§11738. Resentencing of prior non-violent offenders.**

(a) (1) A person currently serving a sentence for a conviction, whether by trial or plea, of a non-violent felony under Section 11357, 11358, 11359 or 11360, as the offenses existed prior to July 1, 2015, who would have been guilty of a misdemeanor under Section 11725, 11727 or 11728 had this act been in effect at the time of the offense may petition for a recall of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing in accordance with Section 11725, 11727 or 11728. With respect to applicable current trials, the trial court shall automatically resentence the offender in accordance with Section 11725, 11727 or 11728.

(2) A person currently serving a sentence for a conviction, whether by trial or plea, of a non-violent misdemeanor or felony under Section 11357, 11358, 11359 or 11360, as the offenses existed prior to July 1, 2015, who would not have been guilty of a crime under California law had this act been in effect at the time of the offense may petition for a recall of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing in accordance with Penal Code Section 19. With respect to applicable current trials, the trial court shall automatically resentence the offender in accordance with Penal Code Section 19. The court shall select a term which, in the court's discretion, best serves the interests of justice and shall state the reasons for its choice on the record at the time of the sentence.

(b) Upon receiving a petition under subdivision (a), the court shall determine whether the petitioner satisfies the criteria in subdivision (a). If the petitioner satisfies the criteria in subdivision (a), the petitioner's non-violent misdemeanor or felony sentence shall be recalled and the petitioner resented to a misdemeanor pursuant to Section 11725, 11727 or 11728, or Penal Code Section 19, unless the court, in its discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger to public safety.

(c) A person who is resented pursuant to this section shall be given credit for time served.

(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence.

(e) Under no circumstances may a person currently serving a sentence for a conviction, whether by trial or plea, of a felony under Section 11361, as the offense existed prior to July 1, 2015, or of any violation involving the delivery of cannabis to a person under 18 years of age by a person 18 years of age or older, be subject to resentencing under this section.

(f) Under no circumstances may a person currently serving a sentence for a conviction, whether by trial or plea, of a felony under Section 11358, as the offense existed prior to July 1, 2015, that involved the cultivation of cannabis within a state park or on public lands, be subject to resentencing under this section.

(g) A person who has completed his or her sentence for a conviction, whether by trial or plea, of a non-violent felony who would have been guilty of a misdemeanor under this division had this division been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the non-violent felony conviction or convictions designated as misdemeanors.



(h) Any non-violent felony conviction that is recalled and resentenced under subdivision (a) or designated as a misdemeanor under subdivision (g) shall be considered a misdemeanor for all purposes.

(i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

(j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(k) Nothing in this section is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this act.

(l) A resentencing hearing ordered pursuant to this chapter shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution.

#### **§11738.2. Destruction of prior records.**

(a) This chapter shall mandate the timely destruction of records of the arrest and conviction of any person who completes or has completed his or her sentence for any of the following statutes, as they existed prior to July 1, 2015: Section 11357 [relating to possession]; Section 11358 [relating to cultivation]; subdivision (b) of Section 11360 [related to delivery without remuneration]; and subdivision (b) of Section 23222 of the Vehicle Code [relating to possession].

(b) Destruction of records of arrest or conviction pursuant to subdivision (a) 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.

(c) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section.

(d) 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.

#### **§11738.4. Release of criminal justice statistics.**

(a) Commencing July 1, 2017, the Department of Justice shall annually release the total number of arrests, convictions, resentencing proceedings, sanctions, incarcerations, and releases commenced in the state pursuant to this division, Division 10 (commencing with Section 26000) of the Business and Professions Code, or Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code. This information shall include demographic characteristics and any other metrics that the Attorney General may find appropriate.

(b) The Attorney General shall establish regulations to assure the security of civil or criminal offender record information from unauthorized access and disclosures by individuals and public and private agencies at all levels of operation in this state.

(c) The Attorney General shall establish any other regulations as he or she finds appropriate to carry out the functions of the Department of Justice under this section.

(d) As used in this section, "civil or criminal offender record information" means records and data compiled by criminal justice agencies for purposes of identifying civil and criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, the nature and disposition of civil or criminal sanctions, charges, sentencing, resentencing, incarceration, rehabilitation, and release.

**§11738.5. Destruction of records for new crimes.**

(a) Notwithstanding the provisions of Section 68152 of the Government Code, all trial court clerks shall destroy court records of any infraction or misdemeanor violation of this division or Division 10 (commencing with Section 26000) of the Business and Professions Code two years from the date of conviction, or from the date of arrest if no conviction, if the case is no longer subject to review on appeal, all applicable fines and fees have been paid, and the defendant has complied with all terms and conditions of the sentence or grant of probation.

(b) Notwithstanding subdivision (a), the trial court clerk shall destroy court records of any violation of subdivision (a) of Section 11727 once all applicable fines and fees have been paid, and the defendant has complied with all other terms and conditions of the sentence.

**§11739. Timeliness and accuracy of records.**

(a) Any record subject to destruction or permanent obliteration pursuant to this division shall not be considered to be accurate, relevant, timely, or complete for any purposes by any agency or person. The provisions of this subdivision shall be applicable for purposes of the Privacy Act of 1974 (5 U.S.C. Section 552a) to the fullest extent permissible by law, whenever any information or record subject to destruction or permanent obliteration under this chapter, or a predecessor thereof, was obtained by any state agency, local public agency, or any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, and is thereafter shared with or disseminated to any agency of the federal government.

(b) The Legislature shall have the power to enact or carry out appropriate legislation consistent with this section.

**CHAPTER 12. MISCELLANEOUS PROVISIONS**

**Article 1. Study to Develop Uniform Standard of Impairment**

**§11739.1. Study by Department of Transportation (Caltrans).**

(a) Not later than July 1, 2017, the Department of Transportation shall, on a closed course open to the public, and in conjunction with the Center for Medicinal Cannabis Research, conduct extensive randomized, double-blind, placebo-controlled trials of cannabis consumption before and while operating a motor vehicle to determine a scientifically acceptable and uniform standard of impairment. Within six months of completion of the trials, the Department of Transportation shall deliver the results to the Legislature along with recommendations on how to administer and enforce provisions that prohibit driving while under the influence of cannabis.

(b) Funds for the commission of the trials described in subdivision (a) shall be advanced as a loan by the Department of Transportation and shall be repaid by the initial and recurring funds in The Safe Communities, Parks, and Schools Fund, created in Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.

(c) The Legislature shall have the power to expand or otherwise amend the scope of this section.

(d) Nothing in this section shall authorize the Department of Transportation to distribute cannabis in violation of federal law.

**Article 2. Cannabis Use In The Workplace**

**§11739.2. Employer and employee rights.**

(a) Except as otherwise provided in this section, this division shall not require the accommodation of cannabis use in the workplace, nor prevent an employer, city, county, or city and county from regulating, restricting or prohibiting cannabis impairment, consumption or use in the workplace or as a condition of employment.

(b) This division shall not authorize a city, county, or city and county, to prevent an employer from terminating the employment of, or taking other corrective action against, an employee who is impaired on the property or premises of the place of employment or during the hours of employment, because of the use of cannabis.

### **Article 3. Landowner Rights**

#### **§11739.3. Lease protections for landowners.**

Nothing shall prevent landowners of any property from regulating, restricting or prohibiting, through provisions contained within a lawfully established contract, lease or rental agreement, the use, cultivation, manufacture, or distribution of cannabis by tenants within the household or apartment, or anywhere else upon the grounds of the leased property.

### **Article 4. Social Host Liability**

#### **§11739.4. Prohibitions on certain social host conduct.**

(a) A parent or legal guardian who knowingly permits his or her child, or a person in the company of the child, or both, who are under the age of 18 years, to consume cannabis at the home of the parent or legal guardian is guilty of misdemeanor if all of the following occur:

(1) As the result of the consumption of cannabis at the home of the parent or legal guardian, the child or other underage person is under the influence of cannabis.

(2) The parent knowingly permits that child or other underage person, after leaving the parent's or legal guardian's home, to operate a motor vehicle.

(3) That child or underage person is found to have caused a traffic collision while driving the motor vehicle.

(b) A person who violates subdivision (a) shall be punished by imprisonment in a county jail for a term not to exceed one year, by a fine not exceeding one thousand dollars (\$1,000), or by both a fine and imprisonment.

(c) Nothing in this section is intended to preclude prosecution under Section 272 of the Penal Code, or any similar provision, where appropriate.

(d) This section shall not apply if the parent or legal guardian is found to be in violation of Section 25658.2 of the Business and Professions Code.

### **Article 5. Paraphernalia**

#### **§11739.5. Paraphernalia possession and sale protections.**

(a) Notwithstanding any other provision of law, it is not a violation of California law for a person to possess, transfer or give away objects, items, tools, equipment, or paraphernalia associated with, or fit for the particular purposes of, the use, cultivation, possession, purchase or delivery of cannabis or cannabis-infused products.

(b) Notwithstanding any other provision of law, it is not a violation of California law for a person to maintain or operate any place of business in which objects, items, tools, equipment, or paraphernalia associated with, or fit for the particular purposes of, the use, cultivation, possession, purchase or delivery of cannabis or cannabis-infused products, is kept, displayed or offered in any manner, sold, furnished, transferred or given away to adults, qualified patients, primary caregivers, or persons with valid identification cards.

### **Article 6. Fire Prevention Measures**

#### **§11739.6. Duties of State Fire Marshal.**

The State Fire Marshal shall encourage the adoption of fire prevention measures related to the cultivation and manufacture of cannabis by means of education, and shall prepare or cause to be prepared for dissemination information pertaining to fire prevention when engaging in the cultivation and manufacture of cannabis.

## **Article 7. Use of Firearms In The Commission of Certain Offenses**

### **§11739.7. Penalty enhancements for offenses involving firearms.**

(a) Any person who is armed with a firearm in the commission of an offense or combination of offenses specified in subdivision (b) shall upon conviction of such offense or combination of offenses be guilty of a misdemeanor or felony, in addition and consecutive to any other punishments provided under this division. The court shall select a term which, in the court's discretion, best serves the interests of justice and shall state the reasons for its choice on the record at the time of the sentence, but shall not exceed a term of one year in the county jail, or three years in the state prison.

(b) Subdivision (a) shall apply to any combination of the following offenses:

(1) The sale or delivery of cannabis or cannabis-infused products in violation of Section 11725 by a person not licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(2) The offense described in paragraph (2) of subdivision (e) of Section 11727 by a person not licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(3) The offense described in subdivision (d) of Section 11728 by a person not licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(4) The offense described in Section 11730.5.

## **Article 8. General Defense of Act**

### **§11739.9. Statewide protection and defense of Act.**

The State of California is hereby ordered to protect and defend all provisions of this division, Division 10 (commencing with Section 26000) of the Business and Professions Code, and Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code, from any and all challenges or litigation, whether by persons, officials, cities, counties, the state or federal governments.

### **§11739.95. Severability.**

If any provision of this division or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this division that can be given effect without the invalid portion or application and the conflicting parts shall be implemented to the maximum extent that federal law and the United States Constitution permit, and to this end the provisions of this division are severable. It is the intent of the People that this division would have been adopted regardless if such invalid provision had not been included or any invalid application had not been made.

**SEC. 3.** Division 10 (commencing with Section 26000) is added to the Business and Professions Code, to read:

## **DIVISION 10. COMMERCIAL CANNABIS PRODUCTION AND SALE**

### **CHAPTER 1. GENERAL INTENT**

#### **§26000. Intent of the People.**

(a) **INTENT.**—

(1) This division is an exercise of the police powers of the state for the protection of the safety, welfare, health, peace, and morals of the people of the state, to eliminate the evils of unlicensed and unlawful production, selling, and disposing of cannabis, and to promote temperance in the use and consumption of cannabis. It is hereby declared that the subject matter of this division involves in the highest degree the economic, social, and moral well-being and the safety of the state and of all its people. All provisions of this division shall be liberally construed for the

accomplishment of these purposes.

(2) It is the intention of the People in enacting this division to ensure the strict, honest, impartial, and uniform administration and enforcement of cannabis laws throughout the state governing the commercial production and distribution of cannabis. This division is a matter of statewide interest and concern and is applicable uniformly throughout the state.

(b) EXEMPTIONS.—Notwithstanding any other provision of law, this division shall not apply to the noncommercial possession, production, cultivation, transportation, manufacture, processing, delivery, sharing, and giving away of cannabis or cannabis-infused products for personal or medical use, and not for sale.

## CHAPTER 2. GENERAL PROVISIONS AND DEFINITIONS

### §26001. Definitions.

For purposes of this division:

(a) "Adult" means any person 21 years of age or older.

(b) "Board" means the Cannabis Regulatory Control Appeals Board.

(c) "Cannabis" and "marijuana" are terms to be used interchangeably, meaning all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; concentrated cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include hemp.

(d) "Cannabis-infused products" means any solid, liquid, or gas that infuses, or otherwise includes, more than three-tenths of 1 percent tetrahydrocannabinol (THC).

(e) "Commercial cannabis activity" means any commercial cultivation, possession, manufacture, processing, storing, labeling, transporting, distribution, or sale of cannabis or cannabis-infused products.

(f) "Commission" means the Cannabis Regulatory Control Commission in the Department of Consumer Affairs.

(g) "Concentrated cannabis" means the separated resin, whether crude or purified, obtained from cannabis. Concentrated cannabis shall not mean cannabis infused in a food, drink, candy, balm or tincture.

(h) "Cultivate" means to grow and care for cannabis plants, including any activity involving the planting, growing, harvesting, drying, processing, or trimming of cannabis.

(i) "Cultivator" means a person who cultivates cannabis.

(j) "Department" means the Department of Consumer Affairs.

(k) "Distribution" includes the sale or possession for sale of untaxed cannabis in this state.

(l) "Distributor" includes:

(1) Every person who sells or accepts orders for cannabis which are to be transported from a point inside or outside this state to a consumer within this state.

(2) Every person who, on or after 12:01 a.m. on July 1, 2018, and within the meaning of the term "distribution" as defined in this chapter, distributes cannabis.

(m) "Dried cannabis" means any dried mature flower of female cannabis plants that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(n) "Executive Director" means the Executive Director of the Cannabis Regulatory Control Commission.

(o) "Greenhouse cultivation" means the cultivation of cannabis in a greenhouse.

(p) "Hemp" and "industrial hemp" are terms to be used interchangeably, meaning a fiber or oilseed crop that is limited to non-psychoactive types of the plant *Cannabis sativa* L. and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin or flowering tops extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(q) "Indoor cultivation" excludes the cultivation of cannabis within a greenhouse.

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

(s) "Liquid cannabis-infused products" means any product that is in liquid form at room temperature that infuses, or otherwise includes, more than three-tenths of 1 percent tetrahydrocannabinol (THC).

(t) "Manufacturer" means a person who produces, prepares, propagates, compounds, or processes cannabis, either directly or indirectly or by extraction from its natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of cannabis or labeling or relabeling of its container.

(u) "Minor" means any person under 21 years of age.

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

(w) "Person" includes any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, the United States, this state, any county, city and county, municipality, district, or other political subdivision of the state, or any other group or combination acting as a unit.

(x) "Person with an identification card" means an individual who has applied for and received a valid medical marijuana identification card by the State Department of Public Health, or its equivalent issued by the designated entity in another state, district, territory, commonwealth, or insular possession of the United States.

(y) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

(z) "Processor" means a person who processes cannabis.

(aa) "Producer" means a person who produces cannabis.

(ab) "Qualified patient" means a person who is entitled to the protections of Section 11721.5 of the Health and Safety Code, but who does not have an identification card.

(ac) "Retail sale" means a retail sale, as defined in Section 6007 of the Revenue and Taxation Code.

(ad) "Sale" or "sold" means a sale, as defined in Section 6006 of the Revenue and Taxation Code.

(ae) "Seller" means producers, processors, wholesalers, and retailers of cannabis in California, but does not mean transporters of cannabis.

(af) "State license" or "license" means a state license issued pursuant to this division.

(ag) "Transporter" means any person transporting within California cannabis or cannabis-infused products.

(ah) "Wholesaler" means every person that engages in this state in making sales for resale of cannabis or cannabis-infused products.

#### **§26001.5. Square footage assessments.**

All square footage assessments shall be measured by the combined growth area of cannabis plants on one premises.

#### **§26001.8. Licensee activities and conduct.**

(a) Notwithstanding any other provision of law, having in place or maintaining a valid license to engage in the cultivation, processing, production, testing, sale or distribution of cannabis pursuant to this division shall not mandate such licensee, and any of its officers, agents and employees, to engage in activities that are in violation of federal law. It shall not be unlawful under California law for any person or entity holding a valid license pursuant to this division to engage in various conduct in pursuance of the laws and regulations set forth in this division.

(b) The licenses adopted within this division shall identify the licensee, and any of its officers, agents and employees, as someone California has elected to exempt from California's sanctions for the commercial production, distribution and sale of cannabis in accordance with this division, under

the provisions and nomenclature as adopted herein.

(c) Any person or entity that operates an establishment with any valid commercial cannabis license, issued by the commission, shall be bound by the laws and regulations set forth in this division.

#### **§26001.9. Severability.**

If any provision of this division or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this division that can be given effect without the invalid portion or application, and to this end the provisions of this division are severable. It is the intent of the People that this division would have been adopted regardless if such invalid provision had not been included or any invalid application had not been made.

### **CHAPTER 3. ADMINISTRATION**

#### **Article 1. Cannabis Regulatory Control Commission**

##### **§26002. Creation of commission.**

(a) FORMATION.—There is hereby created in the state government, in the Department of Consumer Affairs, a Cannabis Regulatory Control Commission, under the supervision and control of the Executive Director of the Cannabis Regulatory Control Commission.

(b) APPOINTMENTS AND CONFIRMATIONS.—Not later than April 1, 2017, the Governor shall appoint seven members to the commission, subject to Senate confirmation, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. Each member of the commission shall serve in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), to the extent feasible. Each member of the commission shall be a citizen of the United States and a resident of this state. The commission shall consist of the following seven persons, each appointed for a term of four years, subject to Senate confirmation:

(1) One member shall be selected from the Department of Consumer Affairs, and shall serve as Executive Director.

(2) One member shall be selected from the State Department of Public Health.

(3) One member shall be selected from the Department of Food and Agriculture.

(4) One member shall be selected from the State Board of Equalization.

(5) One member shall be selected from the general public.

(6) Two members shall be selected that have experience in the cannabis industry obtained through participation in the cannabis industry in a manner consistent with California law, or participation in an academic or advocacy role relating to the cannabis industry.

(c) FINANCIAL INTEREST.—No commission member selected pursuant to paragraphs (1) through (5) of subdivision (b) shall have a financial interest in the cannabis industry. For the purposes of this subdivision, “financial interest” shall have the same meaning as in Section 650.01 of this code.

(d) DUTY OF ENFORCEMENT AND ADMINISTRATION.—

(1) The duty of enforcing and administering this division shall be vested in the Executive Director, who is responsible to the Director of Consumer Affairs. The Executive Director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this division and declaring the policy of the commission.

(2) Notwithstanding any other provision of law, if Senate Bill 643 of the 2015-16 Regular Session was enacted and became effective on or before January 1, 2016, the chief of the Bureau of Medical Marijuana Regulation, appointed and confirmed in accordance with Section 19302.1 of this code, may serve as interim Executive Director of the commission upon an appropriate Executive order of the Governor providing for such interim appointment, until the Senate has confirmed all appointments made by the Governor pursuant to subdivision (b).

(e) ADDITIONAL PERSONNEL.—

(1) The Governor may appoint, subject to Senate confirmation, any of the following positions to the Commission: an Assistant Chief of Enforcement, and Assistant Chief of Regulation, a Chief

Counsel, an Assistant Chief Counsel, and a Policy Director. All of these positions shall hold office at the pleasure of the Governor, subject to Senate confirmation.

(2) The Executive Director, as necessary to carry out the provisions of this division, and in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), may appoint and fix the compensation of personnel, including, but not limited to, clerical, inspection, enforcement, investigation, legal, and auditing personnel, as well as an assistant Executive Director. These personnel shall perform their respective duties under the supervision and the direction of the Executive Director.

(f) DELEGATION OF POWERS AND DUTIES.—Every power granted to, or duty imposed upon, the Executive Director under this division may be exercised or performed in the name of the Executive Director by a member of the commission, or a deputy or assistant Executive Director, subject to conditions and limitations that the Executive Director prescribes, or any further conditions or limitations imposed by the Legislature.

(g) FUNDS FOR ESTABLISHMENT.—Funds for the establishment and support of the commission shall be advanced as a loan by the department and shall be repaid by the initial and recurring funds in The Safe Communities, Parks, and Schools Fund, created in Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.

(h) LOCAL ENFORCEMENT.—Notwithstanding any other provision of law, the Executive Director is authorized to grant funds from The Safe Communities, Parks, and Schools Fund, created in Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code, to state and local law enforcement agencies for the purpose of enhancing enforcement of cannabis regulatory and taxation laws in the local jurisdiction.

(i) PUBLIC RECORDS.—The commission shall be subject to the California Public Records Act, promulgated under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(j) OPEN MEETINGS.—The commission shall be subject to the Bagley-Keene Open Meeting Act, promulgated under Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

(k) REMOVAL FROM OFFICE.—The members of the commission 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 or corruption or incompetency.

#### **§26002.5. Determination of effect on other programs.**

The commission shall, by October 31, 2017, determine the effect of the provisions of this division on existing commercial cannabis licenses, conditional licenses, or other types of statewide commercial cannabis registration programs administered by a state office, board, bureau or agency under California law, and offer such affected persons or entities priority in applying for an appropriate license under this division as enacted at the November 8, 2016 General Election.

#### **§26003. Powers of commission.**

The Cannabis Regulatory Control Commission shall have the exclusive power to license commercial-related activity to cannabis production and sales, to issue any license specified in this division, and to suspend or revoke any license issued pursuant to this division upon determining good cause. The commission shall, with consideration for the risks posed by cultivation of a valuable crop with public health implications, issue and enforce regulations concerning commercial cultivation, manufacture, storage, transportation, distribution, sale, packaging, and labeling of cannabis and cannabis-infused products by licensees, and the use of cannabis upon the premises of a licensed establishment. These regulations shall be reasonable and provide for any or all of the following:

(a) SECURITY.—Adequate security to reasonably protect against unauthorized access to the cannabis crop at all stages of cultivation, harvesting, drying, processing, packing, and delivery. Notwithstanding any other provision of law, the commission may require, under rules that the commission may prescribe, that each licensee be required to provide a security plan, including lighting, physical security, alarm, along with satisfactory proof of the financial ability of the licensee



to provide for the security, and shall report substantial changes, alterations, or modifications of the security plan to the commission.

(b) EMPLOYMENT RULES.—Appropriate employment rules, including rules prohibiting persons under 21 years of age, with exception to qualified patients who are at least 18 years of age or older or direct descendants of the licensee, from having access to cannabis during cultivation, storage, curing, drying, or packing, or transporting cannabis on behalf of the commercial buyer or commercial seller. Nothing shall prevent the commission from determining employment conduct, eligibility and qualifications for persons under 21 years of age beyond the scope of this subdivision.

(c) AGRICULTURAL AND ENVIRONMENTAL REQUIREMENTS.—Ensure that all applicable statutory environmental and agricultural requirements are followed in the cultivation or manufacturing of cannabis, including the prohibition of using pesticides, fungicides, rodenticide, and other poisonous chemicals at any stage of cultivation.

(d) LAND USE AND NATURAL RESOURCES.—Requirements that cannabis cultivation by licensees is conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters. Nothing in this division, and no regulation adopted by the commission, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.

(e) UNLAWFUL DIVERSION.—Protocols to prevent unlawful diversion of cannabis.

(f) MISREPRESENTATION.—Prohibition of misrepresentation and unfair practices.

(g) LABELING AND PACKAGING.—Adequate labeling of packages of cannabis consistent with Chapter 12 (commencing with Section 26052), and best practices relating to the labeling and packaging of cannabis and cannabis-infused products.

(h) PRODUCT TESTING.—Standards for testing of cannabis and cannabis-infused products, including standards for the onsite or offsite testing by a licensed laboratory. Certification of testing laboratories and persons or entities that perform testing of cannabis and cannabis-infused products may be consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization (including ISO/IEC 17020 and ISO/IEC 17025). These requirements shall apply to all licensed persons or entities, including third-party laboratories, engaged in the testing of cannabis pursuant to this division.

(i) PUBLIC HEALTH AND SANITATION.—Public health and sanitation standards for licensed cultivators, manufacturers or producers of cannabis and cannabis-infused products, including, but not limited to, edible products. At a minimum, the standards required by this subdivision shall do all of the following:

(1) Prescribe sanitation standards equivalent to the California Retail Food Code (Part 7 (commencing with Section 113700)) for food preparation, storage, handling, and sale of edible cannabis-infused products. For purposes of this division, edible cannabis-infused products are deemed to be unadulterated food products.

(2) Require that edible cannabis-infused products produced, distributed, provided, donated, or sold by licensees shall be limited to nonpotentially hazardous food, as established by the State Department of Public Health.

(3) Require that all edible cannabis-infused products shall be packaged at the original point of preparation.

(j) ADMINISTRATIVE PROCEDURES.—Additional procedures and grounds for issuing, renewing, denying, suspending, issuing fines in connection with, restricting, or revoking a license issued pursuant to this division.

(k) RECORD-KEEPING.—Record-keeping consistent with the regulatory needs of the commission, but with an effort to maximize confidentiality where possible.

(l) AGE VERIFICATION MEASURES.—Additional age verification measures to prevent the diversion of cannabis or cannabis-infused products to persons under 21 years of age.

(m) TRANSPORTATION AND SHIPMENTS.—Regulations on the transportation or shipment of cannabis or cannabis-infused products to a point outside of the state.

(n) LAND USE AND ZONING REGULATIONS.—Regulations concerning general zoning, land use, locations, time, place, manner, operation, size, hours of operation, occupancy, and protection of adjoining and nearby properties.

(o) MANUFACTURING.—Regulations concerning the manufacturing or extraction of cannabis by licensees.

(p) LARGE-SCALE CULTIVATION.—Restrictions or prohibitions on the cultivation of cannabis by a person or entity in a combined growth area in excess of the following amounts per premises or license:

- (1) Ten thousand square feet (10,000 sq. ft.) for indoor cultivation;
- (2) Thirty thousand square feet (30,000 sq. ft.) for greenhouse cultivation; and
- (3) Fifty-thousand square feet (50,000 sq. ft.) for outdoor cultivation.

(q) SUPPLEMENTAL LICENSES.—Additional licenses to regulate the production, cultivation, manufacture, transportation, distribution and sales of cannabis and cannabis-infused products.

(r) REASONABLE AND RELATED REGULATIONS.—Any reasonable regulation in furtherance of the letter and spirit of this division.

#### **§26003.2. Regulatory task force.**

The commission may create a cannabis regulatory task force for the purpose of advising the commission on health, risk, and safety or other issues related to the use, cultivation, production, manufacturing, sale or distribution of cannabis and cannabis-infused products, under rules as the commission may prescribe.

#### **§26003.4. Recommendations for building standards.**

The commission may propose recommendations to building standards, or regulations related to the implementation or enforcement of commercial building standards, for structures designed to accommodate the commercial cultivation, manufacturing or processing of cannabis or cannabis-infused products, and may submit such proposed building standards to the Building Standards Commission for adoption in accordance with the provisions of California Building Standards Code (Title 24 of the California Code of Regulations).

### **Article 2. Cannabis Regulatory Control Appeals Board**

#### **§26004. Creation of appeals board.**

(a) FORMATION.—There is hereby created in the state government, in the Department of Consumer Affairs, a Cannabis Regulatory Control Appeals Board, under the supervision and control of the Director of Consumer Affairs.

(b) APPOINTMENTS AND CONFIRMATIONS.—Not later than April 1, 2017, the Governor shall appoint three members to the board, subject to Senate confirmation, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. Each member of the board shall serve in accordance with the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), to the extent feasible. Each member of the board shall be a citizen of the United States and a resident of this state.

(c) REMOVAL FROM OFFICE.—The members of the board 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 or corruption or incompetency.

#### **§26004.1. Appointment of personnel.**

All personnel of the board shall be appointed, directed and controlled by the board. The executive director shall furnish the equipment, supplies, and housing necessary to the operation of the board and shall perform such other mechanics of administration as the board and the executive director may agree upon.

#### **§26004.2. Review of commission decisions.**

When any person aggrieved thereby appeals from a decision of the commission ordering any penalty assessment, issuing, denying, transferring, suspending or revoking any license for the cultivation, production, manufacture, or sale of cannabis or cannabis-infused products, the board shall review the decision subject to such limitations as may be imposed in this division or otherwise imposed by the Legislature. In such cases, the board shall not receive evidence in addition to that considered by the commission. Review by the board of a decision of the commission shall be limited to the questions whether the commission has proceeded without or in excess of its jurisdiction, whether the commission has proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in the light of the whole record. In appeals where the board 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 commission it may enter an order remanding the matter to the commission for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the commission. When the order reverses the decision of the commission, the board may direct the reconsideration of the matter in the light of its order and may direct the commission 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 commission. Orders of the board shall be subject to judicial review upon petition of the executive director or any party aggrieved by such order.

#### **§26004.3. Funding for appeals board.**

Funds for the establishment and support of the board shall be advanced as a loan by the department and shall be repaid by the initial and recurring funds in the Cannabis Regulatory Control Appeals Fund, created in subdivision (b) of Section 26005.35.

#### **§26004.4. Public records and open meetings of the board.**

(a) PUBLIC RECORDS.—The board shall be subject to the California Public Records Act, promulgated under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title I of the Government Code.

(b) OPEN MEETINGS.—The board shall be subject to the Bagley-Keene Open Meeting Act, promulgated under Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

### **Article 3. Appeals From Decisions of the Commission**

#### **§26005. Definitions.**

As used in this article "decision" means any determination of the commission imposing a penalty assessment or affecting a licensee or applicant which may be appealed to the board under Article 2 (commencing with Section 26004) of this chapter.

#### **§26005.1. Timeframe for appeals.**

On or before the tenth day after the last day on which reconsideration of a final decision of the commission can be ordered, or within 30 days after the finality of a petition for redetermination in accordance with Section 26047.5, whichever is later, any party aggrieved by a final decision of the commission may file an appeal with the board from such decision. The appeal shall be in writing and shall state the grounds upon which a review is sought. A copy of the appeal shall be mailed by the appellant to each party who appeared in the proceeding before the commission, including the commission which shall thereafter be treated in all respects as a party to the appeal. The right to appeal shall not be affected by failure to seek reconsideration before the commission.

#### **§26005.15. Filing date and location.**

An appeal to the board shall be deemed filed on the date it is received in the principal office of the board; provided, however, an appeal mailed to the board by means of registered mail shall be

deemed filed with the board on the date of the registry with the United State Post Office.

**§26005.2. Effective date of certain decisions.**

No decision of the commission shall become effective during the period in which an appeal may be filed and the filing of an appeal shall stay the effect of the decision until such time as a final order is made by the board.

**§26005.3. Right to appear before the board.**

(a) The board shall determine the appeal upon the record of the commission and upon any briefs which may be filed by the parties. If any party to the appeal requests the right to appear before the board shall fix a time and place for argument. The board shall not receive any evidence other than that contained in the record of the proceedings of the commission.

(b) Notwithstanding Section 11425.10 of the Government Code, Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the determination.

**§26005.35. Surcharge on annual fees.**

(a) The commission shall collect a 3-percent surcharge on the annual fees provided for in this division on behalf of the board at the same time the commission makes its regular collections of annual fees pursuant to this division. The surcharge shall be rounded to the nearest whole dollar and pay the costs of the board in carrying out its duties.

(b) All surcharges collected by the commission on behalf of the board pursuant to this section shall be deposited in the Cannabis Regulatory Control Appeals Fund, which is hereby created. All moneys in the Cannabis Regulatory Control Appeals Fund shall be available to the board, upon appropriation by the Legislature, to pay the actual costs of the board in carrying out its duties under this chapter.

**§26005.4. Jurisdiction.**

The review by the board of a decision of the commission shall be limited to the questions:

- (a) Whether the commission has proceeded without, or in excess of, its jurisdiction.
- (b) Whether the commission has proceeded in the manner required by law.
- (c) Whether the decision is supported by the findings.
- (d) Whether the findings are supported by substantial evidence in the light of the whole record.
- (e) Whether 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 commission.

**§26005.5. Evidence.**

In appeals where the board 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 commission, it may enter an order remanding the matter to the commission for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the commission. When the order reverses the decision of the commission, the board may direct the reconsideration of the matter in the light of its order and may direct the commission 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 commission.

**§26005.6. Timeframe for orders by the board.**

In all cases, the board shall enter its order within 60 days after the filing of an appeal.

**§26005.7. Remanding of certain decisions.**

Whenever any matter is pending before the board or a court of record involving a dispute between the commission and a licensee, petitioner or protestant and the parties to such a dispute agree upon a settlement or adjustment thereof, the tribunal shall upon the stipulation by the parties that such an agreement has been reached, remand the matter to the commission.

**§26005.8. Orders on appeal from a decision of the commission.**

Each order of the board on appeal from a decision of the commission shall be in writing and shall be filed by delivering copies to the parties personally or by mailing copies to them by certified mail or electronic mail message, or by a combination of the foregoing methods. Each such order shall become final upon being filed as provided herein, and there shall be no reconsideration or rehearing by the board.

**§26005.9. Review by the Courts.**

Final orders of the board may be reviewed by the courts specified in Article 4 (commencing with Section 26006) of this chapter within the time and in the manner therein specified.

**Article 4. Judicial Review**

**§26006. Judicial review of orders of the board.**

Any person affected by a final order of the board, including the commission, may, within the time limit specified in this section, apply to the Supreme Court or to the court of appeal for the appellate district in which the proceeding arose, for a writ of review of such final order. The application for writ of review shall be made within 30 days after filing of the final order of the board.

**§26006.1. Writ of review.**

The writ of review shall be made returnable at a time and place then or thereafter specified by court order and shall direct the board to certify the whole record of the commission in the case to the court within the time specified. No new or additional evidence shall be introduced in such court, but the cause shall be heard on the whole record of the commission as certified to by the board.

**§26006.2. Extent of review.**

The review by the court shall not extend further than to determine, based on the whole record of the commission as certified by the board, whether:

- (a) The commission has proceeded without or in excess of its jurisdiction.
- (b) The commission has proceeded in the manner required by law.
- (c) The decision of the commission is supported by the findings.
- (d) The findings in the commission's decision are supported by substantial evidence in the light of the whole record.
- (e) 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 commission.

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

**§26006.3. Review of findings and conclusions of the commission.**

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

**§26006.4. Code of Civil Procedure.**

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

**§26006.5. Jurisdiction and venue.**

No court of this state, except the Supreme Court and the courts of appeal to the extent specified in this article, shall have jurisdiction to review, affirm, reverse, correct, or annul any order, rule, or decision of the commission or to suspend, stay, or delay the operation or execution thereof, or to restrain, enjoin, or interfere with the commission 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.

**§26006.6. Stay of suspension of any rule or order.**

The filing of a petition for, or the pendency of, a writ of review shall not of itself stay or suspend the operation of any order, rule, or decision of the commission, 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 commission subject to review, upon the terms and conditions which it by order directs.

**§26006.7. Orders on appeal from a decision of the board.**

No decision of the commission which has been appealed to the board and no final order of the board shall become effective during the period in which application may be made for a writ of review, as provided by Section 26006.

**Article 5. State Agency Rules and Regulations**

**§26010. Department of Food and Agriculture.**

Nothing shall prevent the California Department of Food and Agriculture from issuing and enforcing rules concerning the commercial cultivation of cannabis or hemp by any person under California law. Any rules and regulations shall be reasonably applied to the production of consumable plant crops and vineyards.

**§26011. Environmental regulations.**

(a) Nothing shall prevent the California Department of Fish and Wildlife, the California Environmental Protection Agency or the California State Water Resources Control Board from issuing and enforcing any rules necessary to protect the environment and our state's fish, wildlife and natural resources from potential adverse effects of cultivating cannabis, including regulations limiting the use of pesticides, controlling water diversion, and preventing other forms of pollution generated by the cultivation of cannabis or hemp for commercial purposes by any person.

(b) The Department of Food and Agriculture, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, shall ensure that the cumulative effects of water diversion and discharge associated with commercial cannabis cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

**§26012. Department of Pesticide Regulation.**

Nothing shall prevent the California Department of Pesticide Regulation from issuing and enforcing regulations concerning the application of pesticides or other pest control in connection with the cultivation of cannabis or hemp for commercial purposes by any person.

**§26013. Worker health and safety standards.**

(a) Nothing shall prevent the California Division of Labor Standards Enforcement or the Department of Industrial Relations from issuing and enforcing regulations establishing worker health and safety standards or training requirements for entities licensed pursuant to this division.

(b) Notwithstanding any regulations promulgated in accordance with subdivision (a), an employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

#### **§26013.5. Publication of regulations.**

Any rules and regulations lawfully issued by the State Department of Public Health, California Department of Food and Agriculture, California Department of Fish and Wildlife, California Department of Pesticide Regulation, California Division of Labor Standards Enforcement or the Department of Industrial Relations related to the production, cultivation, manufacturing or sale of cannabis or cannabis-infused products, or worker health and safety standards or training requirements of licensed persons or entities involved in the production, cultivation, manufacturing or sale, shall be promptly transmitted to the Executive Director of the Cannabis Regulatory Control Commission and disseminated to applicable licensees and the public accordingly upon effectuation.

### **Article 6. Miscellaneous Provisions**

#### **§26014. Service of notice.**

Any notice required by this division shall be served personally or by mail, or by electronic mail message, or by a combination of such methods. If by mail, the notice shall be placed in a sealed envelope, with postage paid, addressed to the licensee at the address as it appears in the records of the commission. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation, or mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of delivery. In lieu of mail or personal delivery, the notice shall be mailed via an electronic message and service shall be deemed complete at the time of receipt of an electronic mail message receipt notification, passed back from the receiving message handling service indicating that such notice was delivered. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaints in a civil action.

#### **§26015. Provisional access to licensee database.**

(a) The commission shall, upon official written request, provide the Attorney General with provisional access to the commission's database of licensees. No database maintained by the commission shall be used by any other person, office or entity without the written consent of the Attorney General on a per case basis, and the transmittance of sensitive information must adhere to all state laws, policies, and regulations pertaining to the protections of private, personal and other sensitive information.

(b) Except as necessary or required by law, any commission employee that directly and knowingly provides identifiable information about licensees to any person other than a commission employee or the respective licensee or any of its officers, agents or employees is guilty of a misdemeanor.

#### **§26016. State performance audit of commission.**

On and after March 1, 2019, the Bureau of State Audits, in conjunction with the commission, shall annually conduct a performance audit of the licensing and enforcement provisions of this division and shall report its findings to the commission, the State Board of Equalization and the Legislature by March 1 of each year. The report shall include, but not be limited to:

(a) The actual costs of the program.

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

(c) The number of state licenses issued, renewed, denied, suspended, and revoked, by the commission.

(d) The number and type of enforcement activities conducted by the commission and by state and local law enforcement agencies in conjunction with the commission.

(e) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the commission.

(f) The appropriateness of penalties assessed in this division.

- (g) The overall effectiveness of administrative and enforcement programs.

## **CHAPTER 4. INSPECTIONS**

### **§26017. General provisions for inspections.**

(a) (1) Any peace officer, commission or department employee or representative, employee or representative of the Department of Public Health, the Department of Food and Agriculture, or the State Board of Equalization, or a representative 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.

(2) 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.

(3) Inspections may be at any place at which cannabis or cannabis-infused products are sold, produced, cultivated, manufactured, or stored or at any site where evidence of regulatory evasion exists.

(4) Inspections shall be requested or conducted no more than once in a 24-hour period.

(b) A peace officer, commission employee, employee of the Department of Public Health, Department of Food and Agriculture, or the State Board of Equalization, or a representative granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, shall have the power to enforce the provisions of this chapter in a manner to be determined by the commission.

(c) Any licensee, or any of its officers, agents or employees, that refuses to allow an inspection of the licensed premises by any state or local officials enforcing the laws of this state is guilty of a violation punishable as provided in Section 26090, and may result in the suspension or termination of the license as determined by the commission.

## **CHAPTER 5. UNAUTHORIZED COMMERCIAL ACTIVITY**

### **§26018. Sale after suspension or revocation.**

Except as otherwise authorized by law, a person or entity that engages in the business of selling or producing cannabis or cannabis-infused products in this state for sale after a license issued pursuant to this division has been suspended or revoked, and each officer of any corporation that so engages in this business, shall constitute a violation punishable as provided in Section 26090.

### **§26019. Sale without a license.**

Except as authorized by this division or otherwise provided by law, a person or entity that engages in the business of selling or producing cannabis or cannabis-infused products in this state for sale without an appropriate license issued pursuant to this division, and each officer of any corporation that so engages in this business, shall constitute a violation punishable as provided in Section 11725 of the Health and Safety Code.

## **CHAPTER 6. LICENSES AND FEES**

### **Article 1. Commercial Cultivator or Manufacturer**

#### **§26020. Commercial Cultivator/Manufacturer license.**

The commission shall license commercial cultivators and manufacturers of cannabis. The fee for such Commercial Cultivator/Manufacturer license shall be set at five hundred dollars (\$500) per each location for an initial application, and at not more than two hundred fifty dollars (\$250) per each location for each annual renewal.



#### **§26021. Immunities under state law.**

A license issued pursuant to this article and division shall prohibit the arrest, prosecution, asset forfeiture, seizure, penalty or sanction of the licensee, and any of its officers, agents and employees, for any or all of the following activities conducted in compliance with the laws, ordinances, rules and regulations promulgated in accordance with this division:

(a) The planting, cultivating, harvesting, manufacturing, drying, extracting, or processing of cannabis or cannabis-infused products for commercial purposes on or within the property of the licensed premises or other cultivation areas designated upon the application, or any of the above.

(b) The possession for sale and transportation of cannabis or cannabis-infused products for commercial purposes within the State of California.

(c) The sale, distribution, providing, cooking, preparation, serving, sharing or offering of cannabis and cannabis-infused products for sale or transfer to adults, qualified patients, primary caregivers, or persons with valid identification cards, provided that any taxes imposed pursuant to Chapter 2 (commencing with Section 34011) of Part 14.5 of Division 2 of the Revenue and Taxation Code have been paid.

(d) The sale, distribution, providing, cooking, preparation, serving, sharing or offering of cannabis and cannabis-infused products for sale or transfer for sale or transfer at wholesale to other licensees regulated pursuant to this division, at any time.

(e) The purchase or acquisition of cannabis or cannabis-infused products at wholesale from a licensee regulated pursuant to this division.

(f) The distribution, sharing or offering of cannabis or cannabis-infused products without remuneration to adults, qualified patients, primary caregivers, or persons with valid identification cards.

(g) Any other activity as directed or authorized by the commission or by state or local law.

#### **Article 2. Wholesaler or Distributor**

#### **§26022. Wholesaler/Distributor license.**

The commission shall license cannabis wholesalers and distributors, who shall not be prohibited from packaging and preparing commercial cannabis and cannabis-infused products. The fee for such license shall be set at one thousand dollars (\$1,000) per each location for an initial application and for each annual renewal.

#### **§26023. Immunities under state law.**

A wholesaler or distributor license issued pursuant to this article and division shall prohibit the arrest, prosecution, asset forfeiture, seizure, penalty or sanction of the licensee, and any of its officers, agents and employees, for any or all of the following activities conducted in compliance with the laws, ordinances, rules and regulations promulgated in accordance with this division:

(a) The possession for sale and transportation of cannabis or cannabis-infused products for commercial purposes within the State of California.

(b) The sale, distribution, providing, cooking, preparation, serving, sharing or offering of cannabis and cannabis-infused products for sale or transfer at wholesale to other licensees regulated pursuant to this division, provided that any taxes imposed pursuant to Chapter 2 (commencing with Section 34011) of Part 14.5 of Division 2 of the Revenue and Taxation Code have been paid.

(c) Purchasing or acquisition of cannabis or cannabis-infused products from a licensee regulated pursuant to this division.

(d) Any other activity as directed or authorized by the commission or by state or local law.

#### **Article 3. Testing Facility**

#### **§26024. Registration of testing facilities.**

(a) The commission shall register cannabis testing facilities, which shall not be prohibited or restricted from activities reasonably related to the testing and inspection of cannabis and cannabis-infused products pursuant to Chapter 12 (commencing with Section 26052) and this division,

provided that nothing in this division shall authorize the unlawful use or diversion of cannabis under California law. The annual registration fee for each cannabis testing facility shall be set at an amount that will reasonably cover the costs of assuring compliance with the regulations to be issued, but may not exceed one thousand dollars (\$1,000) per each location for an initial application or for each annual renewal.

(b) Registered cannabis testing facilities shall be provided a unique serial identification number for identification.

(c) A cannabis testing facility registered with the commission to perform testing of cannabis or cannabis-infused products shall not distribute, sell, deliver, transfer, or dispense cannabis or cannabis-infused products except to the person or entity from which the cannabis or cannabis-infused products were acquired or received.

(d) The commission shall develop procedures that specify how often licensees shall test cannabis, and requiring destruction of harvested batches which are noncompliant with health and safety standards promulgated by the commission.

#### **§26025. Exemption for unregistered testing services.**

It shall not be a requirement under California law for a seller or distributor to register under this article in order to ensure compliance with the requirements of this division.

### **Article 4. Medical Cannabis Collective, Cooperative or Dispensary**

#### **§26026. Commercial Medical Cannabis license.**

The commission shall administer a statewide program to license dispensaries of medical cannabis and cannabis-infused products that only operates to serve qualified patients, primary caregivers, or persons with valid identification cards, and not persons who are not qualified patients, primary caregivers or persons with valid identification cards. The fee for a dispensary license shall be set at five hundred dollars (\$500) per each location for an initial application and two hundred fifty dollars (\$250) per each location for each annual renewal.

#### **§26027. Immunities under state law.**

A commercial medical cannabis license issued pursuant to this article and division shall prohibit the arrest, prosecution, asset forfeiture, seizure, penalty or sanction of the licensee, and any of its officers, agents and employees, for any or all of the following activities conducted in compliance with the laws, ordinances, rules and regulations promulgated in accordance with this division:

(a) The possession for sale and transportation of cannabis or cannabis-infused products for commercial medical purposes within the State of California.

(b) The planting, cultivating, harvesting, manufacturing, drying, extracting, or processing of cannabis or cannabis-infused products for commercial medical purposes, provided that no cultivation shall be in excess of the following amounts per premises:

- (1) One thousand square feet (1,000 sq. ft.) for indoor cultivation;
- (2) Three thousand square feet (3,000 sq. ft.) for greenhouse cultivation; and
- (3) Five thousand square feet (5,000 sq. ft.) for outdoor cultivation.

(c) The sale, distribution, providing, cooking, preparation, serving, sharing or offering of cannabis and cannabis-infused products for sale or transfer to qualified patients, primary caregivers, and persons with valid identification cards, provided that any taxes imposed pursuant to Chapter 2 (commencing with Section 34011) of Part 14.5 of Division 2 of the Revenue and Taxation Code have been paid.

(d) Purchasing or acquisition of cannabis or cannabis-infused products at any time.

(e) Any other activities as directed or authorized by the commission or by state or local law.

#### **§26027.5. Limited exemptions for sales to licensee.**

Qualified patients, primary caregivers, or persons with valid identification cards who sell, deliver with remuneration, or possess for sale cannabis in amounts consistent with Section 11721.77 of the Health and Safety Code to a person licensed pursuant to Section 26026 shall not, solely on the basis

of that fact, be subject to arrest, prosecution, asset forfeiture, seizure, penalty or sanction for violation of Section 11725, 11727 or 11728 of the Health and Safety Code.

## **Article 5. Specialty Establishment**

### **§26028. Specialty establishment license.**

The commission shall administer a statewide program to license cannabis specialty establishments. The fee for a cannabis specialty establishment license shall be set at an amount that will reasonably cover the costs of assuring compliance with the regulations to be issued, but may not exceed one thousand dollars (\$1,000) per location for an initial application or five hundred dollars (\$500) per location for each annual renewal.

### **§26029. Immunities under state law.**

A cannabis specialty establishment license issued pursuant to this article and division shall prohibit the arrest, prosecution, asset forfeiture, seizure, penalty or sanction of the licensee, and any of its officers, agents and employees, for any or all of the following activities conducted in compliance with the laws, ordinances, rules and regulations promulgated in accordance with this division:

(a) The planting, cultivating, harvesting, manufacturing, drying, extracting, or processing of cannabis or cannabis-infused products for commercial purposes, provided that no cultivation shall be in excess of the following amounts per premises:

- (1) One thousand square feet (1,000 sq. ft.) for indoor cultivation;
- (2) Three thousand square feet (3,000 sq. ft.) for greenhouse cultivation; and
- (3) Five thousand square feet (5,000 sq. ft.) for outdoor cultivation.

(b) The possession and transportation of any amount of cannabis plants within the State of California.

(c) The possession for sale and transportation of cannabis or cannabis-infused products for commercial purposes within the State of California.

(d) The sale, distribution, providing, cooking, preparation, serving, sharing or offering of cannabis and cannabis-infused products and cannabis plants, for sale or transfer to adults, qualified patients, primary caregivers, or persons with valid identification cards, provided that any taxes imposed pursuant to Chapter 2 (commencing with Section 34011) of Part 14.5 of Division 2 of the Revenue and Taxation Code have been paid.

(e) The sale, distribution, providing, cooking, preparation, serving, sharing or offering of cannabis and cannabis-infused products for sale or transfer for sale or transfer at wholesale to other licensees regulated pursuant to this division, at any time.

(f) Purchasing or acquisition of cannabis or cannabis-infused products at any time.

(g) Any other activity as directed or authorized by the commission, or by state or local law.

### **§26029.5. Limited exemptions for sales to licensee.**

Adults, qualified patients, primary caregivers, or persons with valid identification cards who sell, deliver with remuneration, or possess for sale cannabis in amounts consistent with Section 11721 or 11721.77 of the Health and Safety Code to a person licensed pursuant to Section 26028 shall not, solely on the basis of that fact, be subject to arrest, prosecution, asset forfeiture, seizure, penalty or sanction for violation of Section 11725, 11727 or 11728 of the Health and Safety Code.

## **Article 6. Retail Establishment**

### **§26030. Retail license.**

The commission shall administer a statewide program to license retail establishments that sell or deliver cannabis. The fee for a retail license shall be set at five hundred dollars (\$500) per each location for an initial application and two hundred fifty dollars (\$250) per each location for each annual renewal.

**§26031. Immunities under state law.**

A retail license issued pursuant to this article and division shall prohibit the arrest, prosecution, asset forfeiture, seizure, penalty or sanction of the licensee, and any of its officers, agents and employees, for any or all of the following activities conducted in compliance with the laws, ordinances, rules and regulations promulgated in accordance with this division:

(a) The possession for sale and transportation of cannabis or cannabis-infused products for commercial purposes within the State of California.

(b) The sale, distribution, providing, cooking, preparation, serving, sharing or offering of cannabis and cannabis-infused products for sale or transfer to adults, qualified patients, primary caregivers, or persons with valid identification cards intended for use, possession, or consumption off-premises, provided that any taxes imposed pursuant to Chapter 2 (commencing with Section 34011) of Part 14.5 of Division 2 of the Revenue and Taxation Code have been paid.

(c) Purchasing or acquisition of cannabis or cannabis-infused products at wholesale from a licensee regulated pursuant to this division at any time.

(d) Any other activities as directed or authorized by the commission, or by state or local law.

**Article 7. Temporary Commercial Activity**

**§26032. Temporary license.**

The commission shall administer a statewide program to license temporary commercial activity related to cannabis and cannabis-infused products. The fee for a temporary license shall be set at an amount that will reasonably cover the costs of assuring compliance with the regulations to be issued. Each license shall be valid for a period as determined by the commission, but shall not exceed one year from the date of issuance.

**§26033. Immunities under state law.**

A temporary license issued pursuant to this article and division shall prohibit the arrest, prosecution, asset forfeiture, seizure, penalty or sanction of the licensee, and any of its officers, agents and employees, for any or all of the following activities conducted in compliance with the laws, ordinances, rules and regulations promulgated in accordance with this division:

(a) The possession for sale and transportation of cannabis or cannabis-infused products for commercial purposes within the State of California.

(b) The sale, distribution, providing, cooking, preparation, serving, sharing or offering of cannabis and cannabis-infused products and cannabis plants, for sale or transfer to adults, qualified patients, primary caregivers, or persons with valid identification cards intended for use, possession, or consumption on-premises or off-premises, provided that any taxes imposed pursuant to Chapter 2 (commencing with Section 34011) of Part 14.5 of Division 2 of the Revenue and Taxation Code have been paid.

(c) Purchasing or acquisition of cannabis or cannabis-infused products from a licensee regulated pursuant to this division at any time.

(d) Any other activity as directed by the commission, or by state or local law.

**Article 8. Commercial Cultivation Enforcement Fees**

**§26035. Establishment of fee schedule.**

(a) IMPOSITION OF FEES.—Notwithstanding the schedule of license fees provided under this chapter, the commission shall collect a commercial cultivation enforcement fee for the privilege of cannabis cultivation for commercial purposes within the State of California. This fee shall be collected at the same time the commission makes its regular collections of annual fees pursuant to this division, and shall be assessed at any combination of the following rates per premises:

(1) INDOOR CULTIVATION.—For the indoor cultivation of cannabis, the commission shall assess a commercial cultivation enforcement fee of:

(A) Two dollars and fifty cents (\$2.50) per each square foot of cannabis plant canopy cultivated for the first one thousand square feet (1,000 sq. ft.) of cannabis plant canopy;

(B) Three dollars and seventy-five cents (\$3.75) per each square foot of cannabis plant canopy cultivated in excess of one thousand square feet (1,000 sq. ft.) but not greater than ten thousand square feet (10,000 sq. ft.) of cannabis plant canopy; and

(C) Five dollars (\$5.00) per each square foot of cannabis plant canopy cultivated in excess of ten thousand square feet (10,000 sq. ft.) of cannabis plant canopy.

(2) GREENHOUSE CULTIVATION.—For the greenhouse cultivation of cannabis, the commission shall assess a commercial cultivation enforcement fee of:

(A) Eighty three and one third cents (\$0.8333334) per each square foot of cannabis plant canopy cultivated for the first three thousand square feet (3,000 sq. ft.) of cannabis plant canopy;

(B) One dollar and twenty five cents (\$1.25) per each square foot of cannabis plant canopy cultivated in excess of three thousand square feet (3,000 sq. ft.) but not greater than thirty thousand square feet (30,000 sq. ft.) of cannabis plant canopy; and

(C) One dollar and sixty-six and two thirds cents (\$1.6666667) per each square foot of cannabis plant canopy cultivated in excess of thirty thousand square feet (30,000 sq. ft.).

(3) OUTDOOR CULTIVATION.—For the outdoor cultivation of cannabis, the commission shall assess a commercial cultivation enforcement fee of:

(A) Fifty cents (\$0.50) per each square foot cultivated for the first five thousand square feet (5,000 sq. ft.) of cannabis plant canopy;

(B) Seventy-five cents (\$0.75) per each square foot cultivated in excess of five thousand square feet (5,000 sq. ft.) but not greater than fifty thousand square feet (50,000 sq. ft.) of cannabis plant canopy; and

(C) One dollar (\$1.00) per each square foot of cannabis plant canopy cultivated in excess of fifty thousand square feet (50,000 sq. ft.).

(b) REQUIREMENT TO PREPAY FEE.—Except as otherwise provided by law, no licensee or commercial cultivator shall have in cultivation any mature cannabis plants without having paid a commercial cultivation enforcement fee to the commission in accordance with this chapter. Any person found in violation of this subdivision is guilty of an infraction, punishable by a fine of not more than twenty-five dollars (\$25) per square foot.

### **§26036. Exemptions.**

(a) SUSTAINABLE AGRICULTURAL PRACTICES.—Notwithstanding the fee schedule established pursuant to Section 26035, upon satisfactory proof of adherence to one or more sustainable agricultural practices made to the commission, an applicable licensee shall—

(1) be exempt from any commercial cultivation enforcement fee on any combination of the following amounts per premises:

(A) The first one thousand square feet (1,000 sq. ft.) for indoor cannabis cultivation;

(B) The first three thousand square feet (3,000 sq. ft.) for greenhouse cannabis cultivation; and

(C) The first five thousand square feet (5,000 sq. ft.) for outdoor cannabis cultivation.

(2) receive a 50 percent reduction in the total commercial cultivation enforcement fees applied to the amounts cultivated per premises in excess of those amounts provided in paragraph (1).

(b) DEFINITION.—For the purposes of this section, “sustainable agricultural practices” may include any combination of the following:

(1) The adoption and continued use of sustainable farming systems, including biologically integrated farming systems, agroecology systems, biointensive integrated pest management, and biological pest control;

(2) The adoption and continued use of renewable energy resources or energy-efficient systems;

(3) The adoption and continued use of soil erosion mitigation strategies;

(4) The adoption and continued use of effective water management and irrigation systems; or

(5) Any other activity deemed as a sustainable agricultural practice by the commission or the Department of Food and Agriculture.

(c) NURSERIES.—The commercial cultivation enforcement fee provided in this chapter shall not apply to a nursery.

**§26037. Determinations.**

(a) DELAY OF DETERMINATION.—Upon request of an applicant at the time of submitting an application, the determination of the total amount of commercial cultivation enforcement fees established pursuant to this article or division may be delayed by the commission for a period of thirty days.

(b) INVESTIGATION.—At the request of an applicant at the time of submitting an application, the commission may investigate to determine if such applicant satisfies the requirements of Section 26036 or 26045.2.

(c) REMITTANCE OF CULTIVATION ENFORCEMENT FEES.—

(1) If the commission determines that such applicant satisfies the requirements of Section 26036 or 26045.2, the applicant shall remit any applicable commercial cultivation enforcement fees not later than ten working days after the date of determination by the commission.

(2) If the commission has not been able to determine that the requirements of Section 26036 or 26045.2 have been satisfied after a period specified by the commission in accordance with this section, the applicant or licensee shall remit the amount imposed pursuant to Section 26035 not later than ten working days after the conclusion of such period, unless otherwise provided by the commission.

**§26038. Sunset.**

(a) REPEAL DATE.—This article shall be repealed on January 1, 2022, unless this section is repealed pursuant to subdivision (b) on or before January 1, 2022.

(b) EXTENSION BY THE LEGISLATURE.—The Legislature shall have the power to repeal the provisions of this section in its entirety, provided that such repeal must be enacted by an Act passed by not less than fifty-five percent of all members elected to each of the two houses of the Legislature, and signed by the Governor.

**CHAPTER 7. TRANSPORTATION AND DELIVERIES**

**Article 1. Transportation**

**§26040. Interstate transportation.**

No city, county, or city and county, shall restrict or prohibit the transportation of cannabis by any licensee, or any of its officers, agents or employees acting in compliance with this division or Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code, unless such transportation is in violation of any reasonable rules that the commission may prescribe.

**§26041. Recording receipt of tax-paid cannabis products.**

A licensee, or any of its officers, agents or employees that receives any cannabis or cannabis-infused products for which the initial sale tax has been paid shall make a record of the transaction, transfer or delivery under rules the State Board of Equalization may prescribe in accordance with Section 34022.4 of the Revenue and Taxation Code, and shall make such record available upon request to a representative or employee of the State Board of Equalization or the commission.

**Article 2. Deliveries**

**§26044. Off-site delivery to consumers.**

Notwithstanding any other provision of law, no licensee, or any of its officers, agents and employees, authorized to sell cannabis to an adult, qualified patient, primary caregiver, or person with a valid identification card pursuant to this division shall be unreasonably restricted or prevented from making a physical delivery of any cannabis or cannabis-infused products to an adult, qualified patient, primary caregiver, or person with a valid identification card location outside of the licensed premises but within the state, provided that any taxes imposed pursuant to Chapter 2 (commencing with Section 34011) of Part 14.5 of Division 2 of the Revenue and Taxation Code have been paid.

## CHAPTER 8. APPLICATIONS FOR LICENSES

### §26045. Application requirements.

(a) APPLICATION.—An application for a license shall be filed on a form prescribed by the commission and shall include the following:

(1) The name, address, electronic mail address, and telephone number of the applicant.

(2) The business name, address, electronic mail address, and telephone number, where applicable, of each establishment or cultivation location. For applicants who control more than one establishment or cultivation location, an address for receipt of correspondence or notices from the commission, such as a headquarters or corporate office, shall also be included on the application and listed on the license. Citations issued to licensees shall be forwarded to all addressees on the license.

(3) (A) A statement by the applicant affirming that the applicant and all of its investors have not been convicted of any of the following offenses:

(i) A violent felony offense, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(ii) A felony offense involving fraud, deceit, or embezzlement.

(iii) The cultivation or production of cannabis on public lands.

(B) A statement by the applicant affirming that the applicant and all of its investors will not violate or cause or permit to be violated any of the provisions of Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code, this division, or any rule of the commission applicable to the applicant or pertaining to the production, cultivation, transportation, manufacture, sale, or distribution of cannabis and cannabis-infused products.

(C) A statement by the applicant affirming that no applicant or any of its investors is a licensed physician making patient recommendations for medical cannabis.

(D) If an applicant is unable to affirm a statement required by this section, the application shall contain a statement by the applicant of the nature of any violation or the reasons that will prevent the applicant from complying with the requirements with respect to the statement or this section.

(5) If any other licenses or permits have been issued by the commission to the applicant, the license or permit number of those licenses or permits.

(6) The signature of the applicant.

(7) Proof that the applicant has obtained and maintains a valid seller's permit, if such permit is required pursuant to Part 1 (commencing with Section 6001) of the Revenue and Taxation Code.

(8) On and after July 1, 2018, proof that the applicant has in his or her possession a counterfeit-resistant document that specifies a valid account number issued by the State Board of Equalization in accordance with Chapter 3 (commencing with Section 34020) of Part 14.5 of Division 2 of the Revenue and Taxation Code.

(9) A notarized statement from the owner of each real property or their agent where commercial cultivation, manufacturing or distribution shall not be prohibited in accordance with this division, as proof to demonstrate the landowner has acknowledged such commercial cannabis activities are not inconsistent with the agreed upon uses of such property between such landowner and the tenant applicant.

(10) A statement by the applicant that the contents of the application are complete, true, and correct. Any person who signs a statement pursuant to this paragraph or section that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

(11) Any other information the commission may require.

(b) INVESTIGATIONS AND DETERMINATIONS.—

(1) The commission shall investigate to determine the truthfulness and completeness of the information provided in the application. The commission may issue regulations that may include a requirement that applicants for licensure and its investors under this division receive background checks. At the request of the commission, the Attorney General or any local agency shall provide summary criminal history information to the commission as provided in Sections 11105 and 13300 of

the Penal Code.

(2) The commission may issue a license without further investigation to an applicant for a location if the applicant holds a valid license from the commission for that same location.

(c) APPLICATION MATERIALS.—The commission shall provide electronic means for applicants to download applications, as well as obtain resources on the most current state and local laws and regulations affecting licensees within the state.

(d) ELECTRONIC APPLICATION PROCESS.—The commission shall provide electronic means to apply for a license provided under this division.

#### **§26045.2. Expedited application process.**

(a) EXPEDITED APPLICATION.—Notwithstanding the provisions of Section 26045, if Assembly Bill 266 of the 2015-16 Regular Session was enacted and became effective on or before January 1, 2016, any person or entity that holds a commercial license or registration in accordance with Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Section 11362.777 of the Health and Safety Code may apply for an expedited application under this section. An expedited application for a license shall be filed on a form prescribed by the commission and shall include all information required pursuant to Section 26045, plus the existing commercial license or registration number associated with the applicant.

(b) INVESTIGATION AND DETERMINATIONS.—The commission shall investigate to determine the truthfulness and completeness of the information provided in the expedited application. The commission may issue a license without further investigation to an applicant for a location if the applicant holds a valid commercial license or registration under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Section 11362.777 of the Health and Safety Code for that same location. Notwithstanding any other provision of law, an applicant that holds a valid commercial license or registration in accordance with Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Section 11362.777 of the Health and Safety Code shall not be subject to any fees, including the commercial cultivation enforcement fee under Article 8 (commencing with Section 26035) of Chapter 6 of this division, for an initial application under this section.

(c) APPLICATION MATERIALS.—The commission shall provide electronic means for applicants to download applications, as well as obtain resources on the most current state and local laws and regulations affecting licensees within the state.

(d) ELECTRONIC APPLICATION PROCESS.—The commission shall provide electronic means to apply for an expedited license provided under this division.

(e) OPERATIVE DATE.—This section shall only become operative if Assembly Bill 266 of the 2015-16 Regular Session was enacted and became effective on or before January 1, 2016.

(f) INOPERATIVE DATE.—If this section becomes operative pursuant to subdivision (e), this section shall become inoperative on July 1, 2019.

#### **§26045.5. Commercial identification card program.**

(a) APPLICATION FOR IDENTIFICATION CARD.—At the time of application, an applicant may request that the commission issue voluntary serialized commercial identification cards to the applicant and any of its officers, agents and employees to enable state and local law enforcement officers to immediately verify various licensed or otherwise lawful actors, and ensure their compliance under state law. Such identification card shall be made available to the licensee, and any of its officers, agents and employees, at a cost of not more than fifteen dollars (\$15) per card.

(b) CARD CONTENTS.—Each card shall contain all of the following:

- (1) A unique identification number of the cardholder.
- (2) Photo identification of the cardholder.
- (3) The type of license.
- (4) The license number.
- (5) The date of expiration of the license.
- (6) Designation of that person as either a licensee or one of its officers, agents or employees.



(7) The name and telephone number of the authority that has approved the application.

(8) A 24-hour, toll-free telephone number, and an electronic web-based verification system address, both to be maintained by the commission, which will enable state and local law enforcement officers to have immediate access to information necessary to verify the contents of the card.

(9) Any other information as the commission may require.

(c) STATEWIDE PROTECTIONS.—Any person in possession of a commission-issued valid identification card pursuant to this section shall not be subject to arrest, prosecution, asset forfeiture, seizure, penalty or sanction for activities consistent with the immunities provided under this division for the respective license type.

(d) RECOGNITION BY LAW ENFORCEMENT.—A state or local law enforcement agency or officer shall not refuse to accept an identification card issued by the commission pursuant to this section unless the state or local law enforcement agency or officer has reasonable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

(e) PRIVACY AND CONFIDENTIALITY OF CARDHOLDER.—This section shall be implemented with a high standard and regard for confidentiality and privacy. The commission shall have the power to appropriately expand the use or administration of the commercial identification card program to enable licensees to dynamically issue serialized identification cards to, or revoke serialized identification cards from, licensee, and any of its officers, agents and employees and other appropriate persons as desired.

#### **§26046. Issuance of licenses.**

(a) DEADLINE FOR DETERMINATION.—The commission shall issue a license to a qualified applicant within 60 days of receipt of payment of any applicable fees and a completed application prescribed in Section 26045 or 26045.2, unless any of the following apply:

(1) The person or entity has previously been issued a license that is suspended or revoked by the commission for violation of any of the provisions of this division.

(2) The application is for a license or renewal of a license for the same location as that of a previous person or entity that had its license revoked or is subject to revocation proceedings for violation of any of the provisions of this division, unless:

(A) It has been more than three years since a previous license for the location was revoked.

(B) The person or entity applying for the license provides the commission with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction. For purposes of this section, an "arm's length transaction" is defined as a sale 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. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this division that occurred at the retail location, is presumed not to be made at "arm's length."

(3) The applicant or any of its investors has been convicted of a violent felony offense, as defined in subdivision (c) of Section 667.5 of the Penal Code, or a felony offense involving fraud, deceit, or embezzlement, or has been convicted or sanctioned for the cultivation or production of cannabis on public lands.

(4) A request for denial has been made pursuant to Section 26047 and the commission has determined the statement made by a city, county, or city and county pursuant to such section is supported by the findings and the findings are supported by substantial evidence.

(5) The commission has determined that the contents of the application are not complete, true, or correct.

(6) All required fees have not been remitted to the commission.

(b) ADDITIONAL APPLICATION PROCEDURES.—The commission may prescribe additional rules and procedures for the issuance of licenses under this division as necessary.

(c) TRANSMISSION OF FEES.—The commission shall transmit any application fees or commercial cultivation enforcement fees to the Treasurer to be deposited in The Safe Communities, Parks, and

Schools Fund, created pursuant to Section 34026 of the Revenue and Taxation Code.

**§26046.5. Use and display of commercial license.**

(a) OPERATIONS OF LICENSEE.—Nothing in this division shall prevent any person or entity that has in place and maintains a license pursuant to this division from operating as a business entity for profit under California law. Except as otherwise expressly provided by this division, a person or entity that owns or controls more than one location must obtain a separate license and remit any applicable fees for each location, but may submit a single application for each of those licenses.

(b) DISPLAY AT PHYSICAL LOCATIONS.—A licensee shall display their license at each physical location where production, distribution or sales of cannabis or cannabis-infused products occurs, under such rules as the commission may prescribe.

(c) ASSIGNABILITY AND TRANSFERABILITY.—A license is not assignable or transferable. A person or entity that obtains a license who ceases to do business as specified in the license, or whose license is suspended or revoked, shall immediately surrender the license to the commission.

(d) VALIDITY AND EXPIRATION OF LICENSE.—Except as otherwise provided by law or the commission, a license shall be valid for a 12-month period, and may be renewed annually.

**CHAPTER 9. DENIAL OF LICENSES**

**§26047. Local request for denial.**

(a) LOCAL REQUEST FOR DENIAL.—On or before the forty-fifth day after the date of application, a city, county, or city and county, shall have the power to request that the commission deny an application or license from being processed, issued, or renewed by the commission to a person or entity within its jurisdiction upon its statement the applicant meets the criteria for any of the following conditions:

(1) The proposed location(s) involved would violate a zoning law or ordinance adopted pursuant to Chapter 11 (commencing with Section 26050) or Chapter 17 (commencing with Section 26075) of this division.

(2) The licensee, or any of its officers, agents or employees have consistently violated environmental or public health controls.

(3) There is a clear and compelling interest or concern in the protection of the safety, welfare, health or peace of the public if such license were deemed as issued or renewed.

(4) Any other condition as deemed appropriate by the commission.

(b) LOCAL COMPLIANCE AUTHORITY.—The governing body of a city, county, or city and county, may designate or identify a person or entity within such locality that is designated as responsible for investigating an applicant's compliance with local zoning and land use ordinances in such jurisdiction, and for raising any applicable objections to the licensure of an applicant in accordance with the conditions specified in subdivision (a). If no person or entity is designated or identified by the governing body of a city, county, or city and county, the commission shall, to the best of its abilities, investigate if the application should be denied pursuant to the conditions specified in subdivision (a).

(c) INVESTIGATION.—The commission shall determine if the statement made by a city, county, or city and county pursuant to this section is supported by the findings, and whether the findings are supported by substantial evidence.

(d) DENIAL.—Upon determination by the commission that an application should be denied or the license not issued or renewed pursuant to the conditions specified in this section or Section 26046, the commission shall deny both the application and the issuance or renewal of the license.

(e) ELECTRONIC ADMINISTRATION.—The commission may develop appropriate rules, regulations or protocols to implement an electronic process for a person or entity designated or identified by city, county, or city and county, to request denials in accordance with this section.

**§26047.5. Petition for redetermination.**

(a) PETITION.—Any person or entity who is denied a license may petition for a redetermination of the commission's denial of the license within 30 days after service upon that person of the notice of

the denial of the license. If a petition for redetermination is not filed within the 30-day period, the determination of denial becomes final at the expiration of the 30-day period.

(b) REQUIREMENTS.—Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at anytime prior to the date on which the commission issues its order or decision upon the petition for redetermination.

(c) RECONSIDERATION.—If the petition for redetermination is filed within the 30-day period, the commission shall reconsider the determination of the denial and, if the person or entity has so requested in the petition, shall grant the entity an oral hearing and shall give the entity at least 10 days' notice of the time and place of the hearing. The commission may continue the hearing from time to time as may be necessary.

(d) FINALITY OF ORDERS AND DECISIONS.—The order or decision of the commission upon a petition for redetermination becomes final 30 days after mailing of notice thereof.

(e) EXISTING RIGHTS AND REMEDIES.—Nothing in this chapter shall diminish or abrogate the right of a person or entity to appeal a determination of the commission in accordance with Article 3 (commencing with Section 26005) of Chapter 3 of this division.

## **CHAPTER 10. SUSPENSION AND REVOCATION OF LICENSES**

### **§26048. Display of license suspension or revocation.**

(a) CONSPICUOUS NOTICE.—A person or entity whose license has been suspended or revoked by order of the commission shall conspicuously post a notice at both of the following locations:

(1) Each public entrance to the location. The notice shall directly face any person who enters the location and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

(2) Each cash register and other point of sale. The notice shall be posted so as to be readily viewable by a person standing at or approaching the cash register or other point of sale. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

(b) SIZE AND FORM.—The notices described in this section shall be in the size and form prescribed by the commission. The notice shall be provided by the commission and may be reproduced in the same size and form in order to comply with subdivision (a).

(c) NOTICE OF SUSPENSION.—A person or business whose license was suspended shall post the notice at the location that was the subject of the suspension for the duration of the suspension.

(d) NOTICE OF REVOCATION.—A person or business whose license was revoked shall post the notice at the location that was the subject of the revocation for a 30-day period from the effective date of the revocation.

(e) VIOLATIONS.—Every person or entity who fails to post the notices as required by this section, that alters the notice provided by the commission, or that removes the notice before the posting period required in subdivision (c) or (d), as appropriate, expires, shall be subject, notwithstanding Section 26090, to a civil penalty of one thousand dollars (\$1,000) for each offense.

### **§26048.5. Criteria for suspension or revocation.**

(a) GENERAL PROCEDURES.—

(1) As provided in this section, licenses issued pursuant to this division shall be subject to suspension or revocation for multiple or repeated violations of this division or the Revenue and Taxation Code.

(2) In addition to any applicable fines or penalties for a violation, upon first conviction of a violation, a licensee shall receive a written notice from the commission detailing the suspension and revocation provisions of this division. At its discretion, the commission may also suspend a license following a violation for up to 90 days.

(3) In addition to any applicable fines or penalties for a violation, upon a second conviction of a violation within two years of a previous violation, the license shall be revoked.

(b) DURATION BETWEEN VIOLATIONS.—The date of the occurrence of a violation shall be used to

calculate the duration between subsequent violations. A violation shall be noted in the license record at the commission only after judicial conviction or final adjudication of a violation.

(c) SERVICE OF NOTICE OF SUSPENSION.—Upon updating a record for a violation triggering a suspension, the commission shall serve the licensee with a notice of suspension and shall order the licensee to cease the sale, gifting, or displaying for sale of cannabis or cannabis-infused products for the period of the suspension. The notice of suspension shall inform the licensee of the effective dates of the suspension.

(d) CONTINUED OPERATION.—Except as otherwise provided by the commission, continued production, cultivation, sales, delivery or gifting of cannabis or cannabis-infused products after the effective date of the suspension shall constitute a violation of this division and result in the revocation of a license.

(e) REINSTATEMENT OF LICENSE.—Upon completion of a suspension period, a license shall be reinstated by the commission.

(f) SERVICE OF NOTICE OF REVOCATION.—Upon updating a record for a violation triggering a revocation, the commission shall serve the licensee with a notice of revocation and shall order the licensee to cease the sale, delivery, gifting, or displaying for sale of cannabis or cannabis-infused products on and after the effective date of the revocation. The notice of revocation shall inform the licensee of the effective date of the revocation.

(g) REAPPLICATION FOR LICENSE.—After a revocation, a previously licensed applicant may apply for a new license after one year; however, the commission may, at its discretion, accept new applications or issue a new license at any time.

(h) SERVICE OF NOTICE UPON MULTI-LOCATION LICENSEES.—Upon updating a license record for a violation, suspension, or revocation of a license of a person or entity that owns or controls more than one location, the commission shall send notice in writing of the violations, suspensions, or revocations within 15 days of the commission's action to the mailing address or electronic mail address included in the application and listed on the license for receipt of correspondence or notices from the commission.

(i) ADDITIONAL NOTICE REQUIREMENTS.—Upon suspension or revocation of a license pursuant to this section, the commission shall notify the licensee in writing by certified mail or electronic mail message, or by a combination of the foregoing methods, within 48 hours of the suspension or revocation of that license. All licensees shall provide to the commission and shall update, as necessary, a mailing address or electronic mail address that the commission can use for purposes of making the notifications required by this subdivision.

(j) EFFECT OF VIOLATIONS UPON OTHER LOCATIONS AND OWNERS.—Violations by a licensee at one location may not be accumulated against other locations of that same licensee. Violations accumulated against a prior owner at a licensed location may not be accumulated against a new owner at the same licensed location.

(k) APPLICABILITY OF VIOLATIONS OF THE REVENUE AND TAXATION CODE.—For purposes of this section, a violation includes violations of the Revenue and Taxation Code relating to the sale or transaction of cannabis or cannabis-infused products, and described in this division. Only one violation per discrete action shall be counted toward a suspension or revocation of a license.

#### **§26049. Display of products after suspension or revocation.**

A person who, after receiving a notice of suspension or revocation, continues to display for sale cannabis or cannabis-infused products shall be subject to a civil penalty of one thousand dollars (\$1,000) for each offense, and shall not be subject to Section 26090, or Section 11725 of the Health and Safety Code.

#### **§26049.5. Proceedings to deny, suspend or revoke licenses.**

To the extent feasible and practicable, all proceedings to deny, suspend or revoke a license under this division shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

## CHAPTER 11. ZONING AND LAND USE

### §26050. Local zoning laws.

(a) REASONABLE REGULATIONS.—Except as provided by this chapter and Chapter 17 (commencing Section 26075), a city, county, or city and county, shall not be prevented under California law from adopting, enacting or carrying out local zoning ordinances that reasonably regulate, but not unreasonably restrict or prohibit, the location of licensed persons or entities operating pursuant to this division. For the purposes of this section, reasonable regulation shall include, but not be limited to, adopting, enforcing or carrying out regulations that:

(1) Restrict the location of commercial cultivator licensees, operating pursuant to Article 1 (commencing with Section 26020) of Chapter 6 of this division, to agricultural or industrial zones.

(2) Restrict the location of wholesale licensees, operating pursuant to Article 2 (commencing with Section 26022) of Chapter 6 of this division, to industrial and commercial zones.

(3) Restrict the location of medical cannabis collective, cooperative or dispensary licensees, operating pursuant to Article 4 (commencing with Section 26026) of Chapter 6 of this division, to agricultural, industrial or commercial zones.

(4) Restrict the location of specialty establishment licensees, operating pursuant to Article 5 (commencing with Section 26028) of Chapter 6 of this division, to agricultural, industrial or commercial zones.

(5) Restrict the location of retail licensees, operating pursuant to Article 6 (commencing with Section 26030) of Chapter 6 of this division, to commercial zones.

(6) Restrict or prevent any storefront licensee from locating within a 250-foot radius of another storefront licensee.

(7) Restrict or prevent any licensee from locating within a 1000-foot radius of a school.

(8) Restrict or prevent any licensee from locating within a residential zone.

(9) Restrict or prevent the cultivation of cannabis by a licensee in a combined growth area in excess of the following amounts per premises:

(A) One thousand square feet (1,000 sq. ft.) for indoor cultivation;

(B) Three thousand square feet (3,000 sq. ft.) for greenhouse cultivation; and

(C) Five thousand square feet (5,000 sq. ft.) for outdoor cultivation.

(b) RESTRICTIONS OR PROHIBITIONS ON LICENSED ACTIVITIES.—Notwithstanding subdivision (a), a city, county, or city and county, shall not be prevented under California law from adopting, enacting or carrying out local ordinances that unreasonably restrict or prohibit the issuance or renewal of licenses under this division, provided that the ordinance proposing such unreasonable restriction or prohibition is approved by a majority vote in such jurisdiction of the qualified voters of the city, county, or city and county, voting in an election on the issue.

(c) LIMITATIONS.—No ordinance adopted, enacted or carried out pursuant to this section shall regulate, restrict or prohibit the issuance or renewal of a license, or the location or operation of a licensed person or entity, based upon the operational date of a license or sellers permit, or based upon a specified date of establishment.

(d) LICENSED CULTIVATION IN RESIDENTIAL AREAS.—Except as provided by local law, no licensee located in a residential zone shall cultivate cannabis in excess of the following amounts per premises:

(1) One thousand square feet (1,000 sq. ft.) for indoor cultivation;

(2) Three thousand square feet (3,000 sq. ft.) for greenhouse cultivation; and

(3) Five thousand square feet (5,000 sq. ft.) for outdoor cultivation.

### §26051. Commercial cannabis activity near schools.

(a) APPLICABILITY.—This section shall apply to all qualified business entities applying for a license or renewal under this division, and to all qualified business entities engaging in commercial cannabis activity prior to the adoption of regulations pursuant to this division.

(b) PROHIBITION.—Except as provided by subdivision (c) or as otherwise determined by the commission, no applicant, licensee, or qualified business entity shall be permitted to locate within a 600-foot radius of a school.

(c) LOCAL EXEMPTIONS.—Nothing in this section shall prevent a city, county, or city and county

from adopting or carrying out ordinances that provide exemptions to the provisions of subdivision (b) for some or all applicants, licensees, or qualified business entities.

(d) MEASUREMENT.—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 applicant, licensee, or qualified business entity is to be located without regard to intervening structures.

(e) MEDICAL OR ELDER CARE FACILITIES.—This section shall not apply to an applicant, licensee, or qualified business entity that is also a licensed residential medical or elder care facility.

#### **§26051.5. Definition of school; Violations.**

(a) DEFINITION.—For the purposes of this chapter, "school" means 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.

(b) VIOLATIONS.—Any person in violation of Section 26051 is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period of not more than six months, or by a fine of not more than two thousand five hundred dollars (\$2,500), or by both such fine and imprisonment.

### **CHAPTER 12. LABELS, CONTAINERS, AND PRODUCT CERTIFICATION**

#### **Article 1. General Requirements**

#### **§26052. General labeling contents.**

(a) Except as otherwise provided by rules and regulations as the commission may prescribe, all cannabis or cannabis-infused products sold or delivered with the intent that such cannabis or cannabis-infused products are meant for consumption off-premises shall include a label affixed to the product in accordance with this article.

(b) Any product label, product certification or product notice required by this division shall include the following accurate information about the cannabis product or cannabis-infused products:

- (1) The potency of the cannabis or cannabis-infused products, if available.
- (2) The purity, processing, and any adulteration of the product. This requirement is satisfied by a certification that there is no detectable presence of pesticides, fungicides, rodenticide, or potentially poisonous chemicals used within the product, under the rules the commission may prescribe.

- (3) The cannabis cultivation area, city, county, city and county, or appellation of origin.

- (4) The date of harvest or manufacture, if the cannabis product is not a living plant.

- (5) Any other information or requirements deemed appropriate by the commission.

(c) Except as otherwise provided by rules and regulations as the commission may prescribe, a product label shall be affixed to all edible cannabis sold or delivered by a licensee, and shall include the following information, prominently displayed and in a clear and legible font:

- (1) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.

- (2) Net weight of cannabis in package.

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

- (4) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC) and cannabidiol (CBD) content, clear recommended dosage, and the size or volume of recommended dose.

- (5) All other information required by this article.

- (6) Any other information or requirements deemed appropriate by the commission.

#### **§26053. Requirements to label products.**

(a) It shall be unlawful for a licensee, or any of its officers, agents or employees to knowingly omit from the packaging or container of cannabis or a cannabis-infused product, a label as required by this article, except as otherwise provided by rules and regulations that the commission may prescribe.

(b) Any person or entity that fraudulently produces, possesses or utilizes a label that

misrepresents or attempts to misrepresent compliance with this article shall be guilty of a misdemeanor and subject to imprisonment for not more than one year, or to a fine of not less than one thousand dollars (\$1,000) and not more than twenty-five thousand dollars (\$25,000), or to both a fine and imprisonment. This subdivision shall not apply to a person who possesses a fraudulent label affixed to a cannabis product possessed and obtained for noncommercial personal or medical use, and not for sale.

## **Article 2. Enhanced Certification**

### **§26054. Enhanced cannabis certification program.**

(a) Cannabis testing facilities may certify, under penalty of perjury, California-based cannabis that meets certain enhanced conditions on product safety and quality. Upon certification of the items listed under subdivision (b), the cannabis testing facility may affix a label and provide a certificate concerning the product, in a manner or fashion to be determined by the commission.

(b) Cannabis Testing Facilities shall accurately determine when all of the following requirements are met:

(1) Certification that there is no detectable presence of pesticides, fungicides, rodenticide, or potentially poisonous chemicals used within the product.

(2) Certification, under penalty of perjury, by the cultivator, manufacturer, producer, collective, cooperative, or licensee, or any of its officers, agents or employees, that no stage of cultivation, production or manufacture has occurred outside the State of California.

(3) Certification that the information required pursuant to Article 1 (commencing with Section 26052) of this chapter is conspicuous and accurate.

(4) Any other requirement as determined by the commission.

(c) The commission shall have the power to implement modifications to the requirements of this section to ensure that such certification program reflects the highest standards of safety and quality in all cannabis grown, produced and manufactured within the State of California.

### **§26055. Requirements for labeling of certified products.**

(a) A label affixed pursuant to Section 26054 shall be conspicuous, and contain all of the following:

(1) The date of certification.

(2) A unique serial identification number, provided for confidential reference by the commission, of the licensed cannabis testing facility that certified such cannabis met the packaging requirements of this chapter.

(3) A reference number maintained only by the cannabis testing facility to reference the provided label or product.

(b) The commission shall determine all procedures for application and certification of cannabis in a manner consistent with California law.

(c) The third-party enhanced certification made pursuant to this article shall be a wholly voluntary process that may satisfy the requirements of Article 1 (commencing with Section 26052) of this chapter.

## **CHAPTER 13. HOURS OF SALE AND DELIVERY FOR ON-SITE CONSUMPTION**

### **§26056. Hours of sale.**

(a) Any licensee, or any of its officers, agents or employees who sells, gives, or delivers to any person, other than to another licensee, or any of its officers, agents or employees any cannabis intended for consumption upon the grounds of the licensed premises between the hours of 2 o'clock a.m. and 6 o'clock a.m. of the same day is guilty of an infraction, punishable by a fine of not more than two thousand five hundred dollars (\$2,500).

(b) For the purposes of this section, on the day that a time change occurs from Pacific standard time to Pacific daylight saving time, or back again to Pacific standard time, "2 o'clock a.m." means two hours after midnight of the day preceding the day such change occurs.

(c) This section shall not apply to the sale of cannabis to licensed persons or entities, or officers, agents or employees acting on their behalf, or the sale of cannabis by an off-sale licensee, or a licensee selling packaged cannabis not intended for consumption upon the licensed premises.

**§26057. Consumption upon licensed premises.**

Except as otherwise provided by state or local law, it shall not be a violation of California law for an adult or qualified patient to consume cannabis upon the grounds of a licensed premises.

**CHAPTER 14. MINORS AND UNLAWFUL ACTIVITY**

**§26058. Penalties for certain unlawful acts by minors.**

(a) UNDERAGE ON-SITE CONSUMPTION.—Any person under 21 years of age who is not a qualified patient that consumes cannabis upon a premises that is licensed pursuant to this division is guilty of an infraction, punishable by a fine of not more than one hundred dollars (\$100).

(b) UNDERAGE PURCHASE.—Except as authorized or otherwise provided by law, every person under 21 years of age, who is not a qualified patient, primary caregiver, or person with an identification card, who purchases cannabis or cannabis-infused products from a licensee is guilty of an infraction, punishable by a fine of not more than one hundred seventy-five dollars (\$175).

(c) UNDERAGE ATTEMPT TO PURCHASE.—Except as authorized or otherwise provided by law, every person under 21 years of age, who is not a qualified patient, primary caregiver, or person with an identification card, who attempts to purchase or acquire cannabis or cannabis-infused products from a licensee shall be guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100).

**§26059. Penalties for licensees.**

(a) PERMITTING ON-SITE UNDERAGE CONSUMPTION.—Any licensee who knowingly permits a person under 21 years of age who is not a qualified patient to consume cannabis upon a premises that is licensed pursuant to this division is guilty of an infraction or misdemeanor.

(b) PENALTIES.—A violation of this section is punishable by a fine of one thousand dollars (\$1000), no part of which shall be suspended, upon a finding that a first offense has been committed. Subsequent violations of this section are punishable by a fine of not less than one thousand dollars (\$1000) and not more than two-thousand five hundred dollars (\$2,500), upon a finding that a second or subsequent offense has been committed.

(c) REVOCATION FOR REPEAT OFFENSES.—The commission may revoke a license for a second violation of this section or Section 11725 of the Health and Safety Code that occurs within any 24-month period. This provision shall not be construed to limit the commission's authority and discretion to revoke a license prior to a second violation when the circumstances warrant that penalty.

(d) CONSIDERATIONS.—For purposes of this section, no violation may be considered for purposes of determination of the penalty until it has become final.

(e) MINOR DECOY PROGRAM.—Persons under 21 years of age may be used by peace officers in the enforcement of this section and Section 11725 of the Health and Safety Code to apprehend licensees, or any of its officers, agents and employees, who sell or furnish cannabis or cannabis-infused products to persons under 21 years of age. Notwithstanding any other provision of law, any person under 21 years of age who purchases or attempts to purchase any cannabis or cannabis-infused products while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase any cannabis or cannabis-infused products. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the commission. Law enforcement-initiated minor decoy programs in operation prior to the effective date of regulatory guidelines adopted by the commission shall be authorized as long as the minor decoy displays to the seller of cannabis or cannabis-infused products the appearance of a minor. This subdivision shall not be construed to prevent the commission from taking disciplinary action against a licensee who sells cannabis or cannabis-infused products to a minor decoy prior to the commission's final adoption of regulatory guidelines. After the completion of every minor decoy program performed under this



subdivision, the law enforcement agency using the decoy shall notify licensees within 72 hours of the results of the program. When the use of a minor decoy results in the issuance of a citation, the notification required shall be given to licensees and the commission within 72 hours of the issuance of the citation. A law enforcement agency may comply with this requirement by both leaving a written notice at the licensed premises addressed to the licensee and by mailing a notice addressed to the licensee.

**§26059.5. Consumption in the proximate public right-of-way.**

No cannabis shall be consumed in the public right-of-way within fifty (50) feet of a storefront licensee. Any person violating this provision is guilty of an infraction, punishable by a fine of not more than one hundred dollars (\$100).

**CHAPTER 15. RECORD HANDLING AND VERIFICATION**

**Article 1. Privacy and Confidentiality**

**§26060. Confidentiality of records; punishments for violation.**

(a) All information and records acquired by the commission or any commission employee or representative are confidential in nature, and except insofar as may be necessary for the enforcement of this division, shall not be disclosed by any of them.

(b) Except insofar as may be necessary for the enforcement of this division, any commission employee or representative who discloses any information acquired by any inspection or examination made pursuant to this division is guilty of a felony, and upon conviction shall be imprisoned pursuant to subdivision (h) of Section 1170 of the Penal Code.

**§26061. Biometric data privacy protections; confidentiality of applications and licenses.**

(a) BIOMETRIC DATA PRIVACY PROTECTIONS.—Until 90 days after federal law permits the production and sale of cannabis consistent with California law, no person, entity or government agency, or agency working on their behalf, may collect, attempt to collect, sell, attempt to sell, give away, attempt to give away, furnish, attempt to furnish, allow the distribution of, include in a database, or create a database with, any thumbprint or other biometric data from any person or entity as a condition of an initial application, or issuance or renewal of, any commercial license issued under this division.

(b) CONFIDENTIALITY OF APPLICATIONS AND LICENSEES.—Notwithstanding any other provision of law, any records of an applicant, licensee, or qualified business entity that applies, attempts to apply, renews, attempts to renew, possesses, uses or attempts to use a commercial license issued pursuant to this division which specifically deals only with cannabis-related activities, shall remain confidential. This subdivision shall not restrict or prohibit the commission from collecting, sharing and using any information that is necessary for it to conduct its essential regulatory operations.

**Article 2. Record-keeping Requirements**

**§26061.5. Record-keeping requirements of licenses.**

(a) A licensee shall not cultivate, process, store, manufacture, transport, or sell cannabis or cannabis-infused products in the state unless accurate records are kept at the licensed premises of the growing, processing, storing, manufacturing, transporting, or selling by the licensee, under the rules the commission may provide.

(b) Records shall be kept under subdivision (a) for a minimum of five years.

(c) The commission and any other appropriate state or local agency may examine the books and records of a licensee, provided that such examinations shall be conducted during standard business hours of the licensed facility or at any other reasonable time.

(d) If a licensee fails to maintain or provide the books and records required pursuant to this section, the licensee shall be subject to a civil fine of thirty thousand dollars (\$30,000) per individual violation.

(e) (1) Except as provided by paragraph (2), this section shall not become operative until 90 days after federal law permits the production and sale of cannabis consistent with California law.

(2) The Legislature shall have the power to amend or repeal this subdivision.

### **Article 3. Age Verification and Commission-issued ID Verification System**

#### **§26062. Card reading device.**

(a) CARD READING DEVICE.—Upon swiping or scanning a card equipped with a magnetic stripe using a commission-issued identification verification device or program, the device or program shall either:

(1) display a "VALID" statement, along with returning, at the minimum, the age of the individual.

(2) display a "VALID" statement, along with returning, at the minimum: (i) the full valid identification card number; (ii) the county of issuance; (iii) the expiration date of the identification card; and (iv) the seal of the county or state of issuance, as displayed on the identification card.

(3) display an "INVALID" statement, or return an error providing that such verification failed, or otherwise could not be processed.

(b) IMMUNITY UPON VERIFICATION.—If an unaltered commission-issued identification verification device or program provides a medical cannabis claim as verified, the information received from the commission reasonably matches the related information contained on the identification card, and the photo contained on the identification card reasonably matches the likeness of the person, such person shall be considered an eligible person 21 years of age or older, or a qualified patient or primary caregiver for the purposes of this division.

(c) CONFIDENTIALITY.—It shall be unlawful to retain identifiable information from a commission-issued verification device or program for any purposes other than to verify that individual's status as a person 21 years of age or older, or a qualified patient, primary caregiver, or person with a valid identification card.

#### **§26064. Third-party patient record verification.**

The commission may develop and maintain a reliable method of identifying eligible qualified patients and their designated primary caregivers not in possession of a valid state-issued identification card.

#### **§26065. Requirement for age verification.**

(a) A licensee must verify the age or status of adults, qualified patients, primary caregivers, or persons with valid identification cards to ensure that such individual is qualified to purchase and possess cannabis under California law.

(b) A facsimile of or a reasonable likeness of a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, or an identification card issued to a member of the Armed Forces, that contains information suggesting such individual has reached the age required to lawfully purchase cannabis within the State of California may serve as proof of age under this section.

(c) A person may be deemed verified as a qualified patient or primary caregiver if all of the following conditions apply:

(1) The license of the attending physician has been verified, and the license is in good standing to practice medicine or osteopathy in a state, district, territory, commonwealth, or insular possession of the United States.

(2) If a written or oral recommendation or approval provides an expiration date, the recommendation or approval shall not have expired.

(3) The recommendation or approval, written or oral, can be verified with the attending physician, or an agent of the attending physician, via telephone or Internet web-based system, or the signature of the attending physician affixed on any written recommendation or approval can otherwise be verified as genuine.

(4) The person, only if claiming to be a primary caregiver or an agent of an eligible qualified patient, can provide sufficient information that, by a preponderance of the evidence, such individual is acting on behalf of a qualified patient.

(d) A person may be deemed verified as a qualified patient or primary caregiver if he or she is in possession of a valid and verifiable identification card issued by the designated agency of a state or territory within the jurisdiction of the United States of America.

(e) For the purpose of preventing any violation of this division or Section 11725 of the Health and Safety Code, any licensee, or any of its officers, agents and employees, shall refuse to sell or serve cannabis or cannabis-infused products to any person who is unable to produce adequate written evidence that he or she is over the age of 21 years or is otherwise qualified to purchase and possess cannabis under California law. A licensee, or his or her agent or employee, may seize any identification presented by a person that is not qualified to purchase and possess cannabis that shows the person to be under the age of 21 years or that is false, so long as a receipt is given to the person from whom the identification is seized and the seized identification is given within 24 hours of seizure to the local law enforcement agency that has jurisdiction over the licensed premises. A licensee, or any of its officers, agents and employees decision to not seize a license or identification shall not create any civil or criminal liability.

(f) Notwithstanding any other provision of law, no licensee, or any of its officers, agents or employees, shall knowingly or intentionally sell or deliver with remuneration cannabis or cannabis-infused products to a qualified patient or primary caregiver under 18 years of age who is not in possession of a valid identification card, unless such person under 18 years of age is accompanied by a parent or guardian.

(g) Nothing in this chapter or division shall be construed to abridge the rights, privileges and immunities of the Compassionate Use Act of 1996 as such Act existed prior to November 8, 2016.

#### **Article 4. Patient Privacy**

##### **§26066. Patient and primary caregiver confidentiality requirements.**

(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 commission for the purposes of administering this division 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.

(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 commission for the purposes of administering this division shall be maintained in accordance with state and federal laws relating to confidential patient information.

#### **CHAPTER 16. ADDITIONAL REGULATORY PROVISIONS**

##### **§26070. Licensee reporting of production and sales data.**

(a) The commission shall establish a program for licensees to voluntarily report quarterly or annual cannabis production and sales data related to their licensed operations under rules the commission may prescribe.

(b) The commission shall quarterly or annually provide to the public a compiled report that includes:

(1) The number and type of licensees participating in the data collection program in each county and in the state.

(2) The total reported amount of dried cannabis, concentrated cannabis, and cannabis-infused products produced and sold in each county and in the state.

(3) The average amount and price of cannabis sold or transacted at wholesale or at retail.

(4) The costs incurred by the commission or a state agency in enforcing state laws and regulations related to cannabis.

(5) The costs incurred by a city, county, or a city and county, incurred in enforcing state and local laws.

(6) The amount of square footage allowed in cultivation in each county and in the state.

(7) The revenue from fees imposed pursuant to this part.

(8) Any other information deemed appropriate by the commission.

(c) Every person who manufactures, produces, sells, offers, or transfers to another any document purporting to be either a truthful or accurate representation of the information collected pursuant to this section, knowing such document to be false or counterfeit and with the intent to deceive, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(d) Beginning 30 days after the date when federal law permits the possession and sale of cannabis consistent with this division, the commission shall require the participation in the reporting program provided in this section.

#### **§26071. Implementation of enhancement to statewide personal use protections.**

(a) STUDY OF ENHANCEMENTS.—The commission shall have the power to study and implement enhancements to the possession or cultivation floor amounts and conditions set forth in Section 11721 or 11721.77 of the Health and Safety Code. These enhancements shall be made only after public comment and consultation with interested persons and organizations, including, but not limited to, farmers, health care professionals, law enforcement, local governments, members of the general public, qualified patients, and researchers, and shall have the full force and effect of law.

(b) FLOOR PROTECTIONS.—Notwithstanding any other provision of law, nothing shall authorize the commission to modify the possession or cultivation protections below the floor amounts set forth in Section 11721 or 11721.77 of the Health and Safety Code.

(c) DETERMINATION DATE.—Notwithstanding any other provision of law, on or before October 31, 2017, the commission shall study and determine enhancements to the possession or cultivation floor amounts and conditions set forth in Section 11721 or 11721.77 of the Health and Safety Code.

(d) EFFECTUATION OF RELEVANT DETERMINATIONS.—Notwithstanding any other provision of law, commencing 30 days after the commission makes a determination pursuant to this section, no applicable adult, qualified patient, primary caregiver or person with a valid identification card shall be arrested or prosecuted nor be subject to any criminal or civil penalties for the possession, production, cultivation, transportation, manufacture, processing, sharing, or giving away of cannabis for personal use, and not for sale, in the amounts and conditions specified by the commission, and under such rules as the commission may prescribe.

#### **§26072. Additional administrative regulations.**

(a) DEADLINE FOR INITIAL REGULATIONS.—The commission shall adopt regulations as otherwise necessary to implement this division no later than October 31, 2017. Except as otherwise provided under this division, the commission may adopt or carry out regulations as needed for the continued everyday operation of the regulatory and enforcement provisions of the program in a manner that promotes the spirit of this division.

(b) ADDITIONAL ADMINISTRATIVE PROTOCOLS.—The commission shall develop additional administrative protocols to implement the responsibilities described in subdivision (a), including, but not limited to:

(1) Protocols to complete the application process, and either approve or deny an applicant pursuant to California law, within 60 days from the date of application;

(2) Protocols to deny an application or renewal if the licensee operates or intends to operate its facilities within a zone prohibited by California law, or otherwise operates or intends to operate in violation of California law;

(3) Protocols for inspections, investigations, searches, seizures and such additional activities as may become necessary from time to time; and

(4) Protocols for peace officers and employees of the commission to efficiently, effectively and appropriately enforce the regulations of this division.

(c) **VALIDITY OF LICENSES.**—No licenses shall be deemed valid until the operative date of the regulations promulgated by the commission. With respect to licenses issued prior to January 1, 2018, such licenses shall be valid through January 1, 2019.

(d) **GENERAL FAILURE TO PROCESS APPLICATIONS.**—

(1) Notwithstanding any other provision of law, if the commission fails to begin accepting or processing applications in accordance with this division on or after October 31, 2017, any citizen may apply to the Supreme Court for a writ of administrative mandamus to compel the commission to begin accepting or processing applications in a manner consistent with this division.

(2) Notwithstanding any other provision of law, if the commission fails to issue or deny a license within sixty days of the submission of a valid application or renewal pursuant to the regulations adopted by this division, the license shall be deemed issued, and a copy of the license application or renewal shall be deemed a valid license. Such licensee shall be governed by the appropriate regulations and provisions set forth in this division.

**§26073. Future increase or decrease in fees.**

(a) The Legislature shall have the power to increase the fees or levies imposed under this division, provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

(b) The Legislature shall have the power to decrease the fees imposed under this division.

**CHAPTER 17. LOCAL REGULATION**

**§26075. Local business license requirements.**

(a) **LOCAL BUSINESS LICENSE OR REGISTRATION.**—Nothing in this division shall prevent a city, county, or city and county from reasonably requiring a licensee or applicant to obtain a business tax certificate, business operation tax certificate, business registration certificate, or other business license, registration or certificate commonly applied to other businesses in such jurisdiction, provided that a city, county, or city and county shall not unreasonably restrict or prevent a licensee, applicant or other person from applying for, obtaining, or renewing a business license, registration or certificate.

(b) **RESTRICTIONS.**—Except as otherwise provided by state or local law, a business license, registration or certificate issued by a city, county, or city and county shall not be construed to authorize the commercial production, distribution or sale of cannabis unless such person or entity has an appropriate license as required pursuant to this division.

**§26075.5. Additional local licenses administered by the commission.**

A city, county, or city and county, may confer with the commission to request the administration of regulations or other types of licenses for commercial activities involving cannabis cultivation, manufacture, sale or distribution. This license shall confer certain rights to the licensee, and any of its officers, agents and employees, to conduct those activities under state law pursuant to the rules and regulations set forth by the commission, and such license shall be recognized by all state and local government officials as with any other license.

**§26076. Local environmental and public health controls.**

(a) **ENVIRONMENT AND PUBLIC HEALTH.**—Nothing shall prevent a city, county, or city and county, from retaining, enacting or carrying out reasonable and appropriate environmental and public health controls to ensure that any licensed premises or licensed cultivator of cannabis minimizes any harm to the environment, adjoining and nearby landowners, patrons, employees, and persons passing by.

(b) **ON-SITE CONSUMPTION.**—Notwithstanding any other provision of law, nothing shall prevent a city, county, or city and county, from regulating, restricting or prohibiting within its jurisdiction the consumption of cannabis upon a premises that is licensed pursuant to this division.

**§26078. Transactional limitations on local retail sales.**

(a) PER-TRANSACTION LIMITATIONS.—A city, county, or city and county, may enact transaction limitations on the quantity of dried cannabis distributed by licensees at retail for adult use to an amount not less than 30 grams per person per visit.

(b) LIMITATIONS ON SALES.—Nothing in this division shall be construed to prevent a city, county, or city and county, from enacting limitations that restrict a licensee within its jurisdiction to selling or displaying only cannabis-related items.

**CHAPTER 18. ENFORCEMENT**

**§26080. Initial enforcement of regulations.**

Beginning January 1, 2018, or at an earlier date determined by the commission, the commission shall work with state and local law enforcement agencies to enforce the regulations and other provisions of this division.

**§26082. State agency enforcement of local ordinances.**

No state agency shall be required to enforce a local law, ordinance, rule, or regulation regarding the location or operation of a licensee enacted by a city, county, or city and county.

**§26085. Prohibitions on refusal to verify commercial status.**

Neither the commission nor a state or local law enforcement agency or officer shall refuse to verify claims that such alleged conduct was consistent with the rights conferred to a licensee, or any of its officers, agents or employees unless the state or local law enforcement agency or officer has reasonable cause to believe that the information provided is false or fraudulent, or is being used fraudulently.

**CHAPTER 19. SEIZURE**

**§26086. General provisions.**

In addition to the provisions of Chapter 7 (commencing with Section 34035) of Part 14.5 of Division 2 of the Revenue and Taxation Code, the commission or a state or local law enforcement agency may seize cannabis or cannabis-infused products possessed, cultivated, transported, manufactured, processed, sold or delivered in violation of California law.

**§26087. Petition for return of seized property.**

Any person or entity whose cannabis or property, except automobiles or other vehicles, has been seized for forfeiture under this division shall, within 10 days after such seizure, petition the commission to return the cannabis or property upon the grounds that the cannabis or other property was illegally or erroneously seized.

**§26088. Consideration of petitions by commission.**

Any petition filed pursuant to Section 26087 shall be considered by the commission within 30 days after filing, and an oral hearing shall be granted the petitioner if requested. The commission shall serve notice of its decision upon the petitioner, and provide a copy to the law enforcement agency or entity in physical possession of the seized property.

**§26089. Return of seized property.**

If found to be illegally or erroneously seized, the commission shall order that the cannabis or property seized be returned or made available to the petitioner within five working days.

**§26089.5. Relinquishment of seized property.**

Any cannabis or property seized by the commission may be turned over to a state or local law enforcement agency. The person in charge of any state department or institution may file with the commission a request that cannabis or property of a kind specified in the request be turned over to such department or institution. No cannabis or property for which a request has been made by a state department or institution shall be destroyed until all requests of state departments and institutions for the type or kind of cannabis or property have been complied with.

**CHAPTER 20. VIOLATIONS**

**§26090. Violations of provisions.**

Any person who knowingly and willfully violates any provision of this division, except as otherwise provided by law, is guilty of an infraction. Except as otherwise provided by this division, each offense shall be punishable by a fine not to exceed two thousand five hundred dollars (\$2,500). If after 90 days such fine has not been paid or addressed with the commission or a court of competent jurisdiction by the accused, the fine may be doubled and the violation may be enhanced to a misdemeanor, punishable in accordance with Penal Code Section 19. The commission shall transmit all fee, fine, and forfeiture revenues to the Treasurer to be deposited in The Safe Communities, Parks, and Schools Fund, created pursuant to Section 34026 of the Revenue and Taxation Code.

**§26095. Statute of limitations.**

Any prosecution for a violation of any of the provisions of this division shall be instituted within one year from the date of the commission of the charged offense.

**SEC. 4.** Part 14.5 (commencing with Section 34001) is added to Division 2 of the Revenue and Taxation Code, to read:

**PART 14.5. CANNABIS EXCISE TAXES**

**CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS**

**§34001. Title and Intent of the People.**

(a) **TITLE.**—This part shall be known and may be cited as “The Cannabis Tax Stamp and Meter Law.”

(b) **INTENT OF THE PEOPLE.**—It is the intent of the People in enacting this part to raise revenue for the State by enacting an excise tax on commercial transactions involving cannabis, and to reimburse certain costs related to the production and sale of cannabis within the State.

(c) **EXEMPTIONS.**—Notwithstanding any other provision of law, this part shall not apply to the noncommercial possession, production, cultivation, transportation, manufacture, processing, delivery, sharing, and giving away of cannabis for personal or medical use, and not for sale.

**§34002. Definitions.**

For purposes of this part:

(a) “Board” means the State Board of Equalization.

(b) “Cannabis” and “marijuana” are terms to be used interchangeably, meaning all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; concentrated cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include hemp.

(c) “Commercial cannabis activity” means any commercial cultivation, possession, manufacture, processing, storing, labeling, transporting, distribution, or sale of cannabis or cannabis-infused products.

(d) “Concentrated cannabis” means the separated resin, whether crude or purified, obtained from cannabis. Concentrated cannabis shall not mean cannabis infused in a food, drink, candy, balm or

tincture.

(e) "Cultivate" means to grow and care for cannabis plants, including any activity involving the planting, growing, harvesting, drying, processing, or trimming of cannabis.

(f) "Cultivator" means a person who cultivates cannabis.

(g) "Distribution" includes the sale or possession for sale of untaxed cannabis in this state.

(h) "Distributor" includes:

(1) Every person who sells or accepts orders for cannabis which are to be transported from a point inside or outside this state to a consumer within this state.

(2) Every person who, on or after 12:01 a.m. on July 1, 2018, and within the meaning of the term "distribution" as defined in this chapter, distributes cannabis.

(i) "Dried cannabis" means any dried mature flower of female cannabis plants that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(j) "Hemp" and "industrial hemp" are terms to be used interchangeably, meaning a fiber or oilseed crop that is limited to non-psychoactive types of the plant *Cannabis sativa* L. and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin or flowering tops extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(k) "Licensee" means a person issued a state license under Division 10 (commencing with Section 26000) of the Business and Professions Code to engage in commercial cannabis activity.

(l) "Manufacturer" means a person who produces, prepares, propagates, compounds, or processes cannabis, either directly or indirectly or by extraction from its natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of cannabis or labeling or relabeling of its container.

(m) "Person" includes any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, the United States, this state, any county, city and county, municipality, district, or other political subdivision of the state, or any other group or combination acting as a unit.

(n) "Person with an identification card" means an individual who has applied for and received a valid medical marijuana identification card by the State Department of Public Health, or its equivalent issued by the designated entity in another state, district, territory, commonwealth, or insular possession of the United States.

(o) "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

(p) "Processor" means a person who processes cannabis.

(q) "Producer" means a person who produces cannabis.

(r) "Qualified patient" means a person who is entitled to the protections of Section 11721.5 of the Health and Safety Code, but who does not have an identification card.

(s) "Retail sale" means a retail sale, as defined in Section 6007 of the Revenue and Taxation Code.

(t) "Sale" or "sold" means a sale, as defined in Section 6006 of the Revenue and Taxation Code.

(u) "Seller" means producers, processors, wholesalers, and retailers of cannabis in California, but does not mean transporters of cannabis.

(v) "State license" or "license" means a state license issued pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(w) "Transporter" means any person transporting within California cannabis or cannabis-infused products.

(x) "Wholesaler" means every person that engages in this state in making sales for resale of cannabis.



**§34003. Publication of tax rates.**

The board shall establish and maintain a cost-effective Internet web-based system to provide an accurate schedule of all fees and taxes applied to cannabis for each city, county, and city and county within the State of California.

**§34004. Additional excise taxes.**

The Legislature shall have the power to adopt, enact, carry out, or impose additional excise taxes, surtaxes, fees or levies on cannabis produced or sold in this State by manufacturers, cultivators, producers, processors, importers, wholesalers, distributors or sellers of cannabis, provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

**§34005. Retroactive fees and taxation.**

Notwithstanding any other provision of law, no excise tax, surtax, fee, or levy established on all cannabis sold in this State shall be applied retroactively to transactions conducted prior to the effectuation date of such excise tax, surtax, fee or levy.

**§34006. Taxpayer conduct.**

Notwithstanding any other provision of law, nothing in this part shall mandate a taxpayer engage in activities that are in violation of federal law.

**CHAPTER 2. TAX ON CANNABIS**

**Article 1. Imposition of Tax**

**§34011. Tax rates.**

(a) INITIAL RATES.—On and after July 1, 2018, an excise tax is hereby imposed upon all cannabis sold in this State by manufacturers, cultivators, producers, processors, importers, wholesalers or distributors of cannabis, or sellers of cannabis with respect to which no tax has been paid within areas over which the United States Government exercises jurisdiction, at the following rates:

(1) On all dried cannabis, forty-two cents (\$0.42) per gram, and at a proportionate rate for any other quantity.

(2) On all concentrated cannabis, two dollars (\$2.00) per gram, and at a proportionate rate for any other quantity.

(b) ADJUSTMENTS FOR INFLATION.—On and after January 1, 2020, the rates imposed in subdivision (a) shall be adjusted annually each January 1 for inflation. The adjustments for inflation shall be made by multiplying each rate in effect on December 31 of the previous year by the percentage rate of inflation that occurred during the prior fiscal year, and by adding the product to the applicable rate in effect during that year. The resulting total shall be rounded off to the nearest half cent (\$0.005).

(c) FLOOR RATES.—Notwithstanding the provisions of subdivision (b), no adjustments made pursuant to this section shall decrease each rate below the amounts specified in subdivision (a).

(d) DEFINITION.—For the purposes of this chapter, “percentage rate of inflation” means the percentage rate of inflation specified in the California Consumer Price Index for All Urban Consumers, as published by the Department of Industrial Relations, Office of Policy, Research and Legislation, or its successor index.

**§34012. Tax stamp requirement.**

Except as otherwise provided by the board or by law, a person or entity that keeps, stores, or retains for the purpose of sale, or sells or offers to sell, any cannabis shall affix a stamp or meter impression in accordance with this part.

**§34013. Increase of taxes.**

(a) The Legislature shall have the power to increase the rates imposed under this article, or impose additional excise taxes or surtaxes on cannabis, provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

(b) The Legislature shall have the power to decrease the rates imposed under this article.

**§34014. Adjustment of tax rates after certain acts of Congress.**

(a) Notwithstanding the provisions of Section 34011, upon enactment of any act of Congress that imposes an excise tax on the sale, storage, or use of cannabis based on weight, the rates imposed in Section 34011 shall be adjusted on the first January 1 thereafter to subtract the total amount imposed under Federal law based upon the weight of dried cannabis or concentrated cannabis. If such calculation reduces any rate imposed in accordance with Section 34011 to an amount below zero, such tax shall become inoperative on the first January 1 following the enactment of such act of Congress.

(b) Notwithstanding the provisions of Section 34011, upon enactment and effectuation of any act of Congress that imposes an ad valorem tax on the sale, storage, or use of cannabis in excess of ten percent (10%), the taxes imposed in accordance with Section 34011 shall become inoperative on the first January 1 following the enactment of such act of Congress.

(c) The Legislature shall have the power to repeal the provisions of this section in its entirety, provided that such repeal must be enacted by an Act passed by not less than fifty-five percent of all members elected to each of the two houses of the Legislature, and signed by the Governor.

**Article 2. Presumptions and Exemptions**

**§34015. Presumption of sale.**

Except as otherwise provided by this article, it shall be presumed, for the purposes of this part, that all cannabis removed from a manufacturer, cultivator, producer, collective, or cooperative has been sold in this State by the manufacturer, cultivator, producer, collective, or cooperative unless it is proved to the satisfaction of the board, in reports on forms prescribed by the board, that the cannabis is exempt from taxation under this part.

**§34016. Exemptions for deliveries to other producers.**

No tax is imposed by this part upon any cannabis sold or delivered to another manufacturer, cultivator, producer, collective, cooperative, importer, wholesaler or distributor under such rules as the board may prescribe.

**§34017. Exemptions for on-premises consumption.**

Cannabis consumed by employees or patrons of a manufacturer, cultivator, producer, collective or cooperative upon the premises of the manufacturer, cultivator, producer, collective or cooperative is exempted from the tax under such rules as the board may prescribe.

**§34018. Exemptions for certain medical cannabis sales.**

(a) No tax is imposed by this part upon any cannabis sold or delivered to a qualified patient, or the primary caregiver of such qualified patient, as defined in Section 11721.5 or 11721.7 of the Health and Safety Code, provided that such cannabis was sold or delivered by the taxpaying manufacturer, cultivator, producer, collective, or cooperative directly to an applicable consumer.

(b) The board may offer a method for a taxpayer to receive a refund for any overpayments as a result of the exemption provided in this section under such rules as the board may prescribe.

(c) The Legislature may require that a consumer have in his or her possession an appropriate valid identification card, as defined in Section 11721.7 of the Health and Safety Code, in order to qualify for an exemption provided under this section, provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

**§34018.5. Exemptions for medical cannabis licensees.**

(a) No tax is imposed by this part upon any cannabis sold or delivered to a licensee operating in accordance with Article 4 (commencing with Section 26026) of Chapter 6 of Division 10 of the Business and Professions Code, provided that such licensee does not possess any other license under such division and does not sell or distribute cannabis to persons who are not qualified patients or primary caregivers.

(b) No tax is imposed by this part upon any cannabis sold or delivered by a licensee operating in accordance with Article 4 (commencing with Section 26026) of Chapter 6 of Division 10 of the Business and Professions Code to a qualified patient, or the primary caregiver of such qualified patient, as defined in Section 11721.5 or 11721.7 of the Health and Safety Code, provided that such licensee does not possess any other license under such division and does not sell or distribute cannabis to persons who are not qualified patients or primary caregivers.

(c) The Legislature may require that a consumer have in his or her possession an appropriate valid identification card, as defined in Section 11721.7 of the Health and Safety Code, in order to qualify for an applicable exemption provided under this section, provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

**§34019. Applicability of tax.**

For the purposes of this part, "cannabis sold in this State" shall include the sale or accepting of orders for cannabis which is transported from a point inside this state to a point inside or outside this state.

**§34019.5. Legislative power to adopt additional exemptions.**

The Legislature shall have the power to provide for additional exemptions to the taxes imposed under this part.

**CHAPTER 3. COLLECTION AND ADMINISTRATION**

**Article 1. Tax Stamp Program**

**§34020. Counterfeit-resistant tax stamp program.**

(a) IMPLEMENTATION.—The board shall implement a counterfeit-resistant tax stamp program to provide a method of collection of any excise taxes, surtaxes or fees imposed pursuant to Section 34011. Such tax stamps shall be issued by the board on a cash basis or on a deferred payment basis, and shall be for single-use affixation to commercial cannabis products. Stamps shall be of the designs, specifications, and denominations as may be prescribed by the board.

(b) OFFERING OF STAMPS.—Each tax stamp issued pursuant to this chapter shall be offered by the board at such applicable rate imposed by Section 34011, and such tax stamps will continue to be worth the applicable rate even if that rate changes, provided that all tax stamps shall expire and have no value two years after the date of issuance.

(c) QUANTITY.—The board shall not restrict the quantity of tax stamps acquired by a person or entity.

(d) CONTENTS.—Each tax stamp issued in accordance with this section shall include the following information readily visible for inspection:

(1) A unique identifier, such as a serial number, for each stamp, available for any board employee to read and verify.

(2) An indication, such as color coding or a numeric representation on the face, of the type of cannabis and the total net weight prepaid for each stamp.

(3) A counterfeit-resistant design, such as a hologram, that includes the seal of the State or the seal of the board.

(4) Transaction date and time.

(5) Any other information or item as deemed appropriate by the board.

(e) DISCONTINUATION OF TAX STAMP PROGRAM.—Commencing 90 days after federal law permits

the production and sale of cannabis consistent with California law, the board shall have the power to discontinue issuance of counterfeit-resistant tax stamps as required by this section.

(f) **ADDITIONAL REGULATIONS.**—The board shall develop protocols and regulations to offer cannabis excise tax stamps to any person or entity, and shall develop regulations and protocols necessary for the administration and enforcement of the cannabis excise tax stamp program. These regulations shall include the following:

(1) Developing a method for a person or entity to acquire cannabis tax stamps via cash, credit cards, debit cards, or personal checks.

(2) Developing a method for a person or entity to receive a board-issued account number for record-keeping and verification purposes at the time of acquiring tax stamps. The board shall develop a method to offer counterfeit-resistant documentation of any board-issued account number for a fee of fifteen dollars (\$15).

(3) Developing a method for the board to maintain records of each transaction involving cannabis tax stamps.

(4) Developing a method for the board to associate the unique identifier of a tax stamp to a single unique transaction identifying number.

(5) Developing a method to ensure that the board can efficiently and effectively read and verify any cannabis excise tax stamp.

## **Article 2. Meter Impression Program**

### **§34021. Meter impression program.**

(a) **IMPLEMENTATION.**—The board shall implement a technology-based meter impression program to provide a method of collection of any excise taxes, surtaxes or fees imposed pursuant to Section 34011. Meter impressions shall be of the designs, specifications, and denominations as may be prescribed by the board.

(b) **RATE OF METER IMPRESSIONS.**—Each meter impression shall be offered at such applicable rate imposed by Section 34011 at the time the meter impression is made, provided that all meter impressions shall expire and have no value two years after the date of impression.

(c) **LOW-COST PRINTING OR METER IMPRESSION DEVICE.**—The board shall offer a low-cost device or method for any person or entity to print and affix a valid meter impression upon a cannabis product, package or label. This device shall be offered to any taxpayer upon payment to the board of a one-time fee of not more than one hundred dollars (\$100).

(d) **CONTENTS.**—The following information shall be included on each meter impression, readily visible for inspection:

(1) A unique identifier, such as a serial number, for each metered product, package or label, available for any board employee to read and verify.

(2) An indication, such as a numeric representation, of the total net weight of each metered cannabis product, package or label.

(3) An indication, such as color coding or a numeric representation on the face, of the total net weight prepaid for each stamp.

(4) A counterfeit-resistant design that includes the seal of the State or the seal of the board.

(5) Transaction date and time.

(6) Any other information or item as deemed appropriate by the board.

(e) **ADDITIONAL REGULATIONS.**—The board shall develop regulations and protocols necessary for the administration and enforcement of the meter impression program described in this section. These regulations shall include the following:

(1) Developing a low-cost method for people to acquire an approved meter and related supplies from the board.

(2) Developing a method for a person or entity to receive a board-issued account number for record-keeping and verification purposes. The board shall develop a method to offer counterfeit-resistant documentation of any board-issued account number for a fee of fifteen dollars (\$15).

(3) Developing a method for the board to associate the unique identifier for each metered product, package or label to a single unique transaction identifying number.

(4) Developing a method to ensure that the board can efficiently and effectively read and verify a metered impression.

(5) Developing a method for a person or entity to confidentially remit any amount due to the board.

(6) Developing a method for a person or entity to prepay for meter impressions through a board-issued account number using cash, credit cards, debit cards, or personal checks.

### **Article 3. Record-keeping for Tax Stamp and Meter Impression Programs**

#### **§34022. Tax stamp and meter database.**

(a) REQUIREMENTS.—The board shall employ a technology capable of maintaining records of all cannabis stamps and meter impressions for any cannabis product, package or label. At a minimum, the process shall encrypt the following information into each record or otherwise encrypt in relational database tables:

(1) A unique identifier, such as a serial number, for each stamped or metered product, package or label.

(2) The board-issued account number of the person or entity that remitted the tax.

(3) The email address of the person or entity associated with the account number.

(4) Transaction date and time.

(5) Type of cannabis.

(6) Weight of the cannabis.

(7) Amount paid.

(8) Method of payment.

(9) Reference number to the method of payment on file with the board.

(10) Amount of times the unique identifier has been verified.

(11) Any other information deemed appropriate by the board.

(b) ENCRYPTION AND SECURITY.—The board shall develop a method to use (symmetric and asymmetric) encryption in order to ensure the confidentiality, integrity and authentication of all transactions conducted in accordance with this section.

(c) ELECTRONIC MAIL MESSAGE CONFIRMATION.—For any remittance made in pursuance of this chapter, the board shall issue an electronic mail message confirmation of remittance to the email address associated with the board-issued account number. At a minimum, this electronic mail message shall include the following elements in the body of the message:

(1) The unique identifier, such as a serial number, for each stamped or metered product, package or label involved in the transaction.

(2) The board-issued account number of the person or entity that remitted the tax.

(3) Transaction date and time.

(4) Type of cannabis.

(5) Weight of the cannabis.

(6) Amount paid.

(7) Method of payment.

(8) Reference number to the method of payment on file with the board.

(9) Any other information deemed appropriate by the board.

#### **§34022.2. Records of deliveries.**

(a) REQUIREMENTS.—The board shall employ a technology capable of maintaining records of transactions, transfers and deliveries specified in subdivision (b). At a minimum, the process shall encrypt the following information into each record or otherwise encrypt in relational database tables:

(1) A unique identifier, such as a serial number, for each stamped or metered product, package or label.

(2) The board-issued account number of the person or entity that remitted the tax.

(3) The board-issued account number of the person or entity that is the recipient.

(4) The board-issued account number of the person or entity that sold or delivered the cannabis to the recipient.

- (5) Transaction date and time.
- (6) Any other information deemed appropriate by the board.
- (b) APPLICABILITY OF REQUIREMENTS.—Subdivision (a) shall apply to the following:
  - (1) The receipt of any cannabis for which the initial sale tax has been paid, if the cannabis is received by a licensee, or any of its officers, agents or employees.
  - (2) The sale or delivery by a licensee, or any of its officers, agents or employees.
- (c) ENCRYPTION AND SECURITY.—The board shall develop a method to use (symmetric and asymmetric) encryption in order to ensure the confidentiality, integrity and authentication of all record-keeping actions conducted in accordance with this section.
- (d) ELECTRONIC MAIL MESSAGE CONFIRMATION.—Upon confirmation of any transaction, transfer or delivery made in accordance with this section, the board shall issue an electronic mail message confirmation to both the email address associated with the board-issued account number of the recipient as well as the person or entity who remitted the tax. At a minimum, this electronic mail message shall include the following elements in the body of the message:
  - (1) The unique identifier, such as a serial number, for each stamped or metered product, package or label involved in the transaction.
  - (2) The board-issued account number of the person or entity that remitted the tax.
  - (3) The board-issued account number of the recipient.
  - (4) Transaction date and time.
  - (5) Type of cannabis.
  - (6) Weight of the cannabis.
  - (7) Amount paid.
  - (8) Method of payment.
  - (9) Reference number to the method of payment on file with the board.
  - (10) Any other information deemed appropriate by the board.
- (e) GROUP PRODUCT ASSIGNMENT FOR BULK TRANSACTIONS.—The board shall develop a method to allow the assignment of a group or lot number for a set of stamped or metered products, packages or labels to facilitate efficient record-keeping practices.

#### **§34022.3. Electronic requests for refunds.**

- (a) REQUIREMENTS FOR REQUESTOR.—In order for any person or entity to request a refund for any cannabis stamp or meter impression for which the tax has been paid, the requesting person or entity shall provide the board with any information as deemed reasonably necessary and appropriate for a refund under this part, in a manner prescribed by the board.
- (b) ADDITIONAL RULES.—The board shall develop additional rules to facilitate the requests for refunds for overpayments described in this section.
- (c) FUTURE TAX LIABILITY.—If, at a later point in time, the board determines the information provided to the board in accordance with this section is false or fraudulent, or is being used fraudulently, the person or entity who requested the refund shall be held liable for any amount imposed in Chapter 2 (commencing with Section 34011) of this part notwithstanding the limitations imposed under Section 34034.

#### **§34022.4. Requirement to record transfer of tax-paid products.**

A licensee, or any of its officers, agents or employees that receives any cannabis for which the tax imposed in Chapter 2 (commencing with Section 34011) of this part has been paid shall make a record of the transaction, transfer or delivery under rules the board may prescribe, and shall make it available upon request to a representative or employee of the board or the Cannabis Regulatory Control Commission.

### **Article 4. Verification Procedures**

#### **§34022.5. Electronic verification service.**

- (a) The board shall maintain a 24-hour, toll-free telephone number, and an electronic web-based verification system address which will enable the board and state and local law enforcement officers

to have immediate access to information necessary to verify the validity of the stamp or meter impression.

(b) The board may develop an application or other method of verification that is suitable for use on a wireless telephone or any other electronic wireless communications device.

(c) The board shall offer a device at-cost that verifies the validity of a stamp or meter impression issued in accordance with this chapter.

## **Article 5. Electronic Registration, Collection and Refunds**

### **§34022.8. Electronic application for account number.**

The board shall provide secure electronic means for applicants to submit applications for a board-issued account number, and provide secure electronic means to receive a board-issued account number.

### **§34022.9. Electronic payments and refunds.**

The board shall provide secure electronic means for applicants to remit any taxes or fees imposed under this part, and to receive any refunds in accordance with this part.

## **CHAPTER 4. OTHER ADMINISTRATIVE PROVISIONS**

### **§34023. Fee Collection Procedures Law.**

The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of this division), and such part shall, to the extent feasible and practicable, govern returns and payments, determinations, collections of fees and taxes, overpayments and refunds, and general administration under this part. For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part and references to "feepayer" shall include a person required to pay the tax imposed by this part.

#### **§34023.1. Responsibility to remit amount due.**

Payment for stamps or meter register settings shall be made at the time of purchase, provided that a person or entity, subject to the conditions and provisions of this part, may be permitted to defer payments therefor in accordance with Section 34024.5.

#### **§34023.2. Identifying information of taxpayer.**

The board shall not require any person or entity to produce or provide cannabis or concentrated cannabis, or declare or provide any personal or commercial information, in order to prepay for such cannabis or concentrated cannabis tax stamps or meter impressions as prescribed under this part, provided that nothing shall prevent the board from collecting such personal or commercial information if the taxpayer elects to use deferred payments in accordance with Chapter 4.2 (commencing with Section 34024.5) of this part, or utilizes a method of payment other than cash that requires the disclosure of such information as deemed reasonable or necessary by the board to process such payment or transaction.

#### **§34023.5. Metering machine restrictions.**

A metering machine may be used and a meter may be stored, transferred, transported, repaired, opened, set or used only in accordance with rules and regulations prescribed by the board. Meters, meter register settings, or unaffected stamps shall not be sold, exchanged or in any manner transferred by a distributor to another person without prior written approval of the board.

### **§34024. Additional board-issued regulations.**

(a) GENERAL REGULATIONS.—Notwithstanding the provisions of Section 34023, the board may prescribe, adopt, and enforce reasonable regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals. The board may

prescribe the extent to which any ruling and regulation shall be applied without retroactive effect.

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

(c) **ALTERNATIVE COLLECTION METHODS.**—The board by regulation may provide that the taxes imposed by this part with respect to cannabis shall be paid without the use of stamps or meter impressions in connection with a particular type of transaction.

#### **§34024.1. Personnel of the board.**

The board may employ accountants, analysts, auditors, investigators, assistants, software engineers, systems administrators, and clerks necessary for the efficient, effective and equitable administration of this part and may designate representatives to conduct hearings, or perform any other duties imposed by this part or other related laws of this State upon the board.

#### **§34024.2. Confidentiality of records.**

(a) All information and records acquired by the board or any board employee or representative are confidential in nature, and except insofar as may be necessary for the enforcement of this part, shall not be disclosed by any of them.

(b) Except insofar as may be necessary for the enforcement of this part, any board employee or representative who discloses any information acquired by any inspection or examination made pursuant to this part is guilty of a felony, and upon conviction shall be imprisoned pursuant to subdivision (h) of Section 1170 of the Penal Code.

#### **§34024.3. Designs of stamps and meter impressions.**

(a) The board shall have the power to adopt or carry out designs, regulations and protocols necessary for the efficient and effective implementation and administration of the stamp and meter impression programs described in this chapter.

(b) Not later than March 1, 2017, the board shall submit a request for proposal to the public to implement the programs described in Chapter 3 (commencing with Section 34020) of this part. The board shall choose a supplier and begin full implementation of the program prior to the initial imposition date as specified in Article 1 (commencing with Section 34011) of Chapter 2 of this part.

#### **§34024.4. Refunds upon decrease or repeal of tax.**

Notwithstanding any other provision of law, if the taxes described in Section 34011 are reduced or cease to be operative, or if the tax stamp or meter impression programs are repealed or otherwise discontinued by law, the board shall offer a method for any person or entity to receive a refund for any unused stamps or meter impressions at the rates imposed when such stamps or meter impressions were acquired, provided that such stamps or meter impressions have not been used on a product sold at retail.

### **CHAPTER 4.2. DEFERRED PAYMENTS**

#### **§34024.5. Payment of amount owed.**

(a) **PAYMENT OF STAMPS AND METER REGISTER SETTINGS.**—Amounts owing for stamps and meter register settings purchased on the deferred-payment basis shall be due and payable based on the person or entity's election to make the payment pursuant to subdivision (b). Payment shall be made by a remittance payable to the board.

(b) **ELECTION OF DEFERRED PAYMENT SCHEDULE.**—A person or entity shall elect to make the payment required by subdivision (a) on either a monthly, a twice-monthly, or a weekly basis. An election made pursuant to this subdivision shall remain in effect for at least one year from the date



the election is made. If the board finds that good cause exists for a person or entity's inability to maintain the election for the full year, the board shall authorize the person or entity to make a new election, as otherwise authorized by this subdivision, prior to the expiration of the one-year period following the prior election.

(1) MONTHLY PAYMENTS.—If a person or entity elects to make the payment required by subdivision (a) on a monthly basis, the person or entity shall remit the payment on or before the 25th day of the month following the month in which the stamps and meter register settings were purchased.

(2) BIMONTHLY PAYMENTS.—If a person or entity elects to make the payment required by subdivision (a) on a twice-monthly basis, the person or entity shall make two remittances during the month following the month in which the stamps and meter register settings were purchased. The first monthly remittance shall be made on or before the fifth day of the month and shall be equal to either one-half of the total amount of those purchases of stamps and meter register settings that were made during the preceding month or the total amount of those purchases of stamps and meter register settings that were made between the first day and the 15th day of the preceding month, whichever is greater. The second monthly remittance shall be made on or before the 25th day of the month for the remainder of those purchases of stamps and meter register settings that were made in the preceding month.

(3) WEEKLY PAYMENTS.—If a person or entity elects to make the payment required by subdivision (a) on a weekly basis, the person or entity shall remit the payment on or before Wednesday following the week in which the stamps and meter register settings were approved and released. Every person or entity electing to make payment on a weekly basis shall provide to the board and update, as necessary, an electronic mail address for the purpose of receiving payment information, including but not limited to, amounts owing for stamps and meter register settings purchased.

#### **§34024.6. Requirement of a security.**

(a) If a person or entity desires to defer payments for stamps or meter register settings, the board shall require a security as follows:

(1) MONTHLY PAYMENTS.—If a person or entity elects, under Section 34024.5, to make payments on a monthly basis, the board shall require a security equal to not less than 70 percent of the amount and no more than twice the amount, as fixed by the board, of the person or entity's purchases of stamps and meter register settings for which payment may be deferred.

(2) BIMONTHLY PAYMENTS.—If a person or entity elects, under Section 34024.5, to make payments on a twice-monthly basis, the board shall require a security equal to not less than 50 percent of the amount and no more than twice the amount, as fixed by the board, of the person or entity's purchases of stamps and meter register settings for which payment may be deferred.

(3) WEEKLY PAYMENTS.—If a person or entity elects, under Section 34024.5, to make payments on a weekly basis, the board shall require a security equal to not less than 25 percent of the amount and no more than twice the amount, as fixed by the board, of the person or entity's purchases of stamps and meter register settings for which payment may be deferred.

(b) SECURITY TYPE.—The security required by the board pursuant to subdivision (a) may be in the form of any of the following, in the amount required by paragraphs (1), (2) or (3) of subdivision (a):

(1) Cash, or a cash equivalent.

(2) A surety bond.

#### **§34024.7. Right to withdrawal as surety.**

Every bond shall contain a provision substantially to the effect that when the surety exercises his right to withdraw as surety the withdrawal shall be effective on the first day of the calendar month after receipt of the notice by the board if the notice is received on or before the fifteenth day of the month, otherwise the withdrawal shall be effective on the first day of the second calendar month after receipt of the notice by the board.

**§34024.8. Payment upon delinquency.**

Upon receipt of a certificate of the board setting forth the amount of a person or entity's delinquencies, the State Treasurer shall pay to the board the amount so certified from the money deposited with him by the person or entity or from the amounts received from the sale of bonds or other obligations deposited with the Treasurer by the person or entity. Securities deposited with the State Treasurer which have a prevailing market price may be sold by him for the purposes of this section at private sale at a price not lower than the prevailing market price thereof.

**CHAPTER 5. DISPOSITION OF REVENUES AND PROCEEDS**

**§34026. Payments to the board.**

Unless otherwise provided by law, any amount required to be paid to the state under this part shall be paid to the State Board of Equalization. After the payment of refunds, the board shall transmit the payments to the Treasurer to be deposited in The Safe Communities, Parks, and Schools Fund, which is hereby created in the State Treasury.

**§34026.5. Loans for establishment and provisions for repayment.**

(a) LOAN TO IMPLEMENT STATEWIDE REGULATIONS.—The Director of Finance may provide a General Fund loan in an amount up to twenty-five million dollars (\$25,000,000) to The Safe Communities, Parks, and Schools Fund for the purposes of supporting the implementation of statewide regulations in accordance with Division 10 (commencing with Section 26000) of the Business and Professions Code, and for any reimbursements made pursuant to subdivision (a) of Section 34027.

(b) LOAN TO IMPLEMENT THIS TAX.—The Director of Finance may provide a General Fund loan in an amount up to ten million dollars (\$10,000,000) to the State Board of Equalization for the purposes of supporting the implementation of any taxes prescribed under this part. Nothing in this subdivision shall diminish or abrogate the right of the Legislature to provide a General Fund loan in excess of the amount prescribed in this section for the purposes of supporting the implementation of any taxes prescribed under this part.

(c) REPAYMENT OF LOANS.—Notwithstanding any other provision of law, all loans provided pursuant to this section shall be repaid by the initial and recurring funds in The Safe Communities, Parks, and Schools Fund, created in this chapter.

**§34027. Reimbursements and further appropriations.**

(a) REIMBURSEMENTS.—The Safe Communities, Parks, and Schools Fund shall be used to reimburse:

(1) ADMINISTRATIVE COSTS.—Any costs incurred in the administration, implementation and enforcement of all programs, studies, regulations and taxes promulgated under Division 10.4 (commencing with Section 11720) of the Health and Safety Code, Division 10 (commencing with Section 26000) of the Business and Professions Code, Part 14.7 (commencing with Section 34040) of this division, or this part, including such costs incurred:

(A) By the California Department of Public Health in administering the Medical Marijuana Identification Card Program;

(B) By the Cannabis Regulatory Control Commission or the Cannabis Regulatory Control Appeals Board;

(C) By the State Board of Equalization in the administration, enforcement and collection of the taxes imposed under Part 14.7 (commencing with Section 34040) of this division, or this part;

(D) By the Department of Transportation or the Center for Medicinal Cannabis Research for the purposes of conducting trials in accordance with Section 11739.1 of the Health and Safety Code; and

(E) By any state or local law enforcement agency in the administration or enforcement of cannabis-related laws, rules and regulations.

(2) AUTHORIZED ITEMS.—Any items authorized by the Executive Director of the Cannabis Regulatory Control Commission in accordance with subdivisions (e) or (h) of Section 26002 of the

Business and Professions Code.

(3) ADMINISTRATION OF RESENTENCING AND DESTRUCTION OF RECORDS.—The administration of Chapter 11 (commencing with Section 11738) of Division 10.4 of the Health and Safety Code by state trial courts and state and local law enforcement agencies. This shall include any costs incurred in the destruction of records of arrest and conviction for certain cannabis-related crimes, the resentencing of individuals for certain cannabis-related crimes, and the reclassification of various convictions of individuals convicted of certain cannabis-related crimes.

(4) DEFENSE OF ACT.—The Attorney General's costs of litigation in defense of the validity of the provisions promulgated under Division 10 (commencing with Section 26000) of the Business and Professions Code, Division 10.4 (commencing with Section 11720) of the Health and Safety Code, and this part.

(5) REQUIRED REIMBURSEMENTS.—Any costs incurred which must be reimbursed pursuant to Section 6 of Article XIII B of the California Constitution.

(b) REMAINING REVENUES.—All revenue remaining in The Safe Communities, Parks, and Schools Fund after reimbursement of the costs specified in subdivision (a) shall be available for appropriation by the Legislature in the manner and for the liberal purposes set forth in this chapter in accordance with the following schedule:

(1) DRUG EDUCATION AND COUNSELING CENTERS.—Thirty-four per cent (34%) shall be allocated to dedicated drug education and counseling centers within our schools and in our communities that provide science-based information on the effects of cannabinoids, and that encourage moderation, self-regulation and harm reduction in the use of cannabis.

(2) RESTORATION OF PARKS.—Thirty-three per cent (33%) shall be allocated to the restoration, preservation, and protection of state parks, parklands and public lands impacted by the production or cultivation of cannabis.

(3) SCIENTIFIC RESEARCH.—Thirty-three per cent (33%) shall be allocated to scientific research on the medical effects of cannabinoids, and scientific research on the effects of cannabis use on physical and mental health.

(c) NEW PLAN FOR REMAINING REVENUES.—The Legislature shall have the power to impose a new plan for the disposition and allocation of revenues in lieu of the provisions of subdivision (b), provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

## CHAPTER 6. VIOLATIONS AND PENALTIES

### §34030. General provisions.

The violations and penalties included in this chapter are in addition to any violations and penalties imposed under the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of this division).

### §34031. Evasion of excise tax.

Any person who knowingly or willfully evades or attempts in any manner to evade or defeat the payment of an excise tax, fee or levy imposed under this part is guilty of a misdemeanor or felony.

### §34032. Refusal of inspection.

Any person who knowingly or willfully refuses to permit the board or any of its representatives to make any inspection or examination for which provision is made in this part, or who fails to keep books of account as prescribed by the board, or who fails to preserve such books for the inspection of the board for such time as the board deems necessary, or who alters, cancels, or obliterates entries in such books of account for the purpose of falsifying the records of sales of cannabis made under this part, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

**§34033. Fraudulent stamps or meter impressions.**

Any person or entity that knowingly produces, possesses or utilizes a fraudulent tax stamp or meter impression that attempts to misrepresent compliance with this part shall be guilty of a felony and subject to imprisonment for two, three, or four years, or to a fine of not less than one thousand dollars (\$1,000) and not more than thirty-five thousand dollars (\$35,000), or to both a fine and imprisonment. This section shall not apply to a person who possesses a fraudulent tax stamp or meter impression affixed to a cannabis product possessed and obtained for personal use, and not for sale.

**§34033.5. Failure to affix stamp or meter impression.**

(a) Except as otherwise provided by this section or by the board, an appropriate stamp shall be affixed to, or an appropriate meter impression shall be made on each package of cannabis prior to the distribution of the cannabis.

(b) Any person who knowingly keeps, stores, or retains for the purpose of sale, or sells or offers to sell, any cannabis of which there is not affixed the stamp or meter impression required to be affixed under this part is guilty of an infraction and shall for each offense be fined an amount not to exceed thirty-five thousand dollars (\$35,000). The court shall select a fine which, in the court's discretion, best serves the interests of justice and shall state the reasons for its choice on the record at the time of the sentence.

(c) This section shall not apply to a taxpaying manufacturer, cultivator, producer, collective or cooperative that keeps, stores, or retains for the purpose of sale, or sells or offers to sell, any cannabis directly to customers at farmers' markets or at a storefront location, under the rules the board may prescribe, provided that such taxpaying manufacturer, cultivator, producer, collective or cooperative affixes the required stamp or meter impression to the package upon the retail sale. The exemption provided in this subdivision shall not apply to a taxpaying manufacturer, cultivator, producer, collective or cooperative that fails to affix the required stamp or meter impression to the package at the time of the retail sale.

(d) Notwithstanding any other provision of law, the board shall notify the Cannabis Regulatory Control Commission of any violation of this section, and such commission shall subsequently revoke a license issued to a person or entity that is determined to be in violation of this section.

(e) A violation of this section shall constitute unfair competition under Section 17200 of the Business and Professions Code.

**§34034. Statute of limitations.**

Any prosecution for violation of any of the penal provisions of this part shall be instituted within two years after the commission of the offense.

**§34034.5. Effective date of chapter.**

This chapter shall not become operative until July 1, 2018.

**CHAPTER 7. SEIZURE**

**§34035. Inspections.**

(a) (1) Any peace officer, board employee or representative, a member or representative of the Cannabis Regulatory Control Commission, or a representative 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.

(2) 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.

(3) Inspections may be at any building, facility, site, or place at which cannabis is sold, produced, or stored, or any building, facility, site, or place for which there is evidence of commercial cannabis activity or the evasion of the taxes imposed under this part.

(4) Inspections shall be requested or conducted no more than once in a 24-hour period.

(b) A peace officer, board employee or representative, or a representative granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code shall have the power to enforce the provisions of this part in a manner to be determined by the board.

(c) Any licensee, or any of its officers, agents or employees, that refuses to allow an inspection of the licensed premises by any state or local officials enforcing the laws of this state is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

**§34035.5. Power to seize products affixed with counterfeit stamps.**

Any peace officer, board employee or representative, a member or representative of the Cannabis Regulatory Control Commission, or a representative granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code shall have the power to seize any cannabis product intended for resale that includes a counterfeit or fraudulent stamp or meter impression affixed to the package, or any cannabis that is possessed, kept, stored, or retained for the purpose of sale, of which there is not affixed the stamp or meter impression required to be affixed under this part.

**§34035.7. Use of persons as decoys.**

Any person may be used by a peace officer, board employee or representative, a member or representative of the Cannabis Regulatory Control Commission, or a representative granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code in the enforcement of this part to apprehend a person or entity, or any of its officers, agents and employees, who sell or furnish cannabis without the required stamp or meter impression in violation of this part. Notwithstanding any other provision of law, any person who purchases or attempts to purchase any cannabis while under the direction of the board or a peace officer is immune from prosecution for that purchase or attempt to purchase any cannabis, and for any conduct related to such possession or purchase. Guidelines with respect to the use of persons as decoys shall be adopted and published by the board. This section shall not be construed to prevent the board from taking disciplinary action against a person or entity who sells cannabis without the required stamp or meter impression to a decoy prior to the board's final adoption of regulatory guidelines. When the use of a decoy results in an arrest or an issuance of a citation, the notification required shall be given to such person or entity and the board within 72 hours of the date of arrest or issuance of the citation. The board may comply with this requirement by both leaving a written notice at a premises addressed to the person or entity and by mailing a notice addressed to the person or entity, or by sending an electronic mail message to the electronic mail address on file with the board.

**§34036. Petition for return of seized property.**

Any person or entity whose cannabis or property has been seized for forfeiture under this chapter shall, within 10 days after such seizure, petition the board to return the cannabis or property upon the grounds that the cannabis or other property was illegally or erroneously seized.

**§34037. Consideration of petitions by board.**

Any petition filed pursuant to Section 34036 shall be considered by the board within 30 days after filing, and an oral hearing shall be granted to the petitioner if requested. The board shall serve notice of its decision upon the petitioner, and provide a copy to the law enforcement agency or entity in physical possession of the seized property.

**§34038. Return of seized property.**

If found to be illegally or erroneously seized, the board shall order that the cannabis or property seized be returned or made available to the petitioner within five working days. The board shall be authorized under California law to return or relinquish any seized product to the petitioner.

**§34039.1. Seizure for delinquency of payments.**

Whenever any person is delinquent in the payment of the obligations imposed under this part, the board or its authorized representative may seize any property, real or personal, subject to the lien of the tax and thereafter sell the property, or a sufficient part of it, at public auction to pay the tax due together with any interest and penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

**§34039.2. Notice of sale.**

Notice of the sale and the time and place thereof shall be given in writing at least 20 days before the date set for the sale to the delinquent person and to all persons who have an interest of record in the property seized. The notice shall be personally served or enclosed in an envelope addressed to the person at his or her last known residence or place of business in this state. If not personally served, the notice shall be deposited in the United States mail, postage prepaid, or sent via electronic mail message to the electronic mail address on file with the board. The notice shall be published pursuant to Section 6063 of the Government Code, in a newspaper of general circulation published in the city in which the property or a part thereof is situated if any part thereof is situated in a city or, if not, in a newspaper of general circulation published in the county in which the property or a part thereof is located. Notice shall also be posted in both of the following manners:

(a) One public place in the city in which the interest in property is to be sold if it is to be sold in a city or, if not to be sold in a city, one public place in the county in which the interest in the property is to be sold.

(b) One conspicuous place on the property. The notice shall contain a description of the property to be sold, a statement of the amount due, including tax, penalties, interest, and costs, the name of the person, and the further statement that unless the amount is paid on or before the time fixed in the notice of sale, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

**§34039.3. Sale in accordance with law.**

At any sale the board or its authorized agent shall sell the property in accordance with the law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the taxpayer.

**§34039.4. Return of excess monies received.**

If upon any sale the moneys received exceed the amount due to the state from the taxpayer, the board shall return the excess to the taxpayer and obtain his or her receipt. If any person having an interest in or lien upon the property files with the board prior to the sale notice of his or her interest or lien, the board shall withhold payment of any excess pending a determination of the rights of the respective parties to the excess moneys by a court of competent jurisdiction. If for any reason the receipt of the taxpayer is not available, the board shall deposit the excess moneys with the Controller, as trustee for the taxpayer, his or her heirs, successors, or assigns.

**§34039.5. Relinquishment of seized property to law enforcement agency.**

Any cannabis or property seized by the board may be turned over to a state or local law enforcement agency. The person in charge of any state department or institution may file with the board a request that cannabis or property of a kind specified in the request be turned over to such department or institution. No cannabis or property for which a request has been made by a state department or institution shall be destroyed until all requests of state departments and institutions for the type or kind of cannabis or property have been complied with.

SEC. 5. Part 14.7 (commencing with Section 34040) is added to Division 2 of the Revenue and Taxation Code, to read:

## **PART 14.7. TEMPORARY CANNABIS TAX**

### **CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS**

#### **§34040. Intent of the People.**

(a) INTENT.—It is the intent of the People in enacting this part to raise revenue for the State by enacting a temporary excise tax on commercial retail transactions involving cannabis or cannabis-infused products, and to reimburse certain costs related to the production and sale of cannabis within the State.

(b) EXEMPTIONS.—Notwithstanding any other provision of law, this part shall not apply to the noncommercial possession, production, cultivation, transportation, manufacture, processing, sharing, or giving away of cannabis for personal or medical use, and not for sale.

#### **§34045. Definitions.**

Except where the context otherwise requires, the definitions set forth in Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code govern the construction of this chapter.

#### **§34048. Inoperative date.**

This part shall become inoperative on January 1, 2019.

### **CHAPTER 2. IMPOSITION OF TAX**

#### **§34050. Imposition of tax.**

In addition to any other taxes imposed by law, a tax shall be imposed and collected by a retailer at an amount equal to two and one-half percent (2.5%) of the selling price on each retail sale in this state of cannabis or cannabis-infused products on and after July 1, 2017 and before January 1, 2019.

#### **§34052. Exemptions for medical sales.**

(a) No tax is imposed by this part upon any cannabis sold or delivered to a qualified patient, or the primary caregiver of such qualified patient, as defined in Section 11721.5 or 11721.7 of the Health and Safety Code.

(b) The Legislature shall have the power to require that a person have in his or her possession a valid identification card, as defined in Section 11721.7 of the Health and Safety Code, in order to qualify for an exemption under this section, provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

### **CHAPTER 3. COLLECTION OF TAX**

#### **§34055. Payments to the board.**

Unless otherwise provided by law, any amount required to be paid to the state under this part shall be paid to the State Board of Equalization. After the payment of refunds, the board shall transmit the payments to the Treasurer to be deposited in The Safe Communities, Parks, and Schools Fund, created in Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.

#### **§34056. Fee Collection Procedures Law.**

The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of this division), and such part

shall, to the extent feasible and practicable, govern returns and payments, determinations, collections of fees and taxes, overpayments and refunds, and general administration under this part. For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part and references to "feepayer" shall include a person required to pay the tax imposed by this part.

**§34057. Evasion of tax.**

Any person who willfully evades or attempts in any manner to evade or defeat the payment of a tax, fee or levy imposed under this part shall be subject to the violations and penalties imposed under the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of this division).

**§34058. Additional board-issued regulations.**

(a) GENERAL REGULATIONS.—The board may prescribe, adopt, and enforce reasonable regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals. The board may prescribe the extent to which any ruling and regulation shall be applied without retroactive effect.

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

**§34059. Electronic payments and refunds.**

The board shall provide secure electronic means for applicants to remit any taxes or fees imposed under this part, and to receive any refunds in accordance with this part.

SEC. 6. Chapter 4.20 (commencing with Section 7296) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

## **CHAPTER 4.20. LOCAL CANNABIS GENERAL TAXES AND SPECIAL TAXES**

**§7296. Intent of the People.**

It is the intent of the People in enacting this chapter to raise revenue for such jurisdiction through a reasonable general tax or special tax on each wholesale sale or retail sale of cannabis.

**§7296.1. Definitions.**

Except where the context otherwise requires, the definitions set forth in Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code govern the construction of this chapter.

**§7296.2. Publications of tax rates.**

The board shall establish and maintain a cost-effective Internet web-based system to provide an accurate schedule of all fees and taxes applied to cannabis for each city, county, and city and county within the State of California.

**§7296.3. Restrictions on general taxes and special taxes.**

Except as authorized by this chapter, a city, county, or city and county shall not have the power to impose or carry out a general tax or special tax, or a combination of one or more general taxes and special taxes, on cannabis sold within the city, county, or city and county.



**§7296.4. Imposition of general taxes.**

A city, county, or city and county may impose or carry out a general tax, or a combination of general taxes, at a total combined rate not exceeding five percent (5.0%) upon each wholesale or retail sale of cannabis sold in the city, county, or city and county at the time of sale, provided that the ordinance proposing that tax is approved by a majority vote of the qualified voters of the city, county, or city and county voting in an election on the issue.

**§7296.5. Imposition of special taxes.**

A city, county, or city and county may impose or carry out a special tax, or a combination of special taxes, at a total combined rate not exceeding five percent (5.0%) upon each wholesale or retail sale of cannabis sold in the city, county, or city and county at the time of sale, provided that the ordinance proposing that tax is approved by a two-thirds vote of the qualified voters of the city, county, or city and county voting in an election on the issue.

**§7296.6. Payments to the board; administrative statutes.**

(a) PAYMENTS TO THE BOARD.—Any amount required to be paid to the state or to a local governing body in accordance with a general tax or special tax imposed pursuant in accordance with this chapter shall be paid to the State Board of Equalization. All revenue remaining after reimbursement of any administrative or enforcement costs incurred by the board shall be available to the local governing body for such purposes as approved by the local governing board.

(b) ADMINISTRATIVE STATUTES.—The Legislature shall have the power to adopt, enact or carry out appropriate legislation to administer and enforce any general tax or special tax imposed in accordance with this chapter by a city, county, or city and county.

**§7296.7. Exemptions for medical sales.**

(a) DELIVERY AT WHOLESALE.—No general tax or special tax shall apply to any cannabis sold or delivered to a licensee operating in accordance with Article 4 (commencing with Section 26026) of Chapter 6 of Division 10 of the Business and Professions Code, provided that such licensee does not possess any other license under such division and does not sell or distribute cannabis to persons who are not qualified patients or primary caregivers.

(b) RETAIL SALE.—Notwithstanding any other provision of law, on and after January 1, 2017, no general tax or special tax shall apply to the retail sale or delivery of cannabis from business entities operating in accordance with Division 10 (commencing with Section 26000) of the Business and Professions Code to qualified patients, primary caregivers, or persons with valid identification cards, as defined in Section 11721.5 or 11721.7 of the Health and Safety Code.

(c) VERIFICATION.—On and after July 1, 2017, the Legislature shall have the power to require that a person have in his or her possession a valid identification card, as defined in Section 11721.7 of the Health and Safety Code, in order to qualify for an exemption under this section, provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

**§7296.8. Increase of impossible rates by Legislature.**

Except as provided in Section 7296.7, the Legislature shall have the power to increase the rates impossible under Sections 7296.4 or 7296.5, provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.

**SEC. 7.** Section 6369.3 is added to Article 1 (commencing with Section 6351) of Chapter 4 of Part 1 of Division 2 of the Revenue and Taxation Code, to read:

**6369.3.** (a) *For purposes of this section, the definitions provided within Division 10.4 (commencing with Section 11720) of the Health and Safety Code and Division 10 (commencing with Section 26000) of the Business and Professions Code shall apply.*

(b) *On and after January 1, 2017, there are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use or other consumption, in this state of cannabis or cannabis-infused products furnished by a licensee or an officer, employee or authorized agent of the licensee, holding a license issued pursuant to Article 1 (commencing with Section 26020), Article 4 (commencing with Section 26026), Article 5 (commencing with Section 26028), or Article 6 (commencing with Section 26030), of Chapter 6 of Division 10 of the Business and Professions Code to a qualified patient, primary caregiver, or a person with a valid identification card, provided that such consumer possesses verified written documentation from the patient's attending physician who certifies, under penalty of perjury, the patient is terminally ill, as defined in subdivision (c) of Section 11159.2 of the Health and Safety Code, based on the circumstances and information available to the attending physician at the time of diagnosis.*

(c) *On and after July 1, 2018, the Legislature shall have the power to require that a person have in his or her possession an appropriate valid identification card in order to qualify for the exemptions provided in this section, provided that any such change in state statute must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature.*

**SEC. 8.** Section 11006.5 of the Health and Safety Code is repealed.

**SEC. 9.** Section 11018 of the Health and Safety Code is repealed.

**SEC. 10.** Section 11018.5 of the Health and Safety Code is repealed.

**SEC. 11.** Paragraph (13) of subdivision (d) of Section 11054 of the Health and Safety Code, as it existed prior to July 1, 2015, is repealed.

**SEC. 12.** Section 11054 of the Health and Safety Code, as it existed prior to July 1, 2015, is amended in paragraph (20) of subdivision (d) by striking the first occurrence of "Tetrahydrocannabinols."

**SEC. 13.** Section 11357 of the Health and Safety Code is repealed.

**SEC. 14.** Section 11358 of the Health and Safety Code is repealed.

**SEC. 15.** Section 11359 of the Health and Safety Code is repealed.

**SEC. 16.** Section 11360 of the Health and Safety Code is repealed.

**SEC. 17.** Section 11361 of the Health and Safety Code is repealed.

**SEC. 18.** Section 11361.5 of the Health and Safety Code is repealed.

**SEC. 19.** Section 11361.7 of the Health and Safety Code is repealed.

**SEC. 20.** Section 11485 of the Health and Safety Code is repealed.

**SEC. 21.** Section 11362.5 of the Health and Safety Code is hereby moved to and re-codified as Section 11721.5, under Article 2 (commencing with Section 11721.5) of Chapter 2 of Division 10.4 of the Health and Safety Code, and is amended to read:

**~~11362.5.~~ 11721.5.** (a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b) (1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use ~~marijuana~~ *cannabis* for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of ~~marijuana~~ *cannabis* in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which ~~marijuana~~ *cannabis* provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use ~~marijuana~~ *cannabis* for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of ~~marijuana~~ *cannabis* to all patients in medical need of ~~marijuana~~ *cannabis*.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of ~~marijuana~~ *cannabis* for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended ~~marijuana~~ *cannabis* to a patient for medical purposes.

(d) *Notwithstanding any other provision of law, offenses similar to Section 11357, relating to the possession of ~~marijuana~~, cannabis, and Section 11358, relating to the cultivation of ~~marijuana~~, cannabis, as the offenses existed prior to July 1, 2015, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates ~~marijuana~~ cannabis for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.*

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

**SEC. 22.** Article 2.5 (commencing with Section 11721.7) is added to Chapter 2 of Division 10.4 of the Health and Safety Code, to read:

***§11721.7. General definitions and provisions.***

*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 California 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 or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:*

*(1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening*

illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

(2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card.

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

(f) "Qualified patient" means a person who is entitled to the protections of Section 11721.5, but who does not have an identification card issued pursuant to this article.

(g) "Identification card" means a document issued by the California Department of Public Health to persons for whom that medical use is deemed appropriate and has been recommended by a licensed physician who has determined that the person's health would benefit from the use of cannabis. That document identifies a person not prohibited from engaging 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 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 11721.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.

(j) "mature cannabis plant" means:

(1) A cannabis plant that the sex of the plant can be readily determined by the unaided eye; or

(2) A flowering cannabis plant that is at least one foot in width or height.

(k) "Visiting qualified patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days and who possesses a valid identification card, or its equivalent, that was issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that provides for the medical use of cannabis by the qualified patient. A visiting qualifying patient shall be deemed a person with a valid identification card.

#### **§11721.71. Voluntary identification card program.**

(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 11721.72.

(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. If the applicant or the designated primary caregiver elects to receive the identification card via mail, the department shall issue the card via Certified Mail to the address designated by the applicant or designated primary caregiver. If a card is lost in the mail, the county health department shall deactivate the identification card and re-issue a new identification card via Certified Mail upon confirmation of loss by the United States Postal Service.

(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, prosecution, asset forfeiture, seizure, penalty or sanction for possession, transportation, delivery, manufacture, processing, or cultivation of medical cannabis in an amount established pursuant to this article, unless there is reasonable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.

(f) No peace officer shall take any more information or time as reasonably necessary in order to determine the validity of the identification card, unless there is reasonable cause to believe that the information obtained is false or falsified.

(g) Any person who possesses a valid identification card, or its equivalent, that was issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States, that provides for the medical use of cannabis by the qualified patient or primary caregiver, shall be deemed a person in possession of a valid identification card under California law.

(h) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11721.5.

#### **§11721.715. Requirements in obtaining identification card.**

(a) A person who seeks an identification card shall pay the fee, as provided in Section 11721.755, 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 United States.

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

(6) If applicable, written documentation from the patient's attending physician who certifies, under penalty of perjury, the patient is terminally ill, as defined in subdivision (c) of Section 11159.2 of the Health and Safety Code, based on the circumstances and information available to the attending physician at the time of diagnosis.

(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.

#### **§11721.72. County responsibilities in implementation.**

(a) Within 30 days of receipt of an application for an identification card, a county health department or the county's designee shall do all of the following:

(1) For purposes of processing the application, verify that the information contained in the application is accurate. If the person is an unemancipated minor less than 18 years of age, the county health department or its designee shall also contact the parent with legal authority to make medical decisions, legal guardian, or other person or entity with legal authority to make medical decisions, to verify the information.

(2) Verify with the Medical Board of California or the Osteopathic Medical Board of California, or any other board or agency approved by the department, that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

(3) Contact the attending physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. When contacted by a county health department or the county's designee, the attending physician shall confirm or deny that the contents of the medical records are accurate.

(4) Take a photograph or otherwise obtain an electronically transmissible image of the applicant and of the designated primary caregiver, if any.

(5) Approve or deny the application. If an applicant who meets the requirements of Section 11721.715 can establish that an identification card is needed on an emergency basis, the county or its designee shall issue a temporary identification card that shall be valid for 30 days from the date of issuance. The county, or its designee, may extend the temporary identification card for no more than 30 days at a time, so long as the applicant continues to meet the requirements of this paragraph.

(b) If the county health department or the county's designee approves the application, it shall, within 24 hours, or by the end of the next working day of approving the application, electronically transmit the following information to the department:

(1) A unique user identification number of the applicant.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(c) The county health department or the county's designee shall issue an identification card to the applicant and to his or her designated primary caregiver, if any, within five working days of approving the application.

(d) In any case involving an incomplete application, the applicant shall assume responsibility for rectifying the deficiency. The county shall have 14 days from the receipt of information from the applicant pursuant to this subdivision to approve or deny the application.

**§11721.735. Requirements of card contents.**

(a) An identification card issued by the county health department shall be serially numbered and shall contain all of the following:

(1) A unique user identification number of the cardholder.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

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

(5) Photo identification of the cardholder.

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

(c) On and after July 1, 2017, any identification card issued by the county health department shall contain the user identification number encoded in a magnetic stripe on the reverse side, as well as any other medium approved by the Department of Consumer Affairs for efficient data entry and verification by state and local law enforcement, and by licensed entities.

(d) On and after July 1, 2017, if the patient's attending physician has certified, under penalty of perjury, the patient is terminally ill, as defined in subdivision (c) of Section 11159.2 of the Health and Safety Code, based on the circumstances and information available to the attending physician at the time of diagnosis, the identification card issued by the county health department shall contain a statement indicating that the associated qualified patient has been certified as terminally ill.

**§11721.74. Denial of applications.**

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

(1) The applicant did not provide the information required by Section 11721.715, and upon notice of the deficiency pursuant to subdivision (d) of Section 11721.72, did not provide the information within 30 days.

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

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

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

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

**§11721.745. Annual registration.**

(a) An identification card shall be valid for a period of one year.

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

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

**§11721.755. Application and renewal fees.**

(a) Effective July 1, 2017, the total application and renewal fee established for all persons seeking to obtain or renew medical cannabis identification cards shall be set at fifteen dollars (\$15).

(b) The department may collect an additional fee of five dollars (\$5) per each identification card delivered via mail.

(c) Notwithstanding any other provision of law, there shall be no application, renewal or delivery fee for any person seeking an identification card that possesses written documentation from the patient's attending physician who certifies, under penalty of perjury, the patient is terminally ill, as defined in subdivision (c) of Section 11159.2 of the Health and Safety Code, based on the circumstances and information available to the attending physician at the time of diagnosis.

(d) Funds to offset any actual or potential costs incurred by a county health department in administering the identification card program shall be advanced as a loan by the department and shall be repaid by the initial and recurring funds in The Safe Communities, Parks, and Schools Fund, created in Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code.

**§11721.765. Noncommercial medical cannabis activity.**

(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 11725, 11727, or 11728. However, nothing in this section shall authorize the individual to smoke or otherwise consume cannabis unless otherwise authorized by this article, nor shall anything in this section authorize the cultivation or distribution of 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 cultivates, transports, processes, administers, delivers, or gives away cannabis for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11721.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) Any individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in cultivating or administering medical 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 11725, 11727, or 11728.

(d) Notwithstanding any other provision of law, a person who possesses, produces, cultivates, transports, manufactures, delivers, shares, or gives away cannabis exclusively for medical purposes, but who does not receive remuneration for those activities except for compensation in full compliance with this section shall be deemed not engaged in commercial cannabis activity and shall be exempt from licensure under Division 10 (commencing with Section 26000) of the Business and Professions Code.

**§11721.768. Certain medical cannabis activity near schools.**

(a) This section shall apply to individuals specified in subdivision (b) of Section 11721.765.

(b) No medical cannabis cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical 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 medical 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 medical 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 medical cannabis cooperative, collective, dispensary, operator, establishment, or provider that is authorized by law to possess, cultivate, or distribute medical cannabis and that has a storefront or mobile retail outlet.

(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 medical cannabis cooperative, collective, dispensary, operator, establishment, or provider.

(g) Nothing in this section shall preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of a medical 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 grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

**§11721.77. Personal medical use protections.**

(a) A qualified patient, primary caregiver, or person in possession of a valid identification card, shall not be subject to prosecution nor be subject to any criminal or civil penalties for the possession, cultivation, transportation, manufacture, processing, or delivery of cannabis, for the personal medical purposes of a qualified patient, in any combination of the following amounts:

(1) Not more than eight avoirdupois ounces of dried cannabis per qualified patient.

(2) Not more than 6 mature cannabis plants per qualified patient, or the cultivation of cannabis plants in an area not exceeding one hundred square feet per qualified patient as measured by the combined growth area of cannabis plants, whichever amount is greater, provided that such cultivation is not in violation of local laws or ordinances adopted in accordance with Section 11736.1.

(3) Any cannabis produced by such cannabis plants, or any part thereof, but only in the area or upon the premises where the plants were grown.

(4) Any cannabis obtained from a person or entity, or any of its officers, agents and employees, licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, provided that the cannabis has a tax stamp or meter impression affixed to the product, package or label in accordance with Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code, and such cannabis is not intended for resale.

(5) Any other type of cannabis or cannabis-infused products not covered by paragraphs (1) through (4), inclusive, provided that such cannabis is not intended for resale.

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

(c) Counties and cities may retain or enact medical cannabis guidelines protecting qualified patients or primary caregivers that exceed the amounts set forth in subdivision (a). State law enforcement officials shall recognize lawfully adopted amounts in such counties and cities that choose to exercise their authority under this subdivision.

(d) 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.

(e) There shall be a rebuttable presumption that a qualified patient, designated primary caregiver, or a person in possession of a valid identification card, is in compliance with the conditions set forth in this section.

(f) Notwithstanding any other provision of law, it is the intent of the People to affirm the decisions in *People v. Mower* (2002) 28 Cal. 4th 457 and *People v. Kelly* (2010) 47 Cal. 4th 1008, 1013. Nothing in this article shall abridge the rights and immunities of qualified patients or their primary caregivers pursuant to the Compassionate Use Act of 1996 as adopted at the November 5, 1996 General Election.

**§11721.775. Collectives and cooperatives.**

(a) 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 possess, purchase, transport, cultivate, manufacture, process, administer, deliver, or give away cannabis for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11725, 11727, or 11728. This section applies to all members of an entity formed pursuant to this section regardless of whether those members contribute to all or any of the activities of the entity.

(b) This section shall remain in effect only until 180 days after the Cannabis Regulatory Control Commission or the Department of Consumer Affairs posts a notice on its Internet Web site that it has begun issuing commercial licenses pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, provided that, notwithstanding any other provision of law, if any provision of Division 10 (commencing with Section 26000) of the Business and Professions Code or the application thereof to any person or circumstances is held invalid, and such invalidity unreasonably burdens or prevents the issuance or renewal of licenses consistent with the provisions of such division, the provisions of this section shall retain immediate force and effect.

**§11721.78. Statewide validity of voluntary identification cards.**

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

**§11721.785. Accommodation of medical use.**

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

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

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

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

**§11721.795. Use while on probation or released on bail.**

(a) (1) Any criminal defendant who is eligible to use cannabis pursuant to Section 11721.5 may request that the court confirm that he or she is allowed to use medical 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 medical cannabis, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medical 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 medical cannabis pursuant to

Section 11721.5 may request that he or she be allowed to use medical 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 medical 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 medical cannabis, the parolee may request a modification of the conditions of the parole to authorize the use of medical cannabis.

(3) Any parolee whose request to use medical 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.

**§11721.8. Acts of professional licensing boards.**

No professional licensing board may impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11721.72. 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 11721.5.

**§11721.81. Penalties for certain violations.**

(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), any 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.

**§11721.82. Severability.**

If any section, subdivision, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion thereof.

**SEC. 23.** All provisions of Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code enacted prior to July 1, 2015, are hereby repealed. The Legislature shall have the power to amend or repeal any provisions enacted after July 1, 2015, that are in conflict with this Act.

**SEC. 24.** Section 452.5 is added to Chapter 1 (commencing with Section 450) of Title 13 of Part 1 of the Penal Code, to read:

**452.5.** (a) *Notwithstanding any other provision of law, a person is in violation of law if he or she recklessly uses butane to extract the resin containing the psychoactive ingredient tetrahydrocannabinol (THC) from cannabis plant material and subsequently sets fire to or burns or causes to be burned, any structure, forest land or property.*

(b) *A violation of subdivision (a) that causes a fire of property is a misdemeanor. For purposes of this paragraph, unlawfully causing a fire of property does not include one burning or causing to be burned his own personal property unless there is injury to another person or to another person's structure, forest land or property.*

(c) *A violation of subdivision (a) that causes great bodily injury is a felony punishable by imprisonment in the state prison for two, four or six years, or by imprisonment in the county jail for not more than one year, or by a fine, or by both such imprisonment and fine.*

(d) *Nothing in this section shall be construed to prohibit the Legislature from amending, repealing, enacting, or carrying out further legislation concerning unsafe extraction methods pertaining to cannabis manufacturing or production, nor to interfere with the right of Legislature to exercise the police powers of the state for the protection of the safety, welfare, health, peace, and morals of all persons.*

**SEC. 25.** 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 receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

~~—(b) Except as authorized by law, every person who possesses, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, not more than one avoirdupois ounce of marijuana, other than concentrated cannabis as defined by Section 11006.5 of the Health and Safety Code, is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars (\$100).~~

(b) (1) *Except as authorized by law, no person under the age of 21 years shall knowingly drive any motor vehicle carrying any cannabis or cannabis-infused products, unless the person is accompanied by a parent, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of cannabis or cannabis-infused products, or is employed by a licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code, and is driving the motor vehicle during regular hours and in the course of the person's employment. If the driver was unaccompanied, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the cannabis or cannabis-infused products.*

(2) *Except as authorized by law, no passenger in any motor vehicle who is under the age of 21 years shall knowingly possess or have under that person's control any cannabis or cannabis-infused products, unless the passenger is accompanied by a parent, legal guardian, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of cannabis or cannabis-infused products, or is employed by a licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code, and possession or control is during regular hours and in the course of the passenger's employment. If the passenger was unaccompanied, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative or adult designee relating to disposition of the cannabis or cannabis-infused products.*

(3) *This subdivision shall not apply to the possession of cannabis or cannabis-infused products for personal medicinal purposes pursuant to the requirements of Section 11721.5 or Sections 11721.7 through 11721.82 of the Health and Safety Code.*

(4) *Any person convicted for a violation of this subdivision is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars (\$100).*

(5) *This subdivision shall not preclude criminal prosecution for any offense that involves activities potentially made dangerous by the consumption of cannabis or cannabis-infused products, including, but not limited to, a violation of Section 23103 of the Vehicle Code, as specified by Section 23103.5 of the Vehicle Code, or a violation of Sections 23152 and 23153 of the Vehicle Code.*

(c) (1) *No driver shall smoke or otherwise consume, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any cannabis or cannabis-infused products. Any person convicted for a violation of this paragraph is guilty of an infraction and shall be punished by a fine of not more than two hundred fifty dollars (\$250).*

(2) *No passenger shall smoke, while in a motor vehicle being operated upon a highway or on lands, as described in subdivision (b) of Section 23220, any cannabis or cannabis-infused products. Any person convicted for a violation of this paragraph is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars (\$100).*

(3) *This subdivision shall not preclude criminal prosecution for any offense that involves activities potentially made dangerous by the consumption of cannabis or cannabis-infused products, including, but not limited to, a violation of Section 23103 of the Vehicle Code, as specified by Section 23103.5 of the Vehicle Code, or a violation of Sections 23152 and 23153 of the Vehicle Code.*

**SEC. 26.** Section 432.8 of the Labor Code is amended to read:

**432.8.** The limitations on employers and the penalties provided for in Section 432.7 shall apply to a conviction for violation of *a misdemeanor or infraction under Division 10.4 (commencing with Section 11720) of the Health and Safety Code or a statutory predecessor thereof*, subdivision (b) or (c) of Section 11357 of the Health and Safety Code or a statutory predecessor thereof, or subdivision (e) (b) of Section 11360 of the Health and Safety Code, *as they existed prior to July 1, 2015*, or Section 11364, 11365, or 11550 of the Health and Safety Code as they related to marijuana prior to January 1, 1976, or a statutory predecessor thereof, two years from the date of such a conviction.

## **SEC 27. MAINTENANCE OF THE CODES.**

(a) The intent of this section is to enact technical amendments related to cannabis and remove certain references to cannabis and other provisions now in conflict with this Act, or otherwise no longer have the force or effect of law, as they existed prior to July 1, 2015.

(b) Section 11014.5 of the Health and Safety Code is amended in paragraph (8) of subdivision (a)

(1) by striking “marijuana, cocaine, hashish, or hashish oil” after “introducing” and inserting “cocaine”; and

(2) by striking “material, such as a marijuana cigarette,” from subparagraph (C) and inserting “material”.

(c) Section 11032 of the Health and Safety Code is amended by striking the final sentence.

(d) Section 11364.5 of the Health and Safety Code is amended in subdivision (d)—

(1) by striking paragraph (7);

(2) by striking “marijuana, cocaine, hashish, or hashish oil” after “introducing” in paragraph (12) and inserting “cocaine”; and

(3) by striking “material, such as a marijuana cigarette” from subparagraph (E) of paragraph (12) and inserting “material”.

(e) Section 11369 of the Health and Safety Code is amended by striking “11357, 11359, 11360, 11361,”.

(f) Section 11370 of the Health and Safety Code is amended in subdivision (a) by striking “11357, 11359, 11360, 11361,”.

(g) Section 11372 of the Health and Safety Code is amended in subdivision (a) by striking “11353, 11355, 11359, 11360, or 11361,” and inserting “11353 or 11355,”.

(h) Section 11372.5 of the Health and Safety Code is amended—

(1) in subdivision (a) by striking “11358, 11359, 11361,”; and

(2) in subdivision (b) by striking “11358, 11359, 11361,”.

(i) Section 11470 of the Health and Safety Code is amended in subdivision (e) by striking each occurrence of “marijuana, peyote,” and by inserting “peyote”.

(j) Section 11479 of the Health and Safety Code is amended in subdivision (a) by striking the final sentence.

(k) Section 11590 of the Health and Safety Code is amended—

(1) in subdivision (a) by striking “11357, 11358, 11359, 11360, 11361, ”; and

(2) in subdivision (c) by striking “11357, 11360, or ”.

(l) Section 11703 of the Health and Safety Code is amended—

(1) in subdivision (c) by striking “substance,” and all that follows through the end of the subdivision and inserting “substance.”;

(2) in subdivision (d) by striking “substance,” and all that follows through the end of the subdivision and inserting “substance.”;

(3) in subdivision (e) by striking “substance,” and all that follows through the end of the subdivision and inserting “substance.”;

(4) in subdivision (f) by striking “substance,” and all that follows through the end of the subdivision and inserting “substance.”; and

(5) in subdivision (l) by striking “11358, 11359, 11360, ” after “11352,”.

(m) Section 11705 of the Health and Safety Code is amended in subdivision (c) by striking “or a quantity of marijuana ”.

(n) Section 3486 of the Civil Code is amended in subdivision (c) by striking “or 11359, subdivision (a) of Section 11360, ”.

(o) Section 1000 of the Penal Code is amended in subdivision (a) by striking “11358” and inserting “11728”.

(p) Section 1174.4 of the Penal Code is amended in subparagraph (V) of paragraph (2) of subdivision (a) by striking “11358, 11359, 11360,”.

(q) Section 3417 of the Penal Code is amended in paragraph (1) of subdivision (c) by striking “department,” and all that follows in that paragraph and inserting “department.”

(r) Section 13883 of the Penal Code is amended in subdivision (a) by striking “11358, ”.

(s) Section 40000.15 of the Vehicle Code is amended by striking “Subdivision (b) of Section 23222, relating to possession of marijuana.”.

(t) Notwithstanding any other provision of law, the technical amendments enacted in this section shall not be construed to diminish, abrogate or affect any existing rights or provisions not reasonably germane to the theme, purpose, or subject of this Act.

(u) The Legislative Counsel may make recommendations to the Legislature consistent with this section or Act as to further appropriate legislation necessary to maintain the codes.

**SEC. 28.** If Assembly Bill 266 of the 2015-16 Regular Session was enacted and became effective on or before January 1, 2016—

(a) Section 31020 of the Revenue and Taxation Code is repealed.

(b) Section 19300.8 is added to Article 1 (commencing with Section 19300) of Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

*“19300.8. Persons or entities holding a Type 10 or Type 10A license in accordance with this chapter shall not be prohibited from the possession for sale or sale at retail of cannabis or cannabis-infused products, as defined in Division 10.4 (commencing with Section 11720) of the Health and Safety Code, to a qualified patient, primary caregiver, or a person 21 years of age or older.”.*

(c) Section 19326 of the Business and Professions Code is amended in paragraph (2) of subdivision (c)—

(1) by striking “for tracking and” and inserting “for”; and

(2) by striking “packaging and use” and all that follows through the end of the sentence and inserting “packaging.”.

(d) Section 19347 of the Business and Professions Code is amended in paragraph (2) of subdivision (a) by striking subparagraph (M); and

(e) Section 19310.5 is added to Article 2 (commencing with Section 19302) of Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

*“19310.5. (a) Notwithstanding any other provision of law, this chapter shall remain in effect only until 180 days after the Cannabis Regulatory Control Commission or the Department of Consumer*

*Affairs posts a notice on its Internet Web site that it has begun issuing commercial licenses pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.*

*“(b) Notwithstanding any other provision of law, this chapter shall not apply to a person or entity licensed and operating pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.*

*“(c) Upon the date established pursuant to subdivision (a), this chapter shall be repealed.”.*

(f) Section 11362.775 of the Health and Safety Code is repealed.

**SEC. 29.** If Senate Bill 643 of the 2015-16 Regular Session was enacted and became effective on or before January 1, 2016—

(a) Article 7.5 (commencing with Section 19335) of Chapter 3.5 of Division 8 of the Business and Professions Code is amended—

(1) by repealing Section 19335;

(2) by redesignating Section 19336 as Section 19335; and

(3) by re-titling such article as “Fee Collection Procedures”.

(b) Section 19332 of the Business and Professions Code is amended in subdivision (e) by striking paragraphs (3) and (4).

(c) Section 19337 of the Business and Professions Code is amended—

(1) by striking subdivisions (b), (c) and (e);

(2) by redesignating subdivision (d) as subdivision (b);

(3) by striking “each electronic shipping manifest” and inserting “a record of each intake or shipment” in the new subdivision (b); and

(4) by redesignating subdivision (f) as subdivision (c).

**SEC. 30.** If Assembly Bill 243 of the 2015-16 Regular Session was enacted and became effective on or before January 1, 2016—

(a) Section 19350 of the Business and Professions Code is amended in subdivision (a) by striking “including, but not limited to, the track and trace program required pursuant to Section 19335, ”.

(b) Section 19360 of the Business and Professions Code is amended in subdivision (a)—

(1) by striking the first occurrence of “A” and inserting “Except as otherwise provided by law, a”; and

(2) by striking “ and associated unique identifiers”.

(c) Section 11362.769 of the Health and Safety Code is repealed.

(d) Section 11362.777 of the Health and Safety Code is amended—

(1) by striking subdivision (e);

(2) by redesignating subdivision (f) as subdivision (e) and striking paragraph (2) from such subdivision;

(3) by redesignating subdivision (g) as subdivision (f);

(4) by striking “ the area he or she uses to cultivate marijuana does not exceed 100 square feet and” from the new subdivision (f);

(5) by striking “ the area he or she uses to cultivate marijuana does not exceed 500 square feet and” from the new subdivision (f); and

(6) by adding at the end the following:

*“(g) Notwithstanding any other provision of law, this section shall remain in effect only until 180 days after the Cannabis Regulatory Control Commission or the Department of Consumer Affairs posts a notice on its Internet Web site that it has begun issuing commercial licenses pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.*

*“(h) Notwithstanding any other provision of law, this section shall not apply to a person or entity licensed or operating pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.*

*“(i) Upon the date established pursuant to subdivision (g), this section shall be repealed.”.*

## SEC. 31. AMENDMENTS.

(a) **SUBSEQUENT MEASURE.**—Pursuant to subdivision (c) of Section 10 of Article 2 of the California Constitution, this Act may be amended by a subsequent measure when approved by the electors. In addition, this Act may be amended by an Act validly passed by the Legislature and signed by the Governor, provided that such Act furthers the intents or purposes of the Act as codified in Division 10.4 (commencing with Section 11720) of the Health and Safety Code or as otherwise provided in the Act.

(b) **PERMITTED AMENDMENTS.**—Notwithstanding any other provision of law, permitted amendments to this Act, imposed by an Act passed by not less than a majority of all members elected to each of the two houses of the Legislature and signed by the Governor, may include:

(1) **POLICE POWERS.**—Statutory provisions consistent with this Act that exercise the police powers of the state for the protection of the safety, welfare, health and morals of the people of the State of California.

(2) **REGULATION OF COMMERCIAL ACTIVITY.**—Statutes to regulate commercial cannabis activities, and persons or entities involved in the commercial production, distribution or sale of cannabis, in accordance with the letter and spirit of this Act.

(3) **REGULATION OF INGESTIBLE PRODUCTS.**—Statutes to regulate the commercial production, manufacture, sale or distribution of cannabis or cannabis-infused products that are ingested or meant to be ingested through the mouth and into the digestive system.

(4) **REDUCTION OF PENALTIES.**—Statutory provisions that reduce or set aside the penalties for violation of any of the provisions provided in this Act, and that may provide for alternative responses such as education, counseling, or treatment.

(5) **UNIFORM STANDARD OF IMPAIRMENT.**—Statutes to develop a scientifically acceptable and uniform standard of impairment by cannabis.

(6) **USE IN THE WORKPLACE.**—Statutes to regulate the use of cannabis in the workplace or as a condition of employment.

(7) **LICENSING, ADMINISTRATION AND ENFORCEMENT.**—Statutes related to the licensing, administrative and enforcement operations of the Cannabis Regulatory Control Commission and the Cannabis Regulatory Control Appeals Board, including adopting additional license types and administrative or enforcement procedures.

(8) **PERSONAL USE PROTECTIONS.**—Amendments to raise the protected amounts pertaining to the personal or medical possession or cultivation of cannabis, which are minimum statewide arrest thresholds and the Legislature may adopt less restrictive protections.

(9) **EXCISE TAX ADMINISTRATION.**—Regulations or statutory provisions that govern the administration and enforcement of the cannabis excise tax described in Part 14.5 (commencing with Section 34001) of Division 2 of the Revenue and Taxation Code, including adopting collection and refund methods in lieu of the options described in such part.

(10) **ADDITIONAL TAX REGULATIONS.**—Regulations or statutory provisions that govern the administration and enforcement of any other tax imposed under this Act.

(11) **INCONSISTENT STATUTES.**—Statutory provisions to amend or repeal laws inconsistent with this Act.

(12) **REGULATION OF HEMP.**—Laws to regulate the production of hemp for horticultural and industrial purposes.

(13) **MAINTENANCE OF THE CODES.**—Nonsubstantive changes to effectuate recommendations made by the Legislative Counsel as to legislation necessary to maintain the codes.

(c) **COMMISSION.**—Notwithstanding any other provision of law, prior to the initial confirmation by the Senate of all members of the Cannabis Regulatory Control Commission, the Legislature shall have the power to move the Cannabis Regulatory Control Commission or the Cannabis Regulatory Control Appeals Board, or both, to the Business, Consumer Services, and Housing Agency, and require that the Executive Director of the Cannabis Regulatory Control Commission be instead selected from, and responsible to, the Business, Consumer Services, and Housing Agency.

(d) **APPROPRIATE LEGISLATION.**—The Legislature shall have the power to enact and carry out appropriate legislation, including inline amendments, to amend the codes as a result of an Act passed in accordance with this section or pursuant to the conditions otherwise specified in this Act.



**SEC. 32. ATTORNEY GENERAL GUIDELINES.**

Within 30 days of the passage of this Act, the Attorney General shall develop and distribute guidelines to all applicable state and local governments and agencies as necessary to ensure the uniform, consistent and timely implementation and enforcement of the provisions of this Act. Such guidelines shall be distributed to all district and city attorneys as well as all state and local law enforcement agencies in the State.

**SEC. 33. LIBERAL CONSTRUCTION.**

This Act shall be liberally construed to effectuate its purposes.

**SEC. 34. CONFLICTING MEASURES.**

(a) 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.

(b) If any initiative reasonably germane to the theme, purpose, or subject of this Act receives the higher affirmative vote at the same election, then all non-conflicting parts of this Act shall become operative.

**SEC. 35. SEVERABILITY.**

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