

AMENDED IN ASSEMBLY JUNE 15, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MAY 7, 2014

AMENDED IN SENATE APRIL 21, 2014

SENATE BILL

No. 1262

Introduced by Senator Correa

February 21, 2014

An act to *amend Section 2220.05 of, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Part 5 (commencing with Section 18100) to Division 7 of, the Business and Professions Code, to add Article 8 (commencing with Section 111658) to Chapter 6 of Part 5 of Division 104 of the Health and Safety Code, and to add Chapter 3.8 (commencing with Section 7295) to Part 1.7 of Division 2 of the Revenue and Taxation Code*, relating to medical marijuana.

LEGISLATIVE COUNSEL'S DIGEST

SB 1262, as amended, Correa. Medical marijuana: regulation of physicians, dispensaries, ~~and cultivation sites:~~ *sites, and processing facilities.*

(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 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. Existing law provides

for the licensure of various professions, ~~including locksmiths and professional fiduciaries~~, by the Department of Consumer Affairs. *Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.*

This bill would require the Department of Consumer Affairs to license dispensing facilities ~~and~~ cultivation sites, *and processing facilities* that provide, process, and grow marijuana for medical use, as specified, including requiring a background check for license applicants, ~~and~~. *The bill* would make these licenses subject to the restrictions of the local jurisdiction in which the facility operates or proposes to operate. The bill would, *among other things*, require ~~licensed dispensing facilities and licensed cultivation sites~~ licensees to implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing marijuana and theft of marijuana at ~~those~~ *their* facilities, including establishing limited access areas accessible only to authorized facility personnel, and would require these ~~facilities~~ *licensees* to notify appropriate law enforcement authorities within 24 hours after discovering specified breaches in security. ~~This~~ *The bill would set forth provisions related to the transportation, testing, and distribution of marijuana. The bill would prohibit the distribution of any form of advertising for physician recommendations for medical marijuana, unless the advertisement bears a specified notice and requires that the advertisement meet specified requirements and not be fraudulent, deceitful, or misleading, as specified. Violation of these provisions would be punishable by a civil fine of up to \$35,000 for each individual violation.*

The bill would provide that it shall not supersede provisions of Measure D, as approved by the voters of the City of Los Angeles, as specified.

The bill would require the department to administer and enforce these provisions. The bill would require the department to establish quality assurance protocols by July 1, 2016, to ensure uniform testing standards of medical marijuana, and would require licensees to comply with these provisions. The bill would further set forth provisions regulating edible marijuana products, as specified. By adding these provisions to the Sherman Food, Drug, and Cosmetic Law, a violation of which is a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Medical Practice Act, provides for *the* licensure and regulation of physicians and surgeons by the Medical Board of

California. Existing law 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 provides that a violation of the Medical Practice Act is a crime.

This bill would require the board to consult with the Center for ~~Medical~~ Medicinal Cannabis Research on developing and adopting medical guidelines for the appropriate administration and use of marijuana.

The bill would also make it a misdemeanor for a physician and surgeon who recommends marijuana to a patient for a medical purpose to accept, solicit, or offer any remuneration from or to a licensed dispensing facility in which the physician and surgeon or his or her immediate family has a financial interest. By creating a new crime, this bill would impose a state-mandated local program.

The bill would provide that specified acts of recommending marijuana without a good faith examination are among the types of cases that should be given priority for investigation and prosecution by the board, as described above. The bill would further prohibit a person from recommending medical marijuana to a patient unless that person is the patient's attending physician, as defined. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program.

(3) Existing law authorizes the legislative body of a city or county to impose various taxes, including a transactions and use tax at a rate of 0.25%, or a multiple thereof, if approved by the required vote of the legislative 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 authorize the legislative body of a county to levy a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, or distributing marijuana or products containing marijuana. The bill would authorize the tax to be imposed for either general or specific governmental purposes. The bill would require a tax imposed pursuant to this authority to be subject to any applicable voter approval requirement.

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. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

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

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

18 (c) *In 2003, the Legislature enacted the Medical Marijuana*
19 *Program Act (MMPA), codified in Article 2.5 (commencing with*
20 *Section 11362.7) of Chapter 6 of Division 10 of the Health and*
21 *Safety Code.*

22 (d) *Greater certainty and minimum statewide standards are*
23 *urgently needed regarding the obligations of medical marijuana*
24 *facilities, and for the imposition and enforcement of regulations*
25 *to prevent unlawful cultivation and the diversion of marijuana to*
26 *nonmedical use.*

27 (e) *Despite the passage of the Compassionate Use Act of 1996*
28 *and the MMPA, because of the lack of an effective statewide system*
29 *for regulating and controlling medical marijuana, cities, counties*
30 *and local law enforcement officials have been confronted with*

1 *uncertainty about the legality of some medical marijuana*
2 *cultivation and distribution activities. The current system of*
3 *collectives and cooperatives makes law enforcement difficult and*
4 *endangers patient safety because of an inability to monitor the*
5 *supply of medical marijuana in the state and the lack of quality*
6 *control, testing, and labeling requirements.*

7 (a)

8 (f) The California Constitution grants cities and counties the
9 authority to make and enforce, within their borders, “all local
10 police, sanitary, and other ordinances and regulations not in conflict
11 with the general laws.” This inherent local police power includes
12 broad authority to determine, for purposes of public health, safety,
13 and welfare, the appropriate uses of land within the local
14 jurisdiction’s borders. The police power, therefore, allows each
15 city and county to determine whether or not a medical marijuana
16 dispensary or other facility that makes medical marijuana available
17 may operate within its borders. This authority has been upheld by
18 *City of Riverside v. Inland Empire Patients Health & Wellness,*
19 *Inc.* (2013) 56 Cal.4th 729 and *County of Los Angeles v. Hill*
20 (2011) 192 Cal.App.4th 861.

21 (b)

22 (g) If, pursuant to this authority, a city or county determines
23 that a dispensary or other facility that makes medical marijuana
24 available may operate within its borders, then there is a need for
25 the state to license these dispensaries and other facilities for the
26 purpose of adopting and enforcing protocols for training and
27 certification of physicians who recommend the use of medical
28 marijuana and for agricultural cultivation practices. This licensing
29 requirement is not intended in any way nor shall it be construed
30 to preempt local ordinances regarding the sale and use of medical
31 marijuana, including, but not limited to, security, signage, lighting,
32 and inspections.

33 (c)

34 (h) All of the following elements are necessary to uphold
35 important state goals:

36 (1) Strict provisions to prevent the potential diversion of
37 marijuana for recreational use.

38 (2) Audits to accurately track the volume of both product
39 movement and sales.

1 (3) An effective means of restricting access to medical marijuana
2 by ~~persons under 21 years of age~~ *minors*.

3 ~~(d)~~

4 (i) Nothing in this act shall be construed to promote or facilitate
5 the nonmedical, recreational possession, sale, or use of marijuana.

6 *SEC. 2. Section 2220.05 of the Business and Professions Code*
7 *is amended to read:*

8 2220.05. (a) In order to ensure that its resources are maximized
9 for the protection of the public, the Medical Board of California
10 shall prioritize its investigative and prosecutorial resources to
11 ensure that physicians and surgeons representing the greatest threat
12 of harm are identified and disciplined expeditiously. Cases
13 involving any of the following allegations shall be handled on a
14 priority basis, as follows, with the highest priority being given to
15 cases in the first paragraph:

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

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

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

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

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

39 (b) The board may by regulation prioritize cases involving an
40 allegation of conduct that is not described in subdivision (a). Those

1 cases prioritized by regulation shall not be assigned a priority equal
2 to or higher than the priorities established in subdivision (a).

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

8 ~~SEC. 2.~~

9 *SEC. 3.* Article 25 (commencing with Section 2525) is added
10 to Chapter 5 of Division 2 of the Business and Professions Code,
11 to read:

12
13 Article 25. Recommending Medical Marijuana

14
15 2525. (a) It is unlawful for a physician and surgeon who
16 recommends marijuana to a patient for a medical purpose to accept,
17 solicit, or offer any form of remuneration from or to a facility
18 licensed pursuant to ~~Article 7 (commencing with Section 111657)~~
19 ~~of Chapter 6 of Part 5 of Division 104 of the Health and Safety~~
20 ~~Code Part 5 (commencing with Section 18100) of Division 7,~~ if
21 the physician and surgeon or his or her immediate family have a
22 financial interest in that facility.

23 (b) For the purposes of this section, “financial interest” shall
24 have the same meaning as in Section 650.01.

25 (c) A violation of this section shall be a misdemeanor.

26 2525.1. The board shall consult with the California Marijuana
27 Research Program, known as the Center for Medicinal Cannabis
28 Research, authorized pursuant to Section 11362.9 of the Health
29 and Safety Code, on developing and adopting medical guidelines
30 for the appropriate administration and use of marijuana.

31 2525.2. *No person shall recommend medical marijuana to a*
32 *patient, unless that person is the patient’s attending physician, as*
33 *defined by subdivision (a) of Section 11362.7 of the Health and*
34 *Safety Code.*

35 ~~SEC. 3.~~

36 *SEC. 4.* Part 5 (commencing with Section 18100) is added to
37 Division 7 of the Business and Professions Code, to read:

PART 5. MEDICAL MARIJUANA

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18100. For purposes of this ~~article~~ *part*, the following definitions shall apply:

- ~~(a) “Department” means the Department of Consumer Affairs.~~
 - ~~(b) “Licensed cultivation site” means a facility that grows or grows and processes marijuana for medical use and that is licensed pursuant to Section 18101.~~
 - ~~(c) “Licensed dispensing facility” means a dispensary, mobile dispensary, marijuana processing facility, or other facility that provides marijuana for medical use that is licensed pursuant to Section 18101.~~
 - (a) “Certified testing laboratory” means a laboratory that is certified by the department to perform random sample testing of marijuana pursuant to the certification standards for these facilities promulgated by the department.*
 - (b) “Department” means the Department of Consumer Affairs.*
 - (c) “Dispensary” means a distribution operation that provides marijuana or marijuana derived products to patients.*
 - (d) “Licensed cultivation site” means a facility that grows marijuana for medical use and that is licensed pursuant to Section 18101.*
 - (e) “Licensed dispensing facility” means a dispensary or other facility that provides marijuana for medical use that is licensed pursuant to Section 18101.*
 - (f) “Licensed processing facility” means a facility where marijuana or marijuana products are inspected, packaged, labeled, or otherwise prepared prior to being provided to another facility licensed pursuant to this section, to a patient with a medical marijuana recommendation, or otherwise distributed, and that is licensed pursuant to Section 18101.*
 - (g) “Licensed transporter” means an individual or entity licensed by the department to transport marijuana to and from facilities licensed pursuant to this part.*
 - (h) “Marijuana” means marijuana, as defined by Section 11018 of the Health and Safety Code.*
18101. (a) Except as provided in Section 11362.5 of, and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of, the Health and Safety Code, a person shall not sell or provide marijuana other than at a licensed dispensing facility.

1 (b) Except as provided in Section 11362.5 of, and Article 2.5
2 (commencing with Section 11362.7) of Chapter 6 of Division 10
3 of, the Health and Safety Code, a person shall not grow ~~or process~~
4 marijuana other than at a licensed cultivation site.

5 (c) *Except as provided in Section 11362.5 of, and Article 2.5*
6 *(commencing with Section 11362.7) of Chapter 6 of Division 10*
7 *of, the Health and Safety Code, a person shall not process*
8 *marijuana other than at a licensed processing facility.*

9 (d) *A person shall not transport marijuana from one facility*
10 *licensed pursuant to this part to another, other than a licensed*
11 *transporter.*

12 (e) *To meet the requirement of Sections 111658 to 111663,*
13 *inclusive, of the Health and Safety Code, marijuana and marijuana*
14 *products shall be tested by a certified testing laboratory.*

15 ~~(e)~~

16 (f) The department shall require, prior to issuing a license to a
17 dispensing facility or a cultivation site *pursuant to this part*, all of
18 the following:

19 (1) The name of the owner or owners of the proposed facility.

20 (2) The address and telephone number of the proposed facility.

21 (3) A description of the scope of business of the proposed
22 facility.

23 (4) A certified copy of the local jurisdiction's approval to operate
24 within its borders.

25 (5) A completed application, as required by the department.

26 (6) Payment of a fee, in an amount to be determined by the
27 department not to exceed the amount necessary, but that is
28 sufficient to cover, the actual costs of the administration of this
29 part.

30 (7) (A) An applicant's fingerprint images and related
31 information required by the Department of Justice for the purpose
32 of obtaining information as to the existence and content of a record
33 of state and federal convictions and arrests, and information as to
34 the existence and content of a record of state and federal
35 convictions and arrests for which the Department of Justice
36 establishes that the person is free on bail, or on his or her own
37 recognizance, pending trial or appeal.

38 (B) The Department of Justice shall forward the fingerprint
39 images and related information received pursuant to subparagraph
40 (A) to the Federal Bureau of Investigation and request a federal

1 summary of criminal information. The Department of Justice shall
 2 review the information returned from the Federal Bureau of
 3 Investigation and compile and disseminate a response to the
 4 department.

5 (C) The Department of Justice shall charge a fee sufficient to
 6 cover the reasonable cost of processing the requests described in
 7 this paragraph.

8 (D) The department may deny a license based on a past criminal
 9 conviction if the crime is substantially related to the qualifications,
 10 functions, or duties of the business for which the license will be
 11 issued.

12 (8) *In the case of a cultivation site, the GPS coordinates of the*
 13 *site.*

14 ~~(8)~~

15 (9) Any other information as required by the department.

16 (g) *The department shall deny a license if the application fails*
 17 *to state with sufficient specificity the jurisdiction in which the*
 18 *applicant proposes to establish operations.*

19 (h) *Each application for a license approved by the department*
 20 *pursuant to this part is separate and distinct. A licensee shall not*
 21 *hold a license in more than one class of specified medical*
 22 *marijuana activities. A licensee shall not be an officer, director,*
 23 *member, owner, or shareholder in another entity licensed pursuant*
 24 *to this part. The officers, directors, owners, members, or*
 25 *shareholders of a licensee in one class may not hold a license in*
 26 *another class, and may not be an officer, director, member, owner,*
 27 *or shareholder of an entity licensed pursuant to this part.*

28 18102. (a) ~~A licensed dispensing facility licensed pursuant to~~
 29 ~~this part shall not acquire, possess, cultivate, process, possess,~~
 30 ~~store, manufacture, test, distribute, sell, deliver, transfer, transport,~~
 31 ~~or dispense marijuana for any purpose other than those authorized~~
 32 ~~by Article 2.5 (commencing with Section 11362.7) of Chapter 6~~
 33 ~~of Division 10 of the Health and Safety Code.~~

34 (b) A licensed dispensing facility shall not acquire, *cultivate,*
 35 *process, possess, store, manufacture, test, distribute, sell, deliver,*
 36 *transfer, transport, or dispense* marijuana plants or *marijuana*
 37 *products except through the cultivation of marijuana by that*
 38 *facility, if the facility is a licensed cultivation site; or another*
 39 ~~licensed cultivation site processing facility.~~

1 18103. (a) A licensed transporter shall ship only to facilities
2 licensed pursuant to this part and only in response to a request
3 for a specific quantity and variety from those facilities.

4 (b) Prior to transporting any medical marijuana product, a
5 licensed transporter shall do the following:

6 (1) Complete a shipping manifest using a form prescribed by
7 the department.

8 (2) Securely transmit a copy of the manifest to the licensee that
9 will receive the medical marijuana product, and to the department,
10 prior to transport.

11 (c) The licensed transporter making the shipment and the
12 licensee receiving the shipment shall maintain each shipping
13 manifest and make it available to local code enforcement officers,
14 any other locally designated enforcement entity, and the
15 department upon request.

16 18104. (a) Transported medical marijuana products shall:

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

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

21 (b) Any vehicle transporting medical marijuana products shall
22 travel directly from one licensed facility to another licensed facility
23 authorized to receive the shipment.

24 18105. (a) All transport vehicles shall be staffed with a
25 minimum of two employees. At least one transport team member
26 shall remain with the vehicle at all times that the vehicle contains
27 medical marijuana.

28 (b) Each transport team member shall have access to a secure
29 form of communication by which each member can communicate
30 with personnel at the licensed facility at all times that the vehicle
31 contains medical marijuana.

32 (c) Each transport team member shall possess documentation
33 of licensing and a government-issued identification card at all
34 times when transporting or delivering medical marijuana and shall
35 produce it to any representative of the department or law
36 enforcement official upon request.

37 (d) This part shall not be construed to authorize or permit any
38 licensee to transport, or cause to be transported, marijuana or
39 marijuana products outside the state.

1 18106. (a) The department shall have the authority, subject
2 to local ordinances, to license persons for the cultivation,
3 manufacture, testing, transportation, storage, and sale of medical
4 marijuana within the state, and to levy appropriate related
5 licensing fees not to exceed the reasonable costs of enforcement
6 and administration of this part. The department shall not issue a
7 license if the applicant has not met all requirements pursuant to
8 Section 18101. A license, once issued, shall be suspended within
9 five days of notification to the department by a local agency that
10 a licensee is no longer in compliance with local ordinances or
11 regulation.

12 (b) The department shall promulgate, by July 1, 2016,
13 regulations for implementation and enforcement of this part,
14 including all of the following:

15 (1) Procedures for the issuance, renewal, suspension, and
16 revocation of licenses.

17 (2) Application, licensing, and renewal forms and fees.

18 (3) A time period in which the department shall approve or deny
19 an application for a license to operate a facility or dispensary.

20 (4) Qualifications for licensees.

21 (5) Standards for certification of testing laboratories to perform
22 random sample testing of all marijuana products intended for sale,
23 to identify and eliminate chemical residue, microbiological
24 contaminants, and mold.

25 (c) The department shall promulgate, by July 1, 2016,
26 regulations for minimum statewide health and safety standards
27 and quality assurance standards pursuant to Section 111658 of
28 the Health and Safety Code associated with the cultivation,
29 transport, storage, and sale of all medical marijuana produced in
30 this state. Local agencies shall have primary responsibility for
31 enforcement of these standards in accordance with department
32 regulations.

33 (d) An application for or renewal of a license shall not be
34 approved if the department determines any of the following:

35 (1) The applicant fails to meet the requirements of this part or
36 any regulation adopted pursuant to this part or any applicable
37 city or county ordinance or regulation.

38 (2) The applicant, or any of its officers, directors, owners,
39 members, or shareholders is a minor.

1 (3) *The applicant has knowingly answered a question or request*
2 *for information falsely on the application form, or failed to provide*
3 *information requested.*

4 (4) *The applicant, or any of its officers, directors, owners,*
5 *members, or shareholders has been sanctioned by the department,*
6 *a city, county, or city and county, for marijuana activities*
7 *conducted in violation of this part or any applicable local*
8 *ordinance or has had a license revoked in the previous five years.*

9 (5) *The proposed cultivation, processing, possession, storage,*
10 *manufacturing, testing, transporting, distribution, provision, or*
11 *sale of medical marijuana will violate any applicable local law*
12 *or ordinance.*

13 (e) *The department may consult with other state agencies, state*
14 *departments, public entities, or private entities for the purposes*
15 *of establishing statewide standards and regulations.*

16 (f) *The department may assist state taxation authorities in the*
17 *development of uniform policies for the state taxation of licensees.*

18 (g) *The department may assist the Division of Occupational*
19 *Safety and Health in the Department of Industrial Relations in the*
20 *development of industry-specific regulations related to the activities*
21 *of licensees.*

22 ~~18103.~~

23 18107. (a) A person shall not distribute any form of advertising
24 for physician recommendations for medical marijuana in California
25 unless the advertisement bears the following notice to consumers:
26

27 NOTICE TO CONSUMERS: The Compassionate Use Act of
28 1996 ensures that seriously ill Californians have the right to obtain
29 and use marijuana for medical purposes where medical use is
30 deemed appropriate and has been recommended by a physician
31 who has determined that the person’s health would benefit from
32 the use of marijuana. Physicians are licensed and regulated by the
33 Medical Board of California and arrive at the decision to make
34 this recommendation in accordance with accepted standards of
35 medical responsibility.
36

37 (b) Advertising for physician recommendations for medical
38 marijuana shall meet all requirements of Section 651. Price
39 advertising shall not be fraudulent, deceitful, or misleading,

1 including statements or advertisements of bait, discounts,
2 premiums, gifts, or statements of a similar nature.

3 ~~18104.~~

4 *18108.* (a) A facility licensed pursuant to this part shall
5 implement sufficient security measures to both deter and prevent
6 unauthorized entrance into areas containing marijuana and theft
7 of marijuana at those facilities. These security measures shall
8 include, but not be limited to, all of the following:

9 (1) Allow only qualifying patients, the patient's primary
10 caregiver, and facility agents access to the facility.

11 (2) Prevent individuals from remaining on the premises of the
12 facility if they are not engaging in activity expressly related to the
13 operations of the facility.

14 (3) Establish limited access areas accessible only to authorized
15 facility personnel.

16 (4) Store all finished marijuana in a secure, locked safe or vault
17 and in a manner as to prevent diversion, theft, and loss.

18 (b) A facility licensed pursuant to this part shall notify
19 appropriate law enforcement authorities within 24 hours after
20 discovering any of the following:

21 (1) Discrepancies identified during inventory.

22 (2) Diversion, theft, loss, or any criminal activity involving the
23 facility or a facility agent.

24 (3) The loss or unauthorized alteration of records related to
25 marijuana, registered qualifying patients, personal caregivers, or
26 facility agents.

27 (4) Any other breach of security.

28 (c) A licensed cultivation site shall weigh, inventory, and
29 account for on video, all medical marijuana to be transported prior
30 to its leaving its origination location. Within eight hours after
31 arrival at the destination, the licensed dispensing facility shall
32 reweigh, reinventory, and account for on video, all transported
33 marijuana.

34 *18108.5.* (a) *The department shall require an annual audit of*
35 *all licensees licensed pursuant to this part or otherwise licensed*
36 *by the department to cultivate, manufacture, process, test,*
37 *transport, store, or sell marijuana to be paid for by each licensed*
38 *vendor and dispensary.*

39 (b) *Completed audit reports shall also be submitted by the*
40 *licensee to local code enforcement offices, or the appropriate*

1 *locally designated enforcement entity, within 30 days of the*
2 *completion of the audit.*

3 *(c) It is the responsibility of each licensee licensed pursuant to*
4 *this part or otherwise licensed by the department to cultivate,*
5 *manufacture, process, test, transport, store, or sell marijuana to*
6 *develop a robust quality assurance protocol that includes all of*
7 *the provisions of this part.*

8 ~~18105.~~

9 *18109.* In addition to the provisions of this part, a license
10 granted pursuant to this part shall be subject to the restrictions of
11 the local jurisdiction in which the facility operates or proposes to
12 operate. Even if a license has been granted pursuant to this part, a
13 facility shall not operate in a local jurisdiction that prohibits the
14 establishment of that type of business.

15 ~~18106.~~

16 *18110.* Violation of this part shall be punishable by a civil fine
17 of up to thirty-five thousand dollars (\$35,000) for each individual
18 violation.

19 ~~18107.~~

20 *18111.* Nothing in this part shall prevent a city or other local
21 governing body from taking action as specified in Section 11362.83
22 of the Health and Safety Code.

23 *18112.* *This part shall in no way supersede the provisions of*
24 *Measure D, approved by the voters of the City of Los Angeles on*
25 *the May 21, 2013, ballot for the city, which granted marijuana*
26 *businesses and dispensaries qualified immunity consistent with*
27 *the terms of the measure and local ordinances. Notwithstanding*
28 *the provisions of this part, marijuana businesses and dispensaries*
29 *subject to the provisions of Measure D and its qualified immunity*
30 *shall continue to be subject to the ordinances and regulations of*
31 *the City of Los Angeles.*

32 *18113. (a) This part shall not apply to, and shall have no*
33 *diminishing effect on, the rights and protections granted to a*
34 *patient or a primary caregiver pursuant to the Compassionate Use*
35 *Act of 1996.*

36 *(b) (1) A patient who cultivates, possesses, stores, manufactures,*
37 *or transports marijuana exclusively for his or her personal medical*
38 *use and who does not sell, distribute, donate, or provide marijuana*
39 *to any other person is not considered a licensee under this part*
40 *and is exempt from licensure under this part.*

1 (2) A primary caregiver who cultivates, possesses, stores,
 2 manufactures, transports, or provides marijuana exclusively for
 3 the personal medical purposes of a specified qualified patient for
 4 whom he or she is the primary caregiver within the meaning of
 5 Section 11362.7 of the Health and Safety Code and who does not
 6 receive remuneration for these activities except for compensation
 7 in full compliance with subdivision (c) of Section 11362.765 of the
 8 Health and Safety Code is not considered a licensee under this
 9 part and is exempt from licensure under this part.

10 SEC. 5. Article 8 (commencing with Section 111658) is added
 11 to Chapter 6 of Part 5 of Division 104 of the Health and Safety
 12 Code, to read:

13

14 *Article 8. Medical Marijuana*

15

16 111658. For purpose of this article, the following definitions
 17 shall apply:

18 (a) “Certified testing laboratories” means a laboratory that is
 19 certified by the department to perform random sample testing of
 20 marijuana pursuant to the certification standards for those facilities
 21 promulgated by the department.

22 (b) “Department” means the Department of Consumer Affairs.

23 (c) “Edible marijuana product” means marijuana or a
 24 marijuana-derived product that is ingested or meant to be ingested
 25 through the mouth and into the digestive system.

26 (d) “Marijuana” means marijuana, as defined by Section 11018.

27 (e) “Representative samples” means samples taken from each
 28 batch or shipment of marijuana received from a licensed cultivation
 29 site or any other source if intended for sale.

30 111659. The department, by July 1, 2016, shall accomplish the
 31 following:

32 (a) Establish quality assurance protocols to ensure uniform
 33 testing standards for all marijuana sold via dispensaries or other
 34 facilities, or cultivated by any facilities, that are licensed pursuant
 35 to Part 5 (commencing with Section 18100) of Division 7 of the
 36 Business and Professions Code.

37 (b) In consultation with outside entities at its discretion, develop
 38 a list of certified testing laboratories that can perform uniform
 39 testing in compliance with this article, and post that list on its
 40 Internet Web site.

1 111660. (a) Licensees licensed pursuant to Part 5
2 (commencing with Section 18100) of Division 7 of the Business
3 and Professions Code shall bear the responsibility for contracting
4 with certified testing laboratories for regular, systematic testing
5 of representative samples of all marijuana cultivated or intended
6 for sale or distribution, and shall bear the cost of that testing.

7 (b) Licensees licensed pursuant to Part 5 (commencing with
8 Section 18100) of Division 7 of the Business and Professions Code
9 shall provide results of test reports to local code enforcement
10 officers, any other locally designated enforcement entity, and the
11 department both on a quarterly basis and upon request.

12 111661. Quality assurance protocols shall be required between
13 all licensed cultivation sites or licensed processing facilities and
14 licensed dispensing facilities to guarantee safe and reliable
15 medicinal marijuana delivery to all patients. These quality
16 assurance protocols shall include:

17 (a) Providing of supplier information to dispensaries in order
18 for recall procedures to be implemented, if and when necessary.

19 (b) Safety testing of all marijuana prior to packaging for sale
20 and patient exposure to identify and eliminate microbiological
21 contaminants and chemical residue.

22 (c) Labeling of all marijuana and marijuana products that shall,
23 at a minimum, include the following:

24 (1) Clear dosage in total milligrams delivered for all products.

25 (2) Clear indication, in bold font, that the product contains
26 marijuana.

27 (3) Tetrahydrocannabinol (THC) and cannabidiol (CBD)
28 content.

29 111662. For purposes of this article, edible marijuana products
30 are deemed to be unadulterated food products. In addition to the
31 quality assurance standards provided in Section 111661, all edible
32 marijuana products shall comply with the following requirements:

33 (a) Baked edible marijuana products (such as brownies, bars,
34 cookies, and cakes), tinctures, and other edible marijuana products
35 that do not require refrigeration or hot-holding may be
36 manufactured, sold, or otherwise distributed at facilities licensed
37 pursuant to Part 5 (commencing with Section 18100) of Division
38 7 of the Business and Professions Code.

39 (b) Licensed marijuana facilities shall have an owner or
40 employee who has successfully passed an approved and accredited

1 *food safety certification examination as specified in Sections*
2 *113947.1, 113947.2, and 113947.3 of the Health and Safety Code*
3 *prior to selling, manufacturing, or distributing edible marijuana*
4 *products requiring refrigeration or hot-holding.*

5 *(c) Individuals' manufacturing or selling edible marijuana*
6 *products shall thoroughly wash their hands before commencing*
7 *production and before handling finished edible marijuana products.*

8 *(d) All edible marijuana products shall be individually wrapped*
9 *at the original point of preparation. All edible marijuana products*
10 *shall be packaged in a fashion that does not exceed a single*
11 *individual serving size.*

12 *(e) Products containing tetrahydrocannabinol (THC) shall be*
13 *prepared in compliance with maximum potency standards for THC*
14 *and THC concentrates set forth in the department's regulations.*

15 *(f) Prior to sale or distribution at a licensed dispensing facility,*
16 *edible marijuana products shall be labeled and in an opaque and*
17 *tamper evident package. Labels and packages of edible marijuana*
18 *products shall meet the following requirements:*

19 *(1) Edible marijuana packages and labels shall not be made to*
20 *be attractive to children.*

21 *(2) All edible marijuana product labels shall include the*
22 *following information, prominently displayed and in a clear and*
23 *legible font:*

24 *(A) Manufacture date.*

25 *(B) The statement "KEEP OUT OF REACH OF CHILDREN."*

26 *(C) The statement "FOR MEDICAL USE ONLY."*

27 *(D) Net weight of marijuana in package.*

28 *(E) A warning, if nuts or other known allergens are used, and*
29 *shall include the total weight, in ounces or grams, of marijuana*
30 *in the package.*

31 *(F) Tetrahydrocannabinol (THC) and cannabidiol (CBD)*
32 *content.*

33 *(g) Photos or images of food are not allowed on edible*
34 *marijuana product packages or labels.*

35 *(h) Only generic food names may be used to describe edible*
36 *marijuana products. For example, "snickerdoodle" may not be*
37 *used to describe a cinnamon cookie.*

38 *SEC. 6. Chapter 3.8 (commencing with Section 7295) is added*
39 *to Part 1.7 of Division 2 of the Revenue and Taxation Code, to*
40 *read:*

CHAPTER 3.8. MEDICAL MARIJUANA

1
2
3 7295. (a) *In addition to any authority otherwise provided by*
4 *law, the legislative body of any county may levy a tax on the*
5 *privilege of cultivating, dispensing, producing, processing,*
6 *preparing, storing, providing, or distributing marijuana or*
7 *products containing marijuana.*

8 (b) *The tax may be levied for general governmental purposes*
9 *or for specific purposes specified by the legislative body.*

10 (c) *The legislative body shall specify the activities subject to*
11 *the tax, the applicable rate or rates, the method of apportionment,*
12 *and manner of collection of the tax. A tax imposed pursuant to this*
13 *section is a tax and not a fee or special assessment, and there is*
14 *no requirement that the tax be apportioned on the basis of benefit*
15 *to any property or be applied uniformly to all taxpayers or all real*
16 *property. The tax imposed pursuant to this section may be based*
17 *on any reasonable basis as determined by the legislative body.*

18 (d) *In addition to any other method of collection authorized by*
19 *law, the legislative body may provide for collection of the tax*
20 *imposed pursuant to this section in the same manner, and subject*
21 *to the same penalties and priority of lien as, other charges and*
22 *taxes fixed and collected by the county.*

23 (e) *The tax may be imposed upon any or all of the activities set*
24 *forth in subdivision (a), regardless of whether the activity is*
25 *undertaken individually, collectively, or cooperatively, and*
26 *regardless of whether the activity is undertaken for compensation*
27 *or without compensation or profit, as determined by the legislative*
28 *body.*

29 (f) *Any tax levied pursuant to this section shall be subject to*
30 *any applicable voter approval requirement imposed by any other*
31 *provision of law.*

32 (g) *The tax, when levied by the legislative body of a county,*
33 *shall apply throughout the entire county or within the*
34 *unincorporated area of the county, as specified by the legislative*
35 *body.*

36 (h) *For purposes of this section, “marijuana” means marijuana,*
37 *as defined by Section 11018 of the Health and Safety Code.*

38 (i) *This section is declaratory of existing law, and does not limit*
39 *or prohibit the levy or collection or any other fee, charge, or tax,*
40 *or any license or service fee or charge upon, or related to, the*

1 *activities set forth in subdivision (a) as provided by other*
2 *provisions of law.*

3 ~~SEC. 4.~~

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