

**Comprehensive  
Medical Cannabis Regulation and Safety Act- 2016**

Includes 2015 bills SB 643, AB 266, AB 243 and 2016 bills SB 837, AB 21, AB 2516 and AB 2679

**BUSINESS AND PROFESSIONS CODE**

**GENERAL PROVISIONS**

**27.**

- (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.
- (b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.
- (c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:
  - (1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.
  - (2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.
  - (3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.
  - (4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.
  - (5) The Professional Fiduciaries Bureau shall disclose information on its licensees.
  - (6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.
  - (7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.
  - (8) The California Board of Accountancy shall disclose information on its licensees and registrants.
  - (9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.
  - (10) The State Athletic Commission shall disclose information on its licensees and registrants.
  - (11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.
  - (12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.
  - (13) The Acupuncture Board shall disclose information on its licensees.
  - (14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.
  - (15) The Dental Board of California shall disclose information on its licensees.
  - (16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

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- (17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.
- (d) The State Board of Chiropractic Examiners shall disclose information on its licensees.
- (e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.
- (f) The Bureau of Medical Cannabis Regulation shall disclose information on its licensees.
- (g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

**DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS**

**CHAPTER 1. THE DEPARTMENT (100-144.5)**

**101.**

The department is comprised of the following:

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

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**144.**

- (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.
- (b) Subdivision (a) applies to the following:
- (1) California Board of Accountancy.
  - (2) State Athletic Commission.
  - (3) Board of Behavioral Sciences.
  - (4) Court Reporters Board of California.
  - (5) State Board of Guide Dogs for the Blind.
  - (6) California State Board of Pharmacy.
  - (7) Board of Registered Nursing.
  - (8) Veterinary Medical Board.
  - (9) Board of Vocational Nursing and Psychiatric Technicians.
  - (10) Respiratory Care Board of California.
  - (11) Physical Therapy Board of California.
  - (12) Physician Assistant Committee of the Medical Board of California.
  - (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.
  - (14) Medical Board of California.
  - (15) State Board of Optometry.
  - (16) Acupuncture Board.
  - (17) Cemetery and Funeral Bureau.
  - (18) Bureau of Security and Investigative Services.
  - (19) Division of Investigation.
  - (20) Board of Psychology.
  - (21) California Board of Occupational Therapy.
  - (22) Structural Pest Control Board.
  - (23) Contractors' State License Board.
  - (24) Naturopathic Medicine Committee.
  - (25) Professional Fiduciaries Bureau.
  - (26) Board for Professional Engineers, Land Surveyors, and Geologists.
  - (27) Bureau of Medical Cannabis Regulation.
- (c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

**DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS  
CHAPTER 3. FUNDS OF THE DEPARTMENT (200 – 211)**

**205.1.**

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

**DIVISION 2. HEALING ARTS  
CHAPTER 5. MEDICINE  
ARTICLE 12. ENFORCEMENT (2220-2319)**

**2220.05.**

- (a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:
- (1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon represents a danger to the public.
  - (2) Drug or alcohol abuse by a physician and surgeon involving death or serious bodily injury to a patient.
  - (3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing,

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- furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.
- (4) Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.
  - (5) Sexual misconduct with one or more patients during a course of treatment or an examination.
  - (6) Practicing medicine while under the influence of drugs or alcohol.
- (b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).
  - (c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

**2241.5.**

- (a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.
- (b) (b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.
- (c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:
  - (1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.
  - (2) Violates Section 2241 regarding treatment of an addict.
  - (3) Violates Section 2242 or 2525.3 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs or recommending medical cannabis.
  - (4) Violates Section 2242.1 regarding prescribing on the Internet.
  - (5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.
  - (6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.
  - (7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.
- (d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.
- (e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5.

**2242.1.**

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

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- (d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.
- (e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.
- (f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242 or 2525.3.

**ARTICLE 25. RECOMMENDING MEDICAL CANNABIS (2525-2525.5)**

**2525.**

- (a) It is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a state license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8, if the physician and surgeon or his or her immediate family have a financial interest in that facility.
- (b) For the purposes of this section, "financial interest" shall have the same meaning as in Section 650.01. A violation of this section shall be a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars (\$5,000) or by civil penalties of up to five thousand dollars (\$5,000) and shall constitute unprofessional conduct.
- (c) A violation of this section shall be a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars (\$5,000) or by civil penalties of up to five thousand dollars (\$5,000) and shall constitute unprofessional conduct.

**2525.1.**

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

**2525.2.**

An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

**2525.3.**

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

**2525.4.**

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

**2525.5.**

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

NOTICE TO CONSUMERS: The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain and use cannabis for medical purposes where medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of medical cannabis. Recommendations must come from an attending physician as defined in Section 11362.7 of the Health and Safety Code.

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Cannabis is a Schedule I drug according to the federal Controlled Substances Act. Activity related to cannabis use is subject to federal prosecution, regardless of the protections provided by state law.

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

**DIVISION 8. SPECIAL BUSINESS REGULATIONS**

**CHAPTER 3.5. MEDICAL CANNABIS REGULATION AND SAFETY ACT**

**ARTICLE 1. DEFINITIONS (19300 – 19300.7)**

**19300.**

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

**19300.5.**

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

- (a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.
- (b) "Applicant," for purposes of Article 4 (commencing with Section 19320), includes the following:
- (1) Owner or owners of the proposed premises, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the premises.
  - (2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed premises.
  - (3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.
- (c) "Batch" means a specific quantity of homogeneous medical cannabis or medical cannabis product and is one of the following types:
- (1) "Harvest batch" means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time.
  - (2) "Manufactured cannabis batch" means either:
    - (A) An amount of cannabis concentrate or extract produced in one production cycle using the same extraction methods and standard operating procedures, and is from the same harvest batch.
    - (B) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.
- (d) "Bureau" means the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs.
- (e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.
- (f) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- (g) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- (h) "Certificate of accreditation" means a certificate issued by an accrediting body to a testing laboratory.
- (i) "Chief" means Chief of the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs.
- (j) "Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.
- (k) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis.

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- (l) "Cultivation site" means a location where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
- (m) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
- (n) "Dispensary" means a premises where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Section 19340, medical cannabis and medical cannabis products as part of a retail sale.
- (o) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- (p) "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.
- (q) "Distributor" means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.
- (r) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (s) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.
- (t) "Fund" means the Medical Cannabis Regulation and Safety Act Fund established pursuant to Section 19351.
- (u) "Identification program" means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.
- (v) "Labeling" means any label or other written, printed, or graphic matter upon a medical cannabis product, or upon its container or wrapper, or that accompanies any medical cannabis product.
- (w) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.
- (x) "Licensee" means a person issued a state license under this chapter to engage in commercial cannabis activity.
- (y) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license.
- (z) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.
- (aa) "Local license, permit, or other authorization" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.
- (ab) "Lot" means a batch or a specifically identified portion of a batch.
- (ac) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.
- (ad) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container.
- (ae) "Manufacturing site" means the premises that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.
- (af) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California

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pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

- (ag) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.
- (ah) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- (ai) "Primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.
- (aj) "State license" or "license" means a state license issued pursuant to this chapter.
- (ak) "Testing laboratory" means the premises where tests are performed on medical cannabis or medical cannabis products and that holds a valid certificate of accreditation.
- (al) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.
- (am) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.
- (an) "Transporter" means a person who holds a license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between licensees that have been issued a license pursuant to this chapter.

**19300.7.**

License classifications pursuant to this chapter are as follows:

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

**ARTICLE 2. ADMINISTRATION (19302 – 19310)**

**19302.**

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

**19302.1.**

- (a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the Director of Consumer Affairs with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.
- (b) Every power granted to or duty imposed upon the Director of Consumer Affairs under this chapter may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to conditions and limitations that the director may prescribe. In addition to every power granted or duty imposed with this chapter, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.



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- (c) The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations. The Governor may also appoint a deputy chief and an assistant chief counsel to the bureau. These positions shall hold office at the pleasure of the Governor.
- (d) The Department of Consumer Affairs shall have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, testing, distribution, and sale of medical cannabis within the state and to collect fees in connection with activities the bureau regulates. The bureau shall have the authority to create licenses in addition to those identified in this chapter that the bureau deems necessary to effectuate its duties under this chapter.
- (e) The Department of Food and Agriculture shall administer the provisions of this chapter related to and associated with the cultivation of medical cannabis and will serve as lead agency for the purpose of fulfilling the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). The Department of Food and Agriculture shall have the authority to create, issue, renew, discipline, suspend, or revoke licenses for the cultivation of medical cannabis and to collect fees in connection with activities it regulates. The Department of Food and Agriculture shall have the authority to create licenses in addition to those identified in this chapter that it deems necessary to effectuate its duties under this chapter.
- (f) The State Department of Public Health shall administer the provisions of this chapter related to and associated with the manufacturing of medical cannabis. The State Department of Public Health shall have the authority to create, issue, renew, discipline, suspend, or revoke licenses for the manufacturing of medical cannabis and medical cannabis products and to collect fees in connection with activities it regulates. The State Department of Public Health shall have the authority to create licenses in addition to those identified in this chapter that it deems necessary to effectuate its duties under this chapter.

**19303.**

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

**19304.**

- (a) The licensing authorities shall make and prescribe rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable each licensing authority to exercise the powers and duties conferred upon it by this chapter, not inconsistent with any statute of this state, including particularly this chapter and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the performance of its duties, each licensing authority has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.
- (b) Each licensing authority may adopt emergency regulations to implement this chapter.
  - (1) Each licensing authority may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted by this section. Any such readoption shall be limited to one time for each regulation.
  - (2) Notwithstanding any other law, the initial adoption of emergency regulations and the readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall be each submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

**19305.**

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

**19306.**

- (a) The bureau may convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this chapter, including best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. The advisory committee members shall be determined by the chief.
- (b) The advisory committee members may include, but not be limited to, representatives of the medical cannabis industry, representatives of medical cannabis cultivators, appropriate local and state agencies, appropriate local and state law enforcement, physicians, environmental and public health experts, and medical cannabis patient advocates.

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**19307.**

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

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

**19308.**

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

**19309.**

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

**19310.**

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

**ARTICLE 3. ENFORCEMENT (19311 – 19319)**

**19311.**

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

- (a) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.
- (b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.
- (c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this chapter.
- (d) Failure to comply with any state law, except as provided for in this chapter or other California law.
- (e) Failure to maintain safe conditions for inspection by a licensing authority.
- (f) Failure to comply with any operating procedure submitted to the licensing authority pursuant to subdivision (b) of Section 19322.

**19312.**

- (a)
  - (1) Each licensing authority may suspend, revoke, place on probation with terms and conditions, or otherwise discipline licenses issued by that licensing authority and fine a licensee, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action.
  - (2) A licensing authority may revoke a license when a local agency has notified the licensing authority that a licensee or applicant within its jurisdiction is in violation of state rules and regulation relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for termination or revocation of the license.
- (b) The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director and agency head, as that term is defined in Section 11405.40 of the Government Code, of each licensing authority shall have all the powers granted therein.
- (c) Each licensing authority may take disciplinary action and assess fines against its respective licensees for any violation of this chapter when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial cannabis activity.
- (d) A licensing authority may recover the costs of investigation and enforcement of a disciplinary proceeding pursuant to Section 125.3 of this code.

**19313.5.**

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

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**19314.**

All accusations against licensees shall be filed by the licensing authority within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within five years after such discovery.

**19315.**

- (a) Nothing in this chapter shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.
- (b) Nothing in this chapter shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.
- (c) Nothing in this chapter shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority under the Fish and Game Code, the Water Code, the Food and Agricultural Code, or the Health and Safety Code.

**19316.**

- (a) Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state shall be the minimum standards for all licensees statewide.
- (b) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this chapter and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall further assume complete responsibility for any regulatory function relating to those licensees within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.
- (c) Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

**19317.**

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

**19319.**

- (a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this chapter.
- (b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this chapter.

**ARTICLE 4. LICENSING (19320 – 19325)**

**19320.**

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

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- (b) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.
- (c) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport or where any equipment that is not currently transporting medical cannabis or medical cannabis products permanently resides.
- (d) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon revocation of a local license, permit, or other authorization. The bureau shall inform relevant licensing authorities.
- (e) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license.
- (f) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.
- (g) Nothing in this chapter shall be construed to supersede or limit state agencies, including the Department of Food and Agriculture, the State Water Resources Control Board, and the Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

**19321.**

- (a) A license issued pursuant to this chapter shall be valid for 12 months from the date of issuance. The license shall be renewed annually. Each licensing authority shall establish procedures for the renewal of a license.
- (b) Notwithstanding subdivision (b) of Section 19320, the premises or person that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter only if (1) a completed application and all required documentation and approvals for licensure are submitted to the licensing authority no later than the deadline established by the licensing authority and (2) the applicant continues to operate in compliance with all local and state requirements, except possession of a state license pursuant to this chapter. In issuing licenses, the licensing authority shall prioritize any premises or person that can demonstrate to the authority's satisfaction that the premises or person was in operation and in good standing with the local jurisdiction by January 1, 2016.
- (c) Issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of the City of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, Proposition D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or the city's zoning laws. Nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of Proposition D or local zoning law, in court or in any other context or forum.

**19322.**

- (a) A person shall not submit an application for a state license issued by a licensing authority pursuant to this chapter unless that person has received a license, permit, or authorization from the local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:
  - (1) Electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.
    - (A) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.
    - (B) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.
    - (C) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.
  - (2) Provide documentation issued by the local jurisdiction in which the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations.

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- (3) Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, testing, transporter, or dispensary license, provide a statement from the owner of real property or their agent where the cultivation, distribution, manufacturing, testing, transport, or dispensing of commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation, distribution, manufacturing, testing, transport, or dispensary activities to be conducted on the property by the tenant applicant.
  - (4) If the application is for a cultivator or a dispensary, provide evidence that the proposed location is located beyond at least a 600-foot radius from a school, as required by Section 11362.768 of the Health and Safety Code.
  - (5) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.
  - (6)
    - (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.
    - (B) For the purposes of this paragraph, "employee" does not include a supervisor.
    - (C) For purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
  - (7) Provide the applicant's valid seller's permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code or indicate that the applicant is currently applying for a seller's permit.
  - (8) Provide any other information required by the licensing authority.
  - (9) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.
  - (10) Pay all applicable fees required for licensure by the licensing authority.
  - (11) Provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements.
- (b) For applicants seeking licensure to cultivate, distribute, manufacture, test, or dispense medical, cannabis or medical cannabis products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:
- (1) Cultivation.
  - (2) Extraction and infusion methods.
  - (3) The transportation process.
  - (4) Inventory procedures.
  - (5) Quality control procedures.
  - (6) Security protocols.

**19323.**

- (a) A licensing authority shall deny an application if the applicant or the premises for which a state license is applied does not qualify for licensure under this chapter or the rules and regulations for the state license.
- (b) A licensing authority may deny an application for licensure or renewal of a state license, or issue a conditional license, if any of the following conditions apply:
  - (1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.
  - (2) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.
  - (3) The applicant has failed to provide information required by the licensing authority.
  - (4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

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- (A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.
- (B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
- (C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
- (D) A felony conviction involving fraud, deceit, or embezzlement.
- (5) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.
- (6) The applicant or any of its officers, directors, or owners has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
- (7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.
- (8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
- (9) The applicant or any of its officers, directors, owners, employees, or authorized agents have failed to comply with any operating procedure required pursuant to subdivision (b) of Section 19322.
- (10) Conduct that constitutes grounds for disciplinary action pursuant to this chapter.

**19324.**

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

**19325.**

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

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

**ARTICLE 5. MEDICAL MARIJUANA REGULATION (19326 – 19330)**

**19326.**

- (a) A person other than a transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.
- (b)
  - (1) All cultivators, manufacturers, and licensees holding a producing dispensary license in addition to a cultivation or manufacturing license shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 19300.5, for presale quality assurance and inspection by a distributor and for a batch testing by a testing laboratory prior to distribution to a dispensary.
  - (2) Notwithstanding paragraph (1), a cultivator shall not be required to send medical cannabis to a distributor if the medical cannabis is to be used, sold, or otherwise distributed by methods approved pursuant to this chapter by a manufacturer for further manufacturing.
- (c)
  - (1) Upon receipt of medical cannabis or medical cannabis products, from a cultivator, manufacturer, or a licensee holding a producing dispensary license in addition to a cultivation or a manufacturing license, the distributor shall first inspect the product to ensure the identity and quantity of the product and ensure a random sample of the medical cannabis or medical cannabis product is tested by a testing laboratory.
  - (2) Upon issuance of a certificate of analysis by the testing laboratory that the product is fit for dispensing medical cannabis and medical cannabis products shall undergo a quality assurance review by the distributor prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state.
  - (3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. However, a distributor responsible for executing the contract is authorized to collect a fee for the services

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rendered, including, but not limited to, costs incurred by a testing laboratory, as well as applicable state or local taxes and fees.

- (d) Medical cannabis and medical cannabis products shall be tested by a licensed testing laboratory, prior to dispensing, pursuant to Section 19344.
- (e) This chapter shall not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. On-site testing by the licensee shall not be certified by the Bureau of Medical Cannabis Regulation.

**19327.**

- (a) A licensee shall keep accurate records of commercial cannabis activity.
- (b) All records related to commercial cannabis activity shall be maintained for a minimum of seven years.
- (c) Licensing authorities may examine the records of licensees and inspect the premises of a licensee as the licensing authority or a state or local agency deems necessary to perform its duties under this chapter. All inspections and examination of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.
- (d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed.
- (e) A licensee or its agent, or employee that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section has engaged in a violation of this chapter.
- (f) If a licensee, its agent, or an employee of a licensee fails to maintain or provide the records required pursuant to this section, the licensee may be subject to a citation and fine of thirty thousand dollars (\$30,000) per individual violation.

**19328.**

- (a) Except as provided in paragraphs (9) and (10), a licensee may only hold a state license in up to two separate license categories, as follows:
  - (1) Type 1, 1A, 1B, 2, 2A, or 2B licensees may also hold either a Type 6 or 7 state license.
  - (2) Type 6 or 7 licensees, or a combination thereof, may also hold either a Type 1, 1A, 1B, 2, 2A, or 2B state license.
  - (3) Type 6 or 7 licensees, or a combination thereof, may also hold a Type 10A state license.
  - (4) Type 10A licensees may also hold either a Type 6 or 7 state license, or a combination thereof.
  - (5) Type 1, 1A, 1B, 2, 2A, or 2B licensees, or a combination thereof, may also hold a Type 10A state license.
  - (6) Type 10A licensees may hold a Type 1, 1A, 1B, 2, 2A, or 2B state license, or a combination thereof.
  - (7) Type 11 licensees shall also hold a Type 12 state license, but shall not hold any other type of state license.
  - (8) Type 12 licensees may hold a Type 11 state license.
  - (9) A Type 10A licensee may hold a Type 6 or 7 state license and may also hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid. All cultivation pursuant to this section shall comply with local ordinances. This paragraph shall become inoperative on January 1, 2026.
- (10) All cultivators and manufacturers may hold a Type 12 transporter license. All cultivators and manufacturers who are issued Type 12 transporter licenses shall comply with the following:
  - (A) Cultivators shall only transport medical cannabis from a cultivation site to a manufacturer or a distributor.
  - (B) Manufacturers shall only transport medical cannabis and medical cannabis products as follows:
    - (i) Between a cultivation site and a manufacturing site.
    - (ii) Between a manufacturing site and a manufacturing site.
    - (iii) Between a manufacturing site and a distributor.
- (b) Except as provided in subdivision (a), a person or entity that holds a state license is prohibited from licensure for any other activity authorized under this chapter, and is prohibited from holding an ownership interest in real property, personal property, or other assets associated with or used in any other license category.
- (c)
  - (1) In a jurisdiction that adopted a local ordinance, prior to July 1, 2015, requiring qualified businesses to cultivate, manufacture, and dispense medical cannabis or medical cannabis products, with all commercial cannabis activity being conducted by a single qualified business, upon licensure that business shall not be subject to subdivision (a) if it meets all of the following conditions:
    - (A) The business was cultivating, manufacturing, and dispensing medical cannabis or medical cannabis products on, January 1, 2016, and has continuously done so since that date.
    - (B) The business has been in full compliance with all applicable local ordinances at all times prior to licensure.
    - (C) The business is registered with the State Board of Equalization for tax purposes.

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- (2) A business licensed pursuant to paragraph (1) is not required to conduct all cultivation or manufacturing within the bounds of a local jurisdiction, but all cultivation and manufacturing shall have commenced prior to January 1, 2016, and have been in full compliance with applicable local ordinances.
- (d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

**19329.**

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

**19330.**

This chapter and Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

**ARTICLE 6. LICENSED CULTIVATION SITES (19332 – 19333)**

**19332.**

- (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor commercial cultivation sites.
- (b) The Department of Pesticide Regulation shall develop guidelines for the use of pesticides in the cultivation of cannabis and residue in harvested cannabis.
- (c) The Department of Food and Agriculture shall serve as the lead agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) related to the licensing of cannabis cultivation.
- (d) Pursuant to Section 13149 of the Water Code, the State Water Resources Control Board, in consultation with the Department of Fish and Wildlife and the Department of Food and Agriculture, shall ensure that individual and cumulative effects of water diversion and discharge associated with cultivation of cannabis do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.
- (e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:
  - (1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).
  - (2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.
  - (3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.
  - (4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Article 8 (commencing with Section 19337).
- (f) The Department of Pesticide Regulation shall require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis complies with Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.
- (g) State cultivator license types issued by the Department of Food and Agriculture may include:
  - (1) Type 1, or "specialty outdoor," for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.
  - (2) Type 1A, or "specialty indoor," for indoor cultivation using exclusively artificial lighting of between 501 and 5,000 square feet of total canopy size on one premises.
  - (3) Type 1B, or "specialty mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of between 2,501 and 5,000 square feet of total canopy size on one premises.
  - (4) Type 1C, or "specialty cottage," for cultivation using a combination of natural and supplemental artificial light at a maximum threshold to be determined by the licensing authority, of 2,500 square feet or less of total canopy size for



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mixed-light cultivation, up to 25 mature plants for outdoor cultivation, or 500 square feet or less of total canopy size for indoor cultivation, on one premises.

- (5) Type 2, or "small outdoor," for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.
- (6) Type 2A, or "small indoor," for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.
- (7) Type 2B, or "small mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.
- (8) Type 3, or "outdoor," for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.
- (9) Type 3A, or "indoor," for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.
- (10) Type 3B, or "mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.
- (11) Type 4, or "nursery," for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants, if the licensee also holds a Type 12 transporter license issued pursuant to this chapter.

**19332.2.**

- (a) An application for a license for indoor or outdoor cultivation shall identify the source of water supply.
  - (1)
    - (A) If water will be supplied by a retail water supplier, as defined in Section 13575 of the Water Code, the application shall identify the retail water supplier.
    - (B) Paragraphs (2) and (3) shall not apply to any water subject to subparagraph (A) unless the retail water supplier has 10 or fewer customers, the applicant receives 10 percent or more of the water supplied by the retail water supplier, 25 percent or more of the water delivered by the retail water supplier is used for cannabis cultivation, or the applicant and the retail water supplier are affiliates, as defined in Section 2814.20 of Title 23 of the California Code of Regulations.
  - (2) If the water supply includes a diversion within the meaning of Section 5100 of the Water Code, the application shall identify the point of diversion and maximum amount to be diverted.
  - (3) If water will be supplied from a groundwater extraction not subject to paragraph (2), the application shall identify the location of the extraction and the maximum amount to be diverted for cannabis cultivation in any year.
- (b) An application for a license issued by the Department of Food and Agriculture before January 1, 2020, shall include one of the following:
  - (1) A copy of a registration, permit, or license issued under Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.
  - (2) A copy of a statement of water diversion and use, filed with the State Water Resources Control Board before July 1, 2017, that covers the diversion and specifies the amount of water used for cannabis cultivation.
  - (3) A copy of a pending application for a permit to appropriate water, filed with the State Water Resources Control Board before July 1, 2017.
  - (4) Documentation, submitted to the State Water Resources Control Board before July 1, 2017, establishing that the diversion is subject to subdivision (a), (c), (d) or (e) of Section 5101 of the Water Code.
  - (5) Documentation, submitted to the State Water Resources Control Board before July 1, 2017, establishing that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017.
- (c) An application for a cultivation license issued after December 31, 2019, shall include one of the following:
  - (1) A copy of a registration, permit, or license issued under Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.
  - (2) A copy of a statement of water diversion and use, filed with the State Water Resources Control Board, that covers the diversion.
  - (3) Documentation, submitted to the State Water Resources Control Board, establishing that the diversion is subject to subdivision (a), (c), (d) or (e) of Section 5101 of the Water Code.

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- (4) Documentation, submitted to the State Water Resources Control Board, establishing that the diversion is authorized under a riparian right and that no diversion occurred in any calendar year between January 1, 2010, and the calendar year in which the application is submitted.
- (d) The Department of Food and Agriculture shall include in any license for cultivation requirements for compliance with applicable principles, guidelines, and requirements established under Section 13149 of the Water Code.
- (e) The Department of Food and Agriculture shall include in any license for cultivation any relevant mitigation requirements the Department of Food and Agriculture identifies as part of its approval of the final environmental documentation for the cannabis cultivation licensing program as requirements that should be included in a license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the identification of these mitigation measures.
- (f) Every license for cultivation shall include a condition that the license shall not be effective until the licensee has complied with Section 1602 of the Fish and Game Code or receives written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required.
- (g) The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this section.

**19332.5.**

- (a) Not later than January 1, 2020, the Department of Food and Agriculture shall make available a certified organic designation and organic certification program for medical cannabis cultivation, if permitted under federal law and the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.
- (b) The Department of Food and Agriculture may establish appellations of origin for cannabis grown in California.
- (c) It is unlawful for medical cannabis to be marketed, labeled, or sold as grown in a California county when the medical cannabis was not grown in that county.
- (d) It is unlawful to use the name of a California county in the labeling, marketing, or packaging of medical cannabis products unless the product was grown in that county.

**19333.**

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

**ARTICLE 7. LICENSED DISTRIBUTORS, DISPENSARIES, AND TRANSPORTERS (19334 – 19334)**

**19334.**

- (a) State licenses to be issued by the Department of Consumer Affairs are as follows:
  - (1) "Dispensary," Type 10 license as defined in this chapter. This license shall allow for delivery pursuant to Section 19340.
  - (2) "Distributor," Type 11 license for the distribution of medical cannabis and medical cannabis products from manufacturer to dispensary. A distributor licensee shall hold a Type 12 or transporter license. Each location where product is stored for the purposes of distribution must be individually licensed. A distributor licensee shall not hold a license in a cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, premises licensed in those categories other than a security interest, lien, or encumbrance on property that is used by a licensee. A distributor shall be bonded and insured at a minimum level established by the licensing authority.
  - (3) "Producing dispensary," Type 10A for dispensers who have no more than three licensed dispensary facilities and wish to hold either a cultivation or manufacturing license or both. This license shall allow for delivery where expressly authorized by local ordinance. Each dispensary must be individually licensed.
  - (4) "Transport," Type 12 license for transporters of medical cannabis or medical cannabis products between licensees. A Type 12 licensee shall be bonded and insured at a minimum level established by the licensing authority.
- (b) The bureau shall establish minimum security requirements for the commercial transportation, storage, and delivery of medical cannabis and medical cannabis products.
- (c) The State Department of Public Health shall establish minimum security requirements for the storage of medical cannabis products at the manufacturing site.
- (d) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:
  - (1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.

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- (2) Establishing limited access areas accessible only to authorized dispensary personnel.
- (3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.
- (e) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:
  - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.
  - (2) Diversion, theft, loss, or any criminal activity pertaining to the operation of the dispensary.
  - (3) Diversion, theft, loss, or any criminal activity by any agent or employee of the dispensary pertaining to the operation of the dispensary.
  - (4) The loss or unauthorized alteration of records related to medical cannabis or medical cannabis products, registered qualifying patients, primary caregivers, or dispensary employees or agents.
  - (5) Any other breach of security.

**ARTICLE 7.5 UNIQUE IDENTIFIER AND TRACK AND TRACE PROGRAM (19335 – 19336)**

**19335.**

- (a) The Department of Food and Agriculture, in consultation with the bureau, shall establish a track and trace program for reporting the movement of medical cannabis items throughout the distribution chain that utilizes a unique identifier pursuant to Section 11362.777 of the Health and Safety Code and secure packaging and is capable of providing information that captures, at a minimum, all of the following:
  - (1) The licensee receiving the product.
  - (2) The transaction date.
  - (3) The cultivator from which the product originates, including the associated unique identifier, pursuant to Section 11362.777 of the Health and Safety Code.
- (b)
  - (1) The Department of Food and Agriculture, in consultation with the State Board of Equalization, shall create an electronic database containing the electronic shipping manifests to facilitate the administration of the track and trace program, which shall include, but not be limited to, the following information:
    - (A) The quantity, or weight, and variety of products shipped.
    - (B) The estimated times of departure and arrival.
    - (C) The quantity, or weight, and variety of products received.
    - (D) The actual time of departure and arrival.
    - (E) A categorization of the product.
    - (F) The license number and the unique identifier pursuant to Section 11362.777 of the Health and Safety Code issued by the licensing authority for all licensees involved in the shipping process, including, but not limited to, cultivators, manufacturers, transporters, distributors, and dispensaries.
  - (2)
    - (A) The database shall be designed to flag irregularities for all licensing authorities in this chapter to investigate. All licensing authorities pursuant to this chapter may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.
    - (B) The Department of Food and Agriculture shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.
  - (3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.
  - (4) The bureau shall have 24-hour access to the electronic database administered by the Department of Food and Agriculture. The State Board of Equalization shall have read access to the electronic database for the purpose of taxation and regulation of medical cannabis and medical cannabis products.
  - (5) The Department of Food and Agriculture shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the Department of Food and Agriculture.
  - (6) Information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter or a local ordinance.
  - (7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this chapter.

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**19336.**

- (a) Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the bureau's collection of the fees, civil fines, and penalties imposed pursuant to this chapter.
- (b) Chapter 8 (commencing with Section 55381) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the disclosure of information under this chapter.

**ARTICLE 8. LICENSED TRANSPORTERS (19337 – 19338)**

**19337.**

- (a) A licensee authorized to transport medical cannabis and medical cannabis products between licenses shall do so only as set forth in this chapter.
- (b) Prior to transporting medical cannabis or medical cannabis products, a licensed transporter of medical cannabis or medical cannabis products shall do both of the following:
  - (1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest must include the unique identifier, pursuant to Section 11362.777 of the Health and Safety Code, issued by the Department of Food and Agriculture for the original cannabis product.
  - (2) Securely transmit the manifest to the bureau and the licensee that will receive the medical cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 19335.
- (c) During transportation, the licensed transporter shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.
- (d) The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to the Department of Consumer Affairs and any law enforcement officers.
- (e) Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment.
- (f) Transporting, or arranging for or facilitating the transport of, medical cannabis or medical cannabis products in violation of this chapter is grounds for disciplinary action against the license.

**19338.**

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

**ARTICLE 9. DELIVERY (19340 – 19340)**

**19340.**

- (a) Deliveries, as defined in this chapter, can only be made by a dispensary and in a city, county, or city and county that does not explicitly prohibit it by local ordinance.
- (b) Upon approval of the licensing authority, a licensed dispensary that delivers medical cannabis or medical cannabis products shall comply with both of the following:
  - (1) The city, county, or city and county in which the licensed dispensary is located, and in which each delivery is made, do not explicitly by ordinance prohibit delivery, as defined in Section 19300.5.
  - (2) All employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current license authorizing those services with them during deliveries and the employee's government-issued identification, and shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.
- (c) A county shall have the authority to impose a tax, pursuant to Article 11 (commencing with Section 19348), on each delivery transaction completed by a licensee.
- (d) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.
- (e) The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the licensing authority and law enforcement officers.
- (f) A local jurisdiction shall not prevent carriage of medical cannabis or medical cannabis products on public roads by a licensee acting in compliance with this chapter.

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**ARTICLE 10. LICENSED MANUFACTURERS AND LICENSED LABORATORIES (19341 – 19347.8)**

**19341.**

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

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

**19342.**

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

**19343.**

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

- (a) A testing laboratory shall not hold a license in another license category under this chapter and shall not own or have an ownership interest in any other entity or premises licensed under a different category pursuant to this chapter.
- (b) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing laboratory shall also comply with any other requirements specified by the bureau.
- (c) Notifies the bureau within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.
- (d) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.

**19344.**

- (a) A testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:
  - (1) Whether the chemical profile of the lot conforms to the specifications of the lot for compounds, including, but not limited to, all of the following, unless limited through regulation by the bureau:
    - (A) Tetrahydrocannabinol (THC).
    - (B) Tetrahydrocannabinolic Acid (THCA).
    - (C) Cannabidiol (CBD).
    - (D) Cannabidiolic Acid (CBDA).
    - (E) Terpenes required by the bureau in a regulation.
    - (F) Cannabigerol (CBG).
    - (G) Cannabinol (CBN).
    - (H) Any other compounds or contaminants required by the bureau.
  - (2) That the presence of contaminants does not exceed the levels set by the bureau. In setting the levels, the bureau shall consider the American Herbal Pharmacopoeia monograph, guidelines set by the Department of Pesticide Regulation pursuant to subdivision (b) of Section 19332, and any other relevant sources.
    - (A) Residual solvent or processing chemicals.
    - (B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
    - (C) Microbiological impurities as identified by the bureau in regulation.

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

**19345.**

- (a) Except as provided in this chapter, a testing laboratory shall not acquire or receive medical cannabis or medical cannabis products except from a licensee in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products, from the licensed premises the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.
- (b) A testing laboratory may receive and test samples of medical cannabis or medical cannabis products from a qualified patient or primary caregiver only if he or she presents his or her valid recommendation for cannabis for medical purposes from a physician. A testing laboratory shall not certify samples from a qualified patient or caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or caregiver shall be recorded with the name of the qualified patient or caregiver and the amount of medical cannabis or medical cannabis product received.
- (c) The bureau shall develop procedures related to all of the following:
  - (1) Ensuring that testing of medical cannabis and medical cannabis products occurs prior to delivery to dispensaries or any other business.
  - (2) Specifying how often licensees shall test medical cannabis and medical cannabis products.
  - (3) Requiring the destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards required by state law, unless remedial measures can bring the medical cannabis or medical cannabis products into compliance with quality assurance standards as specified by state law.
- (d) Cultivators and manufacturers shall pay all costs related to and associated with the testing of medical cannabis and medical cannabis products required by this chapter.

**19347.**

- (a) Prior to delivery by or sale at a dispensary, medical cannabis and medical cannabis products shall be labeled and in tamper proof packaging and shall include a unique identifier, as prescribed by the Department of Food and Agriculture, for the purpose of identifying and tracking medical cannabis or medical cannabis products. Packages of medical cannabis and medical cannabis products shall meet the following requirements:
  - (1) Medical cannabis packages and labels shall not be made to be attractive to children.
  - (2) All medical cannabis and medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:
    - (A) Cultivation and manufacture date and source.
    - (B) The statement "SCHEDULE I CONTROLLED SUBSTANCE."
    - (C) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.
    - (D) The statement "FOR MEDICAL USE ONLY."
    - (E) The statement "THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS."
    - (F) The statement "THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."
    - (G) For packages containing only dried flower, the net weight of medical cannabis in the package.
    - (H) A warning if nuts or other known allergens are used in the manufacturing of the medical cannabis products.
    - (I) List of ingredients and pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC, CBD, and other cannabinoid amount in milligrams per serving, servings per package, and the THC, CBD, and other cannabinoid amount in milligrams for the package total.
    - (J) Clear indication, in bold type, that the product contains medical cannabis.
    - (K) Any other requirement set by the bureau or the State Department of Public Health.
    - (L) Information associated with the unique identifier issued by the Department of Food and Agriculture pursuant to Section 11362.777 of the Health and Safety Code.
    - (M) All manufactured and edible medical cannabis products shall be sold only in special packaging constructed to be child-resistant unless otherwise exempted by regulation.
- (b) Only generic food names may be used to describe edible medical cannabis products.

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**19347.1.**

- (a) The State Department of Public Health may issue a citation, which may contain an order of abatement and an order to pay an administrative fine assessed by the department where the licensee is in violation of this chapter or any regulation adopted pursuant to it.
- (1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.
  - (2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.
  - (3) In no event shall the administrative fine assessed by the State Department of Public Health exceed five thousand dollars (\$5,000) for each violation, unless a different fine amount is expressly provided by this chapter. In assessing a fine, the licensing authority shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.
  - (4) A citation issued or a fine assessed pursuant to this section shall notify the licensee that if the licensee desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the State Department of Public Health within 30 days of the date of issuance of the citation or fine. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
  - (5) Failure of a licensee to pay a fine within 30 days of the date of assessment of the fine, unless assessment of the fine or the citation is being appealed, may result in further legal action being taken by the State Department of Public Health. If a licensee does not contest a citation or pay the fine, the full amount of the fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee, including the amount of the fine.
  - (6) A citation may be issued without the assessment of an administrative fine.
  - (7) The State Department of Public Health may limit the assessment of administrative fines to only particular violations of the chapter and establish any other requirement for implementation of the citation system by regulation.
- (b) Notwithstanding any other law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

**19347.2.**

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

**19347.3.**

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

**19347.4.**

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

**19347.5.**

- (a) A medical cannabis product is misbranded if it is any of the following:
- (1) Manufactured, packed, or held in this state in a manufacturing site not duly licensed as provided in this chapter.
  - (2) Its labeling is false or misleading in any particular.
  - (3) Its labeling or packaging does not conform to the requirements of Section 19347 or any other labeling or packaging requirement established pursuant to this chapter.
- (b) It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale a medical cannabis product that is misbranded.
- (c) It is unlawful for any person to misbrand a medical cannabis product.

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

**19347.6.**

- (a) A medical cannabis product is adulterated if it is any of the following:
- (1) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered injurious.
  - (2) It consists in whole or in part of any filthy, putrid, or decomposed substance.
  - (3) It bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use suggested in the labeling or under conditions as are customary or usual.
  - (4) It bears or contains a substance that is restricted or limited under this chapter or regulations promulgated pursuant to this chapter and the level of substance in the product exceeds the limits specified pursuant to this chapter or in regulation.
  - (5) Its concentrations differ from, or its purity or quality is below, that which it is represented to possess.
  - (6) The methods, facilities, or controls used for its manufacture, packing, or holding do not conform to or are not operated or administered in conformity with practices established by regulations adopted under this chapter to ensure that the medical cannabis product meets the requirements of this chapter as to safety and has the concentrations it purports to have and meets the quality and purity characteristics that it purports or is represented to possess.
  - (7) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.
  - (8) It is an edible cannabis product and any substance has been mixed or packed with it after testing by a testing laboratory so as to reduce its quality or concentration or if any substance has been substituted, wholly or in part, for the edible cannabis product.
- (b) It is unlawful for a person to manufacture, sell, deliver, hold, or offer for sale a medical cannabis product that is adulterated.
- (c) It is unlawful for any person to adulterate a medical cannabis product.
- (d) It is unlawful for any person to receive in commerce a medical cannabis product that is adulterated or to deliver or proffer for delivery any such medical cannabis product.

**19347.7.**

- (a) When the State Department of Public Health has evidence that a medical cannabis product is adulterated or misbranded, the department shall notify the manufacturer.
- (b) The State Department of Public Health may order a manufacturer to immediately cease distribution of a medical cannabis product and recall the product if the department determines both of the following:
- (1) The manufacture, distribution, or sale of the medical cannabis product creates or poses an immediate and serious threat to human life or health.
  - (2) Other procedures available to the State Department of Public Health to remedy or prevent the occurrence of the situation would result in an unreasonable delay.
- (c) The State Department of Public Health shall provide the manufacturer an opportunity for an informal proceeding on the matter, as determined by the department, within five days, on the actions required by the order and on why the product should not be recalled. Following the proceeding, the order shall be affirmed, modified, or set aside as determined appropriate by the State Department of Public Health.
- (d) The State Department of Public Health's powers set forth in this section expressly include the power to order movement, segregation, isolation, or destruction of medical cannabis products, as well as the power to hold those products in place.
- (e) If the State Department of Public Health determines it is necessary, it may issue the mandatory recall order and may use all appropriate measures to obtain reimbursement from the manufacturer for any and all costs associated with these orders. All funds obtained by the State Department of Public Health from these efforts shall be deposited into a fee account specific to the State Department of Public Health, to be established in the Medical Cannabis Regulation and Safety Act Fund, and will be available for use by the department upon appropriation by the legislature.
- (f) It is unlawful for any person to move or allow to be moved a medical cannabis product subject to an order issued pursuant to this section unless that person has first obtained written authorization from the State Department of Public Health.

**19347.8.**

- (a) Whenever the State Department of Public Health finds or has probable cause to believe that any medical cannabis product is adulterated or misbranded within the meaning of this chapter or the sale of the medical cannabis product would be in violation of this chapter, the department shall affix to the medical cannabis product, or component thereof, a tag or other



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appropriate marking. The State Department of Public Health shall give notice that the medical cannabis product is, or is suspected of being, adulterated or misbranded, or the sale of which would be in violation of this chapter and has been embargoed and that no person shall remove or dispose of the medical cannabis product by sale or otherwise until permission for removal or disposal is given by the State Department of Public Health or a court.

- (b) It is unlawful for any person to remove, sell, or dispose of a detained or embargoed medical cannabis product without written permission of the State Department of Public Health or a court. A violation of this subdivision is subject to a fine of not more than ten thousand dollars (\$10,000).
- (c) If the adulteration or misbranding can be corrected by proper labeling or additional processing of the medical cannabis product and all of the provisions of this chapter can be complied with, the claimant or owner may request the State Department of Public Health to remove the tag or other marking. If, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected, the department may remove the tag or other marking.
- (d) When the State Department of Public Health finds that a medical cannabis product that is embargoed is not adulterated, misbranded, or whose sale is not otherwise in violation of this chapter, the State Department of Public Health may remove the tag or other marking.
- (e) The medical cannabis product may be destroyed by the owner pursuant to a corrective action plan approved by the State Department of Public Health and under the supervision of the department. The medical cannabis product shall be destroyed at the expense of the claimant or owner.
- (f) A proceeding for condemnation of any medical cannabis product under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with Section 19308.
- (g) a finding by the administrative law judge that the medical cannabis product is adulterated, misbranded, or whose sale is otherwise in violation of this chapter, the administrative law judge may direct the medical cannabis product to be destroyed at the expense of the claimant or owner. The administrative law judge may also direct a claimant or owner of the affected medical cannabis product to pay fees and reasonable costs, including the costs of storage and testing, incurred by the bureau or the Department of Public Health in investigating and prosecuting the action taken pursuant to this section.
- (h) When, under the supervision of the State Department of Public Health, the adulteration or misbranding has been corrected by proper labeling or additional processing of the medical cannabis and medical cannabis product and when all provisions of this chapter have been complied with, and after costs, fees, and expenses have been paid, the State Department of Public Health may release the embargo and remove the tag or other marking and the medical cannabis shall no longer be held for sale in violation of this chapter.
- (i) The State Department of Public Health may condemn any medical cannabis product under provisions of this chapter. The medical cannabis product shall be destroyed at the expense of the claimant or owner.

**ARTICLE 11. TAXATION (19348 – 19348)**

**19348.**

- (a)
  - (1) A county may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by a licensee operating pursuant to this chapter.
  - (2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.
  - (3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.
  - (4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.
- (b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.
- (c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.
- (d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

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**ARTICLE 13. FUNDING (19350 – 19352)**

**19350.**

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

- (a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 19335, but shall not exceed the reasonable regulatory costs to the licensing authority.
- (b) The total fees assessed pursuant to this chapter shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.
- (c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business. License fees shall cover the costs of administering the track and trace program managed by the Department of Food and Agriculture, as identified in Article 7.5 (commencing with Section 19335).
- (d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Medical Cannabis Regulation and Safety Act Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation of the Legislature, by the designated licensing authority for the administration of this chapter.

**19351.**

- (a) The Medical Cannabis Regulation and Safety Act Fund is hereby established within the State Treasury. Moneys in the fund shall be available upon appropriation by the Legislature. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the moneys in the fund.
- (b)
  - (1) Funds for the establishment and support of the regulatory activities pursuant to this chapter shall be advanced as a General Fund or special fund loan, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Medical Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.
  - (2) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this chapter.
  - (3) The Director of Finance may provide an initial operating loan from the General Fund to the Medical Cannabis Regulation and Safety Act Fund that does not exceed ten million dollars (\$10,000,000).
- (c) Except as otherwise provided, all moneys collected pursuant to this chapter as a result of fines or penalties imposed under this chapter shall be deposited directly into the Medical Cannabis Fines and Penalties Account, which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the bureau, for the purposes of funding the enforcement grant program pursuant to subdivision (d).
- (d)
  - (1) The bureau shall establish a grant program to allocate moneys from the Medical Cannabis Fines and Penalties Account to state and local entities for the following purposes:
    - (A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.
    - (B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.
  - (2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the Medical Cannabis Fines and Penalties Account.
  - (3) The grant program established by this subdivision shall only be implemented after the loan specified in this section is repaid.

**19352.**

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

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**ARTICLE 14. REPORTING (19353 – 19354)**

**19353.**

Beginning on March 1, 2023, and on or before March 1 of each following year, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

- (a) The amount of funds allocated and spent by the licensing authority for medical cannabis licensing, enforcement, and administration.
- (b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.
- (c) The average time for processing state license applications, by state license category.
- (d) The number of appeals from the denial of state licenses or other disciplinary actions taken by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.
- (e) The number of complaints submitted by citizens or representatives of cities or counties regarding licensees, provided as both a comprehensive statewide number and by geographical region.
- (f) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.
- (g) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

**19354.**

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

**ARTICLE 15. PRIVACY (19355 – 19355)**

**19355.**

- (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.
- (b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.
- (c) Nothing in this section precludes the following:
  - (1) Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.
  - (2) Notifications from the bureau or any licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.
  - (3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.
  - (4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.
- (d) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

**ARTICLE 17. PENALTIES AND VIOLATIONS (19360 – 19360)**

**19360.**

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

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- (b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General on behalf of the people, the penalty collected shall be deposited into the Medical Cannabis Fines and Penalties Account. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or city and county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has jurisdiction and one-half to the treasurer of the county in which the judgment is entered.
- (c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person or entity engaging in cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the Health and Safety Code.

## LABOR CODE

### CHAPTER 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD (140 – 147.5)

#### 147.5.

- (a) By January 1, 2017, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of facilities issued a license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.
- (b) By July 1, 2017, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By July 1, 2017, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

## GOVERNMENT CODE

### ARTICLE 7.5 SUNSET REVIEW (9147.7)

#### 9147.7.

- (a) For the purpose of this section, “eligible agency” means any agency, authority, board, bureau, commission, conservancy, council, department, division, or office of state government, however denominated, excluding an agency that is constitutionally created or an agency related to postsecondary education, for which a date for repeal has been established by statute on or after January 1, 2011.
- (b) The Joint Sunset Review Committee is hereby created to identify and eliminate waste, duplication, and inefficiency in government agencies. The purpose of the committee is to conduct a comprehensive analysis over 15 years, and on a periodic basis thereafter, of every eligible agency to determine if the agency is still necessary and cost effective.
- (c) Each eligible agency scheduled for repeal shall submit to the committee, on or before December 1 prior to the year it is set to be repealed, a complete agency report covering the entire period since last reviewed, including, but not limited to, the following:
  - (1) The purpose and necessity of the agency.
  - (2) A description of the agency budget, priorities, and job descriptions of employees of the agency.
  - (3) Any programs and projects under the direction of the agency.
  - (4) Measures of the success or failures of the agency and justifications for the metrics used to evaluate successes and failures.
  - (5) Any recommendations of the agency for changes or reorganization in order to better fulfill its purpose.
- (d) The committee shall take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency shall be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency. No eligible agency shall be extended in perpetuity unless specifically exempted from the provisions of this section. The committee may recommend that the Legislature extend the statutory sunset date for no more than one year to allow the committee more time to evaluate the eligible agency.
- (e) The committee shall be comprised of 10 members of the Legislature. The Senate Committee on Rules shall appoint five members of the Senate to the committee, not more than three of whom shall be members of the same political party. The Speaker of the Assembly shall appoint five members of the Assembly to the committee, not more than three of whom shall be members of the same political party. Members shall be appointed within 15 days after the commencement of the regular session. Each member of the committee who is appointed by the Senate Committee on Rules or the Speaker of the

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Assembly shall serve during that committee member's term of office or until that committee member no longer is a Member of the Senate or the Assembly, whichever is applicable. A vacancy on the committee shall be filled in the same manner as the original appointment. Three Assembly Members and three Senators who are members of the committee shall constitute a quorum for the conduct of committee business. Members of the committee shall receive no compensation for their work with the committee.

- (f) The committee shall meet not later than 30 days after the first day of the regular session to choose a chairperson and to establish the schedule for eligible agency review provided for in the statutes governing the eligible agencies. The chairperson of the committee shall alternate every two years between a Member of the Senate and a Member of the Assembly, and the vice chairperson of the committee shall be a member of the opposite house as the chairperson.
- (g) This section shall not be construed to change the existing jurisdiction of the budget or policy committees of the Legislature.
- (h) This section shall not apply to the Bureau of Medical Marijuana Regulation.

## FISH AND GAME CODE

### DIVISION 2. DEPARTMENT OF FISH AND WILDLIFE

#### CHAPTER 6. FISH AND WILDLIFE PROTECTION AND CONSERVATION

##### 1602.

- (a) An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:
  - (1) The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:
    - (A) A detailed description of the project's location and a map.
    - (B) The name, if any, of the river, stream, or lake affected.
    - (C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.
    - (D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.
    - (E) A copy of any other applicable local, state, or federal permit or agreement already issued.
    - (F) Any other information required by the department.
  - (2) The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.
  - (3) The entity pays the applicable fees, pursuant to Section 1609.
  - (4) One of the following occurs:
    - (A)
      - (i) The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.
      - (ii) Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.
    - (B) The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.
    - (C) A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.
    - (D) The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

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- (b)
  - (1) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:
    - (A) The work described in the agreement has substantially changed.
    - (B) Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.
  - (2) This subdivision applies only if notice to, and agreement with, the department was attained prior to January 1, 1977, and the department has been provided a copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.
- (c)
  - (1) Notwithstanding subdivision (a), an entity shall not be required to obtain an agreement with the department pursuant to this chapter for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if all of the following occur:
    - (A) The entity submits all of the following to the department:
      - (i) The written notification described in paragraph (1) of subdivision (a).
      - (ii) A copy of the license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture that includes the requirements specified in subdivisions (d), (e), and (f) of Section 19332.2 of the Business and Professions Code.
      - (iii) The fee specified in paragraph (3) of subdivision (a).
    - (B) The department determines in its sole discretion that compliance with the requirements specified in subdivisions (d), (e), and (f) of Section 19332.2 of the Business and Professions Code that are included in the license will adequately protect existing fish and wildlife resources that may be substantially adversely affected by the cultivation without the need for additional measures that the department would include in a draft streambed alteration agreement in accordance with Section 1603.
    - (C) The department notifies the entity in writing that the exemption applies to the cultivation authorized by the license or renewed license.
  - (2) The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the cultivation authorized by the license or renewed license within 60 days from the date that the notification is complete and the fee has been paid.
  - (3) If an entity receives an exemption pursuant to this subdivision and fails to comply with any of the requirements described in subdivision (d), (e), or (f) of Section 19332.2 of the Business and Professions Code that are included in the license, the failure shall constitute a violation under this section, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.
- (d) It is unlawful for any person to violate this chapter.

**1617.**

- (a) The department may adopt regulations establishing the requirements and procedure for the issuance of a general agreement in a geographic area for a category or categories of activities related to cannabis cultivation.
- (b) A general agreement adopted by the department subsequent to adoption of regulations under this section shall be in lieu of an individual agreement described in subparagraph (B) of paragraph (4) of subdivision (a) of Section 1602.
- (c) Subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and all other time periods to process agreements specified in this chapter do not apply to the issuance of a general agreement adopted by the department pursuant to this section.
- (d) The department general agreement issued by the department pursuant to this section is a final agreement and is not subject to Section 1603 or 1604.
- (e) The department shall charge a fee for a general agreement adopted by the department under this section in accordance with Section 1609.
- (f) Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

**DIVISION 9. FINES AND PENALTIES**

**CHAPTER 1. GENERAL PROVISIONS (12000 -12029)**

**12025.2.**

The director or his or her designee may issue a complaint to any person or entity in accordance with Section 1055 of the Water Code alleging a violation for which liability may be imposed under Section 1052 or 1847 of the Water Code that harms fish and

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wildlife resources. The complaint is subject to the substantive and procedural requirements set forth in Section 1055 of the Water Code, and the department shall be designated a party to any proceeding before the State Water Resources Control Board regarding a complaint filed pursuant to this section.

**12029.**

- (a) The Legislature finds and declares all of the following:
- (1) The environmental impacts associated with cannabis cultivation have increased, and unlawful water diversions for cannabis irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.
  - (2) The remediation of existing cannabis cultivation sites is often complex and the permitting of these sites requires greater department staff time and personnel expenditures. The potential for cannabis cultivation sites to significantly impact the state's fish and wildlife resources requires immediate action on the part of the department's lake and streambed alteration permitting staff.
- (b) In order to address unlawful water diversions and other violations of the Fish and Game Code associated with cannabis cultivation, the department shall establish the watershed enforcement program to facilitate the investigation, enforcement, and prosecution of these offenses.
- (c) The department, in coordination with the State Water Resources Control, Board and the Department of Food and Agriculture, shall establish a permanent multiagency task force to address the environmental impacts of cannabis cultivation. The multiagency task force, to the extent feasible and subject to available, resources, shall expand its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on fish and wildlife and their habitats throughout the state.
- (d) In order to facilitate the remediation and permitting of cannabis cultivation sites, the department may adopt regulations to enhance the fees on any entity subject to Section 1602 for cannabis cultivation sites that require remediation. The fee schedule established pursuant to this subdivision shall not exceed the fee limits in Section 1609.

**FOOD AND AGRICULTURAL CODE**

**DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947**

**PART 3. MANUFACTURED PRODUCTS**

**CHAPTER 3. BUTTER**

**ARTICLE 1. GENERAL PROVISIONS**

**37104.**

Notwithstanding Section 19300.5 of the Business and Professions Code, butter purchased from a licensed milk products plant or retail location that is subsequently infused or mixed with medical cannabis at the premises or location that is not subject to licensing as a milk product plant is exempt from the provisions of this division

**DIVISION 18. FIELD CROPS, SEEDS, SEED POTATOES, ONE-VARIETY COTTON DISTRICTS, AND NURSERY STOCK GRADES AND STANDARDS**

**CHAPTER 2. CALIFORNIA SEED LAW**

**ARTICLE 8. LABELING OF SEEDS (52451 – 52456)**

**52452.**

- (a) Except as otherwise provided in Section 52454, each container of agricultural seed that is for sale or sold within this state for sowing, purposes shall bear upon it or have attached to it in a conspicuous place a plainly written or printed label or tag in the English language that includes all of the following information:
- (1) The commonly accepted name of the kind, kind and variety, or kind and type of each agricultural seed component in excess of 5 percent of the whole, and the percentage by weight of each. If the aggregate of agricultural seed components, each present in an amount not exceeding 5 percent of the whole, exceeds 10 percent of the whole, each component in excess of 1 percent of the whole shall be named together with the percentage by weight of each. If more than one component is required to be named, the names of all components shall be shown in letters of the same type and size.
  - (2) The lot number or other lot identification.
  - (3) The percentage by weight of all weed seeds.
  - (4) The name and approximate number of each kind of restricted noxious weed seed per pound.
  - (5) The percentage by weight of any agricultural seed except that which is required to be named on the label.

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- (6) The percentage by weight of inert matter. If a percentage by weight is required to be shown by any provision of this section, that percentage shall be exclusive of any substance that is added to the seed as a coating and shown on the label as such.
- (7) For each agricultural seed in excess of 5 percent of the whole, stated in accordance with paragraph (1), the percentage of germination exclusive of hard seed, the percentage of hard seed, if present, and the calendar month and year the test was completed to determine the percentages. Following the statement of those percentages, the additional statement "total germination and hard seed" may be stated.
- (8) The name and address of the person who labeled the seed or of the person who sells the seed within this state.
- (b) Subdivision (a) does not apply in the following instances:
  - (1) The sale is an occasional sale of seed grain by the producer of the seed grain to his or her neighbor for use by the purchaser within the county of production.
  - (2) Any cannabis seed, as defined in subdivision (f) of Section 19300.5 of the Business and Professions Code, sold or offered for sale in the state.
- (c) All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the regulations that are adopted pursuant to this chapter.
- (d) For purposes of this section, "neighbor" means a person who lives in close proximity, not to exceed three miles, to another.

## HEALTH AND SAFETY CODE

### DIVISION 10.

#### CHAPTER 6. OFFENSES AND PENALTIES

#### ARTICLE 2. MARIJUANA (11357 – 11362.9)

##### 11362.775.

- (a) Subject to subdivision (b), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.
- (b) A collective or cooperative that operates pursuant to this section and manufactures medical cannabis products shall not, solely on the basis of that fact, be subject to state criminal sanctions under Section 11379.6 if the collective or cooperative abides by all of the following requirements:
  - (1) The collective or cooperative does either or both of the following:
    - (A) Utilizes only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
    - (B) Utilizes only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:
      - (i) The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
      - (ii) The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.
      - (iii) A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).
      - (iv) The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.
  - (2) The collective or cooperative receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility.
  - (3) The collective or cooperative meets required fire, safety, and building code requirements in one or more of the following:
    - (A) The California Fire Code.
    - (B) The National Fire Protection Association (NFPA) standards.
    - (C) International Building Code (IBC).



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- (D) The International Fire Code (IFC).
- (E) Other applicable standards, including complying with all applicable fire, safety, and building codes in processing, handling, and storage of solvents or gasses.
- (4) The collective or cooperative is in possession of a valid seller's permit issued by the State Board of Equalization.
- (5) The collective or cooperative is in possession of a valid local license, permit, or other authorization specific to the manufacturing of medical cannabis products, and in compliance with any additional conditions imposed by the city or county issuing the local license, permit, or other authorization.
- (c) For purposes of this section, "manufacturing" means compounding, converting, producing, deriving, processing, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, medical cannabis products.
- (d) This section shall remain in effect only until one year after the Bureau of Medical Cannabis Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medical Cannabis Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code).
- (e) This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (d).

**11362.777.**

- (a) The Department of Food and Agriculture shall establish a Medical Cannabis Cultivation Program to be administered by the secretary and, except as specified in subdivision (c), shall administer this section as it pertains to the commercial cultivation of medical cannabis. For purposes of this section and Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code, medical cannabis is an agricultural product.
- (b)
  - (1) A person or entity shall not cultivate medical cannabis without first obtaining both of the following:
    - (A) A license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.
    - (B) A state license issued by the department pursuant to this section.
  - (2) A person or entity shall not submit an application for a state license pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.
  - (3) A person or entity shall not submit an application for a state license pursuant to this section if the proposed cultivation of cannabis will violate the provisions of any local ordinance or regulation, or if medical cannabis is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.
- (c)
  - (1) Except as otherwise specified in this subdivision, and without limiting any other local regulation, a city, county, or city and county, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical cannabis pursuant to this section. A city, county, or city and county may inspect the intended cultivation site for suitability before issuing a permit. After the city, county, or city and county has approved a permit, the applicant shall apply for a state medical cannabis cultivation license from the department. A locally issued cultivation permit shall only become active upon licensing by the department and receiving final local approval. A person shall not cultivate medical cannabis before obtaining both a permit from the city, county, or city and county and a state medical cannabis cultivation license from the department.
  - (2) A city, county, or city and county that issues or denies conditional licenses to cultivate medical cannabis pursuant to this section shall notify the department in a manner prescribed by the secretary.
  - (3) A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the department's state licensing requirements.
- (d)
  - (1) The secretary may prescribe, adopt, and enforce regulations relating to the implementation, administration, and enforcement of this part, including, but not limited to, applicant requirements, collections, reporting, refunds, and appeals.
  - (2) The secretary may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

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- (3) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of medical cannabis. Compensation under the cooperative agreement shall be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs.
- (e)
  - (1) The department, in consultation with, but not limited to, the Bureau of Medical Marijuana Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical 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.
    - (B) Cultivation will not negatively impact springs, riparian wetlands, and aquatic habitats.
  - (2) The department shall establish a program for the identification of permitted medical cannabis plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical cannabis plant.
    - (A) Unique identifiers will only be issued to those persons appropriately licensed by this section.
    - (B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in section 19335 of the Business and Professions Code.
    - (C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each medical cannabis plant.
    - (D) The department may promulgate regulations to implement this section.
  - (3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.
- (f)
  - (1) A city, county, or city and county that issues or denies licenses, permits, or other entitlements to cultivate medical cannabis pursuant to this section shall notify the department in a manner prescribed by the secretary.
  - (2) Unique identifiers and associated identifying information administered by a city, county, or city and county shall adhere to the requirements set by the department and be the equivalent to those administered by the department.
- (g) This section does not apply to a qualified patient cultivating cannabis pursuant to Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 100 square feet and he or she cultivates cannabis for his or her personal medical use and does not sell, distribute, donate, or provide cannabis to any other person or entity. This section does not apply to a primary caregiver cultivating cannabis pursuant to Section 11362.5 if the area he or she uses to cultivate cannabis does not exceed 500 square feet and he or she cultivates cannabis exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765. For purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution.

**11362.9**

- (a)
  - (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering marijuana as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Marijuana Research Program.
  - (2) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of marijuana and, if found valuable, shall develop medical guidelines for the appropriate administration and use of marijuana. The studies may include studies to ascertain the effect of marijuana on motor skills.
- (b) The program may immediately solicit proposals for research projects to be included in the marijuana studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:

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- (1) Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding marijuana's general medical efficacy and safety.
  - (2) Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on marijuana.
  - (3) Proposals shall contain provisions for a patient registry.
  - (4) Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.
  - (5) Proposals shall contain protocols suitable for research on marijuana, addressing patients diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.
  - (6) Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of marijuana.
  - (7) Proposals shall demonstrate the use of a laboratory capable of analyzing marijuana, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.
- (c) In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:
- (1) The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.
  - (2) Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.
- (d) If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.
- (e) It is the intent of the Legislature that the program be established as follows:
- (1) The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.
  - (2) When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.
  - (3) The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.
  - (4) The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.
  - (5) The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.
- (f) All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.
- (g) Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, marijuana. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.
- (h) The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.
- (i) The marijuana studies shall employ state-of-the-art research methodologies.
- (j) The program shall ensure that all marijuana used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply marijuana for authorized

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research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

- (k) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.
  
- (l)
  - (1) To enhance understanding of the efficacy and adverse effects of marijuana as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of marijuana in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of marijuana as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of marijuana.
  - (2) The program shall examine the safety of marijuana in patients with various medical disorders, including marijuana's interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.
  - (3) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of marijuana as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of marijuana.
  
- (m)
  - (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.
  - (2) If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.
  
- (n) In order to maximize the scope and size of the marijuana studies, the program may do any of the following:
  - (1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the marijuana studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources. Include within the scope of the marijuana studies other marijuana research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of marijuana as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of marijuana and that he or she will have no control over the use of these funds.
  - (2) Include within the scope of the marijuana studies other marijuana research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of marijuana as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of marijuana and that he or she will have no control over the use of these funds.
  
- (o)
  - (1) Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the marijuana studies.
  - (2) Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:
    - (A) The names and number of disease or conditions under study.
    - (B) The number of patients enrolled in each study by disease.
    - (C) Any scientifically valid preliminary findings.
  
- (p) If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their performance of the duties of the council.

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- (q) No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this section.
- (r) This section shall be implemented only to the extent that funding for its purposes is appropriated by the Legislature in the annual Budget Act.

**ARTICLE 2.5 MEDICAL MARIJUANA PROGRAM (11362.7 – 11362.83)**

**11362.769.**

Indoor and outdoor medical cannabis cultivation shall be conducted in accordance with state and local laws. State agencies, including, but not limited to, the Department of Food and Agriculture, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical cannabis cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

**REVENUE AND TAXATION CODE**

**DIVISION 2 PART 14.5. MARIJUANA TAX**

**34010.**

For purposes of this part:

- (a) "Board" shall mean the Board of Equalization or its successor agency.
- (b) "Bureau" shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.
- (c) "Tax Fund" means the California Marijuana Tax Fund created by Section 34018.
- (d) "Marijuana" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.
- (e) "Marijuana products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.
- (f) "Marijuana flowers" shall mean the dried flowers of the marijuana plant as defined by the Board.
- (g) "Marijuana leaves" shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.
- (h) "Gross receipts" shall have the same meaning as set forth in Section 6012.
- (i) "Retail sale" shall have the same meaning as set forth in Section 6007.
- (j) "Person" shall have the same meaning as set for in section 6005.
- (k) "Microbusiness" shall have the same meaning as set for in Section 26070(a)(3) of the Business and Professions Code.
- (l) "Nonprofit" shall have the same meaning as set for in Section 26070.5 of the Business and Professions Code.

**34011.**

- (a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate off fifteen percent (15%) of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.
- (b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if non-itemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.
- (c) A dispensary or other person required to be licensed pursuant to Chapter 3. 5 of Division 8 of the Business and Professions Code or a retailer, micro business, nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.
- (d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.
- (e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.

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- (f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.
- (g) The sales and use tax imposed by Part 1 of this division shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 of Division 8 of the Business and Professions Code when a qualified patient (or primary caregiver for a qualified patient) provides his or her card issued under Section 11362. 71 of the Health and Safety Code and a valid government issued identification card.

**34012.**

- (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3. 5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code. The tax shall be due after the marijuana is harvested.
  - (1) The tax for marijuana flowers shall be nine dollars and twenty five cents (\$9.25) per dry-weight ounce.
  - (2) The tax for marijuana leaves shall be set at two dollars and seventy five cents (\$2. 75) per dry-weight ounce.
- (b) The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.
- (c) The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.
- (d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.
- (e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 of Division 8 of the Business and Professions Code or under Division 10 of the Business and Professions Code.
- (f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.
- (g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.
- (h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division JO 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 113 62.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.
- (k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

**34013.**

- (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.
- (b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

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- (c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.
- (d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349. 6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.
- (e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code.
- (f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

**34014.**

- (a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.
- (b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation have been properly prepared, executed and submitted under this part.
- (c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

**34015.**

- (a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Divisions 8 or 10 of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to section 34012(d) the board may by regulation determine when and how the tax shall be paid.
- (b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business or Professions Code or Division 10 of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

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**34016.**

- (a) Any peace officer, or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.
  - (1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.
  - (2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.
  - (3) Inspections shall be requested or conducted no more than once in a 24-hour period.
- (b) Any person who fails or refuses to allow an inspection shall be subject to a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5, 000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.
- (c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.
- (d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1, 000) for each offense.
- (e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.
- (f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.

**34017.**

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

**34018.**

- (a) The California Marijuana Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.
- (b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.
- (c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter I (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:



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- (1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed four percent (4%) of tax revenues received.
  - (2) Reasonable costs incurred by the Bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health for implementing, administering, and enforcing Chapter 3.5 of Division 8 of the Business and Professions Code and Division IO of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022-2023.
  - (3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 of Division 8 of the Business and Professions Code or Division JO of the Business and Professions Code to the extent those costs are not otherwise reimbursed.
  - (4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.
  - (5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.
  - (6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.
  - (7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 of the Business and Professions Code.
- (b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018-2019 until fiscal year 2028-2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:
- (1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.
  - (2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.
  - (3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the Act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.
  - (4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.
  - (5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.
  - (6) Whether additional protections are needed to prevent unlawful monopolies or anticompetitive 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.

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- (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 outcome of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.
- (c) The Controller shall next disburse the sum of three million dollars (\$3, 000, 000) annually to the Department of the California Highway Patrol beginning fiscal year 2018-2019 until fiscal year 2022-2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.
- (d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018-2019 and increasing ten million dollars (\$10, 000, 000) each fiscal year thereafter until fiscal year 2022-2023, at which time the disbursement shall be fifty million dollars (\$50, 000, 000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the Department of Social Services, to administer a Community Reinvestments grants program to local health departments and at least fifty-percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The Office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the Office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than four percent (4%) for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.
- (e) The Controller shall next disburse the sum of two million dollars (\$2, 000, 000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the Center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.
- (f) By July 15 of each fiscal year beginning in fiscal year 2018-2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:
- (1) Sixty percent (60%) shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The Department of Health Care services shall enter into inter-agency agreements with the Department of Public Health and the Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:
- (A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.
- (B) Grants to schools to develop and support Student Assistance Programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

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- (C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.
  - (D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.
  - (E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes, screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.
  - (F) To the extent permitted by law and where indicated, interventions shall utilize a two generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.
  - (G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.
  - (H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.
  - (I) Construction of community-based youth treatment facilities.
  - (J) The departments may contract with each county behavioral health program for the provision of services.
  - (K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need.
  - (L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.
  - (M) The departments may use up to four percent (4%) of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.
  - (N) If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.
  - (O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.
- (2) Twenty percent (20%) shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:
- (A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.
  - (B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to

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facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

- (C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency task force established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.
  - (D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).
  - (E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of Statutes of 2014).
- (3) Twenty percent (20%) shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:
- (A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The Department may hire personnel to conduct the training programs specified in this subparagraph.
  - (B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.
  - (C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The Board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under Section 11362.2(b)(3) of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.
  - (D) For purposes of this paragraph the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022-2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022-2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).
- (g) Funds allocated pursuant to subdivision (j) 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 (j) of this section. Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (j) 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 (j) of this section.

**34020.**

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

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**34021.**

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

**34021.5**

- (a)
- (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code.
  - (2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.
  - (3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.
  - (4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.
- (b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.
- (c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.
- (d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

**WATER CODE**

**DIVISION 2 PART 1. GENERAL PROVISIONS**

**CHAPTER 2. ADMINISTRATIVE PROVISIONS GENERALLY (1050 - 1060)**

**1058.5.**

- (a) This section applies to any emergency regulation adopted by the board for which the board makes both of the following findings:
- (1) The emergency regulation is adopted to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.
  - (2) The emergency regulation is adopted in response to conditions which exist, or are threatened, 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.
- (b) Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, any findings of emergency adopted by the board, in connection with the adoption of an emergency regulation under this section, are not subject to review by the Office of Administrative Law.
- (c) An emergency regulation adopted by the board under this section may remain in effect for up to 270 days, as determined by the board, and is deemed repealed immediately upon a finding by the board that due to changed conditions it is no longer necessary for the regulation to remain in effect. An emergency regulation adopted by the board under this section may be renewed if the board determines that the conditions specified in paragraph (2) of subdivision (a) are still in effect.

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- (d) In addition to any other applicable civil or criminal penalties, any person or entity who violates a regulation adopted by the board pursuant to this section is guilty of an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.
- (e)
  - (1) Notwithstanding subdivision (b) of Section 1551 or subdivision (e) of Section 1848, a civil liability imposed under Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 by the board or a court for a violation of an emergency conservation regulation adopted pursuant to this section shall be deposited, and separately accounted for, in the Water Rights Fund. Funds deposited in accordance with this subdivision shall be available, upon appropriation, for water conservation activities and programs.
  - (2) For purposes of this subdivision, an “emergency conservation regulation” means an emergency regulation that requires an end user of water, a water retailer, or a water wholesaler to conserve water or report to the board on water conservation. Water conservation includes restrictions or limitations on particular uses of water or a reduction in the amount of water used or served, but does not include curtailment of diversions when water is not available under the diverter’s priority of right or reporting requirements related to curtailments.

**DIVISION 2 PART 2. APPROPRIATION OF WATER**

**CHAPTER 8. WATER RIGHT FEES**

**ARTICLE 1. FEE SCHEDULES (1525 – 1530)**

**1525.**

- (a) Each person or entity who holds a permit or license to appropriate water, and each lessor of water leased under Chapter 1.5 (commencing with Section 1020) of Part 1, shall pay an annual fee according to a fee schedule established by the board.
- (b) Each person or entity who files any of the following shall pay a fee according to a fee schedule established by the board:
  - (1) An application for a permit to appropriate water.
  - (2) A registration of appropriation for a small domestic use, small irrigation use, or livestock stockpond use.
  - (3) A petition for an extension of time within which to begin construction, to complete construction, or to apply the water to full beneficial use under a permit.
  - (4) A petition to change the point of diversion, place of use, or purpose of use, under a permit, license, or registration.
  - (5) A petition to change the conditions of a permit or license, requested by the permittee or licensee, that is not otherwise subject to paragraph (3) or (4).
  - (6) A petition to change the point of discharge, place of use, or purpose of use, of treated wastewater, requested pursuant to Section 1211.
  - (7) An application for approval of a water lease agreement.
  - (8) A request for release from priority pursuant to Section 10504.
  - (9) An application for an assignment of a state-filed application pursuant to Section 10504.
  - (10) A statement of water diversion and use pursuant to Part 5.1 (commencing with Section 5100) that reports that water was used for cannabis cultivation.
- (c) The board shall set the fee schedule authorized by this section so that the total amount of fees collected pursuant to this section equals that amount necessary to recover costs incurred in connection with the issuance, administration, review, monitoring, and enforcement of permits, licenses, certificates, and registrations to appropriate water, water leases, statements of water diversion and use for cannabis cultivation, and orders approving changes in point of discharge, place of use, or purpose of use of treated wastewater. The board may include, as recoverable costs, but is not limited to including, the costs incurred in reviewing applications, registrations, statements of water diversion and use for cannabis cultivation, petitions and requests, prescribing terms of permits, licenses, registrations, and change orders, enforcing and evaluating compliance with permits, licenses, certificates, registrations, change orders, and water leases, inspection, monitoring, planning, modeling, reviewing documents prepared for the purpose of regulating the diversion and use of water, applying and enforcing the prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division and the water diversion related provisions of Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code, and the administrative costs incurred in connection with carrying out these actions.
- (d)
  - (1) The board shall adopt the schedule of fees authorized under this section as emergency regulations in accordance with Section 1530.
  - (2) For filings subject to subdivision (b), the schedule may provide for a single filing fee or for an initial filing fee followed by an annual fee, as appropriate to the type of filing involved, and may include supplemental fees for filings that have already been made but have not yet been acted upon by the board at the time the schedule of fees takes effect.

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- (3) The board shall set the amount of total revenue collected each year through the fees authorized by this section at an amount equal to the amounts appropriated by the Legislature for expenditure for support of water rights program activities from the Water Rights Fund established under Section 1550, taking into account the reserves in the Water Rights Fund. The board shall review and revise the fees each fiscal year as necessary to conform with the amounts appropriated. If the board determines that the revenue collected during the preceding year was greater than, or less than, the amounts appropriated, the board may further adjust the annual fees to compensate for the over or under collection of revenue.
- (e) Annual fees imposed pursuant to this section for the 2003–04 fiscal year shall be assessed for the entire 2003–04 fiscal year.

**ARTICLE 2. COLLECTION AND ENFORCEMENT (1535 – 1541)**

**1535.**

- (a) Any fee subject to this chapter that is required in connection with the filing of an application, registration, request, statement, or proof of claim, other than an annual fee required after the period covered by the initial filing fee, shall be paid to the board.
- (b) If a fee established under subdivision (b) of Section 1525, Section 1528, or Section 13160.1 is not paid when due, the board may cancel the application, registration, petition, request, statement, or claim, or may refer the matter to the State Board of Equalization for collection of the unpaid fee.

**ARTICLE 3. WATER RIGHTS FUND (1550 – 1552)**

**1552.**

Except as provided in subdivision (e) of Section 1058.5, moneys in the Water Rights Fund are available for expenditure, upon appropriation by the Legislature, for the following purposes:

- (a) For expenditure by the State Board of Equalization in the administration of this chapter and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) in connection with any fee or expense subject to this chapter.
- (b) For the payment of refunds, pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, of fees or expenses collected pursuant to this chapter.
- (c) For expenditure by the board for the purposes of carrying out this division, Division 1 (commencing with Section 100), Part 2 (commencing with Section 10500) and Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, and the water diversion related provisions of Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.
- (d) For expenditures by the board for the purposes of carrying out Sections 13160 and 13160.1 in connection with activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.
- (e) For expenditures by the board for the purposes of carrying out Sections 13140 and 13170 in connection with plans and policies that address the diversion or use of water.

**CHAPTER 12. ENFORCEMENT OF WATER RIGHTS**

**ARTICLE 2. CEASE AND DESIST ORDERS (1831 – 1836)**

**1831.**

- (a) When the board determines that any person is violating, or threatening to violate, any requirement described in subdivision (d), the board may issue an order to that person to cease and desist from that violation.
- (b) The cease and desist order shall require that person to comply forthwith or in accordance with a time schedule set by the board.
- (c) The board may issue a cease and desist order only after notice and an opportunity for hearing pursuant to Section 1834.
- (d) The board may issue a cease and desist order in response to a violation or threatened violation of any of the following:
- (1) The prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division.
  - (2) Any term or condition of a permit, license, certification, or registration issued under this division.
  - (3) Any decision or order of the board issued under this part, Section 275, Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6, or Article 7 (commencing with Section 13550) of Chapter 7 of Division 7, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.
  - (4) A regulation adopted under Section 1058.5.
  - (5) Any extraction restriction, limitation, order, or regulation adopted or issued under Chapter 11 (commencing with Section 10735) of Part 2.74 of Division 6.

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- (6) Any diversion or use of water for cannabis cultivation if any of the following applies:
  - (A) A license is required, but has not been obtained, under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.
  - (B) The diversion is not in compliance with an applicable limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.
  - (C) The diversion or use is not in compliance with a requirement imposed under subdivision (d) or (e) of Section 19332.2 of the Business and Professions Code.
- (e) This article does not alter the regulatory authority of the board under other provisions of law.

**ARTICLE 3. MONITORING AND REPORTING (1840 - 1841)**

**1840.**

- (a)
  - (1) Except as provided in subdivision (b), a person who, on or after January 1, 2016, diverts 10 acre-feet of water per year or more under a permit or license shall install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage. The measurements shall be made using the best available technologies and best professional practices, as defined in Section 5100, using a device or methods satisfactory to the board, as follows:
    - (A) A device shall be capable of continuous monitoring of the rate and quantity of water diverted and shall be properly maintained. The permittee or licensee shall provide the board with evidence that the device has been installed with the first report submitted after installation of the device. The permittee or licensee shall provide the board with evidence demonstrating that the device is functioning properly as part of the reports submitted at five-year intervals after the report documenting installation of the device, or upon request of the board.
    - (B) In developing regulations pursuant to Section 1841, the board shall consider devices and methods that provide accurate measurement of the total amount diverted and the rate of diversion. The board shall consider devices and methods that provide accurate measurements within an acceptable range of error, including the following:
      - (i) Electricity records dedicated to a pump and recent pump test.
      - (ii) Staff gage calibrated with an acceptable streamflow rating curve.
      - (iii) Staff gage calibrated for a flume or weir.
      - (iv) Staff gage calibrated with an acceptable storage capacity curve.
      - (v) Pressure transducer and acceptable storage capacity curve.
  - (2) The permittee or licensee shall maintain a record of all diversion monitoring that includes the date, time, and diversion rate at time intervals of one hour or less, and the total amount of water diverted. These records shall be included with reports submitted under the permit or license, as required under subdivision (c), or upon request of the board.
- (b)
  - (1) The board may modify the requirements of subdivision (a) upon finding either of the following:
    - (A) That strict compliance is infeasible, is unreasonably expensive, would unreasonably affect public trust uses, or would result in the waste or unreasonable use of water.
    - (B) That the need for monitoring and reporting is adequately addressed by other conditions of the permit or license.
  - (2) The board may increase the 10-acre-foot reporting threshold of subdivision (a) in a watershed or subwatershed, after considering the diversion reporting threshold in relation to quantity of water within the watershed or subwatershed. The board may increase the 10-acre-foot reporting threshold to 25 acre-feet or above if it finds that the benefits of the additional information within the watershed or subwatershed are substantially outweighed by the cost of installing measuring devices or employing methods for measurement for diversions at the 10-acre-foot threshold.
- (c) At least annually, a person who diverts water under a registration, permit, or license shall report to the board the following information:
  - (1) The quantity of water diverted by month.
  - (2) The maximum rate of diversion by months in the preceding calendar year.
  - (3) The information required by subdivision (a), if applicable.
  - (4) The amount of water used, if any, for cannabis cultivation.
- (d) Compliance with the applicable requirements of this section is a condition of every registration, permit, or license.

**ARTICLE 4. ENFORCEMENT (1845 - 1848)**

**1845.**

- (a) Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or



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mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

- (b)
- (1) A person or entity who violates a cease and desist order issued pursuant to this chapter may be liable in an amount not to exceed the following:
    - (A) If the violation 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, ten thousand dollars (\$10,000) for each day in which the violation occurs.
    - (B) If the violation is not described by subparagraph (A), one thousand dollars (\$1,000) for each day in which the violation occurs.
  - (2) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.
  - (3) Civil liability may be imposed administratively by the board pursuant to Section 1055.

**1846.**

- (a) A person or entity may be liable for a violation of any of the following in an amount not to exceed five hundred dollars (\$500) for each day in which the violation occurs:
  - (1) A term or condition of a permit, license, certificate, or registration issued under this division.
  - (2) A regulation or order adopted by the board.
- (b) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.
- (c) Civil liability may be imposed administratively by the board pursuant to Section 1055.

**1847.**

- (a) A person or entity may be liable for a violation of any of the requirements of subdivision (b) in an amount not to exceed the sum of the following:
  - (1) Five hundred dollars (\$500), plus two hundred fifty dollars (\$250) for each additional day on which the violation continues if the person fails to correct the violation within 30 days after the board has called the violation to the attention of that person.
  - (2) Two thousand five hundred dollars (\$2,500) for each acre-foot of water diverted or used in violation of the applicable requirement.
- (b) Liability may be imposed for any of the following violations:
  - (1) Violation of a limitation or requirement established by the board or the Department of Fish and Wildlife under Section 13149.
  - (2) Failure to submit information, or making a material misstatement in information submitted, under subdivision (a), (b), or (c) of Section 19332.2 of the Business and Professions Code.
  - (3) Violation of any requirement imposed under subdivision (e) of Section 19332.2 of the Business and Professions Code.
  - (4) Diversion or use of water for cannabis cultivation for which a license is required, but has not been obtained, under Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the Business and Professions Code.
- (c) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.
- (d) Civil liability may be imposed administratively by the board pursuant to Section 1055.

**1848.**

- (a) Except as provided in subdivisions (b) and (c), remedies under this chapter are in addition to, and do not supersede or limit, any other remedy, civil or criminal.
- (b) Civil liability shall not be imposed both administratively and by the superior court for the same violation.
- (c) No liability shall be recoverable under Section 1846 or 1847 for a violation for which liability is recovered under Section 1052.
- (d) In determining the appropriate amount, the court, or the board, as the case may be, 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.

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- (e) All funds recovered pursuant to this article shall be deposited in the Water Rights Fund established pursuant to Section 1550.

**DIVISION 2 PART 5.1. STATEMENTS OF WATER DIVERSIONS AND USE (5100 -5107)**

**5103.**

Each statement shall be prepared on a form provided by the board. The statement shall include all of the following information:

- (a) The name and address of the person who diverted water and of the person filing the statement.
- (b) The name of the stream or other source from which water was diverted, and the name of the next major stream or other body of water to which the source is tributary.
- (c) The place of diversion. The location of the diversion works shall be depicted on a specific United States Geological Survey topographic map, or shall be identified using the California Coordinate System, or latitude and longitude measurements. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.
- (d) The capacity of the diversion works and of the storage reservoir, if any, and the months in which water was used during the preceding calendar year.
- (e)
  - (1)
    - (A) At least monthly records of water diversions. The measurements of the diversion shall be made in accordance with Section 1840.
    - (B)
      - (i) On and after July 1, 2016, the measurement of a diversion of 10 acre-feet or more per year shall comply with regulations adopted by the board pursuant to Article 3 (commencing with Section 1840) of Chapter 12 of Part 2.
      - (ii) The requirement of clause (i) is extended to January 1, 2017, for any statement filer that enters into a voluntary agreement that is acceptable to the board to reduce the statement filer's diversions during the 2015 irrigation season.
  - (2)
    - (A) The terms of, and eligibility for, any grant or loan awarded or administered by the department, the board, or the California Bay-Delta Authority on behalf of a person that is subject to paragraph (1) shall be conditioned on compliance with that paragraph.
    - (B) Notwithstanding subparagraph (A), the board may determine that a person is eligible for a grant or loan even though the person is not complying with paragraph (1), if both of the following apply:
      - (i) The board determines that the grant or loan will assist the grantee or loan recipient in complying with paragraph (1).
      - (ii) The person has submitted to the board a one-year schedule for complying with paragraph (1).
    - (C) It is the intent of the Legislature that the requirements of this subdivision shall complement and not affect the scope of authority granted to the board by provisions of law other than this article.
- (f)
  - (1) The purpose of use.
  - (2) The amount of water used, if any, for cannabis cultivation.
- (g) A general description of the area in which the water was used. The location of the place of use shall be depicted on a specific United States Geological Survey topographic map and on any other maps with identifiable landmarks. If assigned, the public land description to the nearest 40-acre subdivision and the assessor's parcel number shall also be provided.
- (h) The year in which the diversion was commenced as near as is known.

**13149.**

- (a)
  - (1) (A) The board, in consultation with the Department of Fish and Wildlife, shall adopt principles and guidelines for diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows. The principles and guidelines adopted under this section may include, but are not limited to, instream flow objectives, limits on diversions, and requirements for screening of diversions and elimination of barriers to fish passage. The principles and guidelines may include requirements that apply to groundwater extractions where the board determines those requirements are reasonably necessary for purposes of this section.

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- (B) Prior to adopting principles and guidelines under this section, the board shall allow for public comment and hearing, pursuant to Section 13147. The board shall provide an opportunity for the public to review and comment on the proposal for at least 60 days and shall consider the public comments before adopting the principles and guidelines.
  - (2) The board, in consultation with the Department of Fish and Wildlife, shall adopt principles and guidelines pending the development of long-term principles and guidelines under paragraph (1). The principles and guidelines, including the interim principles and guidelines, shall include measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation. The board may update the interim principles and guidelines as it determines to be reasonably necessary for purposes of this section.
  - (3) The Department of Fish and Wildlife, in consultation with the board, may establish interim requirements to protect fish and wildlife from the impacts of diversions for cannabis cultivation pending the adoption of long-term principles and guidelines by the board under paragraph (1). The requirements may also include measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation.
- (b)
- (1) Notwithstanding Section 15300.2 of Title 14 of the California Code of Regulations, actions of the board and the Department of Fish and Wildlife under this section shall be deemed to be within Section 15308 of Title 14 of the California Code of regulations, provided that those actions do not involve relaxation of existing streamflow standards.
  - (2) The board shall adopt principles and guidelines under this section as part of state policy for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7.
  - (3) If the Department of Fish and Wildlife establishes interim requirements under this section, it shall do so as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of those interim requirements is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the emergency regulations shall remain in effect until revised by the Department of Fish and Wildlife, provided that the emergency regulations shall not apply after long-term principles and guidelines adopted by the board under this section take effect for the stream or other body of water where the diversion is located.
  - (4) A diversion for cannabis cultivation is subject to both the interim principles and guidelines and the interim requirements in the period before final principles and guidelines are adopted by the board.
  - (5) The board shall have primary enforcement responsibility for principles and guidelines adopted under this section, and shall notify the Department of Food and Agriculture of any enforcement action taken.