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12
13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF SAN FRANCISCO

15 YOUTH TRANSFORMING JUSTICE; EAST
16 BAY ASIAN YOUTH CENTER; GIALORI
BLAYLOCK; and QUINN CHUNG,

17 Plaintiffs and Petitioners,

18 vs.

19 CALIFORNIA DEPARTMENT OF CANNABIS
20 CONTROL; CALIFORNIA DEPARTMENT OF
TAX AND FEE ADMINISTRATION; and
21 MALIA M. COHEN, in her official capacity as the
Controller of the State of California,

22 Respondents and Defendants.
23

No.: _____

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF**

1 **PARTIES**

2 1. Petitioner and Plaintiff YOUTH TRANSFORMING JUSTICE is a nonprofit
3 organization dedicated to ending the school-to-prison pipeline by transforming traditional, punitive
4 school discipline and juvenile justice systems into restorative, trauma-informed, and peer-driven
5 solutions where youth can learn from mistakes, repair damage, and move forward successfully. It also
6 seeks to educate about and prevent substance use disorders and to prevent harm from substance use by,
7 for example, advocating for responsible licensing decisions concerning retail cannabis, and opposing
8 the operation of illegal cannabis shops. Petitioner YOUTH TRANSFORMING JUSTICE is
9 beneficially interested in this litigation because it is in the second year of its second three-year cycle of
10 grant funding through Proposition 64, which supports its work helping young people. Petitioner is
11 aware of the benefits this funding has conferred on the population that it serves, and wants such
12 funding to continue to be available for youth in the future. Separate from and in addition to these
13 beneficial interests, Petitioner YOUTH TRANSFORMING JUSTICE is interested in ensuring that the
14 public rights secured by California voters when they approved Proposition 64 are upheld, and in
15 ensuring that no governmental body be permitted to impair or defeat the purposes of Proposition 64.

16 2. Petitioner and Plaintiff EAST BAY ASIAN YOUTH CENTER (also referred to
17 as “EBAYC”) is a nonprofit organization that supports all young people who are in low-wealth and
18 high-stress communities where a significant population of Asian youth are present. EBAYC seeks to
19 impact the lives of the young people it serves by increasing their life-functioning strengths, educational
20 attainment, and independent learning skills. It also seeks to educate about and prevent substance use
21 disorders and to prevent harm from substance use. Petitioner EBAYC is beneficially interested in this
22 litigation because it is in its second cycle of grant funding through Proposition 64, which supports its
23 work helping young people. Petitioner is aware of the benefits this funding has conferred on the
24 population that it serves, and wants such funding to continue to be available for youth in the future.
25 Separate from and in addition to these beneficial interests, Petitioner EBAYC is interested in ensuring
26 that the public rights secured by California voters when they approved Proposition 64 are upheld, and
27 in ensuring that no governmental body be permitted to impair or defeat the purposes of Proposition 64.

1 3. Petitioner and Plaintiff GIALORI BLAYLOCK is a registered voter in San
2 Diego County who voted for Proposition 64 in 2016, and who has paid the cannabis excise tax within
3 the last quarter of 2025. She is also a single mother of two minor children who relies on childcare
4 funded through a Proposition 64 Tier Three program to ensure that she can continue pursuing the
5 college education that will enable her to support her family. Petitioner BLAYLOCK is beneficially
6 interested in this litigation because she is (1) a voter whose purposes and intent in supporting
7 Proposition 64 are now being undermined by funding cuts; (2) a consumer who would have continued
8 to pay the higher cannabis excise tax intended under Proposition 64 during the fourth quarter of 2025
9 but for the reduction in that tax approved by the California Legislature; and (3) a recipient of childcare
10 funding that may be reduced or eliminated in the future because of reduced funding for Tier Three
11 programs. Separate from and in addition to these beneficial interests, Petitioner BLAYLOCK is
12 interested as a citizen in ensuring that the public rights secured by California voters when they
13 approved Proposition 64 are upheld, and in ensuring that no governmental body be permitted to impair
14 or defeat the purposes of Proposition 64. Even if Petitioner BLAYLOCK does not receive any future
15 childcare funding through Proposition 64, she is interested in ensuring that other families and youth
16 benefit from the funding guaranteed by Proposition 64.

17 4. Petitioner and Plaintiff QUINN CHUNG is a registered nurse and mother of one
18 minor child. She is currently unable to work because she does not have access to affordable childcare.
19 She is on a waiting list to receive a childcare voucher funded through a Proposition 64 Tier Three
20 program, and she plans to return to work as a registered nurse once she secures a childcare voucher.
21 Petitioner CHUNG is beneficially interested in this litigation because the reduced funding for Tier
22 Three programs could mean that she will have to wait longer before receiving a childcare voucher, or
23 that she may never get a childcare voucher at all. Separate from and in addition to these beneficial
24 interests, Petitioner CHUNG is interested as a citizen in ensuring that the public rights secured by
25 California voters when they approved Proposition 64 are upheld, and in ensuring that no governmental
26 body be permitted to impair or defeat the purposes of Proposition 64. Even if Petitioner CHUNG does
27 not receive any future childcare funding through Proposition 64, she is interested in ensuring that other
28 families and youth benefit from the funding guaranteed by Proposition 64.

1 “pays for itself and raises billions for afterschool programs that help kids stay in school; for job
2 placement, job training, and mental health treatment; for drug prevention education for teens; to treat
3 alcohol and drug addiction; and to fund training and research for law enforcement to crack down on
4 impaired driving. Over the next decade, these programs will receive billions in revenues.” (Ballot
5 Pamp., Gen. Elec. (Nov. 8, 2016) Argument in Favor of Prop. 64.)

6 15. In short, when the voters approved Proposition 64, they did more than just
7 create a legalized cannabis market for adults. They created a legalized cannabis market in which new
8 cannabis businesses would self-fund the regulation of the legal market through industry-based fees,
9 and taxes on commercial cannabis would produce the revenue necessary to fund programs — referred
10 to here as “Tier Three” programs — to mitigate the environmental risks of cultivating cannabis and the
11 social risks of making cannabis legally available for adult nonmedical use.

12 **II. Proposition 64’s Funding Mechanisms, As Enacted By The Voters**

13 16. Proposition 64 created two distinct revenue streams to separately fund two of the
14 measure’s purposes.

15 17. First, Proposition 64 established license fees to be paid by cannabis businesses
16 and then deposited into the Marijuana Control Fund (known today as the Cannabis Control Fund). The
17 State was required to set these license fees in an amount that would generate enough revenue “to fully
18 cover the total costs of administering” Division 10 of the Business & Professions Code. (Prop. 64,
19 § 6.1 [adding Bus. & Prof. Code, § 26180].) Division 10 of the Business & Professions Code
20 establishes “a comprehensive system to control and regulate the cultivation, distribution, transport,
21 storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for
22 adults 21 years of age and over.” (Prop. 64, § 6.1 [adding Bus. & Prof. Code, § 26000(a)].) As
23 enacted, Division 10 included, but was not limited to, provisions expanding and implementing the
24 Track and Trace program, a program originally designed to enable the State to track medical cannabis
25 throughout the distribution chain from seed to sale, which under Proposition 64 would also cover non-
26 medical cannabis. (Prop. 64, § 6.1 [adding Bus. & Prof. Code, § 26170].)

27 18. Second, Proposition 64 established two cannabis taxes — an excise tax and a
28 cultivation tax. The measure imposed the excise tax on purchasers of cannabis products at the rate of

1 15% of the gross receipts of any retail sale by a cannabis retailer. (Prop. 64, § 7.1 [adding Rev. & Tax.
2 Code, § 34011(a)].) And it imposed the cultivation tax on cultivators of commercial cannabis at
3 specified rates for cannabis flowers and cannabis leaves, with the rates subject to adjustment based on
4 fluctuations in the relative price of cannabis flowers to cannabis leaves and based on inflation.
5 (Prop. 64, § 7.1 [adding Rev. & Tax. Code, § 34012(a)–(c) & (k)].) Proposition 64 required that the
6 revenue derived from the cannabis excise and cultivation taxes was to be deposited into the California
7 Marijuana Tax Fund (known today as the California Cannabis Tax Fund) and allocated according to a
8 detailed formula that relies on three prioritized tiers.

9 19. Under the first tier, the State must allocate sufficient revenue to cover specified
10 regulatory, administrative, and enforcement costs not covered by the license fees. (Prop. 64, § 7.1
11 [adding Rev. & Tax. Code, § 34019(a)(1)–(7)].) Among such costs are those incurred by the
12 Respondent and Defendant CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
13 to administer the excise and cultivation taxes, and by the Respondent and Defendant CONTROLLER
14 to perform her duties under the measure. As relevant here, such costs also included temporary funding
15 for the costs incurred by four state agencies³ to implement, administer, and enforce aspects of
16 Division 10 of the Business and Professions Code “to the extent those costs are not reimbursed” by the
17 license fees on cannabis businesses. Importantly, Proposition 64 provides that the provision
18 authorizing the use of cannabis tax revenue to fund Division 10 duties would expire after fiscal year
19 2022–2023. (Prop. 64, § 7.1 [adding Rev. & Tax. Code, § 34019(a)(2)].) Since that provision has now
20 expired, the State is no longer authorized to use cannabis excise tax revenue to fund Division 10
21 activities.

22 20. Under the second tier, the State must annually allocate (1) \$10 million to
23 universities for cannabis-related research; (2) \$3 million to the California Highway Patrol to develop
24 protocols for detecting cannabis-impaired driving (from 2018–19 to 2022–23); (3) up to \$50 million to
25 the Governor’s Office of Business and Economic Development to provide community reinvestment
26 grants to local health departments and nonprofit organizations to support priorities including job

27 ³ The work that was initially performed by these four agencies following the passage of Proposition 64
28 in 2016 is today performed by the Respondent and Defendant DCC.

1 placement, mental health treatment, and substance use disorder treatment; and (4) \$2 million to support
2 the work of the University of California San Diego Center for Medicinal Cannabis Research.

3 (Prop. 64, § 7.1 [adding Rev. & Tax. Code, § 34019(b)–(e)].)

4 21. Finally, under the third tier, the State must allocate all remaining tax revenues in
5 the California Cannabis Tax Fund to three sub-accounts in the following proportions to be used for the
6 following Tier Three programs:

- 7 • 60% for youth programs to educate about and prevent substance use disorders and
8 prevent harm from substance use. (Prop. 64, § 7.1 [adding Rev. & Tax. Code,
9 § 34019(f)(1)].) This is the funding that has benefited, or has the potential to
10 benefit, Petitioners, including childcare funding that ensures youth are not left
11 unsupervised and therefore more vulnerable to drug and alcohol use.
- 12 • 20% for environmental programs to address the adverse impacts of cannabis
13 cultivation, including the remediation and restoration of watersheds and wildlife
14 habitat areas, and to prevent the illegal cultivation of cannabis on public lands.
15 (Prop. 64, § 7.1 [adding Rev. & Tax. Code, § 34019(f)(2)].)
- 16 • 20% for law enforcement programs to enforce laws against driving under the
17 influence, and for other health and safety programs related to Proposition 64.
18 (Prop. 64, § 7.1 [adding Rev. & Tax. Code, § 34019(f)(3)].)

19 22. According to the Analysis by the Legislative Analyst included in the ballot
20 pamphlet, Proposition 64 requires the “vast majority of the monies” generated by the cannabis taxes to
21 be dedicated to Tier Three programs. (Ballot Pamp., Gen. Elec. (Nov. 8, 2016) LAO Analysis of
22 Prop. 64.)

23 23. To summarize, Proposition 64 mandated that (a) license fees on cannabis
24 businesses would be calculated to fully fund the regulation of cannabis businesses, including the Track
25 and Trace program, and (b) cannabis farmers and consumers would pay taxes for programs to mitigate
26 the potential consequences of cannabis cultivation and use.

1 **III. The Constitution Limits The Legislature’s Authority To Amend Proposition 64**

2 24. Once voters approve an initiative statute, the State Constitution limits the
3 Legislature’s ability to amend or repeal it. Such action is constitutionally permissible under only two
4 circumstances: if electors approve the initiative’s amendment or repeal, or if the initiative itself
5 provides that it can be amended. (Cal. Const., art. II, § 10(c).) If the initiative permits the Legislature
6 to amend or repeal its provisions, the Legislature must do so subject to “whatever conditions the voters
7 attached to the Legislature’s amendatory powers.” (*Proposition 103 Enforcement Project v.*
8 *Quackenbush (Quackenbush)* (1998) 64 Cal.App.4th 1473, 1483-1484; see also *Amwest Sur. Ins.*
9 *Co. v. Wilson* (1995) 11 Cal.4th 1243, 1251 [the voters’ initiative power is “absolute and includes the
10 power to enable legislative amendment *subject to conditions attached by the voters*”], emphasis in
11 original.) Furthermore, legislation furthering one purpose of an initiative while violating another of the
12 initiative’s primary mandates “cannot ‘reasonably’ be found to further the purposes of [the initiative].”
13 (*Foundation for Taxpayer & Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354, 1370.)

14 25. As relevant here, Proposition 64 expressly limits the Legislature’s authority to
15 amend its provisions in two ways. First, Proposition 64’s general amendment clause authorizes the
16 Legislature to amend its provisions “by a two-thirds vote of the Legislature to further the purposes and
17 intent of the act,” unless otherwise provided. (Prop. 64, § 10.)

18 26. Second, the voters froze allocations for Tier Three programs in place until
19 July 1, 2028. Before that date, Proposition 64 declared that “the Legislature may not change the
20 allocations” to the community reinvestment grants specified under Tier Two, or to Tier Three
21 programs. After that date, however, the voters authorized the Legislature to amend section 34019’s⁴
22 revenue allocation provisions by a majority vote and to “further the purposes of [Proposition 64],
23 including allocating funds to programs other than” the community reinvestment grants specified under
24 Tier Two, and Tier Three programs. (Prop. 64, § 7.1 [adding Rev. & Tax. Code, § 34019(h)].)

25 27. This future legislative flexibility came with an important caveat: Any
26 amendments to section 34019 “shall not result in a reduction of funds to accounts established pursuant

27 _____
28 ⁴ All undesignated references refer to the Revenue and Taxation Code.

1 to subdivisions (d) and (f)” — *i.e.*, the Tier Two community reinvestment grant program and all Tier
2 Three programs — “in any subsequent year from the amount allocated to each account in fiscal year
3 2027–2028.” (Prop. 64, § 7.1 [adding Rev. & Tax. Code, § 34019(h)].) Thus, the 2027–28 fiscal year
4 is a critical year for Tier Three programs under Proposition 64’s allocation scheme. Whatever
5 amount of revenue the cannabis taxes generate for Tier Three programs in that year will become the
6 floor for that funding in the future. The voters allowed the Legislature to direct higher revenue
7 amounts to new or different programs, but not in a way that would erode funding for Tier Three
8 programs below the amount those programs received in the 2027–28 fiscal year.

9 28. Accordingly, any legislative amendment of Proposition 64’s provisions must
10 comply with the conditions in Proposition 64’s general amendment clause and, if applicable,
11 section 34019(h), in order to comply with article II, section 10(c) of the California Constitution. This
12 constitutional mandate is intended to “protect the people’s initiative powers by precluding the
13 Legislature *from undoing what the people have done, without the electorate’s consent.*”
14 (*Quackenbush, supra*, 64 Cal.App.4th at 1484, quoting *Huening v. Eu* (1991) 231 Cal.App.3d 766,
15 781, emphasis added.)

16 **IV. The Legislature Has Exceeded Its Authority To Amend Proposition 64**

17 29. As the State began implementing Proposition 64, the new cannabis industry
18 voiced concerns that cannabis taxes could negatively impact the legal cannabis market. In particular,
19 the industry argued that the cultivation tax was pushing cannabis farmers into the illegal market.

20 30. The Legislature listened. In 2022, it passed Assembly Bill 195 (2021–2022
21 Reg. Sess.) to suspend the cultivation tax as of July 1, 2022. (AB 195, § 23 [amending Rev. & Tax.
22 Code, § 34012].) Crucially, however, the Legislature did so in a way that sought to protect funding for
23 Tier Three programs from the loss of one of their two sources of tax funding.

24 31. First, AB 195 set aside approximately \$150 million in General Fund revenues
25 across fiscal years 2022–23 and 2023–24. This revenue was meant to neutralize the funding for fiscal
26 years 2023–24 and 2024–25 that Tier Three programs would otherwise lose in the first years following
27 the repeal of the cultivation tax. (AB 195, §§ 34 & 35 [adding Rev. & Tax. Code, §§ 34019.01 &
28 34019.1].)

1 32. Second, beginning in the 2025–26 fiscal year and every two years thereafter,
2 AB 195 also required Respondent and Defendant CDTFA and the Department of Finance to adjust the
3 cannabis excise tax rate to ensure that it would generate sufficient revenue to replace the revenue lost
4 by the repeal of the cultivation tax, as long as that rate did not exceed 19%. (AB 195, § 22 [adding
5 Rev. & Tax. Code, § 34011.2].)

6 33. AB 195 included a section stating that the Legislature finds and declares that
7 AB 195 “furthers the purposes and intent of” Proposition 64 by, among other things, “[g]enerating
8 hundreds of millions of dollars in new state revenue annually for restoring and repairing the
9 environment, youth treatment and prevention, community investment, and law enforcement.”
10 (AB 195, § 43.)

11 34. Pursuant to AB 195, Respondent and Defendant CDTFA increased the cannabis
12 excise tax rate to 19% for the 2025–26 fiscal year. The 19% rate reflected the fact that CDTFA’s
13 estimates had hit AB 195’s rate cap, not that the 19% rate was sufficient to make up for revenue that
14 Tier Three programs lost from the repeal of the cultivation tax. According to legislative staff, the rate
15 would have had to increase to 19.6% to fully compensate for lost cultivation tax revenue. (Assem.
16 Floor Analysis of AB 564 (2025–2026 Reg. Sess.) as amended Sept. 5, 2025, p. 3.)⁵

17 35. A true and correct copy of Assembly Bill 195 (2021–2022 Reg. Sess.) is
18 attached to this Petition as **Exhibit B**, and incorporated herein by reference.

19 **A. Assembly Bill 564 Defunds Tier Three Programs And Does Not Further**
20 **The Purposes of Proposition 64**

21 36. Although the cannabis industry was already benefiting from a substantial tax cut
22 under AB 195, and despite Respondent and Defendant DCC’s conclusions that the legal cannabis
23 market was continuing to grow, the industry continued to insist that it needed more tax relief.

24 37. Once again, the Legislature listened. In September 2025, the Legislature passed
25 Assembly Bill 564 (2025–2026 Reg. Sess.) by a two-thirds vote to repeal the 2025–26 fiscal year
26

27 ⁵ Available at
28 https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202520260AB564.

1 cannabis excise tax increase. Beginning on October 1, 2025, AB 564 lowered the cannabis excise tax
2 from 19% back to 15% until June 30, 2028, thereby eliminating the revenue that was intended to
3 compensate for the lost cultivation tax revenues. AB 564 also provided that beginning in fiscal year
4 2028–29 — after the critical 2027–28 fiscal year when baseline funding for Tier Three programs will
5 be established — Respondent and Defendant the CALIFORNIA DEPARTMENT OF TAX AND FEE
6 ADMINISTRATION may adjust the excise tax rate to make up for the revenue lost from the
7 cultivation tax, but it cannot exceed 19%. (AB 564, § 1 [amending Rev. & Tax. Code, § 34011.2].) In
8 this way, AB 564 not only reduces funding for Tier Three programs beginning on October 1, 2025, but
9 also depletes funding in the baseline year so that the funding floor for Tier Three programs will
10 indefinitely remain lower than voters intended.

11 38. Existing law requires that when the Legislature authorizes certain new tax
12 expenditures or exemptions, the legislation must include “[s]pecific goals, purposes, and objectives”
13 that the tax cut will achieve. (Rev. & Tax. Code, § 41.) Citing that requirement, the Legislature found
14 and declared that “[t]he specific goal of the cannabis excise tax rate reduction is to provide immediate
15 tax relief to the cannabis industry.” (AB 564, § 2(a)(1).) The Legislature did not include any findings
16 or declarations suggesting that AB 564 furthered the purposes or intent of Proposition 64. Indeed,
17 immediate tax relief for the cannabis industry undermines the purposes and intent of Proposition 64
18 when provided at the expense of the funding levels voters specified for Tier Three programs.

19 39. While AB 564 benefits the cannabis industry with another substantial tax cut, it
20 harms the Tier Three programs that voters intended to fund with revenue from the excise tax under
21 Proposition 64. According to estimates from the Legislature’s budget analyst, when the cannabis
22 excise tax was set at 19% in the third quarter of 2025, it generated \$177 million in tax revenue, the
23 highest quarterly total since the state eliminated the cultivation tax.⁶ Because of AB 564’s tax cut,
24 according to the Governor’s January 2026 budget proposal, cannabis excise tax revenue is
25
26

27 ⁶ Legis. Analysts’ Off., Cannabis Tax Revenue Update (2025 Q3) (Dec. 2, 2025), available at
28 <https://lao.ca.gov/LAOEconTax/Article/Detail/844>.

1 approximately \$115 million less than was projected for the current fiscal year.⁷ Revenue for the
2 upcoming fiscal year is projected to be \$128 million less than previously estimated in the 2025 Budget
3 Act, which assumed the cannabis excise tax rate would increase to 19%.⁸ Nearly all of that lost
4 revenue would have funded Tier 3 programs, but for AB 564. As the Legislature itself noted, “[l]osses
5 resulting from reductions in cannabis taxes generally cause reductions in funding to childcare,
6 environmental, tribal resource, and law enforcement programs; these entities likely bear the majority, if
7 not the entirety, of the loss.” (Assem. Floor Analysis of AB 564 (2025–2026 Reg. Sess.) as amended
8 Sept. 5, 2025, p. 3.)

9 40. A true and correct copy of Assembly Bill 564 (2025–2026 Reg. Sess.) is
10 attached to this Petition as **Exhibit C**, and incorporated herein by reference.

11 **B. Senate Bill 141 Further Defunds Tier Three Programs And Does Not**
12 **Further The Purposes Of Proposition 64**

13 41. As noted above, Proposition 64 instructs the State to set license fees “at an
14 amount that will fairly and proportionately generate sufficient total revenue to fully cover the total
15 costs of administering” Division 10 of the Business & Professions Code, including the Track and Trace
16 program. (Prop. 64, § 6.1 [adding Bus. & Prof. Code, § 26180(b), (d)].) Thus, Proposition 64
17 mandates that license fees be set so that the cannabis industry could fully fund the cost of
18 administering specific aspects of cannabis regulation and enforcement.

19 42. The Governor’s 2025–26 May Revision estimated that revenues from license
20 fees would be insufficient to fully support Respondent and Defendant CALIFORNIA DEPARTMENT
21 OF CANNABIS CONTROL’s administrative illicit-cannabis enforcement activities.⁹ Yet instead of
22

23 ⁷ Compare 2026-27 Governor’s Budget Comparative Statement of Revenues, Schedule 8 (Jan. 2026),
24 available at https://ebudget.ca.gov/2026-27/pdf/BudgetSummary/BS_SCH8.pdf, with 2025 Budget Act
25 Comparative Statement of Revenues, Schedule 8 (June 2025), available at https://ebudget.ca.gov/2025-26/pdf/Enacted/BudgetSummary/BS_SCH8.pdf.

26 ⁸ Compare 2026-27 Governor’s Budget Comparative Statement of Revenues, Schedule 8, with 2025
27 Budget Act Comparative Statement of Revenues, Schedule 8.

28 ⁹ See Governor Gavin Newsom, May Revision 2025–26 (May 14, 2025) at pp. 64-65, available at
<https://ebudget.ca.gov/2025-26/pdf/Revised/BudgetSummary/FullBudgetSummary.pdf>.

1 raising license fees on cannabis businesses as required by Proposition 64 to cover these costs, the
2 Legislature adopted SB 141 by a two-thirds vote in June 2025 to shift funding for Respondent and
3 Defendant the CALIFORNIA DEPARTMENT OF CANNABIS CONTROL’s administrative
4 enforcement activities, including funding for the Track and Trace program, from the industry license
5 fee-based Marijuana Control Fund (i.e. Cannabis Control Fund) to the California Cannabis Tax Fund.
6 In this way, the administrative enforcement activities would no longer be funded by license fees as
7 Proposition 64 requires, but by cannabis excise taxes, thereby further frustrating voters’ intent by
8 further reducing revenue for Tier Three programs. (SB 141, § 1 [amending Rev. & Tax. Code,
9 § 34019(a)(1)(B)].)

10 43. As noted, Proposition 64 mandated that cannabis excise tax revenue first be used
11 to fund Tier One and Tier Two programs, with the remainder to be allocated to Tier Three programs.
12 (Prop. 64, § 7.1 [adding Rev. & Tax. Code, § 34019(f)].) SB 141 amended this funding schedule to
13 include funding for Respondent and Defendant DEPARTMENT OF CANNABIS CONTROLS’s illicit
14 cannabis enforcement activities as part of the first tier of funding, directly resulting in less funding for
15 Tier Three programs. This seriously disrupts Proposition 64’s requirements for how cannabis tax
16 revenue must be spent.

17 44. As the Governor’s 2025–26 May Revision acknowledges, this funding shift
18 avoids the need to impose significant fee increases on cannabis businesses. Thus, SB 141 ensures that
19 the cannabis industry, which was already benefiting from a substantial tax cut under AB 195, and
20 another substantial tax cut under AB 564, would now further benefit from avoiding a substantial
21 increase in license fees, all largely at the expense of funding for Tier Three programs.

22 45. SB 141 states that “[t]he Legislature finds and declares that this act furthers the
23 purposes and intent of” Proposition 64, but it does not identify the purposes or intent that the
24 legislation allegedly furthers. Nor does it explain how funding administrative expenses with cannabis
25 tax revenue could further Proposition 64’s purposes when Proposition 64 explicitly requires such
26 activity to be funded by licensing fees, and when that funding shift drains revenue from the Tier Three
27 programs Proposition 64 sought to fund.

1 a regulatory framework for a legal cannabis industry and created a new funding stream — the
2 cultivation tax and excise tax — to fund programs to address the environmental and social impacts of
3 cannabis cultivation and use, pursuant to a designated three-tiered funding schedule.

4 54. AB 564 repealed the 2025–26 fiscal year cannabis excise tax increase that was
5 intended to compensate for the cultivation tax revenues eliminated by AB 195. First, AB 564 lowered
6 the cannabis excise tax from 19% to 15% beginning October 1, 2025 and continuing until the 2028–29
7 fiscal year. Next, it capped any subsequent increase to the excise tax at 19%. Because of this,
8 cannabis excise tax revenues are expected to decline severely, including a projected decline of
9 approximately \$115 million in the current fiscal year.

10 55. The primary recipients of cannabis excise tax revenue, the Tier Three programs,
11 will lose tens of millions of dollars in annual funding as a result.

12 56. Accordingly, AB 564 not only fails to further the purposes of Proposition 64, it
13 also contravenes one of its primary purposes, which is to fund programs to mitigate the possible
14 negative effects of cannabis cultivation and use. Such an amendment does not comply with
15 Proposition 64’s amendment clauses and therefore violates Article II, Section 10(c) of the California
16 Constitution.

17 57. Petitioners are beneficially interested in the issuance of the writ of mandate
18 requested herein and have no plain, speedy, or adequate remedy in the ordinary course of law to
19 compel Respondents to refrain from implementing AB 564.

20 58. Respondents, and those public officers and employees acting by and through
21 their authority, have a clear, present, and ministerial duty to refrain from implementing the invalid
22 provisions of AB 564. Petitioners are entitled to a peremptory writ of mandate to set aside as null and
23 void the provisions of AB 564 that are contrary to and in violation of Proposition 64 and Article II,
24 Section 10(c) of the California Constitution, and to compel Respondents, and those public officers and
25 employees acting by and through their authority, to refrain from implementing the invalid
26 provisions of AB 564.

1 **SECOND CAUSE OF ACTION**

2 **Declaratory Relief – Code Of Civil Procedure Section 1060**
3 **(Against All Respondents)**

4 **(Assembly Bill 564 Unconstitutionally Amends Proposition 64)**

5 59. Petitioners re-allege and incorporate by reference as if fully set forth herein the
6 allegations of paragraphs 1 through 58 above.

7 60. An actual controversy has arisen and now exists between Petitioners on the one
8 hand, and Respondents on the other hand, with respect to the lawful tax rate for the cannabis excise tax
9 following the enactment of AB 564.

10 61. Petitioners contend that amendments to the tax rate for the cannabis excise tax
11 made by AB 564 were made in violation of Proposition 64 and Section 10(c) of Article II of the
12 California Constitution, and are therefore unlawful and unenforceable.

13 62. On information and belief, Petitioners believe that Respondents will contend
14 that amendments to the tax rate for the cannabis excise tax made by AB 564 were not made in
15 violation of Proposition 64 and Section 10(c) of Article II of the California Constitution, and are
16 therefore lawful and enforceable.

17 63. A judicial determination is necessary and proper at this time under the
18 circumstances to determine whether AB 564 is a constitutionally valid legislative amendment of
19 Proposition 64 pursuant to Proposition 64 and Article II, Section 10(c) of the California Constitution.

20 **THIRD CAUSE OF ACTION**

21 **Writ Of Mandate – Code Of Civil Procedure Section 1085**
22 **(Against Respondents DCC and the Controller)**

23 **(Senate Bill 141 Unconstitutionally Amends Proposition 64)**

24 64. Petitioners re-allege and incorporate by reference as if fully set forth herein the
25 allegations of paragraphs 1 through 63 above.

26 65. Article II, Section 10(c) of the California Constitution grants the Legislature the
27 ability to amend or repeal an initiative statute *only if* approved by electors *or* if the initiative itself
28 permits amendment or repeal without the electors' approval.

1 66. When an initiative statute such as Proposition 64 permits the Legislature to
2 amend its provisions, that amendment authority is subject to “whatever conditions the voters attached
3 to the Legislature’s amendatory powers.” (*Quackenbush, supra*, 64 Cal.App.4th at 1483-1484.)
4 Proposition 64 permits the Legislature to amend its provisions “by a two-thirds vote of the Legislature
5 to further the purposes and intent of the act,” except as otherwise provided. (Proposition 64, § 10.)
6 The Legislature cannot further an initiative’s purpose by undoing one of its key provisions. (*Howard*
7 *Jarvis Taxpayers Assn. v. Newsom* (2019) 39 Cal.App.5th 161, 173-174.)

8 67. One of Proposition 64’s purposes was to create “a regulatory structure that
9 prevents access by minors and protects public safety, public health, and the environment.”
10 (Proposition 64, § 3(a).) To accomplish this, Proposition 64 established a regulatory framework for a
11 legal cannabis industry and created a new funding stream — the cultivation tax and excise tax — to
12 fund programs to address the environmental and social impacts of cannabis cultivation and use,
13 pursuant to a designated three-tiered funding schedule.

14 68. Proposition 64 was expressly designed so that licensing fees would be set at
15 amounts expected to fully fund state cannabis regulation and enforcement under Division 10 of the
16 Business and Professions Code. Specially, the voters required the state to set license fees “at an
17 amount that will fairly and proportionately generate sufficient total revenue to fully cover the total
18 costs of administering” the state’s regulation of the legal cannabis industry. (Prop. 64, § 6.1 [adding
19 Bus. & Prof. Code, § 26180(b), (d).]) Despite this mandate, SB 141 shifts the source of funding for
20 these activities from licensing fees to cannabis excise tax revenue.

21 69. This means that funding for Tier Three programs is significantly reduced,
22 thereby compounding the funding cuts to Tier Three programs caused by AB 564.

23 70. Thus, SB 141 fails to further the purposes of Proposition 64 and violates clear
24 statutory requirements of the voter-enacted law. Such an amendment does not comply with
25 Proposition 64’s amendment clauses and therefore violates Article II, Section 10(c) of the California
26 Constitution.

1 Trace program and for conducting any civil or criminal enforcement against unauthorized commercial
2 cannabis activity pursuant to Division 10 of the Business and Professions Code, were not made in
3 violation of Proposition 64 and Section 10(c) of Article II of the California Constitution, and are
4 therefore lawful and enforceable.

5 77. A judicial determination is necessary and proper at this time under the
6 circumstances to determine whether SB 141 is a constitutionally valid legislative amendment of
7 Proposition 64 pursuant to Proposition 64 and Article II, Section 10(c) of the California Constitution.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioners respectfully pray for relief as follows:

10 1. That this Court issue a declaration that the amendments made by AB 564 to the
11 tax rate for the cannabis excise tax were made in violation of Proposition 64 and Section 10(c) of
12 Article II of the California Constitution;

13 2. That a writ of mandate issue prohibiting Respondent CDTFA from
14 implementing, enforcing, or otherwise administering section 34011.2 of the Revenue and Taxation
15 Code in accordance with the amendments to section 34011.2 contained in AB 564, but to instead
16 implement, enforce, or otherwise administer section 34011.2 of the Revenue and Taxation Code as that
17 section read on September 21, 2025;

18 3. That a preliminary and/or permanent injunction issue prohibiting Respondent
19 CDTFA from implementing, enforcing, or otherwise administering section 34011.2 of the Revenue
20 and Taxation Code in accordance with the amendments to section 34011.2 contained in AB 564;

21 4. That this Court issue a declaration that the amendments made by SB 141 to
22 subdivision (a)(1)(B) of section 34019 of the Revenue and Taxation Code were made in violation of
23 Proposition 64 and Section 10(c) of Article II of the California Constitution;

24 5. That a writ of mandate issue prohibiting Respondent COHEN from disbursing
25 any funds from the California Cannabis Tax Fund to any account that funds the costs incurred by
26 Respondent CALIFORNIA DEPARTMENT OF CANNABIS CONTROL for maintaining and
27 operating the Track and Trace program or for conducting any civil or criminal enforcement against
28 unauthorized commercial cannabis activity pursuant to Division 10 (commencing with

1 Section 26000) of the Business and Professions Code.

2 6. That a preliminary and/or permanent injunction issue prohibiting Respondent
3 COHEN from disbursing any funds from the California Cannabis Tax Fund to any account that funds
4 the costs incurred by Respondent CALIFORNIA DEPARTMENT OF CANNABIS CONTROL for
5 maintaining and operating the Track and Trace program or for conducting any civil or criminal
6 enforcement against unauthorized commercial cannabis activity pursuant to Division 10 (commencing
7 with Section 26000) of the Business and Professions Code.

8 7. That this Court award Petitioners their attorneys' fees and costs incurred in
9 connection with this matter; and

10 8. For such other and further relief as the Court may deem appropriate.

11 Dated: February 19, 2026

12 Respectfully submitted,

13 OLSON REMCHO, LLP

14 By: 
15 Margaret R. Prinzing

16 Attorneys for Plaintiffs/Petitioners
17 Youth Transforming Justice; East Bay
18 Asian Youth Center; GiaLori Blaylock;
19 and Quinn Chung
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1 VERIFICATION

2 I, Don Carney, hereby declare as follows:

3 I am the Executive Director of Youth Transforming Justice, a petitioner in this matter. I
4 have read the foregoing Verified Petition for Writ of Mandate and Complaint for Injunctive and
5 Declaratory Relief and know the contents thereof. I certify that the facts contained therein are true of
6 my own knowledge except as to those facts that are stated on information and belief, and as to those
7 matters, I believe them to be true.

8 I declare under penalty of perjury that the foregoing is true and correct. Executed this
9 18th day of Feb, 2026, at 1134 California.

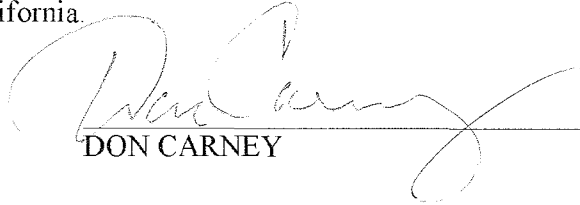
10 
11 _____
12 DON CARNEY

EXHIBIT A

PROPOSITION **MARIJUANA LEGALIZATION.**
64 INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Legalizes marijuana under state law, for use by adults 21 or older.
- Designates state agencies to license and regulate marijuana industry.
- Imposes state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of \$9.25 per ounce of flowers and \$2.75 per ounce of leaves.
- Exempts medical marijuana from some taxation.
- Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products.
- Prohibits marketing and advertising marijuana directly to minors.
- Allows local regulation and taxation of marijuana.
- Authorizes resentencing and destruction of records for prior marijuana convictions.
- The size of the measure’s fiscal effects could vary significantly depending on:
 - (1) how state and local governments choose to regulate and tax marijuana,
 - (2) whether the federal government enforces federal laws prohibiting marijuana, and
 - (3) how marijuana prices and consumption change under the measure.
- Net additional state and local tax revenues that could eventually range from the high hundreds of millions of dollars to over \$1 billion annually. Most of these funds would be required to be spent for specific purposes such as youth programs, environmental protection, and law enforcement.
- Net reduced costs potentially in the tens of millions of dollars annually to state and local governments primarily related to a decline in the number of marijuana offenders held in state prisons and county jails.

SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

State Marijuana Laws

Marijuana Generally Illegal Under State Law. Under current state law, it is generally illegal to possess or use marijuana. (Please see the nearby box for detailed information on how marijuana is used.) Penalties for marijuana-related activities vary depending on the offense. For example, possession of less than one ounce of marijuana (the equivalent of roughly 40 marijuana cigarettes, also known as “joints”) is punishable by a fine, while

selling or growing marijuana may result in a jail or prison sentence.

Proposition 215 Legalized Medical Marijuana. In 1996, voters approved Proposition 215, which made it legal under state law for individuals of any age to use marijuana in California for medical purposes. Individuals must have a recommendation from a doctor to use medical marijuana. In 2003, the Legislature legalized medical marijuana collectives, which are nonprofit organizations that grow and provide marijuana to their members. Collectives are not now licensed

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

How do Individuals Use Marijuana?

Smoking. The most common way individuals use marijuana is by smoking it. Typically, users smoke the dried flowers of the marijuana plant. Dried marijuana leaves can also be smoked but this is rare because leaves contain only small amounts of tetrahydrocannabinol (THC), which is the ingredient in marijuana that produces a “high.” Marijuana leaves, flowers, and stalks can also be processed into concentrated marijuana and smoked. Examples of concentrated marijuana include hash and hash oil. Concentrated marijuana is much stronger than dried marijuana, often containing five to ten times the THC levels found in dried marijuana flowers.

Vaporizing. Some users consume marijuana with devices called vaporizers. A vaporizer heats up dried marijuana or concentrated marijuana but does not burn it. This heating process creates a gas containing THC that is inhaled.

Eating. Marijuana can also be added to food. Edible marijuana products are typically made by adding THC from the plant into ingredients (like butter or oil) that are used to prepare foods such as brownies, cookies, or chocolate bars.

Other Methods. Other less common ways of using marijuana include drinking beverages infused with marijuana and rubbing marijuana infused lotions on the skin.

or regulated by the state, but cities and counties can regulate where and how medical marijuana is grown and sold by individuals or collectives.

State Currently Adopting New Medical Marijuana Regulations. Recently, new state laws were adopted to begin regulating medical marijuana. As shown in Figure 1, a new Bureau of Medical Cannabis Regulation and other state agencies are responsible for this regulation. The new laws require the

state to set standards for labelling, testing, and packaging medical marijuana products and to develop a system to track such products from production to sale. Currently, these regulations are being developed by the different regulatory agencies. Under the new laws, medical marijuana collectives must be closed within a few years and replaced by state-licensed businesses. Local governments will continue to have the ability to regulate where and how medical

Figure 1

Medical Marijuana Industry to Be Regulated by Multiple State Agencies

| Regulatory Agency | Primary Responsibilities |
|---------------------------------------|--|
| Bureau of Medical Cannabis Regulation | License medical marijuana distributors, transporters, testing facilities, and retailers. |
| Department of Food and Agriculture | License and regulate medical marijuana growers. |
| Department of Public Health | License and regulate producers of edible marijuana products. |
| State Water Resources Control Board | Regulate the environmental impacts of marijuana growing on water quality. |
| Department of Fish and Wildlife | Regulate environmental impacts of marijuana growing. |
| Department of Pesticide Regulation | Regulate pesticide use for growing marijuana. |

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

marijuana businesses operate.

Taxes on Medical Marijuana. State and local governments currently collect sales tax on medical marijuana. A small number of cities also impose additional taxes specifically on medical marijuana. The total amount of state and local taxes collected on medical marijuana likely is several tens of millions of dollars annually.

Federal Marijuana Laws

Under federal law, it is illegal to possess or use marijuana, including for medical use. The U.S. Supreme Court ruled in 2005 that federal agencies could continue under federal law to prosecute individuals who possess or use marijuana for medical purposes even if legal under a state’s law. Currently, however, the U.S. Department of Justice (DOJ) chooses not to prosecute most marijuana users and businesses that follow state and local marijuana laws if those laws are consistent with federal priorities. These priorities include preventing minors from using marijuana and preventing marijuana from being taken to other states.

PROPOSAL

This measure (1) legalizes adult nonmedical use of marijuana, (2) creates a system for regulating nonmedical marijuana businesses, (3) imposes taxes on marijuana, and (4) changes penalties for marijuana-related crimes. These changes are described below.

Legalization of Adult Nonmedical Use of Marijuana

Personal Use of Nonmedical Marijuana. This measure changes state law to legalize the use of marijuana for nonmedical purposes by adults age 21 and over. Figure 2 summarizes what activities would be allowable under the measure. These activities would remain illegal for individuals under the age of 21.

Purchasing Marijuana. Under the measure, adults age 21 and over would be able to purchase marijuana at state-licensed businesses or through their delivery services. Businesses could generally not be located within 600 feet of a school, day care center, or youth center, unless allowed by a local government. In addition, businesses selling

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Figure 2
Proposition 64 Legalizes Nonmedical Marijuana Activities, With Restrictions

| Activity | Activities Allowed Under the Measure | Activities Not Allowed Under the Measure |
|--|---|---|
| Smoking marijuana | Smoking marijuana in a private home or at a business licensed for on-site marijuana consumption. | Smoking marijuana (1) while driving a car, (2) in any public place (other than at a business licensed for on-site consumption), or (3) anywhere that smoking tobacco is prohibited. |
| Possessing marijuana for personal use | Possession of up to 28.5 grams (about one ounce) of marijuana and up to 8 grams of concentrated marijuana (such as hash). | Possession of marijuana on the grounds of a school, day care center, or youth center while children are present. |
| Growing marijuana | Growing up to six marijuana plants and keeping the marijuana produced by the plants within a private home. | Growing in an area that is unlocked or visible from a public place. |
| Giving away marijuana | Giving away to other adults up to 28.5 grams of marijuana and up to 8 grams of concentrated marijuana. | Providing marijuana to minors under the age of 21 for nonmedical use. |

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

marijuana could not sell tobacco or alcohol. Under the measure, local governments could authorize licensed businesses to allow on-site consumption of marijuana. However, such businesses could not allow consumption in areas within the presence or sight of individuals under the age of 21 or areas visible from a public place. In addition, businesses allowing on-site marijuana consumption could not allow consumption of alcohol or tobacco.

Regulation of Nonmedical Marijuana Businesses

State Regulation of Nonmedical Marijuana Businesses. This measure changes the name of the Bureau of Medical Cannabis Regulation to the Bureau of Marijuana Control and makes it also responsible for regulating and licensing nonmedical marijuana businesses. In addition, the measure requires other state agencies to regulate and license different parts of the nonmedical marijuana industry. These state agencies would have responsibilities similar to the ones they currently have for medical marijuana. The measure requires each licensing agency to charge fees that cover its marijuana regulatory costs. Under the measure, the system for tracking medical marijuana products that must be developed under current law would be expanded to include marijuana for nonmedical use. The measure also creates the Marijuana Control Appeals Panel to hear appeals from

individuals affected by a decision of the state’s regulatory agencies. Decisions of the panel could be appealed to the courts.

Local Regulation of Nonmedical Marijuana Businesses. Under the measure, cities and counties could regulate nonmedical marijuana businesses. For example, cities and counties could require nonmedical marijuana businesses to obtain local licenses and restrict where they could be located. Cities and counties could also completely ban marijuana-related businesses. However, they could not ban the transportation of marijuana through their jurisdictions.

Taxation of Marijuana

The measure imposes new state taxes on growing and selling both medical and nonmedical marijuana. As shown in Figure 3, the new tax on growing marijuana would be based on a dollar amount per ounce of marijuana, and the new excise tax would be based on the retail price of marijuana products sold.

The measure would also affect sales tax revenue to the state and local governments in two ways. First, legalizing the sale of nonmedical marijuana will result in new sales tax revenue. (This would happen automatically, as generally products are subject to this tax under current law.) Second, the sale of medical marijuana, which is currently subject to sales tax, is

Figure 3
Taxation of Marijuana Under Proposition 64

| Type of Tax | Type of Marijuana Taxed | Rate |
|------------------------------------|---|---|
| New state tax on growing | Both medical and nonmedical. | \$9.25 per ounce of dried marijuana flowers and \$2.75 per ounce of dried marijuana leaves. |
| New state retail excise tax | Both medical and nonmedical. | 15 percent of retail price. |
| Existing state and local sales tax | Nonmedical only. | Rates vary across the state but average around 8 percent. |
| Existing and future local taxes | Can apply to both medical and nonmedical. | Subject to local government decisions. |

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

specifically exempted from that tax. The measure does not change local governments’ existing ability to place other taxes on medical marijuana and does not restrict their ability to tax nonmedical marijuana.

Beginning in 2020, the tax on growing marijuana would be adjusted annually for inflation. The measure also allows the state Board of Equalization to annually adjust the tax rate for marijuana leaves to reflect changes in the price of marijuana flowers relative to leaves. In addition, the measure allows the board to establish other categories of marijuana (such as frozen marijuana) for tax purposes and specifies that these categories would be taxed at their value relative to marijuana flowers.

Allocation of Certain State Tax Revenues.

Revenues collected from the new state retail excise tax and the state tax on growing marijuana would be deposited in a new state account, the California Marijuana Tax Fund. Certain fines on businesses or individuals who violate regulations created by the measure would also be deposited into this fund. Monies in the fund would first be used to pay back certain state agencies for any marijuana regulatory costs not covered by

license fees. A portion of the monies would then be allocated in specific dollar amounts for various purposes, as shown in Figure 4. All remaining revenues (the vast majority of monies deposited in the fund) would be allocated as follows:

- 60 percent for youth programs—including substance use disorder education, prevention, and treatment.
- 20 percent to clean up and prevent environmental damage resulting from the illegal growing of marijuana.
- 20 percent for (1) programs designed to reduce driving under the influence of alcohol, marijuana, and other drugs and (2) a grant program designed to reduce any potential negative impacts on public health or safety resulting from the measure.

Penalties for Marijuana-Related Crimes

Change in Penalties for Future Marijuana Crimes.

The measure changes state marijuana penalties. For example, possession of one ounce or less of marijuana is currently punishable by a \$100 fine. Under the measure, such a crime committed by

Figure 4
Proposition 64 Allocates a Portion of State Revenues for Specific Purposes

| Purpose | Annual Funding | Duration |
|--|---|-------------------------|
| Grants for certain services (such as job placement assistance and substance use disorder treatment) in communities most affected by past drug policies | \$10 million to \$50 million ^a | 2018–19 and ongoing |
| Evaluate effects of the measure | \$10 million | 2018–19 through 2028–29 |
| Create and adopt methods to determine whether someone is driving while impaired, including by marijuana | \$3 million | 2018–19 through 2022–23 |
| Study the risks and benefits of medical marijuana | \$2 million | 2017–18 and ongoing |

^a \$10 million in 2018–19, increasing by \$10 million annually until 2022–23, and \$50 million each year thereafter.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

someone under the age of 18 would instead be punishable by a requirement to attend a drug education or counseling program and complete community service. In addition, selling marijuana for nonmedical purposes is currently punishable by up to four years in state prison or county jail. Under the measure, selling marijuana without a license would be a crime generally punishable by up to six months in county jail and/or a fine of up to \$500. In addition, individuals engaging in any marijuana business activity without a license would be subject to a civil penalty of up to three times the amount of the license fee for each violation. While the measure changes penalties for many marijuana-related crimes, the penalties for driving a vehicle while under the impairment of marijuana would remain the same. The measure also requires the destruction—within two years—of criminal records for individuals arrested or convicted for certain marijuana-related offenses.

Individuals Previously Convicted of Marijuana Crimes. Under the measure, individuals serving sentences for activities that are made legal or are subject to lesser penalties under the measure would be eligible for resentencing. For example, an offender serving a jail or prison term for growing or selling marijuana could have their sentence reduced. (A court would not be required to resentence someone if it determined that the person was likely to commit certain severe crimes.) Qualifying individuals would be resentedenced to whatever punishment they would have received under the measure. Resentenced individuals currently in jail or prison would be subject to community supervision (such as probation) for up to one year following their release, unless a court removes that requirement. In addition, individuals who have completed sentences for crimes that are reduced by the measure

could apply to the courts to have their criminal records changed.

FISCAL EFFECTS

Fiscal Effects Subject to Significant Uncertainty

This measure would affect both costs and revenues for state and local governments. The size of these effects could vary significantly depending primarily on three key factors:

- First, it would depend on how state and local governments chose to regulate and tax marijuana. For example, if many cities and counties banned marijuana businesses, the amount of revenue from taxes on marijuana would be less than without such bans.
- Second, it would depend on whether the U.S. DOJ enforced federal laws prohibiting marijuana. For example, if the U.S. DOJ chose to prosecute state-licensed marijuana businesses, there could be significantly reduced revenue from marijuana taxes. This analysis assumes the U.S. DOJ will follow its current policy regarding enforcement of marijuana laws.
- Third, the fiscal effects would depend heavily on how marijuana prices and consumption change under the measure. This analysis assumes that the price of marijuana would decline significantly. This is primarily because (1) businesses would become more efficient at producing and distributing marijuana and (2) the price of marijuana would no longer be inflated to compensate for the risk of selling an illegal drug. This analysis also assumes that marijuana consumption would increase under the measure. This is

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

primarily because of (1) the reduced price and (2) the reduced legal risk for marijuana users.

The actual effects on marijuana prices and consumption are unknown, as are the regulatory and enforcement actions of the state, federal, and local governments. As such, the potential cost and revenue impacts of this measure described below are subject to significant uncertainty.

Effects on State and Local Costs

Reduction in Various Criminal Justice Costs.

The measure would result in reduced criminal justice costs for the state and local governments. This is primarily related to a decline in the number of offenders held in state prisons and county jails for growing and selling marijuana. The measure would also reduce the number of such offenders placed under community supervision (such as county probation). In addition, the measure would likely reduce other criminal justice costs, such as state court costs for the handling of related criminal cases.

The above cost reductions would be partially offset by increased costs in several areas. In particular, the courts would incur costs to process applications from individuals seeking to be resentenced or have their criminal records changed. In addition, there would be costs to supervise resentenced offenders in the community. These various costs would be incurred largely within the first couple of years following the passage of the measure. In addition, there would be ongoing costs in a few areas. For example, there would be court costs to destroy records of arrest and conviction for individuals who commit certain marijuana-related crimes. In addition, there would be ongoing costs to operate drug education and counseling programs as required by the measure. There

would also be some increased criminal justice costs (such as county jail and state court costs) to the extent that increased marijuana use leads to increased marijuana-related crime (such as driving while impaired by marijuana).

In total, the net reduction in state and local criminal justice costs from the above changes could be in the tens of millions of dollars annually. In many cases, these resources would likely be redirected to other criminal justice activities.

Effects on State and Local Health Programs.

The measure could also have various fiscal effects on state and local health programs as a result of increased marijuana use. For example, the measure could result in an increase in the number of individuals seeking publicly funded substance use treatment. Any additional costs for such services could be partially or entirely offset by additional funding that would be available for substance use treatment under the measure. Although research on the health effects of marijuana use is limited, there is some evidence that smoking marijuana has harmful effects. For example, marijuana smoke is among a list of substances identified by the state to cause cancer. To the extent that an increase in marijuana use negatively affects users' health, it would increase somewhat state and local health program costs.

Increased State Regulatory Costs. The measure would also result in costs for the state to regulate nonmedical marijuana businesses. These costs would vary depending on how the state chooses to regulate marijuana but could amount to several tens of millions of dollars annually. Eventually, these costs would likely be entirely offset by license fees and tax revenues.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Effects on State and Local Revenues

Tax Revenues Could Reach \$1 Billion Annually, but Not Right Away. State and local governments would receive more revenues—including sales, excise, and income taxes—from marijuana sales allowed under this measure. This increase in tax revenue would result primarily from (1) new state excise taxes on growing and selling marijuana, (2) individuals switching from illegal purchases of marijuana (made from individuals who do not pay all the taxes they owe) to legal purchases (at businesses that collect and pay the taxes they owe), and (3) an increase in consumption of marijuana. In addition, lower marijuana prices due to the measure may provide individuals using marijuana now with some savings. This could allow them to purchase other legal products that generate tax revenue. These revenue increases, however, would be partially offset by the loss of sales taxes now collected on medical marijuana sales, as the measure exempts such purchases from these taxes. In total, our best estimate is that the state and local governments could eventually collect net additional revenues ranging from the high hundreds of millions of dollars to over \$1 billion annually. However, the revenues are likely to be significantly lower in the first several years following the passage of the measure. This is because it will take a couple of years for the state to issue licenses to marijuana businesses. In addition, it will likely take time for newly licensed businesses to set up efficient production and distribution systems. Prices in the legal market will likely fall as more legal businesses are licensed and as they become more efficient. As this occurs, more consumers will begin purchasing marijuana legally. It is unknown precisely how long this

process will take but it could be several years after the measure passes before revenues reach the range described above. As discussed earlier, the measure requires that most of these funds be spent on specified purposes.

Additional Local Government Revenues. The measure could result in additional revenues if local governments impose taxes on marijuana. The amount of additional revenues could vary significantly, depending primarily on how many local governments impose marijuana taxes and at what rates. These revenues could easily amount to tens of millions of dollars annually.

Potential Impact on Local Economies in Marijuana Producing Areas. Exports of marijuana currently contribute significantly to the economy in parts of Northern California, such as Humboldt, Mendocino, and Trinity Counties. Precisely how this measure would affect these local economies is unknown. Lower marijuana prices and more opportunity for legal cultivation elsewhere could hurt the economy in these areas, reducing local government tax revenues. If, however, local growers and businesses successfully marketed their marijuana products as premium goods, consumers might be willing to pay above-average prices for them. If that occurred, it could help offset some of the negative economic effects in those areas.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html> to access the committee's top 10 contributors.

★ ARGUMENT IN FAVOR OF PROPOSITION 64 ★

Proposition 64 finally creates a safe, legal, and comprehensive system for adult use of marijuana while protecting our children.

Marijuana is available nearly everywhere in California—but without any protections for children, without assurances of product safety, and without generating tax revenue for the state.

Prop. 64 controls, regulates and taxes adult use of marijuana, and ends California's criminalization of responsible adult use.

California Medical Association supports Prop. 64 because it incorporates best practices from states that already legalized adult marijuana use, and adheres closely to the recommendations of California's Blue Ribbon Commission on Marijuana Policy, which included law enforcement and public health experts.

How Prop. 64 Works:

- Under this law, adults 21+ will be allowed to possess small amounts of nonmedical marijuana, and to grow small amounts at home for personal use. Sale of nonmedical marijuana will be legal only at highly regulated, licensed marijuana businesses, and only adults 21+ will be permitted to enter. Bars will not sell marijuana, nor will liquor stores or grocery stores.

Child Protections:

- Drug dealers don't ask for proof of age and today can sell marijuana laced with dangerous drugs and chemicals. 64 includes toughest-in-the-nation protections for children, requiring purchasers to be 21, banning advertising directed to children, and requiring clear labeling and independent product testing to ensure safety. 64 prohibits marijuana businesses next to schools.

The independent Legislative Analyst's Office found that 64 will both raise revenue and decrease costs. By collecting unpaid taxes from marijuana, it will bring in over \$1 billion of revenue every year to help California. And it could save tens of millions of dollars annually in

reduced law enforcement costs. Together, that is a benefit of \$11 billion over the next decade.

- 64 corrects mistakes from past measures that didn't direct where money goes. Instead, this measure is specific about how money can be spent. Prop. 64 specifically prevents politicians from diverting money to their separate pet projects.
- 64 pays for itself and raises billions for afterschool programs that help kids stay in school; for job placement, job training, and mental health treatment; for drug prevention education for teens; to treat alcohol and drug addiction; and to fund training and research for law enforcement to crack down on impaired driving. Over the next decade, these programs will receive billions in revenues.

Every year, there are more than 8,800 felony arrests for growing or selling marijuana in California, resulting in some very long prison sentences. This is an enormous waste of law enforcement resources. Prop. 64 will stop ruining people's lives for marijuana.

The tough, common sense regulations put forth in 64 are supported by the largest coalition ever in support of marijuana reform, including Lieutenant Governor Gavin Newsom, Democratic and Republican Congressmembers, Law Enforcement Against Prohibition, the California NAACP, the California Democratic Party and many others. We all know California's current approach toward marijuana doesn't make sense. It's time to put an end to our broken system, and implement proven reforms so marijuana will be safe, controlled, and taxed.

DR. DONALD O. LYMAN, Former Chief of Chronic Disease and Injury Control
California Department of Public Health

GRETCHEN BURNS, Executive Director
Parents for Addiction Treatment and Healing

STEVEN DOWNING, Former Deputy Chief
Los Angeles Police Department

64

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 64 ★

Proposition 64, in effect, could limit a 45-year ban on smoking ads on television, allowing marijuana ads airing to millions of children and teen viewers. These ads can appear during The Olympics, on "The Voice," "The Big Bang Theory" and hundreds of other programs popular with younger viewers.

These marijuana smoking ads could be allowed on all broadcast primetime shows, and approximately 95% of all broadcast television programming. Children could be exposed to ads promoting marijuana Gummy candy and brownies—the same products blamed for a spike in emergency room visits in Colorado.

We ban tobacco television ads because studies show it encouraged kids to start smoking. Marijuana smoking ads on TV *should* have been banned, but the proponents didn't want to restrict the enormous profits they plan to make, estimated in the billions. And like tobacco money, the corporate monopolies spawned by Proposition 64 can use that money for contributions to politicians to ensure we can never undo the damage Proposition 64 will do.

Sharon Levy, M.D., FAAP, chair of the American Academy of Pediatrics Committee on Substance Abuse warns "It took several generations, millions of lives and billions of dollars to establish the harms of tobacco use on health, even though these harms are overwhelming. We should not consider marijuana 'innocent until proven guilty,' given what we already know about the harms to adolescents."

After recent reforms, *not one single person* remains in California's prisons solely for simple marijuana possession. What Proposition 64 is really about is exposing our children to harm in order to make billions. Join us in voting "No" on Proposition 64.

KATIE DEXTER, Past President
San Diego County School Boards Association

JOHN QUINTANILLA, Board Member
Rosemead School District

CYNTHIA RUIZ, Board Member
Walnut Valley Unified School District

★ ARGUMENT AGAINST PROPOSITION 64 ★

There are five huge flaws in Proposition 64 that directly affect you and the people you care about.

Flaw #1: Doubling of highway fatalities.

The AAA Foundation for Highway Safety reports that deaths in marijuana-related car crashes have doubled since the State of Washington approved legalization. Yet, incredibly, Proposition 64's proponents refused to include a DUI standard for marijuana, making it extremely difficult to keep impaired drivers off our highways.

Flaw #2: Allows marijuana growing near schools and parks.

Proposition 64 actually forbids local governments from banning indoor residential growing of marijuana—even next door to an elementary school—provided the crop is limited to six plants, (and that is a lot of marijuana). The California Police Chiefs Association adds that “by permitting indoor cultivation of marijuana literally next door to elementary schools and playgrounds, Proposition 64 is trampling local control.”

Flaw #3: Will increase, not decrease black market and drug cartel activity.

“Organized crime filings have skyrocketed in Colorado since marijuana legalization,” says Past President of the Colorado Association of Chiefs of Police John Jackson. “We had 1 filing in 2007 and by 2015, we had 40. Since your Proposition 64 repeals the prohibition on heroin and meth dealers with felony convictions getting into the legal marijuana business, it could be much worse in California.”

Flaw #4: Could roll back the total prohibition of smoking ads on TV.

Tobacco ads have been banned from television for decades, but Proposition 64 will allow marijuana smoking ads in prime time, and on programs with millions of children and teenage viewers.

Flaw #5: Proposition 64 is an all-out assault on underprivileged neighborhoods already reeling from alcohol and drug addiction problems.

Bishop Ron Allen of the International Faith Based Coalition representing 5,000 inner-city churches calls Proposition 64 an “attack on minorities” and asks “Why are there no limits on the number of pot shops that can be opened in poor neighborhoods? We will now have a string of pot shops to go with the two liquor stores on every block, but we still can’t get a grocery store. Proposition 64 will make every parent’s job tougher.” In short, Proposition 64 is radically different from legalization measures in other states, and may weaken countless consumer protections just passed last year and signed into law by Governor Brown.

If the proponents’ Rebuttal below doesn’t answer these five questions, then the only reasonable decision is to vote “No”.

1. Why is there no DUI standard in your initiative to let our CHP officers get drug-impaired drivers off the road? It is not sufficient to simply commission a “study”.
2. Why does Proposition 64 permit indoor cultivation of marijuana right next door to playgrounds and schools?
3. Why does Proposition 64 allow felons convicted of dealing meth and heroin to be licensed to sell marijuana?
4. Why does Proposition 64 permit marijuana smoking commercials on TV?
5. Why is there no limit on the number of pot shops that can be placed in a single neighborhood?

They’ve gotten it wrong, again. We strongly urge your “No” vote on Proposition 64.

To get the facts, visit www.NoOn64.net

DIANNE FEINSTEIN, United States Senator
DOUG VILLARS, President
California Association of Highway Patrolmen
C. DUANE DAUNER, President
California Hospital Association

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★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 64 ★

Look at the facts, not scare tactics from groups that always oppose marijuana reform.

- Some evidence has shown states with legalized marijuana have *less* youth marijuana use. Prop. 64 contains the nation’s strictest child protections: warning labels, child-resistant packaging, and advertising restrictions, and it requires keeping marijuana out of public view, away from children.
- *Nothing* in 64 makes it legal to show marijuana ads on TV. Federal law prohibits it!
- It has not been definitively proven that impaired driving has *increased* in those states with legalized marijuana, and crash risk hasn’t increased. Colorado’s Department of Public Safety and National Highway Traffic Safety Administration both confirm this.

Vote Yes on 64 because:

- 64 invests hundreds of millions into equipment and law enforcement training to crack down on unsafe driving. It allocates new funds to develop comprehensive legal standards under direction of the California Highway Patrol for measuring driver impairment.

- 64 makes the protection of public health and safety the #1 priority of the regulators that determine who qualifies for a marijuana business license.
- 64 preserves local control.
- 64 builds on consumer protections signed by the Governor. The independent Legislative Analyst’s Office says 64 will raise revenue and decrease costs. Bipartisan lawmakers support 64 because it’s based on best practices of states that have safely legalized.

“I don’t use marijuana and I don’t want my 17-year-old son to either. I’m voting Yes on 64 because it’s clear it will protect children much better than what we have now,” says Maria Alexander, Los Angeles mother. Learn more at YesOn64.org.

REP. TED LIEU, Former Military Prosecutor
MARSHA ROSENBAUM, Ph.D., Co-Chair
Youth Education and Prevention Working Group,
Blue Ribbon Commission on Marijuana Policy
DR. LARRY BEDARD, Former President
American College of Emergency Physicians

exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

SEC. 12. Interim Standards.

Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the prompt implementation of the Safety for All Act of 2016, the California Department of Justice may adopt interim standards without compliance with the procedures set forth in the APA. The interim standards shall remain in effect for no more than two years, and may be earlier superseded by regulations adopted pursuant to the APA. "Interim standards" means temporary standards that perform the same function as "emergency regulations" under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that in order to provide greater opportunity for public comment on permanent regulations, the interim standards may remain in force for two years rather than 180 days.

SEC. 13. Amending the Measure.

This Act shall be broadly construed to accomplish its purposes. The provisions of this measure may be amended by a vote of 55 percent of the members of each house of the Legislature and signed by the Governor so long as such amendments are consistent with and further the intent of this Act.

SEC. 14. Conflicting Measures.

(a) In the event that this measure and another measure on the same subject matter, including but not limited to the regulation of the sale or possession of firearms or ammunition, shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 15. Severability.

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

SEC. 16. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court

of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

PROPOSITION 64

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Business and Professions Code, the Food and Agricultural Code, the Health and Safety Code, the Labor Code, the Revenue and Taxation Code, and the Water Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This measure shall be known and may be cited as the Control, Regulate and Tax Adult Use of Marijuana Act ("the Adult Use of Marijuana Act").

SEC. 2. Findings and Declarations.

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

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

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

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those

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under 21 years old, and provides new resources to educate youth against drug abuse and train local law enforcement to enforce the new law. It bars marijuana businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products. And it mandates that marijuana and marijuana products cannot be advertised or marketed towards children.

E. There are currently no laws governing adult use marijuana businesses to ensure that they operate in accordance with existing California laws. Adult use of marijuana may only be accessed from the unregulated illicit market. The Adult Use of Marijuana Act sets up a comprehensive system governing marijuana businesses at the state level and safeguards local control, allowing local governments to regulate marijuana-related activities, to subject marijuana businesses to zoning and permitting requirements, and to ban marijuana businesses by a vote of the people within a locality.

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

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

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

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

J. The Adult Use of Marijuana Act ensures the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale

cultivation licenses for the first five years. The Adult Use of Marijuana Act also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry.

SEC. 3. Purpose and Intent.

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

(a) Take nonmedical marijuana production and sales out of the hands of the illegal market and bring them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.

(b) Strictly control the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana through a system of state licensing, regulation, and enforcement.

(c) Allow local governments to enforce state laws and regulations for nonmedical marijuana businesses and enact additional local requirements for nonmedical marijuana businesses, but not require that they do so for a nonmedical marijuana business to be issued a state license and be legal under state law.

(d) Allow local governments to ban nonmedical marijuana businesses as set forth in this act.

(e) Require track and trace management procedures to track nonmedical marijuana from cultivation to sale.

(f) Require nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it can be sold by licensed businesses.

(g) Require nonmedical marijuana sold by licensed businesses to be packaged in child-resistant containers and be labeled so that consumers are fully informed about potency and the effects of ingesting nonmedical marijuana.

(h) Require licensed nonmedical marijuana businesses to follow strict environmental and product safety standards as a condition of maintaining their license.

(i) Prohibit the sale of nonmedical marijuana by businesses that also sell alcohol or tobacco.

(j) Prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present.

(k) Strengthen the state's existing medical marijuana system by requiring patients to obtain by January 1, 2018, a new recommendation from their physician that meets the strict standards signed into law by the Governor in 2015, and by providing new privacy protections for patients who obtain medical marijuana identification cards as set forth in this act.

(l) Permit adults 21 years and older to use, possess, purchase and grow nonmedical marijuana within defined limits for use by adults 21 years and older as set forth in this act.

(m) Allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older through zoning and other local

laws, and only to ban outdoor cultivation as set forth in this act.

(n) Deny access to marijuana by persons younger than 21 years old who are not medical marijuana patients.

(o) Prohibit the consumption of marijuana in a public place unlicensed for such use, including near K-12 schools and other areas where children are present.

(p) Maintain existing laws making it unlawful to operate a car or other vehicle used for transportation while impaired by marijuana.

(q) Prohibit the cultivation of marijuana on public lands or while trespassing on private lands.

(r) Allow public and private employers to enact and enforce workplace policies pertaining to marijuana.

(s) Tax the growth and sale of marijuana in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults.

(t) Generate hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.

(u) Prevent illegal production or distribution of marijuana.

(v) Prevent the illegal diversion of marijuana from California to other states or countries or to the illegal market.

(w) Preserve scarce law enforcement resources to prevent and prosecute violent crime.

(x) Reduce barriers to entry into the legal, regulated market.

(y) Require minors who commit marijuana-related offenses to complete drug prevention education or counseling and community service.

(z) Authorize courts to resentencing persons who are currently serving a sentence for offenses for which the penalty is reduced by the act, so long as the person does not pose a risk to public safety, and to redesignate or dismiss such offenses from the criminal records of persons who have completed their sentences as set forth in this act.

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

SEC. 4. Personal Use.

SEC. 4.1. Section 11018 of the Health and Safety Code is amended to read:

11018. *Marijuana.*

“Marijuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination:

(a) *Industrial hemp, as defined in Section 11018.5; or*

(b) *The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.*

SEC. 4.2. Section 11018.1 is added to the Health and Safety Code, to read:

11018.1. *Marijuana Products.*

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

SEC. 4.3. Section 11018.2 is added to the Health and Safety Code, to read:

11018.2. *Marijuana Accessories.*

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

SEC. 4.4. Section 11362.1 is added to the Health and Safety Code, to read:

11362.1. (a) *Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:*

(1) *Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;*

(2) *Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products;*

(3) *Possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants;*

(4) *Smoke or ingest marijuana or marijuana products; and*

(5) *Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without any compensation whatsoever.*

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

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

SEC. 4.5. Section 11362.2 is added to the Health and Safety Code, to read:

11362.2. (a) Personal cultivation of marijuana under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

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

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

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

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

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

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

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

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

SEC. 4.6. Section 11362.3 is added to the Health and Safety Code, to read:

11362.3. (a) Nothing in Section 11362.1 shall be construed to permit any person to:

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

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

(3) Smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of, or Chapter 3.5 (commencing with Section 19300) of Division 8 of, the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present.

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

(5) Possess, smoke or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Chapter 3.5 (commencing with Section 19300) of Division 8 of, or Division 10 of, the Business and Professions Code.

(7) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(8) Smoke or ingest marijuana or marijuana products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under the age of 21 years are present.

(b) For purposes of this section, "day care center" has the same meaning as in Section 1596.76.

(c) For purposes of this section, "smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(d) For purposes of this section, "volatile solvent" means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Trichloro-ethylene.

(e) For purposes of this section, "youth center" has the same meaning as in Section 11353.1.

(f) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

SEC. 4.7. Section 11362.4 is added to the Health and Safety Code, to read:

11362.4. (a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one hundred dollar (\$100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.

(b) A person who engages in the conduct described in paragraphs (2) through (4) of subdivision (a) of Section 11362.3 shall be guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine,

unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivision (c) or (d) of Section 11357.

(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.

(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine.

(f) Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.

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

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

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

SEC. 4.8. Section 11362.45 is added to the Health and Safety Code, to read:

11362.45. Nothing in Section 11362.1 shall be construed or interpreted to amend, repeal, affect, restrict, or preempt:

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

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

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

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

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

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

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

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

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

SEC. 5. Use of Marijuana for Medical Purposes.

SEC. 5.1. Section 11362.712 is added to the Health and Safety Code, to read:

11362.712. (a) Commencing on January 1, 2018, a qualified patient must possess a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code. Failure to comply with this requirement shall not, however, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.

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

SEC. 5.2. Section 11362.713 is added to the Health and Safety Code, to read:

11362.713. (a) Information identifying the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, received and contained in the records of the State Department of Public Health and by any county public health department are hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by the department or by any county public health department except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.

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

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

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

SEC. 5.3. Section 11362.755 of the Health and Safety Code is amended to read:

11362.755. (a) ~~The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number. Each county health department or the county's designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.~~

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

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

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

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

SEC. 5.4. Section 11362.84 is added to the Health and Safety Code, to read:

11362.84. *The status and conduct of a qualified patient who acts in accordance with the Compassionate Use Act shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding under the jurisdiction of family or juvenile court.*

SEC. 5.5. Section 11362.85 is added to the Health and Safety Code, to read:

11362.85. *Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify marijuana, the Legislature may amend or repeal the provisions of the Health and Safety Code, as necessary, to conform state law to such changes in federal law.*

SEC. 6. Marijuana Regulation and Safety.

SEC. 6.1. Division 10 (commencing with Section 26000) is added to the Business and Professions Code, to read:

DIVISION 10. MARIJUANA

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

26000. (a) *The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over.*

(b) *In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry under Chapter 3.5 (commencing with Section 19300) of Division 8 to include the power and duty to control and regulate the commercial nonmedical marijuana industry.*

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

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

(a) "Applicant" means the following:

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

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

(b) "Bureau" means the Bureau of Marijuana Control within the Department of Consumer Affairs.

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

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

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

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

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

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

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

(j) “Distribution” means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.

(k) “Fund” means the Marijuana Control Fund established pursuant to Section 26210.

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

(m) “License” means a state license issued under this division.

(n) “Licensee” means any person or entity holding a license under this division.

(o) “Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.

(p) “Local jurisdiction” means a city, county, or city and county.

(q) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

(r) “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.

(s) “Marijuana” has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.

(t) “Marijuana accessories” has the same meaning as in Section 11018.2 of the Health and Safety Code.

(u) “Marijuana products” has the same meaning as in Section 11018.1 of the Health and Safety Code, except that it does not include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.

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

(w) “Operation” means any act for which licensure is required under the provisions of this division, or any commercial transfer of marijuana or marijuana products.

(x) “Package” means any container or receptacle used for holding marijuana or marijuana products.

(y) “Person” includes any individual, firm, copartnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(z) “Purchaser” means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana or marijuana products.

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

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

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

(2) Registered with the State Department of Public Health.

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

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

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

CHAPTER 2. ADMINISTRATION

26010. (a) The Bureau of Medical Marijuana Regulation established in Section 19302 is hereby renamed the Bureau of Marijuana Control. The director shall administer and enforce the provisions of this division in addition to the provisions of Chapter 3.5 (commencing with Section 19300) of Division 8. The director shall have the same power and authority as provided by subdivisions (b) and (c) of Section 19302.1 for purposes of this division.

(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Regulation under Chapter 3.5 (commencing with Section 19300) of Division 8.

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

(d) Upon the effective date of this section, whenever “Bureau of Medical Marijuana Regulation” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

26011. Neither the chief of the bureau nor any member of the Marijuana Control Appeals Panel established under Section 26040 shall do any of the following:

(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division or Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) Engage or have any interest in the sale or any insurance covering a licensee’s business or premises.

(c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial marijuana activity.

(d) Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.

(e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

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

(1) The Department of Consumer Affairs shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of marijuana within the state.

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

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

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

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

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

(b) Licensing authorities may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under this division. Any emergency regulation prescribed, adopted or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing

with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance unreasonably impracticable.

26014. (a) The bureau shall convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial marijuana activity that does not impose such unreasonably impracticable barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for marijuana.

(b) The advisory committee members shall include, but not be limited to, representatives of the marijuana industry, representatives of labor organizations, appropriate state and local agencies, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

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

26015. A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this division.

26016. For any hearing held pursuant to this division, except a hearing held under Chapter 4 (commencing with Section 26040), a licensing authority may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

26017. In any hearing before a licensing authority pursuant to this division, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

26018. A licensing authority may on its own motion at any time before a penalty assessment is placed into effect, and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

CHAPTER 3. ENFORCEMENT

26030. Grounds for disciplinary action include:

- (a) Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.
- (b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.
- (c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.
- (d) Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.
- (e) Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.
- (f) Failure to comply with the requirement of a local ordinance regulating commercial marijuana activity.
- (g) The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.

26031. Each licensing authority may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

26032. Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial marijuana activity.

26033. Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.

26034. Accusations against licensees under this division shall be filed within the same time limits as specified in Section 19314 or as otherwise provided by law.

26035. The director shall designate the persons employed by the Department of Consumer Affairs for purposes of the administration and enforcement of this division. The director shall ensure that a sufficient number of employees are qualified peace officers for purposes of enforcing this division.

26036. Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the Fish and Game Code, the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, the Water Code, or the application of those laws.

26037. (a) The actions of a licensee, its employees, and its agents that are (1) permitted under a license issued under this division and any applicable local ordinances and (2) conducted in accordance with the requirements of this division and regulations adopted pursuant to this division, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction

under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

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

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

(b) If an action for civil penalties is brought against a licensee pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

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

CHAPTER 4. APPEALS

26040. (a) There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

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

(c) A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if 5 Members of the Senate, or 10 Members of the Assembly, join as authors.

26041. All personnel of the panel shall be appointed, employed, directed, and controlled by the panel consistent with state civil service requirements. The director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform

such other mechanics of administration as the panel and the director may agree upon.

26042. The panel shall adopt procedures for appeals similar to the procedures used in Article 3 (commencing with Section 23075) and Article 4 (commencing with Section 23080) of Chapter 1.5 of Division 9 of the Business and Professions Code. Such procedures shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

26043. (a) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division, the panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the bureau or the licensing authority.

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

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

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

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

26045. Orders of the panel shall be subject to judicial review under Section 1094.5 of the Code of Civil Procedure upon petition by the bureau or licensing authority or any party aggrieved by such order.

CHAPTER 5. LICENSING

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

- (1) Type 1—Cultivation; Specialty outdoor; Small.
- (2) Type 1A—Cultivation; Specialty indoor; Small.
- (3) Type 1B—Cultivation; Specialty mixed-light; Small.
- (4) Type 2—Cultivation; Outdoor; Small.
- (5) Type 2A—Cultivation; Indoor; Small.
- (6) Type 2B—Cultivation; Mixed-light; Small.
- (7) Type 3—Cultivation; Outdoor; Medium.

(8) Type 3A—Cultivation; Indoor; Medium.

(9) Type 3B—Cultivation; Mixed-light; Medium.

(10) Type 4—Cultivation; Nursery.

(11) Type 5—Cultivation; Outdoor; Large.

(12) Type 5A—Cultivation; Indoor; Large.

(13) Type 5B—Cultivation; Mixed-light; Large.

(14) Type 6—Manufacturer 1.

(15) Type 7—Manufacturer 2.

(16) Type 8—Testing.

(17) Type 10—Retailer.

(18) Type 11—Distributor.

(19) Type 12—Microbusiness.

(b) All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 (commencing with Section 19300) of Division 8. Examples of such a designation include, but are not limited to, "Type 1—Nonmedical," or "Type 1NM."

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

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

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

26051. (a) In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:

- (1) Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;
- (2) Perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;
- (3) Encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;
- (4) Result in an excessive concentration of licensees in a given city, county, or both;
- (5) Present an unreasonable risk of minors being exposed to marijuana or marijuana products; or
- (6) Result in violations of any environmental protection laws.

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

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

(1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in

the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.

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

26052. (a) No licensee shall perform any of the following acts, or permit any such acts to be performed by any employee, agent, or contractor of such licensee:

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

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

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

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

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

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

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

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

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

26053. (a) The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) Notwithstanding subdivision (a), a person or entity that holds a state testing license under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 is prohibited from licensure for any other activity, except testing, as authorized under this division.

(c) Except as provided in subdivision (b), a person or entity may apply for and be issued more than one license under this division.

26054. (a) A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 (commencing with Section 23000) or of tobacco products.

(b) No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

(c) It shall be lawful under state and local law, and shall not be a violation of state or local law, for a business engaged in the manufacture of marijuana accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such marijuana accessories, provided such marijuana and marijuana products are obtained from a person or entity licensed under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 permitted to provide or deliver such marijuana or marijuana products.

26054.1. (a) No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.

(b) Subdivision (a) shall cease to be operative on December 31, 2019, unless reenacted prior thereto by the Legislature.

26054.2. (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, or currently operates in compliance with Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) The bureau shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any applicable local laws. The bureau shall make the requested information available to licensing authorities.

(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence to demonstrate operation in compliance with the Compassionate Use Act or Chapter 3.5 (commencing with Section 19300) of Division 8. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

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

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

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within

California until the licensing authority reinstates or reissues the state license.

(c) Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.

(d) After issuance or transfer of a license, no licensee shall change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until prior written assent of the licensing authority or bureau has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(e) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

26056. An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in Section 19322 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:

(a) Notwithstanding paragraph (2) of subdivision (a) of Section 19322, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;

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

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

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) The inventory process.

(5) Quality control procedures.

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

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

individual square footage of separate cultivation areas, if any.

26056.5. The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), lake or streambed alteration agreements (Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code), the Clean Water Act (33 U.S.C. Sec. 1251 et seq.), the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.

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

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

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

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

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

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

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

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

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

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

furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8.

(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

(6) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial marijuana activities or commercial medical cannabis activities, has had a license revoked under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under Section 12025 or 12025.1 of the Fish and Game Code.

(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(9) Any other condition specified in law.

26058. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing.

26059. An applicant shall not be denied a state license if the denial is based solely on any of the following:

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

(b) A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.

CHAPTER 6. LICENSED CULTIVATION SITES

26060. (a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.

(b) Standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis shall apply to licensed cultivators under this division.

(c) The Department of Food and Agriculture shall include conditions in each license requested by the Department of Fish and Wildlife and the State Water Resources Control

Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

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

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

26061. (a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.

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

(c) Except as otherwise provided by law:

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

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

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

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

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

26062. The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 19332.5.

26063. (a) The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.

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

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

26064. Each licensed cultivator shall ensure that the licensed premises do not pose an unreasonable risk of fire or combustion. Each cultivator shall ensure that all lighting, wiring, electrical and mechanical devices, or other relevant property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.

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

26066. Indoor and outdoor marijuana cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the 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 marijuana cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

26067. (a) The Department of Food and Agriculture shall establish a Marijuana Cultivation Program to be administered by the Secretary of Food and Agriculture. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.

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

(c) (1) The department, in consultation with, but not limited to, the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for marijuana. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 7. RETAILERS AND DISTRIBUTORS

26070. Retailers and Distributors.

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

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

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

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

(b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent

unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:

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

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

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

26070.5. (a) The bureau shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

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

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

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

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

(1) Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;

(2) Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;

(3) Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;

(4) Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

(c) Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this

division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

CHAPTER 8. DISTRIBUTION AND TRANSPORT

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

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

CHAPTER 9. DELIVERY

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

(b) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

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

CHAPTER 10. MANUFACTURERS AND TESTING LABORATORIES

26100. The State Department of Public Health shall promulgate regulations governing the licensing of marijuana manufacturers and testing laboratories. Licenses to be issued are as follows:

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

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

(c) "Testing," for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the department. A testing licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.

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

26101. (a) Except as otherwise provided by law, no marijuana or marijuana products may be sold pursuant to a license provided for under this division unless a representative sample of such marijuana or marijuana

product has been tested by a certified testing service to determine:

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

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

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

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

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

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

(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(b) Residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set by the United States Pharmacopeia (U.S.P. Chapter 467).

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

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

26102. A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of Section 19343 or unless otherwise provided by law.

26103. A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 or unless otherwise provided by law.

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

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

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

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

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

26105. Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The State Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.

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

CHAPTER 11. QUALITY ASSURANCE, INSPECTION, AND TESTING

26110. (a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.

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

CHAPTER 12. PACKAGING AND LABELING

26120. (a) Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.

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

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

(1) Manufacture date and source.

(2) The following statements, in bold print:

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

TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

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

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

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

(5) The appellation of origin, if any.

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

(7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in Section 101.9 of Title 21 of the Code of Federal Regulations.

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

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

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

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

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

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

CHAPTER 13. MARIJUANA PRODUCTS

26130. (a) Marijuana products shall be:

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

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

(3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.

(4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(5) Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, for preparation, storage, handling and sale of food products.

(6) Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.

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

CHAPTER 14. PROTECTION OF MINORS

26140. (a) No licensee shall:

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

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

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

(4) Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish marijuana to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (a), a licensee that is also a dispensary licensed under Chapter 3.5 (commencing with Section 19300) of Division 8 may:

(1) Allow on the premises any person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card;

(2) Sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

CHAPTER 15. ADVERTISING AND MARKETING RESTRICTIONS

26150. For purposes of this chapter:

(a) “Advertise” means the publication or dissemination of an advertisement.

(b) “Advertisement” includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television

broadcast, or in any other media; except that such term shall not include:

(1) Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.

(2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

(c) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot.

(d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.

(e) "Market" or "Marketing" means any act or process of promoting or selling marijuana or marijuana products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

26151. (a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.

(b) Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(d) All advertising shall be truthful and appropriately substantiated.

26152. No licensee shall:

(a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression;

(b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;

(c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label

of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;

(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or State Highway which crosses the border of any other state;

(e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;

(f) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption; or

(g) Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

26153. No licensee shall give away any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

26154. No licensee shall publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

26155. (a) The provisions of subdivision (g) of Section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products.

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

CHAPTER 16. RECORDS

26160. (a) A licensee shall keep accurate records of commercial marijuana activity.

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

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

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

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

(f) If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation

and fine of up to thirty thousand dollars (\$30,000) per individual violation.

26161. (a) Every sale or transport of marijuana or marijuana products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the bureau or Board of Equalization and shall not be commingled with invoices covering other commodities.

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

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

CHAPTER 17. TRACK AND TRACE SYSTEM

26170. (a) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the track and trace program provided for under Article 7.5 (commencing with Section 19335) of Chapter 3.5 of Division 8 to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

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

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

updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

CHAPTER 18. LICENSE FEES

26180. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26170, but shall not exceed the reasonable regulatory costs to the licensing authority.

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

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

26181. The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their marijuana regulatory programs.

CHAPTER 19. ANNUAL REPORTS; PERFORMANCE AUDIT

26190. Beginning on March 1, 2020, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities concerning commercial marijuana activities and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the same type of information specified in Section 19353, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.

26191. (a) Commencing January 1, 2019, and by January 1 of each year thereafter, the California State Auditor's Office shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

- (1) The actual costs of the program.
- (2) The overall effectiveness of enforcement programs.
- (3) Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(b) The Legislature shall provide sufficient funds to the California State Auditor's Office to conduct the annual audit required by this section.

CHAPTER 20. LOCAL CONTROL

26200. (a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

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

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 10 days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under Chapter 3 (commencing with Section 26030) to determine whether a license issued to the licensee should be suspended or revoked.

(d) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if:

- (1) Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older;
- (2) Marijuana consumption is not visible from any public place or non-age restricted area; and
- (3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

26201. Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

26202. (a) A local jurisdiction may enforce this division and the regulations promulgated by the bureau or any licensing authority if delegated the power to do so by the bureau or a licensing authority.

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

CHAPTER 21. FUNDING

26210. (a) The Medical Cannabis Regulation and Safety Act Fund established in Section 19351 is hereby renamed the Marijuana Control Fund.

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

26211. (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the Board of Equalization under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

(1) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the Board of Equalization, as necessary, to implement the provisions of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

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

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

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

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Marijuana Control Fund to support the activities of the bureau, state licensing authorities under this division, and the Board of Equalization to support its activities under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

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

SEC. 6.2. Section 147.6 is added to the Labor Code, to read:

147.6. (a) By March 1, 2018, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code, including but not limited to, whether specific requirements are needed to address exposure to second-hand marijuana smoke by employees at facilities where on-site consumption

of marijuana is permitted under subdivision (d) of Section 26200 of the Business and Professions Code, and whether specific requirements are needed to address the potential risks of combustion, inhalation, armed robberies or repetitive strain injuries.

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

SEC. 6.3. Section 13276 of the Water Code is amended to read:

13276. (a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.

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

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

SEC. 7. Marijuana Tax.

SEC. 7.1. Part 14.5 (commencing with Section 34010) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 14.5. MARIJUANA TAX

34010. For purposes of this part:

- (a) "Board" shall mean the Board of Equalization or its successor agency.
- (b) "Bureau" shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.
- (c) "Tax Fund" means the California Marijuana Tax Fund created by Section 34018.

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

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

(f) "Marijuana flowers" shall mean the dried flowers of the marijuana plant as defined by the board.

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

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

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

(j) "Person" shall have the same meaning as set forth in Section 6005.

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

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

34011. (a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of 15 percent of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.

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

(c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.

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

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

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

(g) The sales and use tax imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code. The tax shall be due after the marijuana is harvested.

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

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

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

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

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

(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or under Division 10 (commencing with Section 26000) of the Business and Professions Code.

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

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.

(h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part.

(i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

34013. (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

(d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

(e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

34014. (a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code without a permit or after a permit has been canceled,

suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

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

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

34015. (a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to subdivision (d) of Section 34012 the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

34016. (a) Any peace officer or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

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

(b) Any person who fails or refuses to allow an inspection shall be guilty of a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.

(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

(f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.

34017. The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019.

34018. (a) The California Marijuana Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

(b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.

(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of

subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

34019. (a) Beginning with fiscal year 2017–2018 the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

(2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022–2023.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 (commencing with Section 19300) of Division 8 and Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018–2019 until fiscal year 2028–2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their

findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.

(3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.

(4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.

(5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

(10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018–2019 until fiscal year 2022–2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and

adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018–2019 and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until fiscal year 2022–2023, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in fiscal year 2018–2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster

care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.

(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I) Construction of community-based youth treatment facilities.

(J) The departments may contract with each county behavioral health program for the provision of services.

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated

assessments or submitted reports prepared by the applicable county to demonstrate and validate need.

(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M) The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.

(N) If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual

General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3) Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022–2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022–2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027–2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

34020. *The Controller shall periodically audit the Tax Fund to ensure that those funds are used and accounted for in a manner consistent with this part and as otherwise required by law.*

34021. *The taxes imposed by this part shall be in addition to any other tax imposed by a city, county, or city and county.*

34021.5. (a) (1) *A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code.*

(2) *The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.*

(3) *In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.*

(4) *The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.*

(b) *A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.*

(c) *This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.*

(d) *This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.*

SEC. 8. Criminal Offenses, Records, and Resentencing.

SEC. 8.1. Section 11357 of the Health and Safety Code is amended to read:

11357. *Possession.* (a) ~~Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior~~

~~convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.~~

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

(1) ~~Persons under the age of 18 shall be guilty of an infraction and shall be required to:~~

(A) ~~Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.~~

(B) ~~Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.~~

(2) ~~Persons at least 18 years of age but less than 21 years of age shall be guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).~~

(e) (b) ~~Except as authorized by law, every person who possesses possession of more than 28.5 grams of marijuana, or more than four grams of other than concentrated cannabis, shall be punished as follows:~~

(1) ~~Persons under the age of 18 who possess more than 28.5 grams of marijuana or more than four grams of concentrated cannabis, or both, shall be guilty of an infraction and shall be required to:~~

(A) ~~Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.~~

(B) ~~Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.~~

(2) ~~Persons 18 years of age or over who possess more than 28.5 grams of marijuana, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.~~

(d) (c) ~~Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, or not more than four grams of other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by a as follows:~~

(1) ~~A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.~~

(2) ~~A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.~~

(e) (d) ~~Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of~~

marijuana, or not more than four grams of other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor or an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b), subject to the following dispositions:

(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars (\$500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

SEC. 8.2. Section 11358 of the Health and Safety Code is amended to read:

11358. *Planting, Harvesting, or Processing.*

Every person who plants, cultivates, harvests, dries, or processes any marijuana plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who plants, cultivates, harvests, dries, or processes any marijuana plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living marijuana plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

(c) Every person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants, or any part thereof, except as otherwise provided by law, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (c); or

(3) The offense resulted in any of the following:

(A) Violation of Section 1052 of the Water Code relating to illegal diversion of water;

(B) Violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of waste;

(C) Violation of Fish and Game Code Section 5650 or Section 5652 of the Fish and Game Code relating to waters of the state;

(D) Violation of Section 1602 of the Fish and Game Code relating to rivers, streams and lakes;

(E) Violation of Section 374.8 of the Penal Code relating to hazardous substances or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste;

(F) Violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act; or

(G) Intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

SEC. 8.3. Section 11359 of the Health and Safety Code is amended to read:

11359. *Possession for Sale.*

Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who possesses marijuana for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person 18 years of age or over who possesses marijuana for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (b); or

(3) The offense occurred in connection with the knowing sale or attempted sale of marijuana to a person under the age of 18 years.

(d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any marijuana.

SEC. 8.4. Section 11360 of the Health and Safety Code is amended to read:

11360. *Unlawful Transportation, Importation, Sale, or Gift.*

(a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished as follows:

(1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.

(2) *Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.*

(3) *Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three or four years if:*

(A) *The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;*

(B) *The person has two or more prior convictions under paragraph (2);*

(C) *The offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer or give away marijuana to a person under the age of 18 years; or*

(D) *The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of marijuana or more than four grams of concentrated cannabis.*

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an ~~infraction~~ ~~misdemeanor~~ and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, "transport" means to transport for sale.

(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

SEC. 8.5. Section 11361.1 is added to the Health and Safety Code, to read:

11361.1. (a) The drug education and counseling requirements under Sections 11357, 11358, 11359, and 11360 shall be:

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

(2) Free to participants, and the drug education provides at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.

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

SEC. 8.6. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. Destruction of Arrest and Conviction Records; Procedure; Exceptions.

(a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of subdivision (b), (c), (d), or (e) of Section 11357 or subdivision (b) of Section 11360, or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (e) (d) of Section 11357, or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records, including the statewide criminal databases, shall provide for the timely destruction of the records in accordance with subdivision (c), and such records must also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall begin to run from the date the person is released from custody. The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be

accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars (\$10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more

than two years have elapsed from the date of the conviction or arrest without conviction.

SEC. 8.7. Section 11361.8 is added to the Health and Safety Code, to read:

11361.8. (a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.

(2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.

(c) A person who is serving a sentence and is resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Section 3000.08 of the Penal Code or post-release community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.

(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

(e) A person who has completed his or her sentence for a conviction under Sections 11357, 11358, 11359, and 11360, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358,

11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.

(g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).

(h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.

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

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

(k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) A resentencing hearing ordered under the Control, Regulate and Tax Adult Use of Marijuana Act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).

(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.

(n) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

SEC. 9. Industrial Hemp.

SEC. 9.1. Section 11018.5 of the Health and Safety Code is amended to read:

11018.5. *Industrial Hemp.*

(a) "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to nonpsychoactive types of the plant *Cannabis sativa* L. and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, the resin extracted from any part of the plant; and or any other every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or mature

stalks, except the resin or flowering tops extracted produced therefrom, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination.

(b) The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of industrial hemp shall not be subject to the provisions of this division or of Division 10 (commencing with Section 26000) of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.

SEC. 9.2. Section 81000 of the Food and Agricultural Code is amended to read:

81000. *Definitions.*

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

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

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

(c) "Established agricultural research institution" means a public or private institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; any institution that is either:

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

(2) An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research.

(d) "Industrial hemp" has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.

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

(f) "Seed breeder" means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.

(g) "Seed cultivar" means a variety of industrial hemp.

(h) "Seed development plan" means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

SEC. 9.3. Section 81006 of the Food and Agricultural Code is amended to read:

81006. *Industrial Hemp Growth Limitations; Prohibitions; Imports; Laboratory Testing.*

(a) (1) Except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than five acres one-tenth of an acre at the same time and no portion of an

acreage of industrial hemp shall include plots of less than one contiguous acre.

(2) Registered seed breeders, for purposes of seed production, shall only grow industrial hemp as a densely planted crop in acreages of not less than *one-tenth of an acre* at the same time and ~~no portion of the acreage of industrial hemp shall include plots of less than one contiguous acre.~~

(3) Registered seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp as densely as possible in dedicated acreage of not less than *one-tenth of an acre* and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.

(b) Ornamental and clandestine cultivation of industrial hemp is prohibited. All plots shall have adequate signage indicating they are industrial hemp.

(c) Pruning and tending of individual industrial hemp plants is prohibited, except when grown by an established agricultural research institution or when the action is necessary to perform the tetrahydrocannabinol (THC) testing described in this section.

(d) Culling of industrial hemp is prohibited, except when grown by an established agricultural research institution, when the action is necessary to perform the THC testing described in this section, or for purposes of seed production and development by a registered seed breeder.

(e) Industrial hemp shall include products imported under the Harmonized Tariff Schedule of the United States (2013) of the United States International Trade Commission, including, but not limited to, hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.

(f) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, before the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.

(1) Sampling shall occur as soon as practicable when the THC content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin to mature, when the first seeds of approximately 50 percent of the plants are resistant to compression.

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

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

(A) The registrant's proof of registration.

(B) Seed certification documentation for the seed cultivar used.

(C) The THC testing report for each certified seed cultivar used.

(4) The laboratory test report shall be issued by a laboratory registered with the federal Drug Enforcement Administration, shall state the percentage content of THC,

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

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

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

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

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

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

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

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

consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

SEC. 9.4. Section 81007 of the Food and Agricultural Code is repealed.

~~81007. (a) Except as provided in subdivision (b) or as necessary to perform testing pursuant to subdivision (f) of Section 81006, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant is prohibited.~~

~~(b) The presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not constitute possession of marijuana.~~

SEC. 9.5. Section 81008 of the Food and Agricultural Code is amended to read:

81008. *Attorney General Reports; Requirements.*

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

(1) A field of industrial hemp being used to disguise marijuana cultivation.

(2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.

SEC. 9.6. Section 81010 of the Food and Agricultural Code is amended to read:

81010. *Operation of Division.*

(a) This division, ~~and Section 221 shall not become operative unless authorized under federal law on January 1, 2017.~~

(b) The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 (commencing with Section 26000) of the Business and Professions Code.

SEC. 10. Amendment.

This act shall be broadly construed to accomplish its purposes and intent as stated in Section 3. The Legislature may by majority vote amend the provisions of this act contained in Sections 5 to 5.5, inclusive, and Sections 6 to 6.3, inclusive, to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this act as stated in Section 3. Amendments to this act that enact protections for employees and other workers of licensees under Sections 6 to 6.3, inclusive, of this act

that are in addition to the protections provided for in this act or that otherwise expand the legal rights of such employees or workers of licensees under Sections 6 to 6.3, inclusive, of this act shall be deemed to be consistent with and further the purposes and intent of this act. The Legislature may by majority vote amend, add, or repeal any provisions to further reduce the penalties for any of the offenses addressed by this act. Except as otherwise provided, the provisions of the act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the act.

SEC. 11. Construction and Interpretation.

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

SEC. 12. Severability.

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

SEC. 13. Conflicting Initiatives.

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

PROPOSITION 65

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Public Resources Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known and may be cited as the Environmental Fee Protection Act.

SEC. 2. Findings and Declarations.

The people of the State of California find and declare as follows:

(a) In 2014, the California State Legislature enacted a ban on plastic carryout bags after lobbying by special interests including the California Grocers Association.

(b) The law further mandated that stores sell every paper or reusable carryout bag they provide to consumers for a minimum of 10 cents. Stores can charge even more if they so choose, and the grocers and retailers are specifically

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EXHIBIT B

Assembly Bill No. 195

CHAPTER 56

An act to amend Sections 26038, 26051.5, 26067, 26068, and 26090 of, and to add and repeal Section 26203 of, the Business and Professions Code, to amend Sections 5650, 5650.1, and 13103 of the Fish and Game Code, to amend Section 11552 of the Government Code, to amend Sections 6479.3, 34010, 34011, 34012, 34012.5, 34013, 34014, and 34019 of, to amend, repeal, and add Section 34015 of, to add Sections 6369.6, 34011.01, 34011.1, 34011.2, 34012.3, 34014.1, 34015.1, 34015.2, 34019.01, and 34020.1 to, and to add and repeal Sections 17053.64, 17053.82, 23664, 23682, and 34019.1 of, the Revenue and Taxation Code, and to amend Section 1052 of the Water Code, relating to cannabis, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 30, 2022. Filed with Secretary of State June 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 195, Committee on Budget, Cannabis.

(1) The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA establishes the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency to administer the act, and requires the department to be under the supervision and control of a director.

Existing law specifies the annual compensation for various directors of state departments and agencies, including the Director of Transportation and the Director of Fish and Wildlife.

This bill would require the annual compensation for the Director of Cannabis Control to be consistent with the directors described above.

(2) Chapter 70 of the Statutes of 2021 established the Department of Cannabis Control and transferred to this department, except as specified, the powers, duties, purposes, functions, responsibilities, and jurisdiction under MAUCRSA of the former Bureau of Cannabis Control in the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health which are collectively referred to as licensing authorities.

MAUCRSA authorizes the Department of Cannabis Control to issue state licenses only to qualified applicants. MAUCRSA requires, among other things, that each licensee electronically submit to the Department of Justice fingerprint images and related information for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and state and federal arrests. Existing law, until July 1, 2022, authorizes employees of a licensing authority, acting on behalf of the Department of Cannabis Control, to receive criminal history information for these purposes.

This bill would allow employees of a licensing authority, acting on behalf of the Department of Cannabis Control, to receive criminal history information for the purposes described above until July 1, 2023.

MAUCRSA requires an applicant for a state license, with 20 or more employees, to provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

This bill, beginning July 1, 2024, would instead require an applicant for a state license with 10 or more employees to provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

This bill would specify that compliance with the terms of an applicable labor peace agreement is a condition of licensure, and would authorize the Department of Cannabis Control to suspend, revoke, place on probation with terms and conditions, or otherwise discipline the license and fine the licensee, if the department determines the licensee has not complied with these provisions, as provided. The bill would authorize any labor organization, as defined, or any current or former employee of the relevant licensee, to file a complaint with the Agricultural Labor Relations Board that an organization with which a licensee has entered into a labor peace agreement is not a bona fide labor organization, and would establish procedures for the board's review of that complaint.

(3) MAUCRSA authorizes local jurisdictions to enforce its provisions and to regulate cannabis businesses, as specified.

This bill, until January 1, 2025, would establish a task force on state and local regulation of commercial cannabis activity to promote communication between state and local entities engaged in the regulation of commercial cannabis activity and facilitate cooperation to enforce applicable state and local laws, consisting of specified members from state agencies and all local jurisdictions regulating commercial cannabis activity that opt to participate. The bill would exempt meetings of the task force from the Bagley-Keene Open Meeting Act and the Brown Act.

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

This bill would make legislative findings to that effect.

(4) MAUCRSA imposes civil penalties on a person who aids and abets unlicensed commercial cannabis activity, as specified.

Existing law makes it a crime for a person who has management or control of a building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, to knowingly rent, lease, or make available for use, with or without compensation, the building, room, space, or enclosure, for the purpose of unlawfully manufacturing, storing, or distributing a controlled substance for sale or distribution

This bill would amend AUMA by imposing a civil penalty of up to \$10,000 per violation against a person who has management or control of a commercial property or a commercial building, room, space, or enclosure and knowingly rents, leases, or makes it available for the unlicensed cultivation, manufacture, storage, sale, or distribution of cannabis. The bill would make each day the violation continues a separate violation for this purpose. The bill would require an action for these civil penalties to be brought exclusively by the Attorney General on behalf of the people, on behalf of the department, or on behalf of the participating agency, or by a city or county counsel or city prosecutor.

Existing law requires that deliveries, as defined, of cannabis or cannabis products only be made by a licensed retailer or microbusiness or a licensed nonprofit, and sets forth the procedure for delivery.

Existing law requires the department to establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain and requires the program to capture certain information. Existing law requires the program to include an electronic seed to sale software tracking system with data points for the different stages of commercial activity.

This bill would also require the department to incorporate delivery into the track and trace program by January 1, 2023, and would authorize the department to adopt and readopt emergency regulations to implement that requirement, as specified. The bill, after the department incorporates delivery into the track and trace program, as specified, would require the program to capture the date of retail sale to a customer, whether the sale is on the retail premises or by delivery, and information, as determined by those emergency regulations, relating to cannabis or cannabis products leaving the licensed premises in a delivery vehicle, and would require a licensed retailer, before cannabis or a cannabis product leaves the licensed premises in a delivery vehicle, to enter into the track and trace system all information required by the department.

(5) Existing law makes it unlawful to deposit, permit to pass, or place where it can pass, specified pollutants into the waters of this state, including any substance or material deleterious to fish, plant life, mammals, or bird life. A violation of this provision is a crime under the Fish and Game Code. Existing law also subjects a violation of that provision to a civil penalty of no more than \$25,000 for each violation and an additional civil penalty of no more than \$10 for each gallon or pound of material discharged, and requires the civil action to be brought by the Attorney General upon

complaint by the Department of Fish and Wildlife or by the district attorney or city attorney in the name of the people of the State of California. Existing law provides that a specified affirmative defense to a violation of the criminal provision does not apply to an action for civil penalties or injunctive relief pursuant to that civil provision.

This bill would provide that the specified affirmative defense to a violation of the criminal provision also does not apply in any other civil action that alleges a violation resulting from unlicensed cannabis cultivation. The bill would delete the requirement that the Attorney General only bring that civil action upon complaint by the department and would authorize, for a violation resulting from unlicensed cannabis cultivation, the civil action to be brought by a county counsel in the name of the people of the State of California.

Existing law generally requires $\frac{1}{2}$ of all fines and forfeitures imposed or collected in any court of this state for violations of the Fish and Game Code or any other law providing for the protection or preservation of birds, mammals, fish, reptiles, or amphibians to be deposited in the county treasury of the county in which the violation was committed. Existing law requires those funds and other specified funds to be deposited in a county fish and wildlife propagation fund and authorizes the county board of supervisors to expend those funds for specified purposes.

This bill would additionally authorize expenditures from the fish and wildlife propagation fund of a county for costs incurred by a county counsel in investigating and prosecuting specified civil actions for violations resulting from unlicensed cannabis cultivation.

(6) Under existing law, the diversion or use of water other than as authorized by specified provisions of law is a trespass, subject to specified civil liability and injunctive relief imposed in the superior court in actions brought by the Attorney General upon request of the State Water Resources Control Board. Existing law requires funds recovered pursuant to that provision to be deposited in the Water Rights Fund, which is available upon appropriation by the Legislature for specified purposes. Existing law imposes fines of \$1,000 for each day a trespass occurs and \$2,500 for each acre-foot of water diverted or used in excess of the diverter's water rights.

This bill would authorize, for a violation resulting from unlicensed cannabis cultivation, the civil action to be brought by a county counsel or city attorney, upon approval of the board, in the name of the people of the State of California. The bill would delete the requirement that the Attorney General only bring the civil action upon request of the board. The bill would require funds recovered pursuant to that provision, upon appropriation by the Legislature, to be used to proportionally reimburse the Attorney General, city attorney, county counsel, and the board for costs of bringing the action, including reasonable attorney's fees, for investigating the violation and supporting the prosecution of the action. The bill would impose a penalty of \$3,500 per day for the unauthorized diversion or use for unlicensed cannabis activity in lieu of the current fines.

(7) AUMA, as additionally amended by statute, imposes a weight-based cultivation tax on harvested cannabis that enters the commercial market and

a separate excise tax on purchasers of cannabis or cannabis products sold in this state at the rate of 15% of the average market price of any retail sale by a cannabis retailer, as specified. Existing law defines average market price in an arm's length transaction to mean the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the California Department of Tax and Fee Administration (CDTFA) on a biannual basis in 6-month intervals. Existing law requires the distributor to collect the excise tax from the cannabis retailer and to remit the tax to CDTFA. Existing law requires revenues from the cultivation and excise taxes to be deposited into the California Cannabis Tax Fund, and continuously appropriates that tax fund for specified purposes.

This bill, beginning on January 1, 2023, would discontinue the imposition of the cultivation tax. The bill, beginning on January 1, 2023, would impose the cannabis excise tax on purchasers of cannabis or cannabis products sold in this state at the rate of 15% of the gross receipts of any retail sale by a cannabis retailer. The bill, for the 2025–26 fiscal year and every 2 years thereafter, would require CDTFA, in consultation with the Department of Finance, on or before May 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the cannabis excise tax rate by a percentage that will generate an amount of revenue that would have been collected pursuant to the cultivation tax imposed prior to its discontinuation under this bill, as specified, except that the bill would prohibit the cannabis tax rate from exceeding 19% of the gross receipts of retail sale.

(8) AUMA, as additionally amended by statute, establishes the California Cannabis Tax Fund as a continuously appropriated fund consisting of specified taxes, interest, penalties, and other amounts related to commercial cannabis activity. Each fiscal year, AUMA requires the Controller to make, as specified, disbursements from the fund for various purposes, including, among others, administering programs related to community reinvestment, youth education, prevention, early intervention, and treatment, environmental restoration and protection, and public health and safety. AUMA prohibits the Legislature, prior to July 1, 2028, from changing the allocations to those programs. Before making those disbursements, AUMA requires the Controller to disburse funds to various state entities, including, among others, the CDTFA, the Department of Cannabis Control, and the Controller, for reasonable costs in carrying out their duties under AUMA.

This bill would prohibit the Controller from making specified disbursements to certain state entities for the 2022–23 and 2023–24 fiscal years. The bill, for the 2021–22, 2022–23, 2023–24, and 2024–25 fiscal years, would require the Controller, after making specified disbursements, to disburse funds in an amount not to exceed the 2020–21 fiscal year baseline, as defined, into sub-trust accounts for administering those programs related to community reinvestment, youth education, prevention, early intervention, and treatment, environmental restoration and protection, and public health and safety. The bill would require any amount of funds that exceeds the 2020–21 fiscal year baseline to remain in the tax fund and to be disbursed

according to a specified schedule to enable funds disbursed to the sub-trust accounts for the 2022–23, 2023–24, and 2024–25 fiscal years to be equal to the 2020–21 fiscal year baseline. The bill would require, on or before January 1, 2026, any remaining moneys in the tax fund retained pursuant to these provisions and any interest derived to be disbursed to the sub-trust accounts, as specified. The bill would appropriate \$10,000 in the 2022–23 fiscal year, and \$150,000,000 in the 2023–24 fiscal year, from the General Fund, and require the Controller, pursuant to a specified schedule, to transfer amounts of those moneys that would enable funds disbursed to the sub-trust accounts for the 2022–23 and 2023–24 fiscal years to be equal to the 2020–21 fiscal year baseline.

(9) MAUCRSA requires the Department of Cannabis Control to administer a grant program to assist with the development of a local jurisdiction’s local equity program or to assist applicants and licensees in a local jurisdiction’s equity program, and authorizes the department to provide technical assistance to the local equity program. MAUCRSA defines local equity program for these purposes to mean a program adopted or operated by a local jurisdiction that focuses on inclusion and support of individuals and communities in California’s cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization. MAUCRSA required the department, on or before January 1, 2022, to develop and implement a program to provide a waiver for an application fee, a licensing fee, or a renewal fee for a needs-based applicant or needs-based licensee, as specified. Existing law made the operation of those provisions contingent upon an appropriation in the annual Budget Act or another statute for purposes of those provisions.

This bill, until December 31, 2025, would authorize a licensed cannabis retailer that has received approval from the department for a fee waiver for an application fee, a licensing fee, or a renewal fee, as specified, to retain a vender compensation in an amount equal to 20 percent of the cannabis excise tax the licensee would otherwise be required to remit, if certain conditions are met.

(10) Existing law requires the distributor to collect the cannabis excise tax from the cannabis retailer and to remit the tax to CDTFE. Under existing law, the cultivation tax and the cannabis excise tax collected by a distributor or a manufacturer and any amount unreturned to the cultivator or retailer that is not tax, but was collected under the representation by the distributor or manufacturer that it was tax, constitute debts owed by the distributor or manufacturer to this state. Existing law deems any tax collected from a cultivator or retailer that has not been remitted to CDTFE a debt owed to this state by the person required to collect and remit the tax. Existing law requires a distributor to obtain a permit from CDTFE and provides that any person required to obtain a permit and who engages in business as a distributor without a valid permit is guilty of a misdemeanor.

This bill, beginning on January 1, 2023, would revise and recast the provisions relating to the administration of the cannabis cultivation and

cannabis excise taxes. The bill, among other things, would remove the requirement that the distributor collect the cannabis excise tax from the cannabis retailer, and would instead require the cannabis retailer to collect the cannabis excise tax from the purchaser and to remit the cannabis excise tax to CDTFA quarterly. The bill would deem any tax collected by the cannabis retailer, and any amount unreturned to the purchaser that is not tax, to constitute a debt owed to this state by the cannabis retailer, as provided. The bill would authorize CDTFA to require a cannabis retailer to file specified reports with CDTFA with respect to the person's inventory, purchases, and sales for purpose of administration of the cannabis excise tax, and would authorize CDTFA to examine books and records for these purposes. The bill would require a cannabis retailer to obtain a permit from CDTFA, and would provide that any person required to obtain a permit and who engages in business as a cannabis retailer without a valid permit is guilty of a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

This bill would provide that an unlicensed person who is required to be licensed under MAUCRSA and who possesses, keeps, stores, or retains for the purpose of sale, or sells or offers to sell any cannabis or cannabis products, is liable for the cannabis cultivation and cannabis excise taxes as if they were the cultivator or purchaser, as specified. The bill would impose an additional penalty in an amount equal to 25% of the amount of tax or \$500, whichever is greater. The bill would establish a procedure for relief from the penalty, including a signed statement from the person, and would provide that any person who asserts the truth of any material matter that they know to be false in relation to these provisions is guilty of a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

(11) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

Existing federal law imposes an income tax upon every corporation, except as specified, and prohibits the allowance of a deduction or credit for any amount paid or incurred during the taxable year in carrying on any trade or business consisting of trafficking in controlled substances, including cannabis.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2023, until January 1, 2028, to a qualified taxpayer, defined to mean a licensed commercial cannabis business that meets specified criteria, in an amount equal to 25% of the total amount of the qualified taxpayer's qualified expenditures, as defined, in the taxable year not to exceed \$250,000 per taxable year, as specified. The bill would cap the aggregate amount of the credit allowed, over all taxable years, at \$20,000,000.

This bill would allow an additional credit against those taxes for each taxable year beginning on or after January 1, 2023, and before January 1, 2028, to a cannabis equity licensee that received approval for a specified fee waiver and deferral program administered by the Department of Cannabis

Control, in an amount equal to \$10,000. The bill would cap the aggregate amount of the credit allowed, over all taxable years, at \$20,000,000.

Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill would include additional information required for any bill authorizing a new tax expenditure.

(12) Under the Sales and Use Tax Law, a person whose estimated tax liability under the law averages \$10,000 or more per month is required to remit amounts due by an electronic funds transfer, as specified. That law imposes a penalty on a person who remits those taxes by means other than appropriate electronic funds transfer. That law authorizes, until January 1, 2022, a person licensed to engage in commercial cannabis activity to remit amounts due by a means other than electronic funds transfer, if the CDTFA deems it necessary to facilitate collection of amounts due.

This bill would extend that authorization indefinitely, and would provide that a person licensed to engage in commercial cannabis activity who failed to remit amounts due by means of electronic funds transfer on and after January 1, 2022, and before January 1, 2023, is not subject to or is relieved of any penalties imposed for failure to pay by electronic funds transfer.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

(14) AUMA authorizes legislative amendment of its provisions with a $\frac{2}{3}$ vote of both houses, without submission to the voters, to further its purposes and intent.

This bill would declare that its provisions further the purposes and intent of AUMA.

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

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) It is imperative that the cannabis supply chain be taxed and regulated in a way that drives out the illicit market, as intended by the voters in enacting the Control, Regulate and Tax Adult Use of Marijuana Act. The current cannabis tax structure, contrary to the voters' intent, has pushed producers and consumers into the unlicensed market and prevented the expansion of the licensed market, allowing the illicit market to persist. Changes to the existing cannabis tax structure are therefore necessary to further the purposes and intent of the Control, Regulate and Tax Adult Use

of Marijuana Act by reducing barriers to entry into the legal, regulated cannabis market and combating the illicit market.

(b) It is also imperative that the cannabis supply chain be taxed in a way that generates hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, education, prevention, and treatment of youth substance use disorders, community investment, and public safety-related activities, as intended by the voters in enacting the Control, Regulate and Tax Adult Use of Marijuana Act.

(c) The purpose of the amendments to the cannabis cultivation and excise taxes by this act is to achieve these goals by simplifying the state’s cannabis tax structure. By consolidating the state’s cannabis taxes into a single excise tax imposed at the point of retail sale, the state can tax the entire cannabis supply chain—from cultivation to sale—in a manner that is more efficient and transparent, thereby lowering barriers to entry into the legal, regulated cannabis market.

(d) By combating the illicit market and encouraging consumers and businesses to enter into the legal, regulated cannabis market, these changes may increase the state’s cannabis tax revenue while reducing unnecessary burdens imposed on the state’s legal cannabis businesses. The transition to a new cannabis tax structure may be accompanied by short-term volatility, even if that transition is successful in the long term. During this transitional period, the recipients identified in subdivision (b)—programs for restoring and repairing the environment, youth education, treatment, and substance use prevention, community investment, and public safety—may require support from the state and its general fund to provide a more predictable revenue stream.

(e) Therefore, the purpose of the amendments to the cannabis cultivation and excise taxes by this act is to tax the cannabis supply chain in a way that reduces barriers to entry into the legal market and drives out the illicit market, while providing transitional stabilization and support to existing recipients of cannabis tax revenues.

SEC. 2. Section 26038 of the Business and Professions Code is amended to read:

26038. (a) (1) A person engaging in commercial cannabis activity without a license as required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation. Each day of operation shall constitute a separate violation of this section.

(2) A person aiding and abetting unlicensed commercial cannabis activity shall be subject to civil penalties of up to three times the amount of the license fee for each violation, but in no case shall the penalty exceed thirty thousand dollars (\$30,000) for each violation. Each day of operation of unlicensed commercial cannabis activity that a person is found to have aided and abetted shall constitute a separate violation of this section.

(3) A person who has management or control of a commercial property, or a commercial building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly rents, leases, or makes available for use, with or without compensation, the commercial

property, building, room, space, or enclosure for the purpose of the unlicensed commercial cultivation, manufacture, storage, sale, or distribution of cannabis shall be subject to civil penalties of up to ten thousand dollars (\$10,000) for each violation. Each day of violation shall constitute a separate violation of this section.

(4) In assessing a penalty, a court shall give due consideration to the appropriateness of the amount of the civil penalty with respect to factors the court determines to be relevant, including the following:

(A) The gravity of the violation by the licensee or person.

(B) The good faith of the licensee or person.

(C) The licensee's or person's history of previous violations.

(D) Whether, and to what extent, the licensee or person profited from the unlicensed cannabis activity.

(5) Cannabis associated with a violation described in this subdivision may be destroyed in accordance with Section 11479 of the Health and Safety Code. The person in violation shall be responsible for the cost of the destruction of cannabis associated with their violation.

(b) An action for civil penalties brought against a person pursuant to this division shall not be commenced unless the action is filed within three years from the date of the violation.

(c) All civil penalties imposed and collected pursuant to this section by a court shall be deposited into the General Fund except as provided in subdivision (e).

(d) For the purposes of this section, in order to prove that a person aided and abetted an unlicensed cannabis activity all of the following must be demonstrated:

(1) The person was an owner, officer, controlling shareholder, or in a similar position of authority allowing them to make command or control decisions regarding the operations and management of the unlicensed cannabis activity or the property in which the activity is taking place.

(2) The person had actual knowledge that the cannabis activity was unlicensed and that the cannabis activity required a license.

(3) The person provided substantial assistance or encouragement to the unlicensed cannabis activity.

(4) The person's conduct was a substantial factor in furthering the unlicensed cannabis activity.

(e) (1) If an action for civil penalties is brought against a person pursuant to this division by the Attorney General on behalf of the people or on behalf of the department or a participating agency, the penalty shall first be used to reimburse the Attorney General and the department or the participating agency for the costs of investigating and prosecuting the action, including expert fees and reasonable attorney's fees, with the remainder, if any, to be deposited into the General Fund.

(2) If the action is brought by a county counsel, the penalty shall first be used to reimburse the county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

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

(4) Actions for civil penalties pursuant to paragraph (2) of subdivision (a) shall be brought exclusively by the Attorney General on behalf of the people, on behalf of the department, or on behalf of the participating agency, or by a city or county counsel or city prosecutor in a city or county having a population in excess of 750,000.

(5) Actions for civil penalties pursuant to paragraph (3) of subdivision (a) shall be brought exclusively by the Attorney General on behalf of the people, on behalf of the department, or on behalf of the participating agency, or by a city or county counsel, or city prosecutor.

(f) For purposes of paragraph (3) of subdivision (a), in order to prove that a person knowingly rented, leased, or made available the commercial property for unlawful commercial cannabis activity, it shall be demonstrated that the person had actual knowledge that the cannabis-related activity was for commercial purposes, required a license, and was unlicensed. The presence of a lawful amount of cannabis, cannabis products, or cannabis plants, subject to Sections 11362.1 and 11362.45 of the Health and Safety Code, shall not be evidence of actual knowledge.

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

(h) (1) This section does not limit, preempt, or otherwise affect any other state or local law, rule, regulation, or ordinance applicable to the conduct described in subdivision (a), or otherwise relating to commercial cannabis activities.

(2) This section is meant to further the intent of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (AUMA), which allows local governments to reasonably regulate the cultivation of nonmedical cannabis for personal use by adults 21 years of age and older through zoning and other local laws.

SEC. 3. Section 26051.5 of the Business and Professions Code is amended to read:

26051.5. (a) An applicant for a state license issued pursuant to this division to conduct commercial cannabis activity, as defined in Section 26001, shall do all of the following:

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

(A) Notwithstanding any other law, the Bureau of Cannabis Control, the Department of Food and Agriculture, the State Department of Public Health, and the department, as defined in Section 26001, may obtain criminal history information from the Department of Justice and the Federal Bureau of Investigation for an applicant for any state license under this division, including any license established by a licensing authority, as defined in Section 26001, by regulation pursuant to subdivision (b) of Section 26012.

(B) When received, the Department of Justice shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation for the purpose of obtaining a federal criminal history records check. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the licensing authority.

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

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

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

(F) Employees of a licensing authority, as defined in Section 26001, acting on behalf of the department may receive criminal history information pursuant to this section. This subparagraph shall become inoperative on July 1, 2023.

(G) Notwithstanding any other law, a licensing authority may request and receive from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. A local or state agency may provide those records to a licensing authority upon request.

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

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

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

(5) (A) (i) For an applicant with 20 or more employees, or an applicant with 10 or more employees that submits an application on or after July 1, 2024, provide a notarized statement that the applicant will enter into, or demonstrate that it has already entered into, and will abide by the terms of a labor peace agreement. On and after July 1, 2024, the department shall

not renew a license for a licensee with 10 or more employees unless the licensee provides a statement that the licensee has already entered into and will abide by the terms of a labor peace agreement.

(ii) For an applicant with 10 or more employees but less than 20 employees that has not yet entered into a labor peace agreement, provide a notarized statement as a part of its application indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 20th employee, or on or before July 1, 2024, whichever is earlier.

(iii) For an applicant with less than 10 employees that has not yet entered into a labor peace agreement, provide a notarized statement as a part of its application indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 60 days of employing its 10th employee or on or before July 1, 2024, whichever is later.

(iv) Nothing in this paragraph shall be construed to limit the authority of the department to revoke or suspend a license for a violation of this paragraph.

(B) Compliance with the terms of an applicable labor peace agreement is a condition of licensure. A licensee seeking renewal of any license shall attest to the department that it remains in compliance with the terms of any applicable labor peace agreement.

(C) Any labor organization, or any current or former employee of the relevant licensee, may report to the department that a licensee has failed to provide a truthful attestation of compliance with subparagraph (B).

(i) The reporting party shall provide documentation, in a form and manner required by the department, to substantiate their allegation before the department considers it. The department shall collaborate with such agencies as it deems relevant to evaluate the report.

(ii) If the department substantiates the validity of a report made pursuant to this subparagraph, the department may suspend, revoke, place on probation with terms and conditions, or otherwise discipline the license and fine the licensee.

(D) (i) Any labor organization, or any current or former employee of the relevant licensee, may file a complaint with the Agricultural Labor Relations Board that an organization with which a licensee has entered into a labor peace agreement is not a bona fide labor organization.

(ii) The Agricultural Labor Relations Board shall consider all relevant evidence provided or obtained in rendering a decision on whether the entity is a bona fide labor organization and issue a report with its findings no later than ninety (90) days from receiving the complaint.

(iii) If the Agricultural Labor Relations Board determines that the entity is not a bona fide labor organization, the labor peace agreement shall be null and void. The department shall promptly notify all licensees that have signed labor peace agreements with the entity that the entity was found not to be a bona fide labor organization and offer those licensees a reasonable time period, not to exceed 180 days, to enter into a labor peace agreement with a bona fide labor organization. Failure to enter into a labor peace

agreement with a bona fide labor organization after that reasonable time period shall be a violation of this section.

(E) For the purposes of this paragraph, all of the following shall apply:

(i) “Employee” does not include a supervisor.

(ii) “Labor organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists, in whole or in part, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work for employees.

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

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

(7) Provide any other information required by the department.

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

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

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

(11) (A) Provide a statement, upon initial application and application for renewal, that the applicant employs, or will employ within one year of receiving or renewing a license, one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course. This paragraph shall not be construed to alter or amend existing requirements for employers to provide occupational safety and health training to employees.

(B) An applicant with only one employee shall not be subject to subparagraph (A).

(C) For purposes of this paragraph “employee” has the same meaning as provided in subparagraph (B) of paragraph (5) and “supervisor” has the same meaning as provided in subparagraph (C) of paragraph (5).

(b) An applicant shall also include in the application a detailed description of the applicant’s operating procedures for all of the following, as required by the department:

(1) Cultivation.

(2) Extraction and infusion methods.

- (3) The transportation process.
- (4) Inventory procedures.
- (5) Quality control procedures.
- (6) Security protocols.

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

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

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

SEC. 4. Section 26067 of the Business and Professions Code is amended to read:

26067. (a) The department shall establish a track and trace program for reporting the movement of cannabis and cannabis products throughout the distribution chain that utilizes a unique identifier and is capable of providing information that captures, at a minimum, all of the following:

- (1) The licensee from which the product originates and the licensee receiving the product.
- (2) The transaction date.
- (3) The unique identifier or identifiers for the cannabis or cannabis product.
- (4) The date of retail sale to a customer and whether the sale is conducted on the retail premises or by delivery.
- (5) Information relating to cannabis and cannabis products leaving the licensed premises in a delivery vehicle as determined by regulations adopted pursuant to subdivision (d) of Section 26068.

(b) (1) The department, in consultation with the California Department of Tax and Fee Administration, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track

and trace program, which shall include, but not be limited to, the following information:

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

(B) The estimated times of departure and arrival.

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

(D) The actual time of departure and arrival.

(E) A categorization and the unique identifier of the cannabis or cannabis product.

(F) The license number issued by the department for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, distributors, and retailers.

(2) The database shall be designed to flag irregularities for the department to investigate.

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

(4) The California Department of Tax and Fee Administration shall have read access to the electronic database for the purpose of taxation and regulation of cannabis and cannabis products.

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

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

SEC. 5. Section 26068 of the Business and Professions Code is amended to read:

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

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

cannabis and cannabis products throughout the distribution chain and communicate the information to licensing agencies as required by law.

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

(d) (1) The department shall incorporate delivery into the track and trace program no later than January 1, 2023.

(2) Notwithstanding any other law, provisions related to inclusion of information related to delivery in the track and trace system in Sections 26067 and 26090 shall only become effective after the department incorporates delivery into the track and trace program as required by this subdivision.

(3) Notwithstanding any other law, the department may adopt and readopt emergency regulations to implement this subdivision. The provisions of Section 26013 shall be applicable to emergency regulations adopted or readopted pursuant to this section. The emergency regulations authorized by this paragraph shall be deemed an emergency and necessary for the immediate preservation of public peace, health, safety, or general welfare.

SEC. 6. Section 26090 of the Business and Professions Code is amended to read:

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

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

(c) Before cannabis or a cannabis product leaves the licensed premises in a delivery vehicle, the retailer shall enter into the track and trace system all information required by the department and shall update the information as required by the department.

(d) During delivery, the licensee shall maintain a copy of the delivery request and shall make it available upon request of the department and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

(e) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the department and law enforcement officers.

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

SEC. 7. Section 26203 is added to the Business and Professions Code, to read:

26203. (a) There is hereby established a task force on state and local regulation of commercial cannabis activity. The purpose of the task force is to promote communication between state and local entities engaged in the regulation of commercial cannabis activity and facilitate cooperation to enforce applicable state and local laws.

(b) The task force shall be composed of representatives from all of the following:

- (1) The Department of Cannabis Control.
- (2) The California Department of Tax and Fee Administration.
- (3) The Department of Fish and Wildlife.
- (4) The State Water Resources Control Board.
- (5) The Department of the California Highway Patrol.
- (6) The Labor and Workforce Development Agency.
- (7) The Department of Justice.
- (8) All local jurisdictions regulating commercial cannabis activity that opt to participate in the task force, which may send representatives from one or more of the following:

(A) The contact person designated pursuant to subdivision (f) of Section 26055.

- (B) A county sheriff's office or municipal police department.
- (C) A district attorney's office or city attorney's office.

(c) Beginning July 1, 2023, the task force shall meet twice each fiscal year, through teleconference or similar means to facilitate remote participation, for discussions to be convened and led by the Department of Cannabis Control. Discussion topics may include, but need not be limited to, enforcement against the illicit market, social equity programs, state licensing requirements, and labor and workforce compliance.

(d) The task force shall not be subject to the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 8. Section 5650 of the Fish and Game Code is amended to read:

5650. (a) Except as provided in subdivision (b), it is unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this state any of the following:

(1) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous material or substance.

(2) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery, chemical works, mill, or factory of any kind.

(3) Any sawdust, shavings, slabs, or edgings.

(4) Any factory refuse, lime, or slag.

(5) Any cocculus indicus.

(6) Any substance or material deleterious to fish, plant life, mammals, or bird life.

(b) This section does not apply to a discharge or a release that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a waste discharge requirement pursuant to Section 13263 of the Water Code or a waiver issued pursuant to subdivision (a) of Section 13269 of the Water Code issued by the State Water Resources Control Board or a California regional water quality control board after a public hearing, or that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a federal permit for which the State Water Resources Control Board or a California regional water quality control board has, after a public hearing, issued a water quality certification pursuant to Section 13160 of the Water Code. This section does not confer additional authority on the State Water Resources Control Board, a California regional water quality control board, or any other entity.

(c) It shall be an affirmative defense to a violation of this section if the defendant proves, by a preponderance of the evidence, all of the following:

(1) The defendant complied with all applicable state and federal laws and regulations requiring that the discharge or release be reported to a government agency.

(2) The substance or material did not enter the waters of the state or a storm drain that discharges into the waters of the state.

(3) The defendant took reasonable and appropriate measures to effectively mitigate the discharge or release in a timely manner.

(d) The affirmative defense in subdivision (c) does not apply and may not be raised in an action for civil penalties or injunctive relief pursuant to Section 5650.1, or in any other civil action that alleges a violation of this section resulting from unlicensed cannabis cultivation.

(e) The affirmative defense in subdivision (c) does not apply and may not be raised by any defendant who has on two prior occasions in the preceding five years, in any combination within the same county in which the case is prosecuted, either pleaded nolo contendere, been convicted of a violation of this section, or suffered a judgment for a violation of this section or Section 5650.1. This subdivision shall apply only to cases filed on or after January 1, 1997.

(f) The affirmative defense in subdivision (c) does not apply and may not be raised by the defendant in any case in which a district attorney, city attorney, or Attorney General alleges, and the court finds, that the defendant acted willfully.

SEC. 9. Section 5650.1 of the Fish and Game Code is amended to read:
5650.1. (a) A person who violates Section 5650 is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

(b) The civil penalty imposed for each separate violation pursuant to this section is separate, and in addition to, any other civil penalty imposed for a separate violation pursuant to this section or any other provision of law, except as provided in subdivision (j).

(c) In determining the amount of a civil penalty imposed pursuant to this section, the court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, the court shall consider the degree of toxicity and volume of the discharge, the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines justice may require.

(d) (1) Every civil action brought under this section shall be brought by the Attorney General, district attorney, or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

(2) A civil action alleging a violation resulting from unlicensed cannabis cultivation may be brought by a county counsel in the name of the people of the State of California.

(e) In a civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding that irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued, or that the remedy at law is inadequate.

(f) After the party seeking the injunction has met its burden of proof, the court shall determine whether to issue a temporary restraining order, preliminary injunction, or permanent injunction without requiring the defendant to prove that it will suffer grave or irreparable harm. The court shall make the determination whether to issue a temporary restraining order, preliminary injunction, or permanent injunction by taking into consideration, among other things, the nature, circumstance, extent, and gravity of the violation, the quantity and characteristics of the substance or material involved, the extent of environmental harm caused by the violation, measures taken by the defendant to remedy the violation, the relative likelihood that the material or substance involved may pass into waters of the state, and the harm likely to be caused to the defendant.

(g) The court, to the maximum extent possible, shall tailor a temporary restraining order, preliminary injunction, or permanent injunction narrowly

to address the violation in a manner that will otherwise allow the defendant to continue business operations in a lawful manner.

(h) All civil penalties collected pursuant to this section shall not be considered fines or forfeitures as defined in Section 13003 and shall be apportioned in the following manner:

(1) Fifty percent shall be distributed to the county treasurer of the county in which the action is prosecuted. Amounts paid to the county treasurer shall be deposited in the county fish and wildlife propagation fund established pursuant to Section 13100.

(2) Fifty percent shall be distributed to the department for deposit in the Fish and Game Preservation Fund. These funds may be expended to cover the costs of legal actions or for any other law enforcement purpose consistent with Section 9 of Article XVI of the California Constitution.

(i) Except as provided in subdivision (j), in addition to any other penalty provided by law, a person who violates Section 5650 is subject to a civil penalty of not more than ten dollars (\$10) for each gallon or pound of material discharged. The total amount of the civil penalty shall be reduced for every gallon or pound of the illegally discharged material that is recovered and properly disposed of by the responsible party.

(j) A person shall not be subject to a civil penalty imposed under this section and to a civil penalty imposed pursuant to Article 9 (commencing with Section 8670.57) of Chapter 7.4 of Division 1 of Title 2 of the Government Code for the same act or failure to act.

SEC. 10. Section 13103 of the Fish and Game Code is amended to read:

13103. Expenditures from the fish and wildlife propagation fund of any county may be made only for the following purposes:

(a) Public education relating to the scientific principles of fish and wildlife conservation, consisting of supervised formal instruction carried out pursuant to a planned curriculum and aids to education such as literature, audio and video recordings, training models, and nature study facilities.

(b) Temporary emergency treatment and care of injured or orphaned wildlife.

(c) Temporary treatment and care of wildlife confiscated by the department as evidence.

(d) Breeding, raising, purchasing, or releasing fish or wildlife that are to be released upon approval of the department pursuant to Sections 6400 and 6401 onto land or into waters of local, state, or federal agencies or onto land or into waters open to the public.

(e) Improvement of fish and wildlife habitat, including, but not limited to, construction of fish screens, weirs, and ladders; drainage or other watershed improvements; gravel and rock removal or placement; construction of irrigation and water distribution systems; earthwork and grading; fencing; planting trees and other vegetation management; and removal of barriers to the migration of fish and wildlife.

(f) Construction, maintenance, and operation of public hatchery facilities.

(g) Purchase and maintain materials, supplies, or equipment for either the department's ownership and use or the department's use in the normal performance of the department's responsibilities.

(h) Predator control actions for the benefit of fish or wildlife following certification in writing by the department that the proposed actions will significantly benefit a particular wildlife species.

(i) Scientific fish and wildlife research conducted by institutions of higher learning, qualified researchers, or governmental agencies, if approved by the department.

(j) Reasonable administrative costs, excluding the costs of audits required by Section 13104, for secretarial service, travel, and postage by the county fish and wildlife commission when authorized by the county board of supervisors. For purposes of this subdivision, "reasonable cost" means an amount that does not exceed 15 percent of the average amount received by the fund during the previous three-year period, or ten thousand dollars (\$10,000) annually, whichever is greater, excluding any funds carried over from a previous fiscal year.

(k) Contributions to a secret witness program for the purpose of facilitating enforcement of this code and regulations adopted pursuant to this code.

(l) Costs incurred by the district attorney or city attorney in investigating and prosecuting civil and criminal actions for violations of this code, as approved by the department.

(m) Costs incurred by a county counsel in investigating and prosecuting an action for civil penalties, injunctive relief, or civil penalties and injunctive relief pursuant to Section 5650.1 resulting from unlicensed cannabis cultivation.

(n) Other expenditures, approved by the department, for the purpose of protecting, conserving, propagating, and preserving fish and wildlife.

SEC. 11. Section 11552 of the Government Code is amended to read:

11552. (a) Effective January 1, 1988, an annual salary of eighty-five thousand four hundred two dollars (\$85,402) shall be paid to each of the following:

- (1) Commissioner of Financial Protection and Innovation.
- (2) Director of Transportation.
- (3) Real Estate Commissioner.
- (4) Director of Social Services.
- (5) Director of Water Resources.
- (6) Director of General Services.
- (7) Director of Motor Vehicles.
- (8) Executive Officer of the Franchise Tax Board.
- (9) Director of Employment Development.
- (10) Director of Alcoholic Beverage Control.
- (11) Director of Housing and Community Development.
- (12) Director of Alcohol and Drug Programs.
- (13) Director of Statewide Health Planning and Development.
- (14) Director of the Department of Human Resources.

- (15) Director of Health Care Services.
- (16) Director of State Hospitals.
- (17) Director of Developmental Services.
- (18) State Public Defender.
- (19) Director of the California State Lottery.
- (20) Director of Fish and Wildlife.
- (21) Director of Parks and Recreation.
- (22) Director of Rehabilitation.
- (23) Director of the Office of Administrative Law.
- (24) Director of Consumer Affairs.
- (25) Director of Forestry and Fire Protection.
- (26) The Inspector General pursuant to Section 6125 of the Penal Code.
- (27) Director of Child Support Services.
- (28) Director of Industrial Relations.
- (29) Director of Toxic Substances Control.
- (30) Director of Pesticide Regulation.
- (31) Director of Managed Health Care.
- (32) Director of Environmental Health Hazard Assessment.
- (33) Director of California Bay-Delta Authority.
- (34) Director of California Conservation Corps.
- (35) Director of Technology.
- (36) Director of Emergency Services.
- (37) Director of the Office of Energy Infrastructure Safety.
- (38) Director of Cannabis Control.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 12. Section 6369.6 is added to the Revenue and Taxation Code, to read:

6369.6. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, medicinal cannabis or medicinal cannabis products as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a person with an identification card or primary caregiver furnishes the seller with both their card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

(b) For purposes of this section, “person with an identification card” and “primary caregiver” have the same meanings as those terms are defined in Section 11362.7 of the Health and Safety Code.

SEC. 13. Section 6479.3 of the Revenue and Taxation Code is amended to read:

6479.3. (a) Except as provided in subdivision (k), any person whose estimated tax liability under this part averages ten thousand dollars (\$10,000) or more per month, as determined by the department pursuant to methods

of calculation prescribed by the department, shall remit amounts due by an electronic funds transfer under procedures prescribed by the department. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

(b) Any person whose estimated tax liability under this part averages less than ten thousand dollars (\$10,000) per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the department.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the department. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) (1) Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(2) A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment amount incorrectly remitted.

(f) Except as provided in Sections 6476 and 6477, any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the department under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages ten thousand dollars (\$10,000) or more per month, the department may consider tax returns filed pursuant to this part and any other information in the department's possession.

(h) Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent

of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.

(i) The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.

(j) The department shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

(k) (1) On and after January 1, 2022, a person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code, may remit amounts due by a means other than electronic funds transfer, if the department deems it necessary to facilitate collection of amounts due.

(2) A person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code that failed to remit amounts due by means of electronic funds transfer on and after January 1, 2022, and before January 1, 2023, is not subject to or is relieved of any of the penalties imposed by this section for that failure.

SEC. 14. Section 17053.64 is added to the Revenue and Taxation Code, to read:

17053.64. (a) (1) For each taxable year beginning on or after January 1, 2023, and before January 1, 2028, there shall be allowed a credit against the “net tax,” as defined in Section 17039, to a qualified taxpayer equal to 25 percent of the total amount of the qualified taxpayer’s qualified expenditures in the taxable year, subject to paragraph (2).

(2) (A) The credit allowable under this section in any taxable year to any qualified taxpayer shall be limited to a maximum of two hundred fifty thousand dollars (\$250,000).

(B) For qualified taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the limit specified in subparagraph (A) shall be the aggregate amount of the credit claimed by all taxpayers that are required to be or authorized to be included in a combined report and in no instance shall the aggregate amount of credit claimed by a combined group exceed the limit specified in subparagraph (A).

(b) For purposes of this section:

(1) “Full-time employee” means an individual who is either of the following:

(A) Paid wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code by the qualified taxpayer for services not less than an average of 35 hours per week.

(B) A salaried employee who was paid compensation during the taxable year for full-time employment, as described in Section 515 of the Labor Code, by the qualified taxpayer that is paid wages subject to withholding

under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(2) “Minimum wage” means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Qualified expenditures” means amounts paid or incurred by a qualified taxpayer for any of the following:

(A) Employment compensation for the full-time employees of the qualified taxpayer. For purposes of this subparagraph, “employment compensation” means wages paid to full-time employees who are paid no less than 150 percent but no more than 350 percent of the applicable minimum wage. The calculation of wages pursuant to this subparagraph may include the monetary value to the full-time employee of employer-provided group health insurance benefits, childcare benefits, employer contributions to employer-provided retirement benefits, or employer contributions to pension benefits.

(B) Safety-related equipment, training, and services. For purposes of this subparagraph, “safety-related equipment, training, and services” means equipment primarily used by employees of cannabis licensees to ensure their personal and occupational safety or the safety of customers of the cannabis licensees; training for nonmanagement employees on workplace hazards, including, but not limited to, training required pursuant to subparagraph (A) of paragraph (11) of subdivision (a) of Section 26051.5 of the Business and Professions Code; and services, including, but not limited to, safety audits, security guards, security cameras, and fire risk mitigation.

(C) Workforce development and safety training for employees of the qualified taxpayer. For purposes of this subparagraph, “workforce development” includes, but is not limited to, joint labor management training programs, membership in a joint apprenticeship training committee registered by the Division of Apprenticeship Standards, and a state-recognized high road training partnership as defined in Section 14005 of the Unemployment Insurance Code.

(4) “Qualified taxpayer” means a commercial cannabis business, licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, and that provides full-time employees with all of the following:

(A) Employment compensation, as described in subparagraph (A) of paragraph (3).

(B) Employer-provided group health insurance.

(C) Employer-provided retirement benefits or pension benefits, including stock in the duly licensed commercial cannabis employer to employees under employee stock ownership plans where the employer pays for the full value of the stock.

(D) Possesses a Type-10 or a Type-12 license pursuant to Section 26050 of the Business and Professions Code.

(c) The total aggregate amount of the credit that may be allocated by credit reservations to all qualified taxpayers pursuant to this section and Section 23664 shall not exceed twenty million dollars (\$20,000,000) for all taxable years, cumulatively.

(d) To be eligible for the credit allowed by this section, a qualified taxpayer shall request a credit reservation from the Franchise Tax Board during the month of July for each taxable year or within 30 days of the start of their taxable year if the qualified taxpayer's taxable year begins after July, in the form and manner prescribed by the Franchise Tax Board.

(e) To obtain a credit reservation with respect to a qualified expenditure, the qualified taxpayer shall provide all necessary information, as determined by the Franchise Tax Board.

(f) The Franchise Tax Board shall approve tentative credit reservations with respect to qualified expenditures incurred during a taxable year for qualified taxpayers, subject to the cap established under this section and Section 23664.

(g) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following taxable year, and the seven succeeding years if necessary, until the credit is exhausted.

(h) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction or credit otherwise allowed under this part for any qualified expenditure made by the qualified taxpayer as a trade or business expense shall be reduced by the amount of the credit allowed by this section.

(i) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(j) This section shall remain in effect only until December 1, 2028, and as of that date is repealed.

SEC. 15. Section 17053.82 is added to the Revenue and Taxation Code, to read:

17053.82. (a) For each taxable year beginning on or after January 1, 2023, and before January 1, 2028, there shall be allowed a credit against the "net tax," as defined in Section 17039, to a qualified taxpayer in an amount equal to ten thousand dollars (\$10,000).

(b) For purposes of this section, "qualified taxpayer" means an equity licensee that has received approval, including approval contingent upon the availability of funds, for the fee waiver and deferral program established pursuant to Section 26249 of the Business and Professions Code, as administered by the Department of Cannabis Control.

(c) On January 1, 2024, and every 6 months thereafter, the Department of Cannabis Control shall provide the Franchise Tax Board with a list of qualified taxpayers for the purposes of administering this section. The

Department of Cannabis Control may satisfy this requirement by maintaining a database that makes this information available to the Franchise Tax Board.

(d) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following taxable year, and succeeding seven years if necessary, until the credit is exhausted.

(e) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(f) This section and Section 23682 shall be known and may be cited as the Cannabis Equity Tax Credit.

(g) This section shall remain in effect only until December 1, 2028, and as of that date is repealed.

SEC. 16. Section 23664 is added to the Revenue and Taxation Code, to read:

23664. (a) (1) For each taxable year beginning on or after January 1, 2023, and before January 1, 2028, there shall be allowed a credit against the “tax,” as defined in Section 23036, to a qualified taxpayer equal to 25 percent of the total amount of the qualified taxpayer’s qualified expenditures in the taxable year, subject to paragraph (2).

(2) (A) The credit allowable under this section in any taxable year to any qualified taxpayer shall be limited to a maximum of two hundred fifty thousand dollars (\$250,000).

(B) For qualified taxpayers that are required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the limit specified in subparagraph (A) shall be the aggregate amount of the credit claimed by all taxpayers that are required to be or authorized to be included in a combined report and in no instance shall the aggregate amount of credit claimed by a combined group exceed the limit specified in subparagraph (A).

(b) For purposes of this section:

(1) “Full-time employee” means an individual who is either of the following:

(A) Paid wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code by the qualified taxpayer for services not less than an average of 35 hours per week.

(B) A salaried employee who was paid compensation during the taxable year for full-time employment, as described in Section 515 of the Labor Code, by the qualified taxpayer that is paid wages subject to withholding under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(2) “Minimum wage” means the wage established pursuant to Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Qualified expenditures” means amounts paid or incurred by a qualified taxpayer for any of the following:

(A) Employment compensation for the full-time employees of the qualified taxpayer. For purposes of this subparagraph, “employment compensation” means wages paid to full-time employees who are paid no less than 150 percent but no more than 350 percent of the applicable minimum wage. The calculation of wages pursuant to this subparagraph may include the monetary value to the full-time employee of employer-provided group health insurance benefits, childcare benefits, employer contributions to employer-provided retirement benefits, or employer contributions to pension benefits.

(B) Safety-related equipment, training, and services. For purposes of this subparagraph, “safety-related equipment, training, and services” means equipment primarily used by employees of cannabis licensees to ensure their personal and occupational safety or the safety of customers of the cannabis licensees; training for nonmanagement employees on workplace hazards, including, but not limited to, training required pursuant to subparagraph (A) of paragraph (11) of subdivision (a) of Section 26051.5 of the Business and Professions Code; and services, including, but not limited to, safety audits, security guards, security cameras, and fire risk mitigation.

(C) Workforce development and safety training for employees of the qualified taxpayer. For purposes of this subparagraph, “workforce development” includes, but is not limited to, joint labor management training programs, membership in a joint apprenticeship training committee registered by the Division of Apprenticeship Standards, and a state-recognized high road training partnership as defined in Section 14005 of the Unemployment Insurance Code.

(4) “Qualified taxpayer” means a commercial cannabis business, licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, and that provides full-time employees with all of the following:

(A) Employment compensation, as described in subparagraph (A) of paragraph (3).

(B) Employer-provided group health insurance.

(C) Employer-provided retirement benefits or pension benefits, including stock in the duly licensed commercial cannabis employer to employees under employee stock ownership plans where the employer pays for the full value of the stock.

(D) Possesses a Type-10 or a Type-12 license pursuant to Section 26050 of the Business and Professions Code.

(c) The total aggregate amount of the credit that may be allocated by credit reservations to all qualified taxpayers pursuant to this section and

Section 17053.64 shall not exceed twenty million dollars (\$20,000,000) for all taxable years, cumulatively.

(d) To be eligible for the credit allowed by this section, a qualified taxpayer shall request a credit reservation from the Franchise Tax Board during the month of July for each taxable year or within 30 days of the start of their taxable year if the qualified taxpayer's taxable year begins after July, in the form and manner prescribed by the Franchise Tax Board.

(e) To obtain a credit reservation with respect to a qualified expenditure, the qualified taxpayer shall provide all necessary information, as determined by the Franchise Tax Board.

(f) The Franchise Tax Board shall approve tentative credit reservations with respect to qualified expenditures incurred during a taxable year for qualified taxpayers, subject to the cap established under this section and Section 17053.64.

(g) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following taxable year, and the seven succeeding years if necessary, until the credit is exhausted.

(h) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction or credit otherwise allowed under this part for any qualified expenditure made by the qualified taxpayer as a trade or business expense shall be reduced by the amount of the credit allowed by this section.

(i) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(j) This section shall remain in effect only until December 1, 2028, and as of that date is repealed.

SEC. 17. Section 23682 is added to the Revenue and Taxation Code, to read:

23682. (a) For each taxable year beginning on or after January 1, 2023, and before January 1, 2028, there shall be allowed a credit against the "tax," as defined in Section 23036, to a qualified taxpayer in an amount equal to ten thousand dollars (\$10,000).

(b) For purposes of this section, "qualified taxpayer" means an equity licensee that has received approval, including approval contingent upon the availability of funds, for the fee waiver and deferral program established pursuant to Section 26249 of the Business and Professions Code, as administered by the Department of Cannabis Control.

(c) On January 1, 2024, and every six months thereafter, the Department of Cannabis Control shall provide the Franchise Tax Board with a list of qualified taxpayers for the purposes of administering this section. The Department of Cannabis Control may satisfy this requirement by maintaining a database that makes this information available to the Franchise Tax Board.

(d) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following taxable year, and succeeding seven years if necessary, until the credit is exhausted.

(e) This section and Section 17053.82 shall be known and may be cited as the Cannabis Equity Tax Credit.

(f) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(g) This section shall remain in effect only until December 1, 2028, and as of that date is repealed.

SEC. 18. Section 34010 of the Revenue and Taxation Code is amended to read:

34010. This part shall be known, and may be cited, as the “Cannabis Tax Law.” For purposes of this part:

(a) “2020–21 fiscal year baseline” means the total amount of funds disbursed in the sub-trust accounts in fiscal year 2021–22 for the third allocation of the fiscal year 2020–21 revenue, pursuant to subdivision (f) of Section 34019, as determined by the Department of Finance.

(b) “Arm’s length transaction” shall mean a sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

(c) “Average market price” shall mean both of the following:

(1) (A) In an arm’s length transaction, the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the department on a biannual basis in six-month intervals.

(B) Notwithstanding subparagraph (A), the department shall not increase the mark-up amount during the period beginning on and after the operative date of the act amending this section by adding this subparagraph and before July 1, 2021.

(2) In a nonarm’s length transaction, the cannabis retailer’s gross receipts from the retail sale of the cannabis or cannabis products.

(d) “Cannabis” has the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medicinal cannabis.

(e) “Cannabis products” has the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medicinal concentrates and medicinal cannabis products.

(f) “Cannabis flowers” means the dried flowers of the cannabis plant as defined by the department.

(g) “Cannabis leaves” means all parts of the cannabis plant other than cannabis flowers that are sold or consumed.

(h) “Cannabis retailer” means a person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code as a retailer, non-storefront retailer, microbusiness, or nonprofit, or any other person otherwise authorized under Division 10 (commencing with Section 26000) of the Business and Professions Code to engage in retail sales.

(i) “Cultivator” means all persons required to be licensed to cultivate cannabis pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(j) “Department” means the California Department of Tax and Fee Administration or its successor agency.

(k) “Designated for donation” means medicinal cannabis donated by a cultivator to a cannabis retailer for subsequent donation to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

(l) “Distributor” means a person required to be licensed as a distributor pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(m) “Enters the commercial market” means cannabis or cannabis products, except for immature cannabis plants and seeds, that complete and comply with a quality assurance review and testing, as described in Section 26110 of the Business and Professions Code.

(n) “Gross receipts” has the same meaning as set forth in Section 6012.

(o) “Manufacturer” means a person required to be licensed as a manufacturer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(p) “Medicinal cannabis patient” means a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who possesses a physician’s recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code, or a qualified patient or primary caregiver for a qualified patient issued a valid identification card pursuant to Section 11362.71 of the Health and Safety Code.

(q) “Microbusiness” has the same meaning as set forth in Section 26001 of the Business and Professions Code.

(r) “Nonprofit” has the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

(s) “Person” has the same meaning as set forth in Section 6005.

(t) “Retail sale” has the same meaning as set forth in Section 6007.

(u) “Sale” and “purchase” mean any change of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

(v) “Sub-trust accounts” means the sub-trust accounts created under subdivision (f) of Section 34019.

(w) “Tax fund” means the California Cannabis Tax Fund created by Section 34018.

(x) “Transfer” means to grant, convey, hand over, assign, sell, exchange, or barter, in any manner or by any means, with or without consideration.

(y) “Unprocessed cannabis” includes cannabis flowers, cannabis leaves, or other categories of harvested cannabis, categories for unprocessed or frozen cannabis or immature plants, or cannabis that is shipped directly to manufacturers.

SEC. 19. Section 34011 of the Revenue and Taxation Code is amended to read:

34011. (a) (1) Effective on and after January 1, 2018, and before January 1, 2023, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. A purchaser’s liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this subdivision is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

(2) Each cannabis retailer shall provide a purchaser with an invoice, receipt, or other document that includes a statement that reads: “The cannabis excise taxes are included in the total amount of this invoice.”

(3) The department may prescribe other means to display the cannabis excise tax on an invoice, receipt, or other document from a cannabis retailer given to the purchaser.

(b) (1) A distributor in an arm’s length transaction shall collect the cannabis excise tax imposed by this section from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer. A distributor in a nonarm’s length transaction shall collect the cannabis excise tax from the cannabis retailer on or before 90 days after the sale or transfer of cannabis or cannabis product to the cannabis retailer, or at the time of retail sale by the cannabis retailer, whichever is earlier. A distributor shall report and remit the cannabis excise tax to the department pursuant to Section 34015. A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting the cannabis excise tax to the distributor in accordance with rules and procedures established under law and any regulations adopted by the department.

(2) A distributor shall provide an invoice, receipt, or other similar document to the cannabis retailer that identifies the licensee receiving the product, the distributor from which the product originates, including the associated unique identifier, the amount of cannabis excise tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.

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

(d) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use taxes under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(e) Cannabis or cannabis products shall not be sold to a purchaser unless the cannabis excise tax imposed by this section has been paid by the purchaser at the time of sale.

(f) This section shall not be construed to impose a cannabis excise tax upon medicinal cannabis, or medicinal cannabis product, donated for no consideration to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

(g) (1) This section shall not be construed to impose a cannabis excise tax upon cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code.

(2) A person licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code that sells cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code shall be liable for the cannabis excise tax imposed by this section as if the person were a cannabis retailer at the time of sale.

(h) This section shall be inoperative on April 1, 2023.

SEC. 20. Section 34011.01 is added to the Revenue and Taxation Code, to read:

34011.01. (a) Any amount owed by a cannabis retailer to a distributor in connection with the collection of cannabis excise tax owed prior to January 1, 2023, shall be paid by the retailer to the distributor on or before April 1, 2023. This section shall not be construed to require the department to enforce this obligation.

(b) A cannabis retailer may claim a credit on the cannabis excise tax return for cannabis excise tax amounts paid to a distributor, pursuant to Section 34011, before January 1, 2023, on cannabis or cannabis products sold to a purchaser on or after January 1, 2023, for which the cannabis retailer is responsible for remitting to the department.

SEC. 21. Section 34011.1 is added to the Revenue and Taxation Code, to read:

34011.1. (a) (1) Until December 31, 2025, a licensed cannabis retailer that has received approval from the Department of Cannabis Control for a fee waiver under Section 26249 of the Business and Professions Code may retain vendor compensation in an amount equal to 20 percent of the cannabis excise tax. For purposes of this paragraph, approval for a fee waiver under Section 26249 includes approval for a fee waiver that is contingent upon the availability of funds.

(2) To apply to retain vendor compensation pursuant to this section, a cannabis retailer shall complete a one-page application in a form and manner prescribed by the department that sets forth the name under which they transact or intend to transact business, the location of their place or places of business, and any other information the department may require. The cannabis retailer shall also include with the application their seller's permit number and cannabis tax permit number and a copy of their cannabis license and Department of Cannabis Control approved fee waiver. An application

for a permit shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(3) Upon verification that a licensed cannabis retailer meets the requirements of this subdivision, the department shall issue the cannabis retailer a notice approving vendor compensation under this section.

(4) To maintain eligibility for vendor compensation under this section, a licensed cannabis retailer shall maintain eligibility for a fee waiver under Section 26249 of the Business and Professions Code and any relevant implementing regulations. An approval for vendor compensation under this section shall expire on the last day of the calendar quarter following notification to the department pursuant to paragraph (5) that a cannabis retailer is no longer eligible for a fee waiver. If a cannabis retailer maintains eligibility for a fee waiver, an approval for vendor compensation under this subdivision shall remain valid for one year commencing on the first day of the calendar quarter following the date the department issues the notice, and may be renewed pursuant to paragraph (2) or other procedures as may be prescribed by the department.

(5) To notify the department of a cannabis retailer's eligibility for vendor compensation under this section, the Department of Cannabis Control shall do either of the following:

(A) Maintain a database accessible to the department reflecting whether a cannabis retailer is eligible or has become ineligible for a fee waiver under Section 26249 of the Business and Professions Code and implementing regulations.

(B) Otherwise provide information upon request of the department for purposes of verifying a cannabis retailer's eligibility under this section.

(b) This section shall become operative on January 1, 2023.

SEC. 22. Section 34011.2 is added to the Revenue and Taxation Code, to read:

34011.2. (a) (1) Effective on and after January 1, 2023, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at 15 percent of the gross receipts of any retail sale by a cannabis retailer.

(2) For the 2025–26 fiscal year and every two years thereafter, the department, in consultation with the Department of Finance, shall on or before May 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the cannabis excise tax rate upon purchasers of cannabis or cannabis products imposed in paragraph (1) by the additional percentage of the gross receipts of any retail sale by a cannabis retailer that the department estimates will generate an amount of revenue equivalent to the amount that would have been collected in the previous fiscal year pursuant to the weight-based cultivation tax imposed under Section 34012 as it read on the date before the effective date of the act adding this section. In no case shall the cannabis excise tax exceed 19 percent of the gross receipts of retail sale. The department shall round the rate calculated under this subdivision to the nearest one-quarter of 1 percent. The adjusted rate shall become operative the following July 1.

(3) On or before May 1, 2025, and each May 1 every two years thereafter, the department, in consultation with the Department of Finance, shall estimate the amount of revenue that would have been collected in the previous fiscal year pursuant to the weight-based cultivation tax imposed under Section 34012 as it read on the date before the effective date of the act adding this section. The department shall estimate this amount by projecting the revenue from weight-based cultivation taxes that would have been collected in the previous calendar year based on information available to the department, including, but not limited to, information in the track and trace system required pursuant to Chapter 6.5 (commencing with Section 26067) of Division 10 of the Business and Professions Code, or any implementing regulations, as a percentage of gross receipts from the retail sale of cannabis and cannabis products by cannabis retailers in the previous calendar year.

(b) A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state, except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this section is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

(c) A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting that tax to the department in accordance with this division.

(d) The cannabis retailer shall provide each purchaser with an invoice, receipt, or other document that separately states the cannabis excise tax.

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

(f) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use taxes under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(g) Cannabis or cannabis products shall not be sold to a purchaser unless the cannabis excise tax imposed by this section has been paid by the purchaser at the time of sale.

(h) This section shall not be construed to impose a cannabis excise tax upon medicinal cannabis, or medicinal cannabis product, donated for no consideration to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

(i) (1) This section shall not be construed to impose a cannabis excise tax upon cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code.

(2) A person licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code that sells cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code shall be liable for the cannabis excise tax imposed by this section as if the person were a cannabis retailer at the time of sale.

(j) This section shall become operative on January 1, 2023.

SEC. 23. Section 34012 of the Revenue and Taxation Code is amended to read:

34012. (a) (1) Effective January 1, 2018, and before July 1, 2022, there is hereby imposed a cultivation tax on all harvested cannabis that enters the commercial market upon all cultivators. The tax shall be due after the cannabis is harvested and enters the commercial market.

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

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

(2) Notwithstanding paragraph (1), the cultivation tax imposed by this subdivision shall not apply to harvested cannabis that enters the commercial market and no tax collection is required pursuant to subdivision (h) if any of the following apply:

(A) The harvested cannabis was first sold or transferred by a cultivator to a manufacturer on or after July 1, 2022.

(B) The harvested cannabis was first sold or transferred by a cultivator to a distributor on or after July 1, 2022.

(C) The harvested cannabis, or cannabis products containing that harvested cannabis, was first sold or transferred by a microbusiness to a distributor or manufacturer that arranges for laboratory testing pursuant to subdivision (a) of Section 26110 of the Business and Professions Code on or after July 1, 2022.

(3) It is the intent of the Legislature that the suspension of the cultivation tax imposed by paragraph (2) apply only to cannabis that is ultimately subject, at retail sale as either cannabis or as cannabis products containing the harvested cannabis, to the cannabis excise tax imposed pursuant to Section 34011.2.

(b) The department may adjust the tax rate for cannabis leaves annually to reflect fluctuations in the relative price of cannabis flowers to cannabis leaves.

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

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

(e) The tax stamps and product bags shall be of the designs, specifications, and denominations as may be prescribed by the department and may be purchased by any licensee under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the department may by regulation provide that cannabis shall not be removed

from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26068 of the Business and Professions Code.

(h) Cultivators shall be responsible for payment of the tax pursuant to regulations adopted by the department. A cultivator's liability for the tax is not extinguished until the tax has been paid to this state except that an invoice, receipt, or other document from a distributor or manufacturer given to the cultivator pursuant to paragraph (3) is sufficient to relieve the cultivator from further liability for the tax to which the invoice, receipt, or other document refers. Cannabis shall not be sold unless the tax has been paid as provided in this part.

(1) A distributor shall collect the cultivation tax from a cultivator on all harvested cannabis that enters the commercial market. This paragraph shall not apply where a cultivator is not required to send, and does not send, the harvested cannabis to a distributor.

(2) (A) A manufacturer shall collect the cultivation tax from a cultivator on the first sale or transfer of unprocessed cannabis by a cultivator to a manufacturer. The manufacturer shall remit the cultivation tax collected on the cannabis product sold or transferred to a distributor for quality assurance, inspection, and testing, as described in Section 26110 of the Business and Professions Code. This paragraph shall not apply where a distributor collects the cultivation tax from a cultivator pursuant to paragraph (1).

(B) Notwithstanding subparagraph (A), the department may prescribe a substitute method and manner for collection and remittance of the cultivation tax under this paragraph, including a method and manner for collection of the cultivation tax by a distributor.

(3) A distributor or manufacturer shall provide to the cultivator, and a distributor that collects the cultivation tax from a manufacturer pursuant to paragraph (2) shall provide to the manufacturer, an invoice, receipt, or other similar document that identifies the licensee receiving the product, the cultivator from which the product originates, including the associated unique identifier, the amount of cultivation tax, and any other information deemed necessary by the department. The department may authorize other forms of documentation under this paragraph.

(4) The department may adopt regulations prescribing procedures for the refund of cultivation tax collected on cannabis or cannabis product that fails quality assurance, inspection, and testing as described in Section 26110 of the Business and Professions Code.

(i) All cannabis removed from a cultivator's premises, except for plant waste or medicinal cannabis or medicinal cannabis products designated for donation, shall be presumed to be sold and thereby taxable under this section, except as otherwise exempt pursuant to Section 34012.2.

(j) The tax imposed by this section shall be imposed on all cannabis cultivated in the state pursuant to rules and regulations promulgated by the department, but shall not apply to cannabis cultivated for personal use under

Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act of 1996 (Proposition 215), found in Section 11362.5 of the Health and Safety Code.

(k) (1) For the 2020 calendar year, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the department for inflation.

(2) For the 2021 calendar year, the rates shall be those imposed for the 2020 calendar year in paragraph (1) and shall not be adjusted for inflation unless the adjustment is for an inflation rate that is less than zero.

(3) For the 2022 calendar year, until July 1, 2022, the rates shall be those imposed for the 2021 calendar year in paragraph (2) and shall be adjusted by the department for inflation.

(l) The Department of Cannabis Control is not responsible for enforcing any provisions of the cultivation tax.

SEC. 24. Section 34012.3 is added to the Revenue and Taxation Code, to read:

34012.3. (a) The cannabis excise tax required to be collected by a cannabis retailer, and any amount not returned to the purchaser that is not tax but was collected from the purchaser under the representation by the cannabis retailer that it was tax, constitutes debt owed by the cannabis retailer to this state.

(b) This section shall become operative on January 1, 2023.

SEC. 25. Section 34012.5 of the Revenue and Taxation Code is amended to read:

34012.5. (a) The cultivation tax and cannabis excise tax imposed pursuant to Section 34011 required to be collected by the distributor, or required to be collected by the manufacturer pursuant to paragraph (2) of subdivision (h) of Section 34012, and any amount unreturned to the cultivator or cannabis retailer that is not tax but was collected from the cultivator or cannabis retailer under the representation by the distributor or the manufacturer that it was tax constitute debts owed by the distributor or the manufacturer to this state.

(b) A distributor or manufacturer that has collected any amount of tax in excess of the amount of tax imposed by this part and actually due from a cultivator or cannabis retailer, may refund such amount to the cultivator or cannabis retailer, even though such tax amount has already been paid over to the department and no corresponding credit or refund has yet been secured. The distributor or manufacturer may claim credit for that overpayment against the amount of tax imposed by this part that is due upon any other quarterly return, providing that credit is claimed in a return dated no later than three years from the date of overpayment.

(c) Any tax collected from a cultivator, cannabis retailer, or purchaser that has not been remitted to the department shall be deemed a debt owed to the State of California by the person required to collect and remit the tax.

SEC. 26. Section 34013 of the Revenue and Taxation Code is amended to read:

34013. (a) The department shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to “fee” shall include the taxes imposed by this part, and references to “feepayer” shall include a person required to pay or collect the taxes imposed by this part.

(b) (1) A person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code that failed to remit amounts due by means of electronic funds transfer on and after January 1, 2022, and before the operative date of the act adding this paragraph is not subject to or is relieved of any of the penalties imposed by Section 55050 for that failure.

(2) Until January 1, 2022, subdivision (a) of Section 55050 shall not apply to a person required to pay or collect the taxes imposed by this part on a person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code if the department deems it necessary to facilitate the collection of amounts due.

(c) The department may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(d) The department shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag cannabis or cannabis products, or the packages thereof, to designate prior tax payment.

(e) Until January 1, 2024, the department may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other law, the emergency regulations adopted by the department may remain in effect for two years from adoption, and may be readopted in accordance with subdivision (h) of Section 11346.1 of the Government Code.

(f) Any person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code.

(g) The department may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the department’s request, the Attorney General shall bring the actions.

SEC. 27. Section 34014 of the Revenue and Taxation Code is amended to read:

34014. (a) (1) Until January 1, 2023, all distributors must obtain a separate permit from the department pursuant to regulations adopted by the department. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a distributor without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation that so engages in business, is guilty of a misdemeanor.

(2) On and after January 1, 2023, all cannabis retailers shall obtain a separate cannabis tax permit from the department pursuant to regulations adopted by the department. A fee shall not be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cannabis retailer without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation that so engages in business, is guilty of a misdemeanor.

(b) The department may require every licensed distributor, retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on cannabis produced or received by the retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the department. Notwithstanding anything herein to the contrary, the department may waive any security requirement it imposes for good cause, as determined by the department. “Good cause” includes, but is not limited to, the inability of a distributor, retailer, cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a cannabis business.

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

SEC. 28. Section 34014.1 is added to the Revenue and Taxation Code, to read:

34014.1. (a) Whenever any person fails to comply with any provision of this part relating to the cannabis excise tax or any rule or regulation of the department relating to the cannabis excise tax prescribed and adopted under this part, or when a person’s seller’s permit has been suspended or revoked under Part 1 (commencing with Section 6001), or when a person’s license has been suspended or revoked under Division 10 (commencing with Section 26000) of the Business and Professions Code, the department upon conducting a hearing, after giving the person 10 days’ notice in writing specifying the time and place of hearing and requiring the person to show cause why the person’s permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The department shall give to the person written notice of the suspension or revocation of any of the person’s permits. The notices herein required may be served personally or by mail in the manner prescribed for service of

notice of a deficiency determination under subdivision (d) of Section 55061 of the Revenue and Taxation Code. The department shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this part relating to the cannabis excise tax and the regulations of the department.

(b) A person whose permit has been previously suspended or revoked shall pay the department a new issuance fee of one hundred dollars (\$100) for the reissuance of a permit.

SEC. 29. Section 34015 of the Revenue and Taxation Code is amended to read:

34015. (a) Unless otherwise prescribed by the department pursuant to subdivision (c), the cannabis excise tax imposed by Section 34011 and cultivation tax imposed by this part is due and payable to the department quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the department by each distributor using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department. If the cultivation tax is paid by stamp pursuant to subdivision (d) of Section 34012, the department may by regulation determine when and how the tax shall be paid.

(b) The department may require every person engaged in the cultivation, distribution, manufacturing, retail sale of cannabis or cannabis products, or any other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the department may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(c) The department may adopt regulations prescribing the due date for returns and remittances of cannabis excise tax collected by a distributor in an arm's length transaction pursuant to subdivision (b) of Section 34011.

(d) The department may make examinations of the books and records of any person licensed, or required to be licensed, pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, as it may deem necessary in carrying out this part.

(e) This section shall remain in effect only until April 30, 2023, and as of that date is repealed.

SEC. 30. Section 34015 is added to the Revenue and Taxation Code, to read:

34015. (a) Unless otherwise prescribed by the department, the cannabis excise tax imposed by Section 34011.2 is due and payable to the department quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, each cannabis retailer shall file a return for the preceding quarterly period with the department using electronic media

prescribed by the department. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(b) The department may require every person engaged in the cultivation, distribution, manufacturing, or retail sale of cannabis or cannabis products, or any other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media prescribed by the department with respect to the person's inventory, purchases, and sales during the preceding month and any other information as the department may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

(c) The department may examine the books and records of any person licensed, or required to be licensed, pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, as it may deem necessary in carrying out this part.

(d) This section shall become operative on January 1, 2023.

SEC. 31. Section 34015.1 is added to the Revenue and Taxation Code, to read:

34015.1. (a) (1) Any unlicensed person who is required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code and who possesses, keeps, stores, or retains for the purpose of sale, or sells or offers to sell any cannabis or cannabis products, shall be liable for the cultivation tax imposed pursuant to Section 34012 as if the person were the cultivator of the harvested cannabis and that cannabis entered the commercial market, the cannabis excise tax imposed pursuant to Section 34011 or 34011.2 as if the person were the purchaser of the cannabis or cannabis product in a retail sale from a cannabis retailer, and for applicable penalties and interest, if any, which shall become immediately due and payable.

(2) (A) The department shall ascertain as best it may the category and amount of the harvested cannabis deemed as having entered the commercial market, and the average market price or gross receipts, based on any information within the department's possession or that may come into its possession, of the retail sale of the cannabis or cannabis product deemed as purchased from a cannabis retailer, and shall determine immediately the tax on that amount, adding to the tax a penalty of 25 percent of the amount of tax or five hundred dollars (\$500), whichever is greater, and shall give the unlicensed person notice of that determination in the same manner as prescribed for service of notice by Section 55061. However, if the department determines that the failure to secure a license was due to reasonable cause, the department may waive the penalty. Sections 55101 and 55102 shall be applicable with respect to the finality of the determination and the right of the person to petition for a redetermination.

(B) Any person seeking to be relieved of the penalty imposed pursuant to subparagraph (A) shall file with the department a signed statement setting forth the facts upon which they base the claim for relief. Any person who

signs a statement pursuant to this section that asserts the truth of any material matter that they know 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.

(3) If the department believes that the collection of any amount of tax required to be paid by any person under this part will be jeopardized by delay, it may make a jeopardy determination pursuant to Article 4 (commencing with Section 55101) of Chapter 3 of Part 30.

(4) The department may collect the tax, penalty, and interest due from the person by seizure and sale of property in the manner prescribed for the collection pursuant to Section 55181.

(5) In the suit, a copy of the jeopardy determination certified by the department shall be prima facie evidence that the person is indebted to the state in the amount of the tax, penalties, and interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the amount, or any portion thereof, should have been reported until the date of payment.

(6) The foregoing remedies of the state are cumulative.

(7) No action taken pursuant to this section relieves the person in any way from the penal provisions of this part or the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)).

(b) Any licensed person, on or after January 1, 2023, who sells or transfers to any person cannabis or cannabis products and who knowingly does not report or falsely reports that sale or transfer in the track and trace system required pursuant to Chapter 6.5 (commencing with Section 26067) of Division 10 of the Business and Professions Code or any regulations promulgated for purposes of that chapter, shall be, with respect to the cannabis or cannabis products knowingly not reported or falsely reported in the track and trace system, liable for the cannabis excise tax imposed pursuant to Section 34011 or 34011.2 as if the person were the purchaser of the cannabis or cannabis product in a retail sale from a cannabis retailer, and for applicable penalties and interest, if any, which shall become immediately due and payable.

SEC. 32. Section 34015.2 is added to the Revenue and Taxation Code, to read:

34015.2. (a) Upon the termination, dissolution, or abandonment of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, any officer, member, manager, partner, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax for, or who is under a duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company in complying with any requirement of this part, shall, notwithstanding any provision in the Corporations Code to the contrary, be personally liable for any unpaid taxes and interest and penalties on those taxes, if the officer, member, manager, partner, or other person willfully fails to pay or to cause to be paid any taxes due from the corporation, partnership, limited

partnership, limited liability partnership, or limited liability company pursuant to this part.

(b) The officer, member, manager, partner, or other person shall be liable only for taxes that became due during the period they had the control, supervision, responsibility, or duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.

(c) Personal liability may be imposed pursuant to this section only if the department can establish that the corporation, partnership, limited partnership, limited liability partnership, or limited liability company is required to collect the cannabis excise tax imposed pursuant to Section 34011 or 34011.2 or cultivation tax imposed pursuant to Section 34012 and that it failed to report and pay the tax.

(d) Except as provided in subdivision (e), the sum due for the liability under this section may be collected by determination and collection in the manner provided in Chapter 3 (commencing with Section 55040) and Chapter 4 (commencing with Section 55121) of Part 30.

(e) A notice of deficiency determination under this section shall be mailed within three years after the last day of the calendar month following the quarterly period in which the department obtains actual knowledge, through its audit or compliance activities, or by written communication by the business or its representative, of the termination, dissolution, or abandonment of the business of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or, within eight years after the last day of the calendar month following the quarterly period in which the corporation, partnership, limited partnership, limited liability partnership, or limited liability company business was terminated, dissolved, or abandoned, whichever period expires earlier. If a business or its representative files a notice of termination, dissolution, or abandonment of its business with a state or local agency other than the department, this filing shall not constitute actual knowledge by the department under this section.

(f) For purposes of this section, “willfully fails to pay or to cause to be paid” means that the failure was the result of an intentional, conscious, and voluntary course of action.

SEC. 33. Section 34019 of the Revenue and Taxation Code is amended to read:

34019. (a) (1) For each fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011, 34011.2, and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Except as provided in paragraph (2), before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the tax fund to the appropriate account, without regard to fiscal year, the following:

(A) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

(B) Reasonable costs incurred by the Department of Cannabis Control for implementing, administering, and enforcing Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code. This paragraph shall remain operative through the 2022–23 fiscal year.

(C) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(D) Reasonable costs incurred by the Governor’s Office of Business and Economic Development for implementing, administering, and enforcing Chapter 23 (commencing with Section 26240) of Division 10 of the Business and Professions Code.

(E) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(F) Reasonable costs incurred by the Department of Finance for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(G) Reasonable costs incurred by the Legislative Analyst’s Office for performing duties imposed by Section 34017.

(H) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(2) Notwithstanding paragraph (1), the Controller shall not make disbursements pursuant to subparagraph (A), (B), (C), (E) or (H) for the 2022–23 and 2023–24 fiscal years.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with the 2018–19 fiscal year until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Department of Cannabis Control shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with cannabis use, as well as whether cannabis use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive cannabis use and the effectiveness of different treatment programs.

(3) Public safety issues related to cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of cannabis and cannabis products, and studying the health-related effects among users of varying potency levels of cannabis and cannabis products.

(4) Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis rates of cannabis-related substance use disorders.

(5) Cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the adult-use cannabis industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9) Environmental issues related to cannabis production and the criminal prohibition of cannabis production.

(10) The geographic location, structure, and function of licensed cannabis businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for cannabis-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of cannabis or cannabis products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions

for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor’s Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center, including the enhanced understanding of the efficacy and adverse effects of cannabis as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in the 2018–19 fiscal year, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the tax fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, fostercare providers,

juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.

(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other cooccurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I) Construction of community-based youth treatment facilities.

(J) The departments may contract with each county behavioral health program for the provision of services.

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance

use disorders among adults, and confirmed through statistical data, validated assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M) The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation, and oversight of the programs.

(N) If the Department of Finance ever determines that funding pursuant to cannabis taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of cannabis and cannabis products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of cannabis or cannabis products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments.

During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3) Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of cannabis. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments that ban both indoor and outdoor commercial cannabis cultivation, or ban retail sale of cannabis or cannabis products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal year. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

SEC. 34. Section 34019.01 is added to the Revenue and Taxation Code, to read:

34019.01. Notwithstanding subdivision (f) of Section 34019, for the 2021–22 fiscal year, the 2022–23 fiscal year, and the 2023–24 fiscal year, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e) of Section 34019, by November 1 following the fiscal year, the Controller shall disburse funds deposited in the tax fund during the prior fiscal year into sub-trust accounts in an amount not to exceed the 2020–21 fiscal year baseline. Any amount of funds that exceeds the 2020–21 fiscal year baseline shall remain in the tax fund for that fiscal year and shall be disbursed, as follows:

(a) (1) For the 2021–22 fiscal year, by November 1, 2022, the Controller shall disburse from the tax fund, to the extent available, an amount necessary to enable funds disbursed to the sub-trust accounts for the 2021–22 fiscal year pursuant to subdivision (f) of Section 34019 and Section 34019.1 to be equal to the 2020–21 fiscal year baseline.

(2) For the 2022–23 fiscal year, by November 1, 2023, the Controller shall disburse, to the extent available, an amount necessary to enable funds disbursed to the sub-trust accounts for the 2022–23 fiscal year pursuant to subdivision (f) of Section 34019 and Section 34019.1 to be equal to the 2020–21 fiscal year baseline.

(3) For the 2023–24 fiscal year, by November 1, 2024, the Controller shall disburse, to the extent available, an amount necessary to enable funds disbursed to the sub-trust accounts for the 2023–24 fiscal year pursuant to subdivision (f) of Section 34019 and Section 34019.1 to be equal to the 2020–21 fiscal year baseline.

(b) On or before January 1, 2026, any remaining moneys in the tax fund retained pursuant to this section and any interest derived shall be disbursed to the sub-trust accounts pursuant to subdivision (f) of Section 34019.

SEC. 35. Section 34019.1 is added to the Revenue and Taxation Code, to read:

34019.1. (a) In the 2022–23 fiscal year, the sum of ten thousand dollars (\$10,000) is hereby appropriated from the General Fund for the purposes of this section. In the 2023–24 fiscal year, the sum of one hundred fifty million dollars (\$150,000,000) is hereby appropriated from the General Fund, as specified in subdivision (b), for the purposes of this section. In no event shall any funds in excess of those amounts be transferred pursuant to

this section. These funds shall be available for encumbrance or expenditure until June 30, 2025.

(b) Upon the order of the Department of Finance, the Controller shall make the following transfers from the General Fund, in an amount not to exceed one hundred fifty million dollars (\$150,000,000) in fiscal years 2023–24 and 2024–25, cumulatively:

(1) By November 1, 2023, the Controller shall, subject to the limitation in subdivision (a), transfer from the General Fund an amount that would enable funds disbursed to the sub-trust accounts for the 2022–23 fiscal year, pursuant to subdivision (f) of Section 34019, Section 34019.01, and this paragraph, to be equal to the 2020–21 fiscal year baseline.

(2) By November 1, 2024, the Controller shall, subject to the limitation in subdivision (a), transfer from the General Fund an amount that would enable funds disbursed to the sub-trust accounts for the 2023–24 fiscal year, pursuant to subdivision (f) of Section 34019, Section 34019.01, and this paragraph, to be equal to the 2020–21 fiscal year baseline.

(c) This section shall remain in effect only until December 31, 2026, and as of that date is repealed.

SEC. 36. Section 34020.1 is added to the Revenue and Taxation Code, to read:

34020.1. (a) On or before March 1, 2025, the Department of Cannabis Control, in consultation with the Department of Finance and the California Department of Tax and Fee Administration, shall submit a report to the Legislature on the condition and health of the cannabis industry in the state. The report shall include, but is not limited to, the following information:

(1) How many local jurisdictions have permitted commercial cannabis activity.

(2) How many local jurisdictions have not permitted commercial cannabis activity.

(3) Information or analysis concerning the potential expansion or contraction of the cannabis market in the state, which may include information concerning any increase in retail cannabis sales and activity in the illicit market.

(4) How many equity licensees have been approved by the Department of Cannabis Control.

(5) In what counties the state equity licensees located.

(6) The health of the Cannabis Tax Fund, and any future projections of Cannabis Tax Fund revenues.

(7) Information on the viability of cannabis businesses in the state, and the ability to continue to operate cannabis businesses in the state, from a general and equity licensee standpoint.

(8) The impacts of the suspension of the cultivation tax imposed by paragraph (2) of subdivision (a) of Section 34012, including whether that suspension resulted in a decrease in retail cannabis prices or increased participation in the legal cannabis market.

(b) The report may include recommendations to strengthen the state’s legal cannabis market.

(c) The Department of Cannabis Control may contract with a public university or universities in California to prepare the report. Subject to approval by the Department of Cannabis Control, the university or universities may contract with other organizations in connection with the report.

(d) The Department of Cannabis Control may consolidate this report with any other reports required under Division 10 (commencing with Section 26000) of the Business and Professions Code.

SEC. 37. Section 1052 of the Water Code is amended to read:

1052. (a) The diversion or use of water subject to this division other than as authorized in this division is a trespass.

(b) (1) An action for the issuance of injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, or permanent injunction, may be brought by the Attorney General on behalf of the board, or in the Attorney General's independent capacity in the name of the people of the State of California, where the diversion or use of water is threatened, is occurring, or has occurred.

(2) (A) A civil action for a violation under this section resulting from unlicensed cannabis cultivation may also be brought by a city attorney or county counsel, upon approval of the board, in the name of the people of the State of California.

(B) A city attorney or county counsel shall inform and coordinate with the board as to the investigation of potential violations of this section related to unlicensed cannabis cultivation. Unless the board withholds its approval within 21 days after the local jurisdiction provides notice of its intent to file, the local jurisdiction may deem the board's silence as approval.

(c) A person or entity committing a trespass as defined in this section may be liable in an amount not to exceed the following:

(1) If the unauthorized diversion or use occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years, or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions, the sum of the following:

(A) One thousand dollars (\$1,000) for each day in which the trespass occurs.

(B) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in excess of that diverter's water rights.

(2) If the unauthorized diversion or use is not described by paragraph (1), five hundred dollars (\$500) for each day in which the unauthorized diversion or use occurs.

(3) Notwithstanding paragraphs (1) and (2), up to three thousand five hundred dollars (\$3,500) for each day in which the unauthorized diversion or use for unlicensed cannabis cultivation occurs.

(d) Civil liability for a violation of this section may be imposed by the superior court or the board as follows:

(1) The superior court may impose civil liability in an action brought by the Attorney General, upon request of the board, to impose, assess, and recover any sums pursuant to subdivision (c). In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(2) The superior court may impose civil liability in an action for a violation under this section resulting from unlicensed cannabis cultivation brought by a city attorney or county counsel to impose, assess, and recover any sums pursuant to subdivision (c). In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, whether the violation was intentional or committed knowingly, the nature and persistence of the violation, the length of time over which the violation has occurred, and the corrective action, if any, taken by the violator. The court shall make its findings on the record.

(3) The board may impose civil liability in accordance with Section 1055.

(e) (1) Upon appropriation by the Legislature, funds recovered in an action pursuant to this section shall be used to proportionally reimburse the Attorney General, city attorney, county counsel, and the board for costs of bringing the action, including reasonable attorney's fees, and of investigating the violation and supporting the prosecution of the action.

(2) Except for reimbursements to the Attorney General, city attorney, or county counsel, as specified in paragraph (1), all funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

(f) The remedies prescribed in this section are cumulative and not alternative.

SEC. 38. For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 17053.64 and 23664 of the Revenue and Taxation Code, as added by this act, the Legislature finds and declares all of the following:

(a) The specific goals, purposes, and objectives that the credits will achieve include all of the following:

(1) Provide relief for high-road cannabis employers who are providing good jobs in a struggling industry.

(2) Assist high-road cannabis employers and operators to stay in business or grow their business.

(b) Detailed performance indicators for the Legislature to use in determining whether the credits meet the goals, purposes, and objectives described in subdivision (a) are the number of credits claimed and the total dollar amount of credits claimed.

(c) (1) The Franchise Tax Board shall analyze the performance indicators in subdivision (b) for each taxable year and shall report its findings to the Legislature, on or before March 1, 2025, and annually thereafter while the

credit is operative, in compliance with Section 9795 of the Government Code.

(2) The disclosure provisions of this paragraph shall be treated as an exception to Section 19542 under Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

SEC. 39. For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Sections 17053.82 and 23682 of the Revenue and Taxation Code, as added by this act, the Legislature finds and declares all of the following:

(a) The specific goals, purposes, and objectives that the credits will achieve include all of the following:

(1) Provide relief for individuals who are low income or who have directly or indirectly been negatively impacted by past cannabis policies.

(2) Assist cannabis equity licensees to stay in business or grow their businesses.

(b) Detailed performance indicators for the Legislature to use in determining whether the credits meet the goals, purposes, and objectives described in subdivision (a) are the number of credits claimed and the total dollar amount of credits claimed.

(c)(1) The Franchise Tax Board shall analyze the performance indicators in subdivision (b) for each taxable year and shall report its findings to the Legislature, on or before March 1, 2025, and annually thereafter while the credit is operative, in compliance with Section 9795 of the Government Code.

(2) The disclosure provisions of this paragraph shall be treated as an exception to Section 19542 under Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

SEC. 40. The Legislature finds and declares that Section 8 of this act, which adds Section 26203 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the integrity of active and prospective administrative, civil, and criminal investigations conducted for law enforcement and licensing purposes; to prevent premature or overbroad disclosure of potentially sensitive information regarding those investigations to suspected violators of applicable state and local laws, as well as potential witnesses and others, in ways that might compromise those investigations; to allow members of the task force created by Section 26203 of the Business and Professions Code to more freely share information, and otherwise coordinate, regarding those investigations; and to otherwise promote fuller cooperation among members of the task force to enforce applicable state and local laws,

it is necessary to exempt the task force from the provisions of the Bagley-Keene Open Meeting Act and the Brown Act.

SEC. 41. (a) Except as provided in subdivision (b), the provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application, except as provided in subdivision (b).

(b) The provisions of Sections 34011 and 34012 of the Revenue and Taxation Code, as amended by this act, and Section 34011.1 of the Revenue and Taxation Code, as added by this act, are not severable from the provisions of subdivisions (a) and (b) of Section 34011.2 of the Revenue and Taxation Code, as added by this act. If any provision of subdivision (a) or (b) of Section 34011.2 or its application is held invalid in a final decision of a court of competent jurisdiction, the amendments to Sections 34011 and 34012 made by this act, and Sections 34011.1 and 34011.2 as added by this act, shall become inoperative on the date of that final decision. Sections 34011 and 34012 shall revert to the law as it read before the effective date of this act, and Sections 34011.1 and 34011.2 shall be repealed, on the first day of the first calendar quarter commencing more than 90 days after that final decision.

SEC. 42. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 43. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act, enacted as Proposition 64 at the November 8, 2016, statewide general election, by accomplishing all of the following:

(a) Taxing the growth and sale of cannabis in a way that drives out the illicit market for cannabis, and discourages use by minors and abuse by adults.

(b) Generating hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.

(c) Reducing barriers to entry into the legal, regulated market.

SEC. 44. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

EXHIBIT C

Assembly Bill No. 564

CHAPTER 127

An act to amend Section 34011.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 22, 2025. Filed with
Secretary of State September 22, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

AB 564, Haney. Cannabis: excise tax: rate increase suspension: report.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities and establishes the Department of Cannabis Control (DCC) within the Business, Consumer Services, and Housing Agency to administer the act.

Existing law, the Cannabis Tax Law, imposes an excise tax upon purchasers of cannabis or cannabis products sold in this state at the rate of 15% of the gross receipts of any retail sale by a cannabis retailer, and, as enacted by AUMA, imposed a cultivation tax on all harvested cannabis that entered the commercial market, as specified. Chapter 56 of the Statutes of 2022 (AB 195) amended AUMA to, among other things, discontinue the imposition of the cultivation tax on July 1, 2022. AB 195, beginning in the 2025–26 fiscal year and every 2 years thereafter, requires the California Department of Tax and Fee Administration (CDTFA) to adjust the cannabis excise tax rate by a percentage that will generate an amount of revenue that would have been collected pursuant to the cultivation tax imposed prior to its discontinuation, as specified, not to exceed 19% of the gross receipts of retail sale. Pursuant to that law, the department increased the cannabis excise tax rate to 19% for the 2025–26 fiscal year.

This bill would revise the above-described provisions governing the cannabis excise tax rate. Specifically, the bill, for the period from July 1, 2025, to September 30, 2025, inclusive, would retain the existing cannabis excise tax rate of 19%. For the period from October 1, 2025, to June 30, 2028, inclusive, the bill would decrease the excise tax rate to 15%. Beginning in the 2028–29 fiscal year and every 2 years thereafter, the bill would require the department to adjust the cannabis excise tax rate by a percentage that will generate an amount of revenue that would have been collected pursuant to the cultivation tax imposed prior to its discontinuation, as specified, not to exceed 19%. The bill would also require the DCC, in consultation with

the CDTFA and the Legislative Analyst's Office, on or before October 1, 2027, to submit a report to the Legislature that analyzes, among other things, the current and future effect of the Cannabis Tax Law on the regulated cannabis market and recommends options for changes to the Cannabis Tax Law to accomplish the intent of AUMA.

Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill also would include additional information required for any bill authorizing a new tax expenditure.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 34011.2 of the Revenue and Taxation Code is amended to read:

34011.2. (a) (1) Effective on and after January 1, 2023, a cannabis excise tax shall be imposed upon purchasers of cannabis or cannabis products sold in this state at 15 percent of the gross receipts of any retail sale by a cannabis retailer.

(2) Notwithstanding paragraph (1), on and after July 1, 2025, and before October 1, 2025, the cannabis excise tax rate imposed in paragraph (1) shall be 19 percent of the gross receipts of any retail sale by a cannabis retailer as determined by the department, in consultation with the Department of Finance, pursuant to this section, as added by Section 22 of Chapter 56 of the Statutes of 2022.

(3) For the 2028–29 fiscal year and every two years thereafter, the department, in consultation with the Department of Finance, shall, on or before May 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the cannabis excise tax rate upon purchasers of cannabis or cannabis products imposed in paragraph (1) by the additional percentage of the gross receipts of any retail sale by a cannabis retailer that the department estimates will generate an amount of revenue equivalent to the amount that would have been collected in the previous fiscal year pursuant to the weight-based cultivation tax imposed under Section 34012 as it read on June 29, 2022. In no case shall the cannabis excise tax exceed 19 percent of the gross receipts of retail sale. The department shall round the rate calculated under this subdivision to the nearest one-quarter of 1 percent. The adjusted rate shall become operative the following July 1.

(4) On or before May 1, 2028, and each May 1 every two years thereafter, the department, in consultation with the Department of Finance, shall estimate the amount of revenue that would have been collected in the previous fiscal year pursuant to the weight-based cultivation tax imposed under Section 34012 as it read on June 29, 2022. The department shall estimate this amount by projecting the revenue from weight-based cultivation taxes that would have been collected in the previous calendar year based

on information available to the department, including, but not limited to, information in the track and trace system required pursuant to Chapter 6.5 (commencing with Section 26067) of Division 10 of the Business and Professions Code, or any implementing regulations, as a percentage of gross receipts from the retail sale of cannabis and cannabis products by cannabis retailers in the previous calendar year.

(b) A purchaser's liability for the cannabis excise tax is not extinguished until the cannabis excise tax has been paid to this state, except that an invoice, receipt, or other document from a cannabis retailer given to the purchaser pursuant to this section is sufficient to relieve the purchaser from further liability for the tax to which the invoice, receipt, or other document refers.

(c) A cannabis retailer shall be responsible for collecting the cannabis excise tax from the purchaser and remitting that tax to the department in accordance with this division.

(d) The cannabis retailer shall provide each purchaser with an invoice, receipt, or other document that separately states the cannabis excise tax.

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

(f) Gross receipts from the sale of cannabis or cannabis products for purposes of assessing the sales and use taxes under Part 1 (commencing with Section 6001) shall include the tax levied pursuant to this section.

(g) Cannabis or cannabis products shall not be sold to a purchaser unless the cannabis excise tax imposed by this section has been paid by the purchaser at the time of sale.

(h) This section shall not be construed to impose a cannabis excise tax upon medicinal cannabis, or medicinal cannabis product, donated for no consideration to a medicinal cannabis patient pursuant to Section 26071 of the Business and Professions Code.

(i) (1) This section shall not be construed to impose a cannabis excise tax upon cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code.

(2) A person licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code that sells cannabis or cannabis products designated as a trade sample pursuant to Section 26153.1 of the Business and Professions Code shall be liable for the cannabis excise tax imposed by this section as if the person were a cannabis retailer at the time of sale.

SEC. 2. (a) For purposes of complying with Section 41 of the Revenue and Taxation Code, as it pertains to the reduction of the cannabis excise tax rate allowed pursuant to Section 34011.2 of the Revenue and Taxation Code as amended by this act, the Legislature finds and declares both of the following:

(1) The specific goal of the cannabis excise tax rate reduction is to provide immediate tax relief to the cannabis industry.

(2) The efficacy of this goal may be measured by the Legislature by the amount of gain or loss in cannabis excise tax revenues resulting from the cannabis excise tax rate reduction allowed by this act.

(b) On or before June 1, 2027, and annually thereafter, the California Department of Tax and Fee Administration shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, detailing the estimated amount of gain or loss in cannabis excise tax revenues resulting from the cannabis excise tax rate reduction allowed by this act.

(c) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 3. (a) On or before October 1, 2027, the Department of Cannabis Control, in consultation with the California Department of Tax and Fee Administration and the Legislative Analyst's Office, shall submit a report to the Legislature, in compliance with Section 9795 of the Government Code, that does all of the following:

(1) Analyzes the current and future effect of the Cannabis Tax Law (Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code) on the regulated cannabis market and its competitive position against the illicit cannabis market.

(2) Assesses the capacity for the Cannabis Tax Law (Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code) to generate revenue to restore the environment, fund youth treatment and prevention, and support community investment and law enforcement, consistent with Section 3 of the Control, Regulate and Tax Adult Use of Marijuana Act.

(3) Recommends options for changes to the Cannabis Tax Law (Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code) to accomplish the intent of the Control, Regulate and Tax Adult Use of Marijuana Act, including revenue effects, administrative feasibility, consistency with the purposes of the act, and impact on the regulated and illicit cannabis markets.

(b) The California Department of Tax and Fee Administration shall share information and data with the department to the extent necessary to complete the report required by subdivision (a).

(c) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.

EXHIBIT D

Senate Bill No. 141

CHAPTER 18

An act to amend Section 34019 of the Revenue and Taxation Code, relating to cannabis, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 27, 2025. Filed with Secretary of State June 27, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

SB 141, Committee on Budget and Fiscal Review. California Cannabis Tax Fund: Department of Cannabis Control: Board of State and Community Corrections grants.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities.

Existing law establishes the California Cannabis Tax Fund as a continuously appropriated fund consisting of specified taxes, interest, penalties, and other amounts related to commercial cannabis activity. Each fiscal year, AUMA requires the Controller to make specified disbursements from the fund, including, through the 2022–23 fiscal year, reasonable costs incurred by the Department of Cannabis Control for implementing, administering, and enforcing MAUCRSA.

This bill would require the Controller to make a disbursement from the fund for reasonable costs incurred by the Department of Cannabis Control for maintaining and operating the track and trace program and for conducting civil or criminal enforcement against unauthorized commercial cannabis activity, as specified. By requiring moneys in the California Cannabis Tax Fund, a continuously appropriated fund, to be used for a new purpose, the bill would make an appropriation.

AUMA also requires the Controller to make a disbursement from the fund to the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of AUMA. AUMA prohibits the board from making grants to local governments that ban both indoor and outdoor commercial cannabis cultivation, or ban retail sale of cannabis or cannabis products.

This bill would repeal that prohibition, thereby authorizing the Board of State and Community Corrections to make grants to local governments that

ban both indoor and outdoor commercial cannabis cultivation or ban retail sale of cannabis or cannabis products. In order to be eligible for a grant, the bill would require a local government either to allow the retail sale of cannabis in storefronts or, for jurisdictions with a population of 10,000 residents or less, to allow cannabis delivery, as specified. The bill would require the board to prioritize grant awards for local governments whose grant application includes illicit cannabis enforcement, and would authorize the board to award grants both competitively and based on a formula to provide consistent and ongoing funding for local governments, as provided.

AUMA authorizes the Legislature to amend its provisions with a $\frac{2}{3}$ vote of both houses to further its purposes and intent, except as specified.

This bill would declare that its provisions further the purposes and intent of AUMA.

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

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 34019 of the Revenue and Taxation Code is amended to read:

34019. (a) (1) For each fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011, 34011.2, and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Except as provided in paragraph (2), before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the tax fund to the appropriate account, without regard to fiscal year, the following:

(A) Reasonable costs incurred by the department for administering and collecting the taxes imposed by this part, except that such costs shall not exceed 4 percent of tax revenues received.

(B) Reasonable costs incurred by the Department of Cannabis Control for maintaining and operating the track and trace program and for conducting any civil or criminal enforcement against unauthorized commercial cannabis activity pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.

(C) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(D) Reasonable costs incurred by the Governor's Office of Business and Economic Development for implementing, administering, and enforcing Chapter 23 (commencing with Section 26240) of Division 10 of the Business and Professions Code.

(E) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(F) Reasonable costs incurred by the Department of Finance for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(G) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

(H) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(2) Notwithstanding paragraph (1), the Controller shall not make disbursements pursuant to subparagraph (A), (B), (C), (E), or (H) for the 2022–23 and 2023–24 fiscal years.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with the 2018–19 fiscal year until the 2028–29 fiscal year to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Department of Cannabis Control shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with cannabis use, as well as whether cannabis use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive cannabis use and the effectiveness of different treatment programs.

(3) Public safety issues related to cannabis use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of cannabis and cannabis products, and studying the health-related effects among users of varying potency levels of cannabis and cannabis products.

(4) Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis rates of cannabis-related substance use disorders.

(5) Cannabis market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax cannabis based on potency, and the structure and function of licensed cannabis businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anticompetitive behavior from occurring in the adult-use

cannabis industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short- and long-term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9) Environmental issues related to cannabis production and the criminal prohibition of cannabis production.

(10) The geographic location, structure, and function of licensed cannabis businesses, and demographic data, including race, ethnicity, and gender, of licenseholders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for cannabis-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of cannabis or cannabis products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The Department of the California Highway Patrol may hire personnel to establish the protocols specified in this subdivision. In addition, the Department of the California Highway Patrol may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of cannabis or cannabis products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning with the 2018–19 fiscal year and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor’s Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address

barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation, and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center, including the enhanced understanding of the efficacy and adverse effects of cannabis as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in the 2018–19 fiscal year, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the tax fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families, and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.

(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma informed, evidence based, and that provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other cooccurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication, and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers, and all their children.

(G) Programs to assist individuals, as well as families and friends of drug-using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidence-based practices.

(I) Construction of community-based youth treatment facilities.

(J) The State Department of Health Care Services, the State Department of Public Health, and the State Department of Education may contract with each county behavioral health program for the provision of services.

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments, or submitted reports prepared by the applicable county to demonstrate and validate need.

(L) The State Department of Health Care Services, State Department of Public Health, and the State Department of Education shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M) The State Department of Health Care Services, State Department of Public Health, and the State Department of Education may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early

Intervention and Treatment Account for administrative costs related to implementation, evaluation, and oversight of the programs.

(N) If the Department of Finance ever determines that funding pursuant to cannabis taxation exceeds demand for youth prevention and treatment services in the state, the State Department of Health Care Services, State Department of Public Health, and the State Department of Education shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The State Department of Health Care Services, the State Department of Public Health, and the State Department of Education shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(P) On or before July 10, 2023, the State Department of Health Care Services shall provide to the Legislature, pursuant to Section 9795 of the Government Code, a spending report of funds from the Youth Education, Prevention, Early Intervention and Treatment Account for the 2021–22 and 2022–23 fiscal years. On or before July 10, 2024, and annually thereafter, the State Department of Health Care Services shall provide to the Legislature, pursuant to Section 9795 of the Government Code, a spending report of funds from the Youth Education, Prevention, Early Intervention and Treatment Account for the prior fiscal year.

(2) Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by cannabis cultivation and related activities, including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph. The Department of Fish and Wildlife shall use moneys made available pursuant to subparagraph (D) for purposes of this subparagraph to fund its activities required pursuant to Sections 1024 and 1025 of the Fish and Game Code.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale, and use of cannabis and cannabis products on public lands, and to facilitate the investigation, enforcement, and prosecution of illegal cultivation, production, sale, and use of cannabis or cannabis products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency task force established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game

Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of cannabis cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the Department of Fish and Wildlife and the Department of Parks and Recreation. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3) Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing, and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of cannabis. The Department of the California Highway Patrol may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention, and enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries, and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including cannabis.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. A local government shall be eligible for a grant only if it either allows the retail sale of cannabis in storefronts or, for jurisdictions with a population of 10,000 residents or less, allows cannabis delivery in the jurisdiction that serves both medicinal and adult-use consumers. The Board of State and Community Corrections shall prioritize grant awards for local governments whose grant application includes illicit cannabis enforcement. The board may award grants both competitively and based on a formula to provide consistent and ongoing funding for local governments to implement the programs described in this subparagraph.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal year. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

SEC. 2. The Legislature finds and declares that this act furthers the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

SEC. 3. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.