

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1894

Introduced by Assembly Member ~~Wieckowski~~ Ammiano

February 19, 2014

An act to ~~add Section 653.3 to the Penal Code, relating to crimes amend Sections 2220.05, 2242, and 2264 of, and to add Chapter 18 (commencing with Section 26000) to Division 9 of, the Business and Professions Code, to amend Section 11362.7 of, and to amend and repeal Section 11362.775 of, the Health and Safety Code, and to add Chapter 4 (commencing with Section 7294) to Part 1.7 of Division 2 of the Revenue and Taxation Code, relating to medical cannabis, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1894, as amended, ~~Wieckowski~~ Ammiano. Falsely filed liens or encumbrances.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature, commonly referred to as the Medical Marijuana Program Act, requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use.

The Medical Practice Act provides for the regulation and licensing of physicians and surgeons by the Medical Board of California and requires the board to prioritize investigations and prosecutions of

physicians and surgeons representing the greatest threat of harm, as specified. Existing law identifies the cases that are to be given priority, which include cases of repeated acts of excessively prescribing, furnishing, or administering controlled substances without a good faith prior examination of the patient. Existing law makes it unprofessional conduct for a physician and surgeon to prescribe, dispense, or furnish dangerous drugs without an appropriate prior examination and medical indication. Existing law also makes it unprofessional conduct to employ, aid, or abet an unlicensed person in the practice of medicine. Existing law generally makes any person who violates these provisions guilty of a misdemeanor.

This bill would enact the Medical Cannabis Regulation and Control Act and would create the Division of Medical Cannabis Regulation and Enforcement within the Department of Alcoholic Beverage Control, to be administered by a person exempt from civil service who is appointed by the Director of Alcoholic Beverage Control. The bill would grant the department the exclusive power to register persons for the cultivation, manufacture, testing, transportation, storage, distribution, and sale of medical cannabis within the state subject to specified exemptions for a city or county. The bill would provide that the director and persons employed by the department to administer and enforce its provisions are peace officers. The bill would prescribe requirements for the issuance, renewal, suspension, and revocation of mandatory commercial registrations and fees in relation to these activities. The bill would permit the department to assist statewide taxation authorities in the development of uniform policies for the taxation of mandatory commercial medical cannabis registrants and to assist in the development of regulation in connection with work safety in this industry. The bill would authorize the division to establish a grant program for the purpose of funding medical cannabis regulation and enforcement.

The bill would establish the Medical Cannabis Regulation Fund and would require deposit of fees into the fund. The bill would continuously appropriate moneys within the fund to the division for the purposes of administering the program. The bill would require the deposit of penalty money into the General Fund.

The bill would require the department, on or before January 1, 2016, to issue regulations as necessary for the implementation and enforcement of mandatory commercial medical cannabis registration, as specified, and would prescribe requirements for provisional

registrations to be operative January 1, 2015. The bill would prohibit approval of a mandatory commercial registration for specified reasons, including if a licensed physician making patient recommendations for medical cannabis is an interested party in the proposed operation, and would prohibit a physician from recommending medical cannabis to a patient while he or she is a mandatory commercial registrant, or associated, as specified, with a mandatory commercial registrant. The bill would provide that certain patient and caregiver information is excluded from disclosure to the public. The bill would provide that the actions of a mandatory commercial registrant or provisional registrant, its employees, and its agents that are permitted pursuant to a valid mandatory commercial registration issued by the division and that are conducted in accordance with the requirements of the act are not unlawful, as specified. The bill would provide a similar immunity for a property owner who allows his or her property to be used by a mandatory commercial registrant or provisional registrant.

The bill would require the department to work in conjunction with law enforcement entities throughout the state to implement and enforce the rules and regulations regarding medical cannabis and to take appropriate action against businesses and individuals that fail to comply with the law. The bill would prohibit, on and after January 1, 2016, a person other than a mandatory commercial registrant from selling cannabis or cannabis products or performing other actions related to cannabis, except as specified. The bill would provide that its provisions do not affect local zoning ordinances or laws of general application. The bill would make certain violations of its provisions a crime, thereby imposing a state-mandated local program. The bill would establish requirements for the transportation of medical cannabis. The bill would specify that its provisions are severable.

The bill would specify that recommending marijuana to patients without a good faith examination and medical reason is unprofessional conduct and is a type of case that should be given priority for investigation and prosecution by the Medical Board of California, as described above. The bill would also specify that employment by, or an agreement with, a mandatory medical cannabis registrant to provide recommendations for medical marijuana constitutes unprofessional conduct. By broadening the definition of a crime, the bill would impose a state-mandated local program. The bill would repeal, 90 days after the department posts a specified notice on its Internet Web site, the provisions described above prohibiting prosecution of qualified patients,

persons with valid identification cards, and designated primary caregivers who associate in California, collectively or cooperatively, to cultivate marijuana for medical purposes.

(2) Existing law authorizes the board of supervisors of a county and the governing body of a city to levy, increase, or extend a transactions and use tax at a rate of 0.25%, or a multiple thereof, if approved by the required vote of the board or governing body and the required vote of qualified voters, and limits the combined rate of transactions and use taxes within a city or county to 2%.

This bill would additionally authorize the board of supervisors of a county and the governing body of a city to levy, increase, or extend transactions and use taxes on the retail sale of or storage, use, or other consumption of, medical marijuana or medical marijuana-infused products for general and specified purposes, as provided, at a combined rate, as provided, not to exceed 5%.

~~Existing law governs the procedure for levying an execution lien upon real or personal property and requires the judgment creditor to give the levying officer written instructions containing the information needed or requested by the levying officer to serve the writ, order, notice, or other paper on a person. Under existing law, a person who files any allegation of misconduct against any peace officer, knowing the allegation to be false, is guilty of a misdemeanor.~~

~~This bill would make it a misdemeanor for any person to file, attempt to file, or conspire to file, in any public record, or any private record that is generally available to the public, any false lien or encumbrance against the real or personal property of a peace officer, as defined, on account of the performance of that peace officer's official duties, if the person filing, attempting to file, or conspiring to file the public or private record knows, or has reason to know, that the lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation. By creating a new crime, this bill would impose a state-mandated local program.~~

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

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known, and may be cited, as the*
2 *Medical Cannabis Regulation and Control Act.*

3 *SEC. 2. (a) The Legislature finds and declares all of the*
4 *following:*

5 *(1) In 1996, the people of the State of California enacted the*
6 *Compassionate Use Act of 1996, codified in Section 11362.5 of*
7 *the Health and Safety Code. The people of the State of California*
8 *declared that their purpose in enacting the measure was, among*
9 *other things, “to ensure that seriously ill Californians have the*
10 *right to obtain and use marijuana for medical purposes where that*
11 *medical use is deemed appropriate and has been recommended*
12 *by a physician who has determined that the person’s health would*
13 *benefit from the use of marijuana in the treatment of cancer,*
14 *anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis,*
15 *migraine, or any other illness for which marijuana provides relief.”*

16 *(2) The Compassionate Use Act of 1996 called on state*
17 *government to implement a plan for the safe and affordable*
18 *distribution of marijuana to all patients in medical need of*
19 *marijuana.*

20 *(3) In 2003, the Legislature enacted the Medical Marijuana*
21 *Program Act (MMPA), codified in Article 2.5 (commencing with*
22 *Section 11362.7) of Chapter 6 of Division 10 of the Health and*
23 *Safety Code. Under the guidance of the MMPA, approximately 60*
24 *California cities and counties have created medical marijuana*
25 *access ordinances that can act as a guide for the state. However,*
26 *many other cities and counties are calling for more guidance and*
27 *regulation from the state and have passed bans or moratoria on*
28 *medical marijuana cultivation and distribution while awaiting this*
29 *guidance.*

30 *(4) Greater certainty and uniformity are urgently needed*
31 *regarding the rights and obligations of medical marijuana*
32 *facilities, and for the imposition and enforcement of regulations*
33 *to prevent unlawful cultivation and the diversion of marijuana to*
34 *nonmedical use.*

35 *(5) Despite the passage of the Compassionate Use Act of 1996*
36 *and the MMPA, because of the lack of an effective statewide system*
37 *for regulating and controlling medical marijuana, local law*
38 *enforcement officials have been confronted with uncertainty about*

1 *the legality of some medical marijuana cultivation and distribution*
2 *activities. The current system of collectives and cooperatives makes*
3 *law enforcement difficult and endangers patient safety because of*
4 *an inability to monitor the supply of medical marijuana in the state*
5 *and the lack of quality control, testing, and labeling requirements.*
6 *As a result, many cities and counties have passed local ordinances*
7 *that in some cases ban the cultivation or distribution of medical*
8 *marijuana.*

9 (6) *For the protection of all Californians, the state must act to*
10 *regulate and control medical marijuana and not preempt local*
11 *government ordinances. Cities and counties should be allowed to*
12 *impose reasonable local taxes and enact reasonable zoning*
13 *regulations and other restrictions applicable to the cultivation and*
14 *distribution of medical marijuana based on local needs. In order*
15 *to provide patients with access to safe medical marijuana products,*
16 *while at the same time preventing diversion of marijuana to*
17 *nonmedical uses and protecting the public, it is necessary to amend*
18 *the MMPA and to establish a comprehensive structure for*
19 *regulating the cultivation, production, and distribution of medical*
20 *marijuana products.*

21 (7) *A state entity shall be created to regulate and control the*
22 *mandatory registration of all entities involved in the commercial*
23 *cultivation, processing, manufacturing, testing, transportation,*
24 *distribution, and sale of medical marijuana in this state. Patients*
25 *and their primary caregivers shall continue to be allowed to*
26 *cultivate medical marijuana for the personal medical purposes of*
27 *the individual patient, but only medical marijuana produced in*
28 *compliance with this act may be sold or commercially distributed.*

29 (8) *This act is not intended to prevent cities and counties from*
30 *imposing reasonable local taxes and enacting reasonable zoning*
31 *regulations and other restrictions applicable to the commercial*
32 *cultivation and distribution of medical marijuana based on local*
33 *needs.*

34 (9) *It is the intent of the Legislature that the state entity created*
35 *to regulate and control medical marijuana solicit input from cities*
36 *and counties that have local ordinances or regulations allowing*
37 *for the registering, permitting, or licensing of medical marijuana*
38 *businesses, dispensaries, or other entities involved in providing*
39 *medical marijuana to patients in the process of promulgating*
40 *standards and regulations pursuant to this act.*

1 (10) *It is the intent of the Legislature that entities provided*
2 *immunity under Measure D, approved by the voters of the City of*
3 *Los Angeles on the May 21, 2013, ballot, shall be considered the*
4 *equivalent of entities that are registered, permitted, or licensed as*
5 *a medical marijuana business, dispensary, or other entity involved*
6 *in providing medical marijuana to patients under a local ordinance*
7 *and shall be considered in compliance with a local ordinance for*
8 *the purposes of the implementation of this act and any regulations*
9 *promulgated by the Department of Alcoholic Beverage Control.*

10 (11) *The provisions of this act are enacted pursuant to the*
11 *powers reserved to the State of California and its people under*
12 *the Tenth Amendment to the United States Constitution.*

13 (12) *Nothing in this act is intended to require any individual or*
14 *entity to engage in any conduct that violates federal law or to*
15 *exempt anyone from any requirement of federal law or to pose any*
16 *obstacle to federal enforcement of federal law.*

17 (b) *It is therefore the intent of the Legislature, in enacting this*
18 *act, to accomplish all of the following:*

19 (1) *To establish a statewide system for regulating and*
20 *controlling commercial medical cannabis activities by creating a*
21 *state entity to enact and enforce regulations governing the*
22 *cultivation, processing, manufacturing, testing, transportation,*
23 *distribution, and sale of commercial medical cannabis.*

24 (2) *To allow cities and counties to enact reasonable zoning*
25 *regulations or other restrictions applicable to the cultivation,*
26 *processing, manufacturing, testing, and distribution of commercial*
27 *medical cannabis based on local needs.*

28 (3) *To establish the Division of Medical Cannabis Regulation*
29 *and Enforcement to be located within the Department of Alcoholic*
30 *Beverage Control to provide a governmental agency that will*
31 *ensure the strict, honest, impartial, and uniform administration*
32 *and enforcement of the medical cannabis laws throughout the*
33 *state.*

34 (4) *To fulfill the promise of the Compassionate Use Act of 1996*
35 *to “implement a plan for the safe and affordable distribution of*
36 *marijuana to all patients in medical need of marijuana.”*

37 (5) *To establish a statewide registration process for commercial*
38 *medical cannabis activities to identify for law enforcement which*
39 *entities are exempt from state criminal penalties.*

1 (6) *To reduce the cost of commercial medical cannabis*
2 *enforcement by controlling commercial medical cannabis*
3 *production and distribution through comprehensive statewide*
4 *regulation and providing law enforcement guidelines to more*
5 *easily determine whether or not a person is acting in conformance*
6 *with the state's medical cannabis laws.*

7 SEC. 3. *Section 2220.05 of the Business and Professions Code*
8 *is amended to read:*

9 2220.05. (a) In order to ensure that its resources are maximized
10 for the protection of the public, the Medical Board of California
11 shall prioritize its investigative and prosecutorial resources to
12 ensure that physicians and surgeons representing the greatest threat
13 of harm are identified and disciplined expeditiously. Cases
14 involving any of the following allegations shall be handled on a
15 priority basis, as follows, with the highest priority being given to
16 cases in the first paragraph:

17 (1) Gross negligence, incompetence, or repeated negligent acts
18 that involve death or serious bodily injury to one or more patients,
19 such that the physician and surgeon represents a danger to the
20 public.

21 (2) Drug or alcohol abuse by a physician and surgeon involving
22 death or serious bodily injury to a patient.

23 (3) Repeated acts of clearly excessive prescribing, furnishing,
24 or administering of controlled substances, or repeated acts of
25 prescribing, dispensing, or furnishing of controlled substances, *or*
26 *recommending marijuana to patients for medical purposes*, without
27 a good faith prior examination of the patient and medical reason
28 therefor. However, in no event shall a physician and surgeon
29 prescribing, furnishing, or administering controlled substances for
30 intractable pain consistent with lawful prescribing, including, but
31 not limited to, Sections 725, 2241.5, and 2241.6 of this code and
32 Sections 11159.2 and 124961 of the Health and Safety Code, be
33 prosecuted for excessive prescribing and prompt review of the
34 applicability of these provisions shall be made in any complaint
35 that may implicate these provisions.

36 (4) Sexual misconduct with one or more patients during a course
37 of treatment or an examination.

38 (5) Practicing medicine while under the influence of drugs or
39 alcohol.

1 (b) The board may by regulation prioritize cases involving an
2 allegation of conduct that is not described in subdivision (a). Those
3 cases prioritized by regulation shall not be assigned a priority equal
4 to or higher than the priorities established in subdivision (a).

5 (c) The Medical Board of California shall indicate in its annual
6 report mandated by Section 2312 the number of temporary
7 restraining orders, interim suspension orders, and disciplinary
8 actions that are taken in each priority category specified in
9 subdivisions (a) and (b).

10 *SEC. 4. Section 2242 of the Business and Professions Code is*
11 *amended to read:*

12 2242. (a) Prescribing, dispensing, or furnishing dangerous
13 drugs as defined in Section 4022, *or recommending marijuana to*
14 *a patient for medical purposes*, without an appropriate prior
15 examination and a medical indication, *including an in-person*
16 *examination when recommending marijuana*, constitutes
17 unprofessional conduct.

18 (b) No licensee shall be found to have committed unprofessional
19 conduct within the meaning of this section if, at the time the drugs
20 were prescribed, dispensed, or furnished, any of the following
21 applies:

22 (1) The licensee was a designated physician and surgeon or
23 podiatrist serving in the absence of the patient's physician and
24 surgeon or podiatrist, as the case may be, and if the drugs were
25 prescribed, dispensed, or furnished only as necessary to maintain
26 the patient until the return of his or her practitioner, but in any case
27 no longer than 72 hours.

28 (2) The licensee transmitted the order for the drugs to a
29 registered nurse or to a licensed vocational nurse in an inpatient
30 facility, and if both of the following conditions exist:

31 (A) The practitioner had consulted with the registered nurse or
32 licensed vocational nurse who had reviewed the patient's records.

33 (B) The practitioner was designated as the practitioner to serve
34 in the absence of the patient's physician and surgeon or podiatrist,
35 as the case may be.

36 (3) The licensee was a designated practitioner serving in the
37 absence of the patient's physician and surgeon or podiatrist, as the
38 case may be, and was in possession of or had utilized the patient's
39 records and ordered the renewal of a medically indicated

1 prescription for an amount not exceeding the original prescription
2 in strength or amount or for more than one refill.

3 (4) The licensee was acting in accordance with Section 120582
4 of the Health and Safety Code.

5 *SEC. 5. Section 2264 of the Business and Professions Code is*
6 *amended to read:*

7 2264. The employing, directly or indirectly, the aiding, or the
8 abetting of any unlicensed person or any suspended, revoked, or
9 unlicensed practitioner to engage in the practice of medicine,
10 *including employment by, or other agreement with, a mandatory*
11 *commercial registrant acting pursuant to the Medical Cannabis*
12 *Regulation and Control Act or a dispensary to provide*
13 *recommendations for medical marijuana, or any other mode of*
14 *treating the sick or afflicted which requires a license to practice*
15 *constitutes unprofessional conduct.*

16 *SEC. 6. Chapter 18 (commencing with Section 26000) is added*
17 *to Division 9 of the Business and Professions Code, to read:*

18
19 *CHAPTER 18. MEDICAL CANNABIS REGULATION*

20
21 *Article 1. General Provisions*

22
23 26000. (a) *It is the intent of the Legislature in enacting this*
24 *chapter to provide for the comprehensive regulation of the*
25 *commercial cultivation, manufacturing, testing, transportation,*
26 *distribution, and sale of medical cannabis and the enforcement of*
27 *laws relating to commercial medical cannabis activities.*

28 (b) *This chapter is an exercise of the police powers of the state*
29 *for the protection of the safety, welfare, health, peace, and morals*
30 *of the people of the state.*

31 26001. *Subject to the authority of a city or county pursuant to*
32 *Section 26010, the state shall have the exclusive right and power*
33 *to regulate and register persons for the cultivation, manufacture,*
34 *testing, transportation, storage, distribution, sale, purchase, and*
35 *possession of medical cannabis within the state. In the exercise of*
36 *these rights and powers, the Legislature shall not constitute the*
37 *state or any of its agencies as a cultivator, manufacturer,*
38 *transporter, tester, or seller of medical cannabis.*

39 26002. *For the purpose of this chapter:*

1 (a) “Cannabis” means all parts of the plant *Cannabis sativa*
2 *L.*, whether growing or not; the seeds thereof; the resin extracted
3 from any part of the plant; and every compound, manufacture,
4 salt, derivative, mixture, or preparation of the plant, its seeds or
5 resin. It does not include the mature stalks of the plant, fiber
6 produced from the stalks, oil or cake made from the seeds of the
7 plant, any other compound, manufacture, salt, derivative, mixture,
8 or preparation of the mature stalks (except the resin extracted
9 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
10 which is incapable of germination. “Cannabis” also means the
11 separated resin, whether crude or purified, obtained from
12 marijuana.

13 (b) “Department” means the Department of Alcoholic Beverage
14 Control.

15 (c) “Dispensary” means a mandatory commercial registrant
16 that dispenses cannabis or medical cannabis products through a
17 retail storefront.

18 (d) “Division” means the Division of Medical Cannabis
19 Regulation and Enforcement.

20 (e) “Fund” means the Medical Cannabis Regulation Fund
21 established pursuant to Section 26028.

22 (f) “Identification program” means the universal identification
23 certificate program for mandatory commercial registrants.

24 (g) “Mandatory commercial registrant” or “registrant” means
25 any individual, partnership, joint venture, association, limited
26 liability company, corporation, estate, trust, receiver, syndicate,
27 or any other group or combination thereof acting as a unit to
28 commercially cultivate, process, possess, store, manufacture, test,
29 transport, distribute, or sell medical cannabis in compliance with
30 this chapter, other than a patient or a patient’s primary caregiver,
31 as defined by the Compassionate Use Act of 1996, growing,
32 possessing, storing, manufacturing, transporting, or providing
33 medical cannabis exclusively for the personal medical purposes
34 of individual patients as defined in subdivision (b) of Section
35 26050.

36 (h) “Medical cannabis product” means any cannabis product,
37 including concentrates and extractions, that is cultivated,
38 processed, packaged, and distributed in full compliance with the
39 requirements of this chapter and with any regulations adopted by
40 the department pursuant to its rulemaking authority. “Medical

1 *cannabis product” includes medically infused products that contain*
2 *medical cannabis and are intended for oral or topical consumption*
3 *by a qualified patient.*

4 (i) *“Person” includes any individual, firm, copartnership, joint*
5 *venture, association, corporation, estate, trust, business trust,*
6 *receiver, syndicate, or any other group or combination acting as*
7 *a unit and includes the plural as well as the singular number.*

8 (j) *“Testing and labeling” means mandatory labeling and a*
9 *quality assurance plan in place that addresses all of the following:*

- 10 (1) *Potency.*
- 11 (2) *Chemical residue.*
- 12 (3) *Microbiological contaminants.*
- 13 (4) *Random sample testing of medical cannabis and medical*
- 14 *cannabis products.*
- 15 (5) *Handling, care, and storage.*
- 16 (6) *Date and location of production and manufacturing.*

17 26010. *This chapter does not prevent a city or county from*
18 *doing any of the following:*

- 19 (a) *Adopting local ordinances that ban or regulate the location,*
- 20 *operation, or establishment of a mandatory commercial registrant.*
- 21 (b) *The civil or criminal enforcement of the ordinances*
- 22 *described in subdivision (a).*
- 23 (c) *Establishing a reasonable fee for the operation of a*
- 24 *mandatory commercial registrant within its jurisdiction.*
- 25 (d) *Enacting other laws consistent with this chapter.*

26
27 *Article 2. Administration*
28

29 26020. (a) *There is hereby created in the Department of*
30 *Alcoholic Beverage Control the Division of Medical Cannabis*
31 *Regulation and Enforcement. The division shall be administered*
32 *by a person exempt from the civil service who is appointed by the*
33 *director.*

34 (b) *The department shall have the exclusive power, consistent*
35 *with the provisions of this chapter, to register persons for the*
36 *cultivation, manufacture, testing, transportation, storage,*
37 *distribution, and sale of medical cannabis within the state and to*
38 *collect registration fees in connection with these actions.*

1 26022. *The department shall have all power necessary for*
2 *administration of this chapter, including, but not limited to, the*
3 *following:*

4 (a) *Establishing statewide standards for the commercial*
5 *cultivation, manufacturing, testing, transportation, storage,*
6 *distribution, and sale of medical cannabis and medical cannabis*
7 *products and procedures for the issuance, renewal, suspension,*
8 *and revocation of registrations of mandatory commercial*
9 *registrants.*

10 (b) *Establishing a scale of application, registration, and renewal*
11 *fees, to be imposed by the state, for mandatory commercial*
12 *registrants for the cultivation, manufacturing, testing,*
13 *transportation, distribution, and sale of medical cannabis and*
14 *medical cannabis products. The department may charge separate*
15 *fees for each mandatory commercial registration application for*
16 *cultivation, manufacturing, transportation, distribution, and sale.*
17 *The total fees imposed pursuant to this chapter shall be reasonable*
18 *and based on the actual costs of administering and enforcing this*
19 *chapter.*

20 (c) *The department shall make and prescribe those reasonable*
21 *rules as may be necessary or proper to carry out the purposes and*
22 *intent of this chapter and to enable it to exercise the powers and*
23 *perform the duties conferred upon it by this chapter and in*
24 *accordance with Chapter 3.5 (commencing with Section 11340)*
25 *of Part 1 of Division 3 of Title 2 of the Government Code. For the*
26 *performance of its duties, the department has the powers as set*
27 *forth in Article 2 (commencing with Section 11180) of Chapter 2*
28 *of Part 1 of Division 3 of Title 2 of the Government Code.*

29 (d) *Approving or denying mandatory commercial registration*
30 *applications for cultivation, manufacturing, testing and labeling,*
31 *transportation, distribution, and sale of medical cannabis pursuant*
32 *to this chapter.*

33 (e) *The department shall have the power, in its discretion, to*
34 *deny, suspend, revoke, or fine any registration issued pursuant to*
35 *this chapter if the department determines, for good cause, that the*
36 *granting or continuance of the registration would be contrary to*
37 *public welfare or morals or that a person holding or seeking a*
38 *registration has violated any law prohibiting conduct involving*
39 *moral turpitude.*

- 1 (f) *Imposing any penalty authorized by this chapter or any rule*
2 *or regulation adopted pursuant to this chapter.*
- 3 (g) *Taking any reasonable action with respect to a mandatory*
4 *commercial registration application in accordance with procedures*
5 *established pursuant to this chapter.*
- 6 (h) *Upon the denial of any application for a registration, the*
7 *department shall notify the applicant in writing. After service of*
8 *the notice and within the time prescribed by the department, the*
9 *applicant may present his or her written petition for a registration*
10 *to the department. Upon receipt by the department of a petition*
11 *for a registration in proper form, the petition shall be set for*
12 *hearing.*
- 13 (i) (1) *For any hearing held pursuant to this chapter, the*
14 *department may delegate the power to hear and decide to an*
15 *administrative law judge appointed by the director. Any hearing*
16 *before an administrative law judge shall be pursuant to the*
17 *procedures, rules, and limitations prescribed in Chapter 5*
18 *(commencing with Section 11500) of Part 1 of Division 3 of Title*
19 *2 of the Government Code.*
- 20 (2) *Prior to suspending, revoking, or fining any registration,*
21 *the department shall file an accusation as provided for in Section*
22 *11503 of the Government Code, and the registrant may request a*
23 *hearing.*
- 24 (j) *Developing any forms, identification certificates, and*
25 *applications that are necessary or convenient in the reasonable*
26 *discretion of the department for the administration of this chapter*
27 *or any of the rules or regulations adopted pursuant to this chapter.*
- 28 (k) *Overseeing the operation of the Medical Cannabis*
29 *Regulation Fund established pursuant to Section 26028.*
- 30 (l) *Establishing reasonable fees for processing all applications,*
31 *registrations, notices, or reports required to be submitted to the*
32 *department. The amount of the fees shall reflect, but shall not*
33 *exceed, the direct and indirect costs of the department for the*
34 *administration of this chapter and the rules or regulations adopted*
35 *pursuant to this chapter.*
- 36 (m) *The department may consult with other state agencies,*
37 *departments, or public or private entities for the purposes of*
38 *establishing statewide standards and regulations.*

1 26024. (a) *The department may assist state taxation authorities*
2 *in the development of uniform policies for the taxation of*
3 *mandatory commercial registrants.*

4 (b) *The department shall assist the Division of Occupational*
5 *Safety and Health in the Department of Industrial Relations in the*
6 *development of industry-specific regulations related to commercial*
7 *medical cannabis activities.*

8 26028. (a) *The Medical Cannabis Regulation Fund is hereby*
9 *established within the State Treasury. Notwithstanding Section*
10 *16305.7 of the Government Code, the fund shall include any*
11 *interest and dividends earned on the money in the fund.*

12 (b) *All fees collected pursuant to this chapter shall be deposited*
13 *into the Medical Cannabis Regulation Fund. Notwithstanding*
14 *Section 13340 of the Government Code, all moneys within the fund*
15 *are hereby continuously appropriated, without regard to fiscal*
16 *year, to the department solely for the purposes of fully funding*
17 *and administering this chapter, including, but not limited to, the*
18 *costs incurred by the department for its administrative expenses.*

19 (c) *All moneys collected pursuant to this chapter as a result of*
20 *penalties imposed under this division shall be deposited directly*
21 *into the General Fund, to be available upon appropriation.*

22 (d) *The department may establish and administer a grant*
23 *program to allocate moneys from the Medical Cannabis Regulation*
24 *Fund to state and local entities for the purpose of assisting with*
25 *commercial medical cannabis regulation and the enforcement of*
26 *this chapter.*

27 26030. (a) *The director and the persons employed by the*
28 *department for the administration and enforcement of this chapter*
29 *are peace officers in the enforcement of the penal provisions of*
30 *this chapter, the rules of the department adopted under the*
31 *provisions of this chapter, and any other penal provisions of law*
32 *of this state prohibiting or regulating the cultivation, processing,*
33 *storing, manufacturing, testing, transporting, or selling of medical*
34 *cannabis, and these persons are authorized, while acting as peace*
35 *officers, to enforce any penal provisions of law while in the course*
36 *of their employment.*

37 (b) *The director, the persons employed by the department for*
38 *the administration and enforcement of this chapter, peace officers*
39 *listed in Section 830.1 of the Penal Code, and those officers listed*
40 *in Section 830.6 of the Penal Code while acting in the course and*

1 *scope of their employment as peace officers may, in enforcing the*
 2 *provisions of this chapter, visit and inspect the premises of any*
 3 *mandatory commercial registrant at any time during which the*
 4 *registrant is acting pursuant to the registration.*

5 *(c) Peace officers of the Department of the California Highway*
 6 *Patrol, members of the University of California and California*
 7 *State University police departments, and peace officers of the*
 8 *Department of Parks and Recreation, as defined in subdivisions*
 9 *(a), (b), (c), and (f) of Section 830.2 of the Penal Code, may, in*
 10 *enforcing this chapter, visit and inspect the premises of any*
 11 *mandatory commercial registrant located on state property at any*
 12 *time during which the registrant is acting pursuant to the*
 13 *registration.*

14 26034. *(a) Information identifying the names of patients, their*
 15 *medical conditions, or the names of their primary caregivers*
 16 *received and contained in records kept by the department for the*
 17 *purposes of administering this chapter are confidential and exempt*
 18 *from the California Public Records Act (Chapter 3.5 (commencing*
 19 *with Section 6250) of Division 7 of Title 1 of the Government Code)*
 20 *and or not subject to disclosure to any individual or private entity,*
 21 *except as necessary for authorized employees of the State of*
 22 *California to perform official duties pursuant to this chapter:*

23 *(b) (1) Nothing in this section precludes the following:*

24 *(A) Division employees notifying state or local law enforcement*
 25 *about information submitted to the division that the employee*
 26 *suspects is falsified or fraudulent.*

27 *(B) Notifications from the division to state or local law*
 28 *enforcement about apparent criminal violation of this chapter.*

29 *(C) Verification of requests by state or local law enforcement*
 30 *to confirm registrants and certificates issued by the division or*
 31 *other state agency.*

32 *(D) Provision of information requested pursuant to a court*
 33 *order or subpoena issued by a court.*

34 *(2) Information shall not be disclosed beyond what is necessary*
 35 *to achieve the limited goals of a specific investigation or the*
 36 *parameters of a specific court order or subpoena.*

1 Article 3. *Mandatory Commercial Registration*

2
3 26040. (a) *On or before January 1, 2016, the department shall*
4 *promulgate regulations necessary for the implementation and*
5 *enforcement of this chapter. These regulations shall be reasonable*
6 *and shall include:*

7 (1) *Procedures for the issuance, renewal, suspension, and*
8 *revocation of mandatory commercial registrations.*

9 (2) *Application, registration, and renewal forms and fees*
10 *consistent with this act.*

11 (3) *Time periods, not to exceed 90 days, by which the department*
12 *shall approve or deny an application for medical cannabis*
13 *registration.*

14 (4) *Qualifications for registrants.*

15 (5) *Security requirements, including, but not limited to,*
16 *procedures for limiting access to facilities and for the screening*
17 *of employees. The department shall require all registrants to*
18 *maintain an accurate roster of any employee's name, date of birth,*
19 *and relevant personally identifying information, which shall be*
20 *available for inspection by the department or state or local law*
21 *enforcement upon demand.*

22 (6) *Testing and labeling requirements, including, but not limited*
23 *to, disclosure of the active cannabinoid profile, constituent*
24 *elements, active ingredients, and results of testing for*
25 *contaminants.*

26 (7) *Health and safety requirements, including, but not limited*
27 *to, prohibitions on shipping or distribution of products containing*
28 *microbiological, bacterial, pathogenic yeast or mold counts, or*
29 *any adulterant or contaminant, that exceed levels to be determined*
30 *by the department.*

31 (8) *Inspection and tracking requirements, including, but not*
32 *limited to, an electronic production and inventory tracking system*
33 *that will allow the department to monitor inventory data at every*
34 *level of the cultivation, processing, and distribution system through*
35 *a secure, Internet Web site-based portal.*

36 (9) *Storage, packaging, and transportation procedures and*
37 *protocols.*

38 (10) *Advertising restrictions and requirements.*

39 (11) *Requirements to ensure conformance with applicable state*
40 *statutory environmental, agricultural, and food and product safety*

1 requirements. The department may consult with the California
2 Environmental Protection Agency to determine whether additional
3 regulations should be issued in order to protect the state's clean
4 water and environment, including, but not limited to, protections
5 related to land conversion, grading, water diversion and pond
6 development, and agricultural discharges.

7 (12) Requirements to prevent the diversion of cannabis to
8 nonmedical use, including procedures and protocols for disposal
9 of excess, contaminated, adulterated, or deteriorated products.

10 (13) Civil penalties for the failure to comply with regulations
11 adopted pursuant to this chapter.

12 (b) A mandatory commercial registration application or renewal
13 shall not be approved if the department determines any of the
14 following:

15 (1) The applicant fails to meet the requirements of this chapter
16 or any regulation adopted pursuant to this chapter, including any
17 applicable city or county ordinance or regulation.

18 (2) The applicant, or any of its officers or directors, is under
19 21 years of age.

20 (3) The applicant has knowingly answered a question or request
21 for information falsely on the application form or failed to provide
22 information requested.

23 (4) The applicant, or any of its officers or directors, has been
24 convicted in the previous five years of a violent felony, as specified
25 in subdivision (c) of Section 667.5 of the Penal Code, a serious
26 felony as specified in subdivision (c) of Section 1192.7 of the Penal
27 Code, a felony offense involving fraud or deceit, or any other felony
28 that, in the department's estimation, would impair the applicant's
29 ability to appropriately operate as a mandatory commercial
30 registrant.

31 (5) The applicant, or any of its officers or directors, is a licensed
32 physician making patient recommendations for medical cannabis.

33 (6) The applicant, or any of its officers or directors, has been
34 sanctioned by the department, a city, or a county for unregistered
35 commercial medical cannabis activities or has had a mandatory
36 commercial registration revoked in the previous three years.

37 (7) A sufficient number of mandatory commercial registrants
38 already exists in the state, a city, or a county to provide a sufficient
39 amount of medical cannabis to satisfy patients' medical use in that
40 jurisdiction.

1 (c) (1) *In order to protect the public safety and provide patients*
2 *with prompt, safe access to medical cannabis during*
3 *implementation of this chapter, within 180 days of January 1,*
4 *2015, the department shall issue emergency regulations consistent*
5 *with this chapter that allow a qualified applicant for mandatory*
6 *commercial registration to apply, be reviewed, and be registered*
7 *to cultivate, process, manufacture, store, and transport medical*
8 *cannabis so as to ensure an adequate supply of medical cannabis*
9 *upon full implementation of this chapter.*

10 (2) *The department shall establish appropriate fees as part of*
11 *its emergency regulations adopted pursuant to this chapter.*

12 26042. *For the purpose of regulating the commercial*
13 *cultivation, manufacturing, testing, transportation, distribution,*
14 *and sale of medical cannabis, the department, in its reasonable*
15 *discretion, may establish various classes or types of registration*
16 *for specific commercial medical cannabis-related activities, as set*
17 *forth in this chapter.*

18 26043. (a) *Each mandatory commercial registration*
19 *application approved by the department pursuant to this chapter*
20 *is separate and distinct. An applicant may apply for mandatory*
21 *commercial registration in more than one class of specified medical*
22 *cannabis activities.*

23 (b) *A mandatory commercial registration application approved*
24 *by the department pursuant to this chapter shall be valid for a*
25 *period not to exceed one year from the date of approval unless*
26 *revoked or suspended pursuant to this chapter or the rules or*
27 *regulations adopted pursuant to this chapter.*

28 26044. (a) *The department shall limit the number of*
29 *registrations statewide for the cultivation, processing, extraction,*
30 *packaging, and transportation of medical cannabis to a number*
31 *no greater than what is necessary to meet statewide need. In*
32 *determining the appropriate number of registrations, the*
33 *department may take into account information obtained from*
34 *sources that include, but need not be limited to, municipalities,*
35 *patients, and registrants.*

36 (b) *The department shall ensure that the number of registrations*
37 *that it approves does not exceed the ability of the department to*
38 *enforce the provisions of this chapter, particularly with respect to*
39 *ensuring patient safety and preventing illegal diversion of*
40 *cannabis.*

1 (c) In establishing limits pursuant to this section, the department
2 shall consider the following:

3 (1) The purposes and intent of the Compassionate Use Act of
4 1996 to ensure an adequate supply of medical cannabis while
5 endeavoring to prevent an oversupply of cannabis that may result
6 in diversion.

7 (2) The number of applicants for mandatory commercial
8 registrations whose application demonstrates that they will be
9 able to produce consistent products with strict quality controls,
10 in full compliance with this chapter and with all applicable state
11 and local regulations, and the amount of medical cannabis those
12 applicants will be able to provide.

13 26045. Every mandatory commercial registration is renewable
14 unless the registration has been revoked if the renewal registration
15 is made and the fee for it is paid. All registrations expire at 12
16 midnight on the last day of the month posted on the registration.
17 All registrations issued shall be renewed as follows:

18 (a) On or before the first of the month preceding the month
19 posted on the registration, the department shall mail to each
20 registrant at his or her registered premises, or at any other mailing
21 address that the registrant has designated, an application to renew
22 the registration.

23 (b) The application to renew the registration may be filed before
24 the registration expires upon payment of the annual fee.

25 (c) For 60 days after the registration expires, the registration
26 may be renewed upon payment of the annual renewal fee plus a
27 penalty fee that shall be equal to 50 percent of the annual fee.

28 (d) Unless otherwise terminated, or unless renewed pursuant
29 to subdivision (b) or (c), a registration that is in effect on the month
30 posted on the registration continues in effect through 12 midnight
31 of the 60th day following the month posted on the registration, at
32 which time it is automatically canceled.

33 (e) On or before the 10th day preceding the cancellation of a
34 registration, the department shall mail a notice of cancellation to
35 each registrant that has not either filed an application to renew
36 its registration or notified the department of its intent not to do
37 so. Failure to mail the renewal application in accordance with
38 subdivision (a) or to mail the notice provided in this subdivision
39 shall not continue the right to a registration.

1 (f) A registration that has been canceled pursuant to subdivision
2 (d) may be reinstated during the 30 days immediately following
3 cancellation upon payment by cashier's check or money order of
4 the annual renewal fee, plus a penalty fee that shall be equal to
5 100 percent of the annual fee. A registration that has been canceled
6 pursuant to subdivision (d) and that has not been reinstated within
7 30 days pursuant to this subdivision is automatically revoked on
8 the 31st day after the registration has been canceled.

9 (g) A renewal application shall not be deemed filed within the
10 meaning of this section unless the document itself has been actually
11 delivered to, and the required renewal fee has been paid at, any
12 office of the department during office hours, or unless both the
13 document and fee have been filed and remitted pursuant to Section
14 11003 of the Government Code.

15 26046. An application for mandatory commercial registration
16 shall include, but shall not be limited to, all of the following:

17 (a) For all applicants:

18 (1) The legal name and proposed physical addresses of the
19 mandatory commercial registrant.

20 (2) The name, address, and date of birth of each principal officer
21 and board member.

22 (3) Operating and inventory control procedures to ensure
23 security and prevent diversion.

24 (4) Detailed operating procedures for the proposed facility,
25 which shall include, but not be limited to, provisions for facility
26 and operational security, prevention of diversion, employee
27 screening, storage of medical cannabis, personnel policies, and
28 recordkeeping procedures.

29 (5) A list of all persons or entities having an ownership interest
30 other than a security interest, lien, or encumbrance on any property
31 that will be used by the applicant.

32 (6) Evidence of the legal right to occupy and use an established
33 location, or an immunity from prosecution for that occupancy or
34 use pursuant to a local ordinance or ordinances, for the activities
35 to be conducted if the desired registration is granted consistent
36 with the provisions of this chapter and the regulations developed
37 by the department.

38 (7) Documentation that the applicant will be in compliance with
39 all local ordinances and regulations, including an entity granted

1 immunity under Measure D, approved by the voters of the City of
2 Los Angeles on the May 21, 2013, ballot.

3 (8) Evidence that officers and owners of the applicant
4 organization are citizens of the United States and residents of the
5 State of California.

6 (b) In addition to the requirements of subdivision (a), for
7 cultivation and processing applicants, detailed operating
8 procedures for cultivation, extraction and infusion methods,
9 transportation of products, inventory procedures, procedures for
10 quality control, and onsite testing of product for potential
11 contaminants.

12 26047. Upon receipt of an application for a registration and
13 the applicable fee, the department shall make a thorough
14 investigation to determine whether the applicant and the premises
15 for which a registration is applied qualify for the registration and
16 whether the provisions of this chapter have been complied with,
17 and shall investigate all matters connected therewith which may
18 affect the public welfare and morals. The department shall deny
19 an application for a registration if either the applicant or the
20 premises for which a registration is applied do not qualify for a
21 registration under this chapter. The department further shall deny
22 an application for a registration if issuance of that registration
23 would tend to create a law enforcement problem. The department
24 may place reasonable conditions upon registrations if grounds
25 exist for denial of the registration, and the department finds those
26 grounds may be removed by the imposition of those conditions.

27 26048. A physician shall not recommend medical cannabis to
28 a patient while the physician is a mandatory commercial registrant,
29 or an officer, director, employee, or financial beneficiary of a
30 mandatory commercial registrant.

31 26049. (a) The actions of a mandatory commercial registrant
32 or provisional registrant, its employees, and its agents, permitted
33 pursuant to a mandatory commercial registration or provisional
34 registration issued by the department or otherwise permitted by
35 this chapter, that are conducted in accordance to the requirements
36 of this chapter and regulations adopted pursuant to the authority
37 granted by this chapter, are not unlawful and shall not be an
38 offense subject to arrest, prosecution, or other sanction under state
39 or local law, or be subject to a civil fine or be a basis for seizure
40 or forfeiture of assets under state or local law.

1 (b) *The actions of a person who, in good faith and upon*
2 *appropriate investigation, allows his or her property to be used*
3 *by a mandatory commercial registrant or provisional registrant,*
4 *its employees, and its agents, as permitted pursuant to a mandatory*
5 *commercial registration or provisional registration issued by the*
6 *department or otherwise permitted by this chapter, are not unlawful*
7 *and shall not be an offense subject to arrest, prosecution, or other*
8 *sanction under state or local law, or be subject to a civil fine or*
9 *be a basis for seizure or forfeiture of assets under state or local*
10 *law.*

11 26050. (a) *A registrant shall not cultivate, process, store,*
12 *manufacture, test, transport, or sell medical cannabis in the state*
13 *unless accurate records are kept at the registered premises of the*
14 *growing, processing, storing, manufacturing, testing, transporting,*
15 *or selling by the registrant in the state. These records shall include*
16 *all expenditures incurred by the registrant, provided that a*
17 *registrant registered to act at more than one premises may keep*
18 *all records at one of the registered premises. Required records*
19 *shall be kept for a period of three years from the date of the*
20 *transaction.*

21 (b) *The department may make any examination of the books*
22 *and records of any registrant and may visit and inspect the*
23 *premises of any registrant that the department may deem necessary*
24 *to perform its duties under this chapter.*

25 26052. (a) *This chapter shall not apply to, and shall have no*
26 *diminishing effect on, the rights and protections granted to a*
27 *patient or a primary caregiver pursuant to the Compassionate Use*
28 *Act of 1996.*

29 (b) (1) *A patient who cultivates, possesses, stores, manufactures,*
30 *or transports cannabis exclusively for his or her personal medical*
31 *use and who does not sell or distribute cannabis is not considered*
32 *a commercial registrant and is exempt from mandatory commercial*
33 *registration.*

34 (2) *A primary caregiver who cultivates, possesses, stores,*
35 *manufactures, transports, or provides cannabis exclusively for the*
36 *personal medical purposes of a specified qualified patient for*
37 *whom he or she is the primary caregiver within the meaning of*
38 *Section 11362.7 of the Health and Safety Code and who does not*
39 *sell or distribute cannabis except for compensation in full*
40 *compliance with subdivision (c) of Section 11362.765 of the Health*

1 *and Safety Code is not considered a commercial registrant and is*
2 *exempt from mandatory commercial registration.*

3 *26054. Beginning January 1, 2014, the department shall*
4 *provide for provisional registrations as follows:*

5 *(a) The department shall request that every city or county,*
6 *provide the department with a list of approved entities providing*
7 *medical cannabis to qualified patients and caregivers within the*
8 *city or county's jurisdiction, the location at which the entity is*
9 *operating, and the names of the persons who operate the entity.*
10 *Unless the jurisdiction represents that the entity has not been*
11 *operating in compliance with local laws and regulations, or does*
12 *not have limited immunity under local laws, the department shall*
13 *issue a provisional registration to the entity until the time that the*
14 *entity's application for mandatory commercial registration has*
15 *been approved or denied under this chapter, but no later than 90*
16 *days after the department begins accepting applications for*
17 *mandatory commercial registration.*

18 *(b) The department shall issue a provisional registration to*
19 *individuals and entities that the department determines were,*
20 *during the six months prior to January 1, 2015, regularly*
21 *cultivating or distributing medical cannabis collectively or*
22 *cooperatively in full compliance with paragraphs A and B of*
23 *Section IV of the Guidelines for Security and Non-Diversion of*
24 *Marijuana Grown for Medical Use, issued by the Department of*
25 *Justice in August 2008, to continue to do so until such time as the*
26 *registrant's application for mandatory commercial registration*
27 *has been approved or denied under this chapter, but no later than*
28 *90 days after the department begins accepting applications for*
29 *mandatory commercial registration. In determining compliance,*
30 *the department shall consider any complaints or actions made or*
31 *brought by a city or county against the individual or entity. To*
32 *qualify, provisional registrants shall be required to disclose to the*
33 *department the following information in writing on or before*
34 *January 20, 2015, in order to obtain provisional registration:*

35 *(1) The names, addresses, and dates of birth of each principal*
36 *officer, owner, or board member.*

37 *(2) The common street address and assessor's parcel number*
38 *of the property at which any cultivation activity was or is to be*
39 *conducted.*

1 (3) *For the six months prior to January 1, 2015, the quantity of*
2 *cannabis cultivated at a location and the quantity expected to be*
3 *cultivated from January 1, 2015, to June 30, 2015, inclusive. The*
4 *registrant shall make its records of current activity and activity*
5 *for the six months prior to January 1, 2015, available to the*
6 *department upon request.*

7 (c) *The department shall charge an application fee of five*
8 *thousand dollars (\$5,000) for each provisional registration.*

9 26055. *Entities that are provided immunity under Measure D,*
10 *approved by the voters of the City of Los Angeles on the May 21,*
11 *2013, ballot, shall be considered the equivalent of entities that are*
12 *registered, permitted, or licensed as a medical marijuana business,*
13 *dispensary, or other entity involved in providing medical marijuana*
14 *to patients under a local ordinance and shall be considered in*
15 *compliance with a local ordinance for the purposes of the*
16 *implementation of the act adding this section and any regulations*
17 *promulgated by the department.*

18 26056. *In addition to other regulations adopted by the*
19 *department pertaining to mandatory commercial registrants and*
20 *without limiting the authority of a city or a county pursuant to*
21 *Section 26010 or subdivision (b) of Section 26060, the department*
22 *shall adopt regulations regarding the minimum standards for the*
23 *operation of dispensaries that establish all of the following:*

24 (a) *Standards for labeling of products, including the name of*
25 *the mandatory commercial registrant from which the product was*
26 *obtained, and a requirement that dispensaries provide patients*
27 *with detailed written information about the contents of the cannabis*
28 *and medical cannabis products they obtain.*

29 (b) *Requirements for inventory control and reporting that*
30 *require all dispensaries to be able to demonstrate the present*
31 *location, amounts, and descriptions of all medical cannabis*
32 *products from the time of delivery to the dispensary until purchase*
33 *by a qualified patient or primary caregiver.*

34 (c) *The maximum number of dispensaries that may operate in*
35 *a city or county or the unincorporated areas of a county based on*
36 *population, taking into consideration the distances that patients*
37 *in rural areas may need to travel in order to reach a dispensary*
38 *and the availability of public transportation in both rural and*
39 *urban areas.*

1 (d) Minimum educational and testing requirements for
2 dispensary staff, including background checks, and a requirement
3 that every dispensary maintain dedicated security staff both inside
4 and outside the dispensary.

5 (e) Maximum hours of operation for every dispensary.

6 (f) Minimum standards governing signage and advertising for
7 dispensaries.

8 26057. The department shall make recommendations to the
9 Legislature pertaining to the establishment of an appeals and
10 judicial review process for persons aggrieved by a final decision
11 of the department.

12
13 Article 4. Enforcement
14

15 26060. (a) The department shall work in conjunction with law
16 enforcement entities throughout the state for the purpose of
17 implementing and enforcing the rules and regulations regarding
18 commercial medical cannabis and taking appropriate action
19 against businesses and individuals who fail to comply with the
20 law.

21 (b) Nothing in this chapter shall prevent a city, county, or city
22 and county from enforcing a zoning ordinance or law of general
23 application.

24 26062. Except for a person identified in Section 26052, a
25 person shall not exercise the privilege or perform any act that a
26 registrant may exercise or perform under the authority of a
27 registration unless the person is acting pursuant to a registration,
28 including a provisional registration, issued pursuant to this
29 chapter.

30 26063. (a) Commencing January 1, 2016, any product
31 containing cannabis that is distributed, except in the case of a
32 primary caregiver distributing to a qualified patient, or offered
33 for sale shall comply with the testing and labeling requirements
34 established through regulation by the department.

35 (b) No person shall steal or fraudulently use a mandatory
36 commercial registrant identification certificate or registration or
37 other registrant’s identification card or registration issued by the
38 department to acquire, cultivate, transport, produce, possess for
39 sale, sell, or distribute cannabis.

1 (c) No person shall counterfeit, tamper with, or fraudulently
2 produce an identification card or registration status.

3 (d) Any person who violates this section, or Section 26062, is
4 guilty of a misdemeanor and shall be subject to the following
5 penalties:

6 (1) For the first offense, imprisonment in a county jail for no
7 more than six months or a fine not to exceed one thousand dollars
8 (\$1,000), or both.

9 (2) For a second or subsequent offense, imprisonment in a
10 county jail for no more than one year or a fine not to exceed one
11 thousand dollars (\$1,000), or both.

12 (e) Any person who is charged, prosecuted, or subjected to a
13 civil penalty under this chapter shall not also be charged or
14 prosecuted pursuant to the Health and Safety Code for conduct
15 arising from the same set of facts.

16 26064. Any person operating an unregistered facility, building,
17 structure, or location where cannabis is being commercially
18 cultivated, manufactured, or possessed for sale in violation of this
19 chapter may be subject to civil penalties of up to twenty-five
20 thousand dollars (\$25,000) for each violation, and the department
21 may order the destruction of any cannabis associated with that
22 violation. Any civil fines collected pursuant to this section shall
23 be deposited into the General Fund pursuant to Section 26028.

24 26066. The director may bring an action to enjoin a violation
25 or the threatened violation of any provision of this chapter,
26 including, but not limited to, a registrant's failure to correct
27 objectionable conditions following notice or as a result of any rule
28 promulgated pursuant to this chapter. The action shall be brought
29 in the county in which the violation occurred or is threatened to
30 occur. Any proceeding brought pursuant to this chapter shall
31 conform to the requirements of Chapter 3 (commencing with
32 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

33 26068. (a) A state or local law enforcement agency shall
34 immediately notify the department of any arrests made for
35 violations over which the department has jurisdiction which involve
36 a registrant or registered premises. Notice shall be given within
37 10 days of the arrest. The department shall promptly cause an
38 investigation to be made as to whether grounds exist for suspension
39 or revocation of a registration of the registrant.

1 (b) The department shall not open or add an entry to a file or
2 initiate an investigation of a registrant or suspend or revoke a
3 registration in either of the following circumstances:

4 (1) Solely because the registrant or an agent acting on behalf
5 of the registrant has reported to a state or local law enforcement
6 agency that suspected controlled substance violations have taken
7 place on the registered premises.

8 (2) Solely based on activities constituting violations described
9 in a report made under paragraph (1), unless the violations
10 reported occurred with the actual knowledge and willful consent
11 of the registrant.

12 26070. Nothing in this chapter shall be construed to limit a
13 law enforcement agency’s ability to investigate unlawful activity
14 in relation to a mandatory commercial registrant.

15 26072. The department shall create and maintain a searchable
16 database that will allow state and local law enforcement to verify
17 a mandatory commercial registration.

18

19 Article 5. Transportation of Medical Cannabis

20

21 26100. To claim the protections of this chapter and to maintain
22 a valid mandatory commercial registration, a registrant shall ship
23 medical cannabis products only in response to a request for a
24 specific quantity and variety from a registered dispensary or
25 mandatory commercial registrant.

26 26102. (a) Prior to transporting any medical cannabis product,
27 a mandatory commercial registrant shall do the following:

28 (1) Complete a shipping manifest using a form prescribed by
29 the department.

30 (2) Securely transmit a copy of the manifest to the mandatory
31 commercial registrant that will receive the medical cannabis
32 product and to the department prior to transport.

33 (b) The mandatory commercial registrant shipping and the
34 registrant receiving shall maintain each shipping manifest and
35 make it available to the department upon request.

36 26104. (a) Transported medical cannabis products shall:

37 (1) Be transported only in a locked, safe and secure storage
38 compartment that is securely affixed to the interior of the
39 transporting vehicle.

40 (2) Not be visible from outside the vehicle.

1 (b) Any vehicle transporting medical cannabis products shall
2 travel directly from the facilities of mandatory commercial
3 registrant to the registrant authorized to receive the shipment.

4 26106. (a) A mandatory commercial registrant shall staff all
5 transport vehicles with a minimum of two employees. At least one
6 delivery team member shall remain with the vehicle at all times
7 that the vehicle contains medical cannabis.

8 (b) Each delivery team member shall have access to a secure
9 form of communication by which each member can communicate
10 with personnel at the mandatory commercial registrant facility at
11 all times that the vehicle contains medical cannabis.

12 (c) Each delivery team member shall possess documentation of
13 mandatory commercial registration and a government-issued
14 identification card at all times when transporting or delivering
15 medical cannabis and shall produce it to any representative of the
16 department or law enforcement official upon request.

17 SEC. 7. Section 11362.7 of the Health and Safety Code is
18 amended to read:

19 11362.7. For purposes of this article, the following definitions
20 shall apply:

21 (a) “Attending physician” means an individual who possesses
22 a license in good standing to practice medicine or osteopathy issued
23 by the Medical Board of California or the Osteopathic Medical
24 Board of California and who has taken responsibility for an aspect
25 of the medical care, treatment, diagnosis, counseling, or referral
26 of a patient and who has ~~conducted a medical examination of that~~
27 ~~patient before recording in the patient’s medical record the~~
28 ~~physician’s assessment of whether performed an appropriate prior~~
29 ~~examination, found that the patient has a serious medical condition~~
30 ~~and whether the medical use of marijuana is appropriate medical~~
31 ~~indication, and recommends marijuana for medical purposes to~~
32 ~~treat a serious medical condition.~~

33 (b) “Department” means the State Department of ~~Health Services~~
34 *Public Health*.

35 (c) “Person with an identification card” means an individual
36 who is a qualified patient who has applied for and received a valid
37 identification card pursuant to this article.

38 (d) “Primary caregiver” means the individual, designated by a
39 qualified patient or by a person with an identification card, who
40 has consistently assumed responsibility for the housing, health, or

1 safety of that patient or person, and may include any of the
2 following:

3 (1) In any case in which a qualified patient or person with an
4 identification card receives medical care or supportive services,
5 or both, from a clinic licensed pursuant to Chapter 1 (commencing
6 with Section 1200) of Division 2, a health care facility licensed
7 pursuant to Chapter 2 (commencing with Section 1250) of Division
8 2, a residential care facility for persons with chronic life-threatening
9 illness licensed pursuant to Chapter 3.01 (commencing with Section
10 1568.01) of Division 2, a residential care facility for the elderly
11 licensed pursuant to Chapter 3.2 (commencing with Section 1569)
12 of Division 2, a hospice, or a home health agency licensed pursuant
13 to Chapter 8 (commencing with Section 1725) of Division 2, the
14 owner or operator, or no more than three employees who are
15 designated by the owner or operator, of the clinic, facility, hospice,
16 or home health agency, if designated as a primary caregiver by
17 that qualified patient or person with an identification card.

18 (2) An individual who has been designated as a primary
19 caregiver by more than one qualified patient or person with an
20 identification card, if every qualified patient or person with an
21 identification card who has designated that individual as a primary
22 caregiver resides in the same city or county as the primary
23 caregiver.

24 (3) An individual who has been designated as a primary
25 caregiver by a qualified patient or person with an identification
26 card who resides in a city or county other than that of the primary
27 caregiver, if the individual has not been designated as a primary
28 caregiver by any other qualified patient or person with an
29 identification card.

30 (e) A primary caregiver shall be at least 18 years of age, unless
31 the primary caregiver is the parent of a minor child who is a
32 qualified patient or a person with an identification card or the
33 primary caregiver is a person otherwise entitled to make medical
34 decisions under state law pursuant to Sections 6922, 7002, 7050,
35 or 7120 of the Family Code.

36 (f) “Qualified patient” means a person who is entitled to the
37 protections of Section 11362.5, but who does not have an
38 identification card issued pursuant to this article.

39 (g) “Identification card” means a document issued by the State
40 Department of *Public Health Services* that document identifies a

1 person authorized to engage in the medical use of marijuana and
2 the person’s designated primary caregiver, if any.

3 (h) “Serious medical condition” means all of the following
4 medical conditions:

5 (1) Acquired immune deficiency syndrome (AIDS).

6 (2) Anorexia.

7 (3) Arthritis.

8 (4) Cachexia.

9 (5) Cancer.

10 (6) Chronic pain.

11 (7) Glaucoma.

12 (8) Migraine.

13 (9) Persistent muscle spasms, including, but not limited to,
14 spasms associated with multiple sclerosis.

15 (10) Seizures, including, but not limited to, seizures associated
16 with epilepsy.

17 (11) Severe nausea.

18 (12) Any other chronic or persistent medical symptom that
19 either:

20 (A) Substantially limits the ability of the person to conduct one
21 or more major life activities as defined in the Americans with
22 Disabilities Act of 1990 (Public Law 101-336).

23 (B) If not alleviated, may cause serious harm to the patient’s
24 safety or physical or mental health.

25 (i) “Written documentation” means accurate reproductions of
26 those portions of a patient’s medical records that have been created
27 by the attending physician, that contain the information required
28 by paragraph (2) of subdivision (a) of Section 11362.715, and that
29 the patient may submit to a county health department or the
30 county’s designee as part of an application for an identification
31 card.

32 *SEC. 8. Section 11362.775 of the Health and Safety Code is*
33 *amended to read:*

34 11362.775. (a) Qualified patients, persons with valid
35 identification cards, and the designated primary caregivers of
36 qualified patients and persons with identification cards, who
37 associate within the State of California in order collectively or
38 cooperatively to cultivate marijuana for medical purposes, shall
39 not solely on the basis of that fact be subject to state criminal

1 sanctions under Section 11357, 11358, 11359, 11360, 11366,
2 11366.5, or 11570.

3 (b) This section shall remain in effect only until 90 days after
4 the Department of Alcoholic Beverage Control posts a notice on
5 its Internet Web site that it began accepting applications for
6 mandatory commercial registration pursuant to Article 3
7 (commencing with Section 26040) of Chapter 18 of Division 9 of
8 the Business and Professions Code, and as of that date is repealed.

9 SEC. 9. Chapter 4 (commencing with Section 7294) is added
10 to Part 1.7 of Division 2 of the Revenue and Taxation Code, to
11 read:

12
13 *CHAPTER 4. LOCAL MEDICAL MARIJUANA TAXES*

14
15 *Article 1. Counties Medical Marijuana Tax*

16
17 7294. (a) Notwithstanding any other law, the board of
18 supervisors of any county may levy, increase, or extend a
19 transactions and use tax for tangible personal property that is
20 medical marijuana or medical marijuana-infused products for
21 general purposes if the ordinance proposing that tax is approved
22 by a two-thirds vote of all members of the board of supervisors
23 and the tax is approved by a majority vote of the qualified voters
24 of the county voting in an election on the issue. The board of
25 supervisors may levy, increase, or extend more than one
26 transactions and use tax under this section, if the adoption of each
27 tax is in the manner prescribed in this section.

28 (b) (1) The transactions and use tax shall conform to Part 1.6
29 (commencing with Section 7251).

30 (2) Notwithstanding Section 7251.1, the tax rate authorized by
31 this section shall not be considered for purposes of the combined
32 rate established by that section.

33 7294.5. (a) Notwithstanding any other law, the board of
34 supervisors of any county may levy, increase, or extend a
35 transactions and use tax for tangible personal property that is
36 medical marijuana or medical marijuana-infused products for
37 specific purposes. The tax may be levied, increased, or extended
38 for the purpose for which it is established, if all of the following
39 requirements are met:

1 (1) *The ordinance proposing that tax is approved by a two-thirds*
2 *vote of all members of the board of supervisors and is subsequently*
3 *approved by a two-thirds vote of the qualified voters of the county*
4 *voting in an election on the issue.*

5 (2) (A) *The transactions and use tax conforms to the*
6 *Transactions and Use Tax Law Part 1.6 (commencing with Section*
7 *7251).*

8 (B) *Notwithstanding Section 7251.1, the tax rate authorized by*
9 *this section shall not be considered for purposes of the combined*
10 *rate established by that section.*

11 (3) *The ordinance includes an expenditure plan describing the*
12 *specific projects for which the revenues from the tax may be*
13 *expended.*

14 (b) *A county shall be deemed to be an authority for purposes*
15 *of Chapter 1 (commencing with Section 55800) of Part 3 of*
16 *Division 2 of Title 5 of the Government Code.*

17 7294.6. *Notwithstanding any other law, the combined rate of*
18 *all taxes imposed in any county pursuant to this article and*
19 *pursuant to Article 2 (commencing with Section 7295) shall not*
20 *exceed the rate of 5 percent.*

21
22 *Article 2. Cities Medical Marijuana Tax*
23

24 7295. (a) *Notwithstanding any other law, the governing body*
25 *of any city may levy, increase, or extend a transactions and use*
26 *tax for tangible personal property that is medical marijuana or*
27 *medical marijuana-infused products for general purposes if the*
28 *ordinance proposing that tax is approved by a two-thirds vote of*
29 *all members of that governing body and the tax is approved by a*
30 *majority vote of the qualified voters of the city voting in an election*
31 *on the issue. The governing body may levy, increase, or extend*
32 *more than one transactions and use tax under this section, if the*
33 *adoption of each tax is in the manner prescribed in this section.*

34 (b) (1) *The transactions and use tax shall conform to Part 1.6*
35 *(commencing with Section 7251).*

36 (2) *Notwithstanding Section 7251.1, the tax rate authorized by*
37 *this section shall not be considered for purposes of the combined*
38 *rate established by that section.*

39 7295.5. *Notwithstanding any other law, the governing body of*
40 *any city may levy, increase, or extend a transactions and use tax*

1 for tangible personal property that is medical marijuana or medical
2 marijuana-infused products for specific purposes. The tax may be
3 levied, increased, or extended for the purpose for which it is
4 established, if all of the following requirements are met:

5 (a) The ordinance proposing that tax is approved by a two-thirds
6 vote of all members of the governing body and is subsequently
7 approved by a two-thirds vote of the qualified voters of the city
8 voting in an election on the issue.

9 (b) (1) The transactions and use tax conforms to the
10 Transactions and Use Tax Law Part 1.6 (commencing with Section
11 7251).

12 (2) Notwithstanding Section 7251.1, the tax rate authorized by
13 this section shall not be considered for purposes of the combined
14 rate established by that section.

15 (c) The ordinance includes an expenditure plan describing the
16 specific projects for which the revenues from the tax may be
17 expended.

18 7295.6. (a) The authority of a city to impose transactions and
19 use taxes under Sections 7295 and 7295.5 shall not exceed the
20 rate of 2 percent.

21 (b) An ordinance proposing a tax shall contain a provision that
22 any person subject to a transactions and use tax under a county
23 ordinance shall be entitled to credit against the payment of taxes
24 due under that ordinance in the amount of transactions and use
25 tax due to any city in the county.

26 SEC. 10. The provisions of this act are severable. If any
27 provision of this act or its application is held invalid, that invalidity
28 shall not affect other provisions or applications that can be given
29 effect without the invalid provision or application.

30 SEC. 11. The Legislature finds and declares that Section 3 of
31 this act imposes a limitation on the public’s right of access to
32 documents in the possession of a public agency within the meaning
33 of Section 3 of Article I of the California Constitution. Pursuant
34 to that constitutional provision, the Legislature makes the following
35 finding to demonstrate the interest protected by this limitation and
36 the need for protecting that interest:

37 It is necessary to maintain the confidentiality of patient and
38 physician information provided to the Division of Medical
39 Cannabis Regulation and Enforcement in order to protect the
40 private medical information of patients who use medical cannabis

1 *and to preserve the essential confidentiality of the physician and*
2 *patient relationship.*

3 *SEC. 12. No reimbursement is required by this act pursuant*
4 *to Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district will be incurred because this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the penalty*
8 *for a crime or infraction, within the meaning of Section 17556 of*
9 *the Government Code, or changes the definition of a crime within*
10 *the meaning of Section 6 of Article XIII B of the California*
11 *Constitution.*

12 ~~SECTION 1. Section 653.3 is added to the Penal Code, to read:~~
13 ~~653.3. Whoever files, attempts to file, or conspires to file, in~~
14 ~~any public record, or in any private record that is generally~~
15 ~~available to the public, any false lien or encumbrance against the~~
16 ~~real or personal property of an individual described in Chapter 4.5~~
17 ~~(commencing with Section 830) of Title 3 of Part 2, on account~~
18 ~~of the performance of the official duties of that person pursuant~~
19 ~~to that chapter, if the person filing, attempting to file, or conspiring~~
20 ~~to file the public or private record knows, or has reason to know,~~
21 ~~that the lien or encumbrance is false or contains any materially~~
22 ~~false, fictitious, or fraudulent statement or representation, is guilty~~
23 ~~of a misdemeanor.~~

24 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
25 ~~Section 6 of Article XIII B of the California Constitution because~~
26 ~~the only costs that may be incurred by a local agency or school~~
27 ~~district will be incurred because this act creates a new crime or~~
28 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
29 ~~for a crime or infraction, within the meaning of Section 17556 of~~
30 ~~the Government Code, or changes the definition of a crime within~~
31 ~~the meaning of Section 6 of Article XIII B of the California~~
32 ~~Constitution.~~